

RUMNEY PLANNING BOARD MEETING  
July 31, 2012

The meeting was called to order at 7:00 pm by Tom Grabiek, Chairman.

Present were Kathy Wallace, Tom Grabiek, Dave Coursey, Rob Arey, Mark Andrew, John Bagley and at 7:20 alternate Jerry Thibodeau..

1. Minutes for the June 26, 2012 meeting were approved as written

2. A letter sent to the Fire Dept. from David Saad requesting minimum width requirements for his driveway to accommodate safety equipment was reviewed. This letter has not yet been answered by the Fire Dept. Notice had been received that an injunction had been issued by the Russell School Board regarding any improvements proceeding on Wheeler Lane.

3. Tax Map # 8-5-4-3 A septic installation permit was received from DES for DA White on Stinson Lake Road.

Tax Map # 2-1-16 A state driveway permit was received from DOT for Blakeman-Allen on Stinson Lake Road.

4. Driveways – Covitz/Conlon Patricia Conlon had called the clerk and stated they did not want to use the driveway as permitted to M. Covitz. They were entering the property via the original entrance on an old road to access the camp. They are only camping there at this time. As they are interested in merging the two lots a letter will be sent with the merger form. John B. stated once the merger has taken place there would be no need for the driveway accessing two lots as shown on the Covitz subdivision plan.

Rumney Ecological – East Rumney Road – Mark, Frank and Tom will review the final driveway. A letter from Mrs. Taffe stated all improvements had been made as requested.

Russell/Manovic – School Street – is approved but need signatures on final permit. John Bagley and Mark Andrew signed and will try to get Frank's on Wednesday.

Hawthorne Village Assoc – the Selectmen sent a letter requesting a final permit with signature be submitted. Mark Andrew stated the Selectmen will allow a 30-day time frame for a response. However, John Bagley will take a form to them and try to get the necessary signature within the next few days.

5. John and Ann Dow – Tax Map # 7-1-26 Questions regarding the use of a 1700' right-of-way off Buffalo road were discussed. Can it be reclassified? Could a waiver for usage be drawn up? Who is responsible for damage to the town road? The Board felt any discussion regarding allowing improvements by the property owner, who has been given the R.O.W. by deed, was between the two parties and did not involve the Town of Rumney. It was determined to be a civil matter and the property owners should contact legal council. In addition, while there may be some concern by the Town because of the very steep aspect of the R.O.W. and the manner in which it intersects with Buffalo Road, there does not appear to be any way in which a typical passenger vehicle can actually access the property behind the Dows. Therefore, all of the above may be moot.

6. David Saad read a statement to the Board regarding false claims that had been made to them regarding Wheeler Lane which ultimately lead to unnecessary legal filings. (Jerry Thibodeau recused himself from this issue) John Bagley made a motion to delay discussion of this statement to a later date so as to review and examine the information presented. Rob Arey seconded the motion and a unanimous vote was taken. The statement will be reviewed at a work meeting scheduled for August 14, 2012 with David Saad notified so as to attend. (Jerry rejoined the meeting).

7. Mark Andrew did follow up study for Jerry's question regarding an ordinance being passed to prevent building in a flood zone. RSA 674:16 adopting general zoning must be passed at town meeting

before any land use ordinance can be passed. The ordinance also must be passed at town meeting, not just adopted by the Board.

8. John Bagley suggested we review Tom's email of subdivision regulation changes and be prepared to report on his ideas at the work meeting.. The emphasis should be on definitions.

9. Hearing for Central NH Aggregates Excavation Permit – Abutters and public present were: Doug Sanborn, Gail Sanborn, Anita and Lloyd French, Cheryl Lewis, Carl Spring, Dean Kenneson, Greg Sanborn, Robbie Hester, Phil Cook, David Saad and Atty. Omar Ahern Jr.. Michael Latulippe and Sue Wood were present for Central NH Aggregates and Bill Britton for Central Rock and Blasting.

The Chairman stated there is no automatic renewal system for excavation pits per state regulation. A new application must be submitted for all expired pits. The Alteration of Terrain process is regulated by the State. He referred to an earlier meeting with Mary Pinkham-Lander, Department of Revenue Administration, State of New Hampshire, in which she stated that individual towns administrate and approve gravel pit operations on an individual basis. An application for an excavation permit and blasting at this site causing property damage has resulted in this hearing to receive public input regarding Town approval for a new permit.. No decision will be made on this application tonight and will continue to the work session, August 14, 2012. Safety is a primary concern.

