

Barrington Planning Board Meeting
Meeting Room, Town Administration Building
October 1, 2009 - 7:00 PM
Public Hearings with applicants

Members present: Chairman John Huckins
David Mott
Michael Clark
Alan Kelley (Alt)
Dawn Hatch (Alt)

Chairman Huckins opened the meeting at 7:00 PM. He introduced the members. The hearing was taped for further reference. Huckins said that **Case # LL 09/227, 228, 229, and 230 was continued to November 5 per request of the applicant.** The Brox hearing was opened.

**SR 09/367 – Sunset Rock, LLC & Stephen Brox
Backland off Tolend Road, Barrington, NH
Map 220, Lots 12 & 13 / Map 236, Lots 2 & 3
Expand an existing excavation operation**

George Hall, Real Estate representative for Brox, Eric Stevenson, Brox Massachusetts, Dave Clough, General Manager of Brox, New Hampshire and Mike Wright, North American Reserve represented the plan.

Hall went over the history of the plan. He said the entrance would remain from Rochester Neck Road within the existing site with a small expansion on the perimeter. Hall said that they had responded to the comments and recommendations from Berger Group. He said they had received reports on September 17 and 26. Hall said the issues raised on September 17 were addressed on the 26th. Hall said they had talked with Joe Lowry, Berger Group who explained his concerns. Hall said Mike Wright had also talked with Lowry.

Hall said they had revised the information requested by Lowry and had included the information on the fencing of the site in the Operational Plan. He said an update had been done on September 24 with all documents dated the same date. Hall said Lowry had reviewed the Operational Plan and added notes. He said the Operational Plan will be part of the application as stated in Note 11 on the plan. He said he had also included the DES application number on the plan.

Clark said the fencing of the site continues to be a concern of safety. He said how much was safe. He said he had hoped that Lowry would have addressed the fencing and safety on the site and if it met all of the safety requirements. Mott said he would like to know whether it meets the necessary standards.

Mott read paragraph 1 from the letter from Lowry. He said the Board's concern was to protect animals and people from the dangers of a large deep hole in the woods. He asked if there were common practices that should be met. Clark said he fully realized that to fence the entire site would be expensive.

Hall said no matter what was done no one could prove or guarantee that it would be adequate. He said in many cases a fence was an attractive nuisance. He said that it would be very hard to fence through woods. He said that there were a number of quarries that had certain amounts of fencing along the frontage. Hall said that the quarry would be 1000 feet from Tolend Road and it was posted along that road.

Hall said that berms and fences vary as sites do. MSHA was a Federal Agency that inspects mines at least twice a year. He said that the site safety was directed to the traveled ways for trucks. He said they had signage around the perimeter. Hall said that there were no specific written requirements.

Hall said there should be reasonable care and fencing where there was foot traffic which was not controlled by MSHA. Safety was for the workers and trucks. Huckins asked if there was insurance for this. Hall said no. Huckins said that they would need to show due diligence just as the Board must.

Hall said all quarries vary, for example, if one was close to a school it would have chain link fence around it for safety such as in Hollis. He said Rochester Neck Road was fenced. He said that they had been on the site for 20 years without any issues. Hall said that he had worked for Brox for 27 years and during that time there had never been any accidents.

Hall said that motor cycles, ATVs, and hunters trespass on the site without accidents. He said the 4 wheelers were the biggest problem. Mott said that there were adult ATV clubs that take on the responsibility of maintaining trail systems. He said that the members do a lot of work for the land owners as they do not want to lose the right to use the land. Mott said they could get the clubs involved. He asked if there were snow mobile trails on the site.

Hall said they never permit anyone to use the quarry areas. Clough said they try to deal with the problem in a civil as they do not want to any of the equipment or trucks damaged. Clough said the gravel pit was the area that was used the most. He said the business started in 1986. Clough said they police themselves.

Mott asked if fencing could be put at the limit of the quarry as it would be expensive to fence the perimeter. He said that he had noticed that only the road off Tolend Road was gated. Clough said the 4 wheelers were in the gravel pit only. He said that berms and boulders were generally used around a quarry. He said that if anyone wanted to get on the site they would. Clough said they would give an indication to anyone that there was danger on the site.

Huckins said a warning fence would help. Huckins said we all would be upset if a child ever fell. He said we all needed to provide as much protection as possible. Clough said the orange fencing was installed around a dig site with berms and boulders around the perimeter of a quarry. Kelley asked about signage. Hall asked about signage around the entire site. He said that there were signs posted along Tolend Road.

Clough said there were no trespassing signs posted for blasting. He said there was a procedure that was done when blasting was scheduled. Mott said this would not be the first open faced mine. He said that Hall and Clough said that MSHA was proactive and did inspections at least twice a year.

