

Town of Rumney

Selectmen's Meeting
Planning Board Meeting
November 5, 2013

Selectmen: Cheryl Lewis, Ed Haskell, Dan Kimble
Planning Board Members: Carl Spring, David Saad, and joining later Kathy Wallace and Rob Arey
Administrative Assistant: Ann Dow
Clerk: Diana Kindell

The meeting was called to order at 6:40 pm.

Atty. Bernie Waugh attended this meeting to discuss blasting regulations with the two Boards. Reference was made to emails he had sent on July 30, 2013 and on October 03, 2013 suggesting ways the town could try and control blasting. He felt, as did the Selectmen, that a proposed draft he reviewed was too extensive and difficult to enforce.

Three issues he wanted to cover are (1) how complex must the regulations be (2) how risky and (3) under what authority.

Knowing we have had problems with blasting at a local excavation pit he questioned when blasting began at this "grandfathered" pit. It has only been the last few years that blasting has taken place there. The town had no regulations or permitting for blasting at that time. Atty. Waugh stated we did have the state statute. When questioned about a court case where the town of Carroll cited Whitcomb for not having a permit – review of the case indicated that Whitcomb had a "stationary plant" for crushing. The CNHA plant is a portable plant and would not be "grandfathered" for blasting.

The Planning Board under RSA 155E is authorized without further action of the town to regulate blasting. The regulations should refer to the State Regulations, Federal Regulations, Safety Regulations and site the Fire Department, Selectmen, Health Officer as well as the Planning Board. The regulations can be adopted with a public hearing and do not need the vote of the town. Important that both the Selectmen and the Planning Board adopt the regulations. A permitting process per RSA 155E 2:1e is necessary. There could be a separate permit for site specific blasting (creating a driveway or foundation and encounter rock).

Enforcement? The Fire Chief should be included in the regulations for enforcement as well as fines that could be incurred. An agent chosen by the Selectmen and/or the Planning Board can oversee the blasts and also per RSA 155E 10:1 can pull a permit if necessary. A cease and desist order can be sent but most important it be in proper order. It must go through the court system if fines are to be levied

The inclusion of the property owner as a responsible party for any accidental discharges and for any damages occurring from a blast is important. It is a corporate misdemeanor.

Written records should include the Board's decision

- (1) What is submitted
- (2) List of findings of fact
- (3) Reasoning section – does/does not meet the regulations

Atty. Waugh left the meeting. Further discussion took place between the two Boards.

Regulations will be prepared for review.

Respectfully submitted,

Diana Kindell
Clerk