

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

February 23rd, 2021

GENERAL BUSINESS

Present: Audry Barriault, Secretary/Clerk and alternate, Paul Dexter, member, Don Bormes, member, Steve Cobb, alternate, Glenn Frederick, alternate, Melissa Anderson, member, Doug Rasp, member

Audry Barriault acted as Chair Pro Tem in the absence of Chair Tim Lang. Steve Cobb was seated as voting member until 7:05 when Paul Dexter arrived.

The meeting took place virtually; roll call votes required for all motions. Due to the COVID-19 crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, a statement was read by Audry explaining that the ZBA was authorized to meet electronically.

Steve Cobb made a motion to approve the draft minutes of 1-28-2021. Don Bormes seconded the motion and the motion passed unanimously with votes as follows:

Anderson/Yes; Bormes/Yes; Rasp/Yes; Cobb/Yes; Frederick/Yes

Steve Cobb made a motion to approve the draft minutes of 2-9-2021. Doug Rasp seconded the motion and the motion passed unanimously with votes as follows:

Anderson/Yes; Bormes/Yes; Rasp/Yes; Cobb/Yes; Frederick/Yes

a. Continued Public Hearing - Application for Special Exception (ZBA 2020-4) - Sanbornton Zoning Ordinance Article 18, Section B(3) Applicant: Timothy F. Bernier on behalf of owner R.D. Edmunds Land Holdings, LLC, Johnson Rd, Tax Map 15, Lot 58. Applicant proposes earth excavation and gravel pit operation.

Tim Bernier explained that the plan for the gravel pit operation will meet RSA 155-E. The AOT permit has been received and the Town has a copy of this. There were issues with typography on previous maps that had been submitted related to this project in past years which he has rectified. The new plan makes it very clear to the operator and the Town what is expected. Fifty-foot setbacks are shown on the map and no mining can take place within that setback area. On the north side of the property there is a 100-foot setback from the watershed area around a pond on the abutting property.

The access to the pit has been relocated slightly which is better for cars traveling on Johnson Rd and also gets trucks closer to the origin of excavation so that there is less noise. An asphalt skirt at the access point will protect the shoulder of Johnson Rd and crushed stone will be added ahead of that to clean truck tires on their way out.

The property has been mined numerous times over the years and so an existing hole is being used as the origin of excavation. The mining will start at an elevation of 626 feet and decrease as the project heads north on the property. The floor of the pit will stay above the groundwater table; the closest any digging will come to the water table is five feet. Three of the testing wells will remain on the property.

The gravel pit will actively operate from 7:00am to 5:00pm Monday through Friday except for holidays as outlined in the plan. The market for gravel could change and extend the life of the project but the calculations today show that the pit will operate for 3.1 years. No construction material can be stored on site unless being used for reclamation, i.e. grass seed. No more than five acres can be mined at one time. A surety bond in the amount of \$20,000 will be issued to the Town in case of project abandonment. There will be no parking of vehicles related to the gravel pit on Johnson Rd.

Trucks entering and leaving the site can only travel south on Johnson Rd. Tim explained that he has discussed a surety bond for Johnson Rd with Highway Department Director Johnny Van Tassel and a bond in the amount of \$35,000 was agreed on. This needs to be updated in the plan.

There was a noise report submitted in the past for this project but this is not being re-submitted as there is no noise ordinance in Sanbornton. Trucks will be equipped with white noise back-up alarms. No blasting or hammering of ledge shall occur on the site. Stumps will be buried on site. Tim explained that there are minimum standards to adhere to related to aquifers but this site has been studied for six years and it was determined by multiple engineers that there is not a significant aquifer present. Tim stated that he learned that DES does not require that an applicant meets the requirements of RSA 155-E, instead this is in the purview of each town's own designated regulator (which is the ZBA for Sanbornton).