Tom G. asked for public input. K. Wallace questions expiration of the last permit. She was told there was no town permit. Omar Ahern, Atty, interceded requesting copies of the application be provided to all abutters citing the following: RSA155E:3, 155E:4, 155E:4a and 155E:7. He further questioned the distance for an approving and disapproving abutter. The distance is 10' for an approving abutter and 50' for a disapproving abutter. (Copies of the application were made and provided). Atty. Ahern later stated there were no copies of the abutter's list and no survey map of the site. Both were available on the table. Tom stated we are not surveyors or lawyers but he was in the process of obtaining an updated survey as well as statements from DES on the Alt of Terrain permit and State Police on the blasting report.

The Chair asked is there were any other comments at which time Doug Sanborn presented a rock and placed it on the table as evidence, stating it had gone thru the roof of his home. Gail Sanborn questioned – if this is what happened, what can we expect in the future? This is not the first time they have experienced rock problems. Doug stated last year when rocks flew into their yard State Police stated it would not happen again. He said that their back yard looks like a brook bed of rocks, trees have rocks imbedded in them, tops of tress have been broken off – it is not safe to be in their yard when blasting is being done. State Police and MSHA stated there must be personal injury or death before they act. Asked if they are notified prior to a blast, Doug stated Capital Rock and Blasting came by the day before and stated they cut the size of the blast in half from a prior blast, and yet this one was worse. After 40 years living there, they want to be safe on their property. The first happened last summer and again this year on July 3<sup>rd</sup>. They did contact MSHA and have been interviewed by them. One rock went 1000' across the street and thru a roof on a shed. A statement was made that the trajectory of a rock causing it to travel that distance could have been high enough to impact an airplane flying overhead. MSHA told them a man should be on the property during the blast with a meter. Dean Kenneson stated the blast was metered. A seismograph person was at Sanborn's home and at Dean's home.

Tom G stated he had spoken with SP Sean Haggerty, in charge of explosives, and the investigation is ongoing and no report is available at this time. Their focus is on Capital Rock and Blasting. Tom also requested a copy of last year's report, but has to wait for a hard copy to be pulled. They have no digital reports. The DES person in charge of compliance has no report to send at this time, but will review the case and report their finding to the Planning Board. Gail S. requested we ask for a copy of the MSHA report as well.

Tom stated the blasting is a legal matter. Mark stated Mr. Latulippe has to ask permission to work his pit. Tom stated tell him no. Jerry stated with rocks spewing, damage to buildings, why not do a cease and desist. Mark stated we need to hear from everyone first including Mr. Latulippe.

C. Spring said he had concerns about the blasting debris causing injury to his son and his son's friends when they come to their property to enjoy the outdoors, fishing the brook and riding their bikes in the area.

He also said that a number of people walk along the road for exercise and that school buses will be traveling on the road soon when schools reopen in late summer. In addition, there is currently a lot of traffic from the construction of the Groton Wind Farm using the road. He has concerns of the water supply conditions with the aquifer under the pit. When can we sit & relax? The crusher is operating 7 days a week and close to his home. Does this mean I can open a rifle range and shoot toward the pit and if no one gets hurt it is okay? We need to be responsible for our actions. Tom stated there are specific regulations for blasting. Carl stated he should be shut down today until a safe operating plan is developed and agreed on. He said: we cannot depend on the State doing anything. Kathy W. – does the state investigate? Yes!! Mark stated the town has no ordinance for daytime noise. Carl-Be a good neighbor.

Jerry T. questioned Bill (Cap. Rock & Blast) if blasting mats are used. The clerk questioned if there was an additional cost if mats are used. Bill replied no additional charge and he does not use mats in a “quarry” operation. Jerry questioned if mats would hold debris down. Bill responded “no”. Use common sense – we are not blasting at night – no 24/7 operation as portrayed – no Sat or Sun blasts and not at 6 pm. They are not regulated unless within a 100’ radius. They did notify neighbors – it was an accident and does not want it considered otherwise. They blast once a month and a seismograph was at the house. They had notified Polar Caves (Friday July 27<sup>th</sup>) of a Wind Farm Blast and had a meter at that location. Rob Arey stated he was the manager of Polar Caves and had never previously been notified or metered. He has major concerns of people being in the caves when these blasts take place. The last 2 blasts have been of great concern as to the size of them.

Greg Sanborn (pit owner adjacent to Central NH) worked on the original excavation regulations, previously as a member of the Rumney Planning Board, and stated there was never anything included to cover Sunday operations. He felt that should be added to the Town gravel pit regulations. He stated the 10’ boundary problem he had a few years back was corrected. However, at this time material has been removed and it does need to be replaced by Latulippe. There is also water leaching from the water retention pond installed by Latulippe which is causing a wet area in his pit that never existed in the past.

