

**TOWN OF TUFTONBORO
PLANNING BOARD
April 5, 2018
MINUTES**

Members Present: John Cameron, Chairman, Matt Young, Vice-Chairman, Bill Marcussen, Selectmen's Representative, Jack Parsons, Tony Triolo, Members.

Members Absent: Russ Steensma, Kate Nesbit, Members, Sue Wingate, Laureen Hadley, Alternates.

Staff Present: Lee Ann Hendrickson, Administrative Secretary.

Chairman Cameron opened the meeting at 7:00 PM.

I. Public Comment

No comment from public present.

II. Consideration of Minutes

March 8, 2018

Correction: Change "Knott" to "Mott" through document

It was moved by Tony Triolo and seconded by Matt Young to approve the March 8, 2018 Tuftonboro Planning Board minutes as amended. All members voted in favor. The motion passed.

III. Scheduled Appointments/Public Hearings

N/A

IV. Action Items

N/A

V. Discussion Items

a. Excavation Regulations; Guest Mary Pinkham Langer, Gravel Tax Appraiser, Revenue Administration

Mary Pinkham-Langer, Gravel Tax Appraiser, NH Department of Revenue Administration, reviewed 155:E. She stated that in order for an excavation operation to be grandfathered that a report had to be filed with the Regulator (Planning Board) between August 4, 1989 and August 4, 1991. She stated the report had to include the following information; location of excavation, when the excavation began, limits of the area of excavation and provide estimate of the area of commercially viable earth on the property. She stated that by providing the information/report, the Town would have to grandfather the operation.

Jack Parsons asked how the excavation operators would have known to file the report.

Mary Pinkham-Langer stated the statute reads "after receiving written notice from the Regulator;" noting the Regulator should have noticed the excavation operations. She stated the intent was to grandfather those pits that were in existence at that time. She stated if the report was not filed then the excavation operation falls to abandonment and therefore, now requires compliance with 155:E.

Steve Hunter confirmed that either the Planning Board or the BOS should have notified the operators.

Fenton Varney stated he was the chairman of the Planning Board during the 1989-1991 time period and noted the Board never addressed the issue.

Mary Pinkham-Langer stated that even if the Town did not notify the excavation operators, it is the property owner's responsibility; as noted in the language in 155:E. She stated by allowing the excavation operations to continue, the Town inadvertently grandfathered the use however, the operation cannot be expanded from that point in time. She noted that under minimum and express operational standards if a report is filed, the expansion of the area beyond area currently being excavated requires the submittal of a reclamation bond. Referencing NHDES Alteration of Terrain permit, she stated that any disturbed area prior to May 1981 is grandfathered; noting that more than 100,000 SF of disturbed area requires an Alteration of Terrain permit. She stated that whatever area was open prior to May 1991, up to 100,000 SF is grandfathered.

Steve Hunter asked if a complete survey is required.

Mary Pinkham-Langer stated such is the decision of the Regulator. She stated the property owner needs to determine whether there is material to excavate and, whether it is viable to permit the entire parcel.

Fenton Varney asked how the State addresses those properties that had ten acres in 1981 and have since expanded and no Alteration of Terrain (AOT) permit was issued.

Mary Pinkham-Langer replied through retroactive permits. She stated an AOT permit is a reclamation plan and noted that NHDES plans supersedes Town plans. She stated via Google Earth aerial photography the expanded area can be calculated. She noted that whatever land is open has to be reclaimed. She stated the Regulator may grant an exception to the reclamation standards (ie: not reclaim land if a solar farm is proposed).

Steve Hunter stated he has materials that leave a site that he brings back to his pit and questioned whether he can clean up the recycled material without a permit if he chooses not to pursue permitting the excavation operation.

Mary Pinkham-Langer stated material can be used on site as part of the reclamation; noting another use of the property could be a contractor's yard. She noted 155:E pertains to excavation sites and not processing yards.

Matt Young asked if "another use" be grandfathered.

Mary Pinkham-Langer responded by reading the statute on abandonment of an excavation operation.

Fenton Varney noted that excavation pits are a dual use.

Steve Hunter stated it is cost prohibitive to permit his excavation operation.

Mary Pinkham-Langer stated that if the operation has expanded that an AOT permit is required.

Steve Hunter questioned the maximum amount that can be taken off a property without a permit.

Mary Pinkham-Langer stated 155:E is a local regulation of all excavation in the Town. She stated it does not define incidental, normal landscaping or commercial. She reviewed regulations regarding stumpage; noting that such can be buried on site however, the location of the buried stumps must be noted on the plan.

Jack Parsons confirmed that property owners have twelve months to reclaim a property and, that if the owner is ceasing the excavation operation however, continuing contractor's yard activities that reclamation of the property does not have to be pursued.

Mary Pinkham-Langer stated exceptions from reclamation can be heard and granted. Referencing the Town's Zoning Ordinance, specifically Section 11.11.5 Appeals, she recommended revising such because as it is currently written, it conflicts with the statute. She stated there can only be an appeal to the Planning Board and not to the ZBA. In addition, she stated 155:E does not provide for a renewal process and recommended striking "renew" and replace with "updates" (change language to "review and update plans every five years").

b. LRPC Master Plan Contract Extension

The Board reviewed such and agreed to forward the contract to the BOS for their review, approval and execution of the contract.

It was moved by Tony Triolo and Jack Parsons to accept the language of the Lakes Region Planning Commission Master Plan contract extension and forward such to the BOS for their review and approval of the contract. All members voted in favor. The motion passed.

c. Potential Lot Merger for Tax Map #44-1-53 and #45-1-14

Tony Triolo recused himself.

The Board reviewed Roger Murray III's legal opinion regarding the Planning Board approved Ridgefield Corner Subdivision and potential lot merger of Tax Maps #44-1-53 and 45-1-14 and agreed that it would be beneficial for all parties to be privy to the opinion. The Board agreed to release the Privileged and Confidential legal opinion.

It was moved by Jack Parsons and seconded by Matt Young to release Roger Murray III's legal opinion noted "Privileged and Confidential" regarding Ridgefield Corner Subdivision to all parties involved. All members voted in favor. The motion passed.

d. Master Plan Natural Resources Chapter

The Board tabled such.

VI. Informational Items

N/A

VII. Other Business

Steve Hunter Site Plan Review

Matt Young requested Town Counsel's opinion regarding the following issues; when the application was presented to the ZBA, did the fact that the storage buildings being located behind a hill/berm affect how the ZBA waived/reviewed the criteria for the Special Exception and did the fact that the storage buildings were moved behind the hill affect whether the ZBA would rehear the application. He stated aesthetically, the property would look better if the buildings were behind the berm.

Bill Marcussen agreed that Town Counsel should review the issue. He questioned substantial change.

Tony Triolo questioned whether the units are being used because he observed locks on the units.

Planning Board Meeting Schedule

The Board agreed to cancel the Planning Board meeting scheduled for 7/5/18.

VIII. Public Comment

No comment from public present.

It was moved by Matt Young and seconded by Bill Marcussen to adjourn the April 5, 2018 Tuftonboro Planning Board meeting. All members voted in favor.

There being no further business before the Board, the meeting adjourned at 8:38 PM.

Respectfully Submitted,

Lee Ann Hendrickson

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