Clough said that material was stockpiled up to 50 feet high. He said berms were maintained and reset around the quarry site as the area was enlarged. The grade of the road was inspected by MSHA. Clough said MSHA did surprise inspections and were

very thorough. He said there could be multi-inspections within the year. He said that MSHA used the same inspection for both surface and underground operations. Clough said that there could be 6 inspections if the right people were on site. Clark asked if Dover and Rochester were satisfied with their sites and Brox's operations. Hall said all operations were regulated. He said that they had not received any complaints.

Mott asked about the benching of the quarry. Hall said there was between 50 feet and 80 from the ramp to the first bench. He said there was a maximum height of the benching.

Huckins asked if anyone wanted to speak on the plan. There were no public comments or abutters present. Huckins said that he thought that the items recommended by Berger had been addressed. He said fencing was still a concern of the members. Clough said they have to abide by the requirements of MSHA concerning all mining operations, including noise, worker safety, and respiratory conditions.

Kelley said there could be a note stating that a report would be given to the Planning Board with the results of the inspections done by MSHA during the year. He said this would show that the operation conformed to the standards and requirements.

Clark said Lowry could review the note. Hall said that they would have to train Berger Group as they might not be familiar with this operation. Clark said as long as the safety issue was addressed and held to the standard required by MSHA this should be adequate. He said if something happened we would need assurance that we all did as much as we could toward the safety of the site.

Mott said the plan was complete with the berms and fencing shown. Clough said there would be at least 2 inspections per year that would have to meet the industry standards. Clark made a motion to grant conditional approval with the note concerning the annual report from MSHA submitted to the Planning Board shown on the plan, seconded by Kelley, all in favor. Hall said that he would put a statement together for the Board to review and approve. The hearing was closed.

Conference – Michael Davis – Corner of Smoke St & Route 9 Removal of surface material

Mike Davis was present to discuss his proposal for his site on the corner of Smoke Street and Route 9. He said that he had torn the sheds and out buildings down. He said there was one section left that would be removed as soon as the items stored in it were removed.

Davis said that he had been served with a cease and desist order on March 5 for junk and abandoned vehicles stored on his site by the Code Enforcement Officer. He said the septic system was thought to have failed but the excess water was from a faucet that had been running constantly was the problem. Davis said these issues had been addressed.

Davis said his father was told that he could not open his business because of the cease and desist order. Huckins said the site was owned by him therefore he was responsible for what took place on it. This cease and desist was served by the Code Enforcement Officer.

Davis said that he could not get a bond in his name as he had filed for bankruptcy. He said that he had a place for the surface material to go in Dover. He said that Pat Lavoie wanted the boulders. Davis said that what ever he did could only make the lot

look better.

Davis said the Town had filed a cease and desist order for the gravel that had removed from the site. He said all on the junk had been removed. He asked about his father using the site. Huckins said the Board would have to review the original site review for what was approved. We will also check the letter from Code Enforcement.

Davis said he father rented from him and wanted to open to start selling his merchandise. Hatch asked Davis if he was aware that he would need to keep a record of the cubic yardage of the material taken from the site. Davis said only surface material would be removed.

Mott said he had seen a reclamation plan with Davis's site review and this was where he should start. He said this was the reason for the bond. Davis said he could not put up a bond for the work. Davis said there was ledge on the site also. Mott said the Town did not want to be left with the "crap" remaining on the site. Davis said anything that he did could not make it worse.

Davis said eventually he would like to have a store front building unless he sold the property then it would be up to the next owner. Huckins said the bonding was the biggest issue. He asked Davis if he would return to the Board on October 15 with his plan of what he wanted to do. He said that if we could keep a close eye on the work done with weekly inspections this might be acceptable. It would need to be inspected for completeness.

Huckins said that maybe Peter Cook could do the inspections and make a report of what had been completed. We would need to set a time frame that was followed. Huckins said the first thing done should be to reclaim the section next to his abutter on Smoke Street. This area should be loamed and seeded. Davis said he would put together a sketch and time frame for the Board to review.

The sketch should show the work to be done and the weekly progress. Davis should go from step 1 to step 2 and so on. The Board went over the history of the Davis lot. All agreed that it must be handled carefully and the work must be completed by the time set on the report. It cannot drag on. Huckins said we might want input from Berger Group. Davis said he would get back to the Board on October 15.

Public Informational hearings – October 8 & 22

Mott said he would like to see the Board continue with at least a third public meeting either on October 29 or the second week in November. Huckins said we would want them early so we can put together what we want the Town's Attorney to review and word. He said we might want to have the soil expert from Berger Group at the October 22 meeting to address the soil and lot size issue.

The calendar for the SB2 requirements for public hearings was reviewed. The Board tentatively set December 17 for the first public hearing on zoning changes and January 14 for the second. The Board will make copies for the items under consideration at this time.

The meeting adjourned at 8:50, motion by Clark, seconded by Kelley, all in favor. The next meeting will be the informational hearing on possible zoning changes held in the Meeting Room.