Carl S. questioned why mats were not used if they were aware of prior problems.

Bill stated he has a video of each blast. He knows where the rock came from – “high bottom” – a result of drilling where the rock has been drilled before. They have 7-8” holes close to the prior hole. Dynamite turns to gas and takes the path of least resistance breaking through. Why not mat high bottom shots?

Mike Latulippe – I have my permits. When Carl was the gravel pit inspector as a member of the Planning Board he inspected the site yearly. The required crusher emission test has been done. His pond was built beyond the 10’ boundary line and by an engineer. The only Sunday work is by himself and only on occasion. Tom stated there had been 3 incidents of larger blasts. Each time we are told “it is a new blasting company”. The town could require mats, no blasting on Saturday or Sunday, and see resolution for concerns of fear. Tom stated that Bill’s logic is not logical: saying that because he doesn’t blast on weekends and evenings people don’t have to worry about their safety. He said that assuring citizens they don’t have to worry about sitting down to read a book to a grandchild at 6:00 o’clock in the evening didn’t solve their fears and concerns. He questioned what would happen if the same activity took place at 1 or 2 in the afternoon on the day a blast occurred. Tom G. said it appears that a town permit is not active at this time. Mike Latulippe said he is working under a State of New Hampshire permit and that is all that he is required to have in place. There are compliance issues to investigate. The Alt of Terrain plan has two items not completed – one being the entrance road to the pit be moved to a different location. Mike stated there was no time frame for that to be completed. The DES AOT may not be in compliance at this time and a new plan may be required.-awaiting an answer from DES.

Tom asked him to agree to no further blasting until all information is received and we can approve a permit. We can require NO blasting, use of mats, reduce the size of the charge as reflected in charts and we would appreciate his cooperation. Mike agreed to no blasting until this issue is resolved. He will work what is presently on the ground.

Greg S. questioned who is responsible if Latulippe continues – the pit owner or the town? C. Spring stated the town could be if violations are found and the town did not stop the work. Tom stated this was an accident not a violation. He is in non-compliance – not a violation.

Jerry T. requested a safety plan be submitted.

Mike stated he never had a town permit. Greg S. that in 1985 two pits were allowed to continue Kenneson and Shortt. The Board will have to continue our research and refer to the Town of Rumney Excavation Regulations as well as the minutes of the Planning Board meeting during which discussion took place with regard to excavations, gravel permits and the like. Greg stated we needed to refer to the town regulations as he has refused to apply for a town permit. Carl S. hand delivered forms to him. He called Carl and told him he would not complete them and was told ok. The clerk informed him the State is presently saying there are no “grandfathered pits”. Greg said he had never heard that. The permitted process will be reviewed! There are periodic inspections by the state and yearly inspections by the town.

Sue stated that she wanted the minutes to state that this hearing was held as an application for permit and not a hearing on issues.

This hearing is continued until August 14, 2012 at the town office. If all necessary information is not available at that time there will be a further continuance.

Atty. Ahern requested complete information be sent to all abutters including a copy of the AOT survey map per RSA155E:3 at the applicant’s expense. Although the copies are available at the town office, Ahern pressed for copies of all items that make up a permit application be provided to all abutters. The Chair asked Latulippe if he would be willing to provide copies of the site maps at his cost and he respectfully declined. The Chair will inquire with the surveyor if a digital copy is available. He said that it does not appear that copies of all items must be provided by the Town at the expense of the Town and that if someone required a copy of certain documents, they can pay the appropriate costs or view them at the town office. Carl S. stated emphatically that, because of his schedule, it is inconvenient for him to get into the office. Even though the Chair offered to meet him during an evening or on a Saturday or Sunday and that we could try our best to accommodate him, Spring expressed that was not adequate and he wanted his own copy. Since the RSA stated that the “information “ be provided to the abutters and not necessarily the documents of copies of the documents themselves, the Board may simply send an electronic copy to Spring.

This hearing adjourned at 9:30 pm.

Jerry T. inquired about the aquifer and looking at the NRI map the pit is not sitting on top of the aquifer.

Rob A. is waiting for the excavation pit check list to be updated. The clerk will work on that asap.

Dave C. noted the fire department had an inspection coming up on the former Stinson Mtn. Grille with a prospective buyer.

Jerry T. stated mediation between the school and the Saads is being scheduled.

John B. has been reviewing all parking regulations within the state.

Mark stated the Selectmen have been working on a noise ordinance and employee policy and procedures. The procedures have been a work in progress for a long time and finally being completed.

The meeting adjourned at 9:40.

Respectfully submitted

Diana Kindell  
Clerk