Melissa Anderson stated that she is concerned with the stumps being buried on site and causing a sinkhole. Tim responded that as long as this is covered by five feet of material it would not be an issue. Don Bormes stated that he would like to see stump grinding on site instead of burying them; Tim responded that this can be done and the material would then be used for reclamation. Melissa asked if Old Johnson Rd, shown on the map, is Town-owned; Tim responded that it is part of a discontinued road which was cut off when I-93 was built but is still considered a public right of way. Steve Cobb asked if this would limit the travel of that road; Tim responded that he does not think it's used by anyone other than maybe the owner of the abutting property.

Glenn Frederick asked how the \$20,000 surety bond with the Town was determined; Tim responded that this is based on the amount of money it would take to spread topsoil on five acres at a time, which is why only five acres can be mined at one time. This bond would be in the purview of the BOS and they would be the expending agents. Doug Rasp asked about the \$35,000 surety bond for the road; Tim responded that GMI (who recently paved Johnson Rd) provided the figure of \$31,000 for paving that length of Johnson Rd that would be used by the trucks.

Audry Barriault asked how fugitive dust would be mitigated. Tim explained that MSHA would regulate silica to make sure that operators are protected but far-reaching dust is usually seen in large operations of 100 acres or more where there are tall piles of material, this parcel is 19 acres and there will be no stockpiles for the wind to distribute. A water truck can be on-site to help mitigate dust when it's needed. Members stated that they would like a water truck on the site at all times for mitigating dust and Tim agreed to this change in the plan.

Abutter Tracy Seavey stated that her family regularly uses Old Johnson Rd to access the shed on her property which was put there by the previous owner. She explained that she has had a surveyor look at her property and there are some discrepancies about boundaries and so the fifty-foot setback can't be promised if the boundaries are not clear. Tim responded that the gravel pit site was surveyed in the last five years and even if the boundaries were to change they would still need to keep the fifty-foot setback. She is worried about fugitive dust, pollution from truck fumes and that the road is already narrow. She noted that one of the requirements of 155-E is that the gravel pit operation cannot change the character the neighborhood and she believes it would.

Pat Panciocco, attorney for abutter Julie Lonergan, explained that the ZBA is not using the Town's own aquifer district map from 1978 to determine presence of an aquifer ordinance. She stated that the applicant should have to prove to the Planning Board that a significant aquifer doesn't exist before coming to the ZBA. Audry responded that the three test wells have been studied multiple times over the last six years and it has been determined by multiple engineers, including those appointed by the Town, that there is not a medium or high-yield aquifer present and therefore this project is not going to the Planning Board.

Attorney Panciocco asked what type of dump trucks will be used in this project and Tim responded they will be tractor trailers. Julie Lonergan stated that the buffer of trees described by Tim is on her property, as the gravel pit property has been logged up to the property line. Mary MacMahon stated that there would be 60 trips a day for trucks entering and leaving the property and Tim responded that this is correct. Andy Sanborn stated that he is concerned that the ZBA is not using the 1978 map that shows presence of an aquifer.

Steve Cobb suggested walking the property and looking at the boundaries. Don Bormes, Paul Dexter and Audry Barriault all agreed that they do not feel this is necessary. Doug Rasp stated that the survey issue should be resolved with the Seaveys; Paul noted that if Old Johnson Rd is a Class 6 road and hasn't been officially disbanded then it's not privately owned by any abutter.

Don Bormes made a motion to grant the special exception as presented. Paul Dexter seconded the motion. Glenn added that he thought some parts of the plan should be changed before being voted on, such as stump grinding on site, having a water truck on site at all times for dust mitigation and changing the \$20,000 road surety bond to \$35,000. Don withdrew his motion and made a new motion to grant the special exception including these changes. Paul Dexter seconded the motion and the motion passed 4-1 with votes as follows:

Anderson/No; Bormes/Yes; Rasp/Yes; Dexter/Yes; Frederick/Yes

Meeting adjourned at 9:45pm.

Respectfully submitted, Audry Barriault