

DEERFIELD PLANNING BOARD  
DEERFIELD, NEW HAMPSHIRE  
MARCH 22, 2017

MINUTES OF MEETING

PRESENT; Board members Peter Schibbelhute, Kate Hartnett, Fred McGarry, David Doran, Gregory Mitchell. Also present Planning Consultant Sylvia von Aulock and secretary Jane Boucher.

Gregory Mitchell introduced himself as a newly elected member of the Planning Board.

APPROVAL OF MANIFEST

Fred McGarry moved to approve the manifest in the amount of \$533.00 and a time sheet for Jane Boucher. (Upton & Hatfield \$533.00; Time sheet for 20 hours). David Doran seconded. Voted in favor.

REQUESTS FOR EXTENSIONS

Fred McGarry moved and David Doran seconded to grant the request for a three month extension for conditional approval (June 13, 2017) to David Pelletier for a subdivision on Middle Road with the stipulation that he will have to meet with the Planning Board if he wishes to be granted any further extension. Voted in favor.

David Doran moved and Fred McGarry seconded to grant the request for a three month extension for conditional approval to Russell and Colleen Kaatz (June 25, 2017) for a Lot Line Adjustment on Mount Delight Road. Voted in favor.

APPROVAL OF MINUTES

Fred McGarry moved and Kate Hartnett seconded to approve the minutes of March 8, 2017. The following corrections were made to the minutes:

Page 2 Paragraph 11: Correct to read "...he had no problem..."

Page 2 Paragraph 14: Correct to read "...to authorize Chair Schibbelhute to approve a final bond..."

Page 4 Paragraph 7: Correct to read "...to first go to the ZBA for a variance..."

Page 7 Last Paragraph" Correct to read "NORTHERN PASS

Page 7 Last Paragraph "... advised that Attorney Whitley representing Deerfield and other municipalities is preparing to file a motion."

Page 5: Paragraph 1: Correct to read "... asked the Planning Board if Deerfield requires any permits that may be applicable, and if the Building Inspector and Road Agent have also been contacted.

Page 5: Paragraph 2: Correct to read "...Are scenic roads relevant?"

Page 5: Paragraph 3; Correct to read "NORTHERN PASS/PREPARATION

FOR FILING SUPPLEMENTAL PRE TRIAL TESTIMONY

Page 5: Paragraph 3: Correct to read "...answers for questions from Attorney Whitley are due by April 12, 2017."

Chair Schibbelhute called for a vote on the motion. Voted in favor.

TIERRA INVESTMENTS

It was noted that no further information had been received from Mr. Iacozzi regarding the bond. Sylvia von Aulock said that the existing bond is at \$110,000. Peter Schibbelhute noted that KNA's estimate is \$193,000.

Fred McGarry advised that KNA's numbers come off of DOT's numbers.

Peter Schibbelhute said that Steve Keach had offered to have Jeff Quirk go out to the site to meet with Tierra's representative, however, Tierra never responded to that offer.

Sylvia von Aulock said that she will contact Tierra to confirm the status of the situation.

7:20 PM CONTINUATION PUBLIC HEARING; RENEWAL OF EARTH EXCAVATION PERMIT; PARADE ROAD; STEVE ROLLINS; NELLIE ROLLINS OWNER;

Steve Rollins and abutters Mark and Debra Todd were present.

Fred McGarry said that he had revised the permit noting that "Well owners shall be notified by telephone by the Permittee on the day the results are received." He also noted that the hours of operation have been corrected as well. A copy of the revised permit is attached to these minutes.

Attorney James Raymond's comments regarding those comments from Earl Sandford were received. A copy is attached to these minutes.

Fred McGarry referred to #3 and #7 and will revise permit to read "excavated area that has not been reclaimed." Item #5 "Inspection Fees" will also be included.

Sylvia von Aulock said she had spoken with David Price and Gloria Andrews regarding the Alteration of Terrain Permit suggesting a change in the third paragraph. A copy of the e-mail is attached to these minutes.

Fred McGarry said he will revise the permit and send a copy to Steve Rollins and abutters.

Steve Rollins referred to the disturbed area on the old plan and asked if he was required to seed it. Peter Schibbelhute suggested that Steve Rollins could provide a \$5000.00 bond to cover that area if he prefers not to reclaim it at this time.

Mr. Rollins reviewed the plan and noted the area which he would like to use for parking, which is not reclaimed . He said the area is at finished grade and no excavation is going on.

Sylvia von Aulock said that AOT suggested a group site visit, which might be helpful.

Fred McGarry felt that an inspection is appropriate and should be done during the month of April in order for the applicant have grass growing by June.

Fred McGarry referred to the Site Plan submitted by Steve Rollins for a garage which did not identify the parking area.

David Doran said that parking area needs to be identified on a plan as a gravel area.

Sylvia von Aulock noted that the Board needs a plan showing existing conditions, including drainage and future use. This should be depicted on one set of plans.

Board members agreed that two members of the Board meet at the site with Earl Sandford and Steve Rollins , along with representatives of AOT at 2PM on April 19, 2017. Steve Rollins will submit an revised plan after that date.

Kate Hartnett noted that the Board is now referring to two separate plans, 1. the Site Plan, which will be amended, and 2. the Excavation Plan.

Fred McGarry moved and David Doran seconded to continue the Public Hearing to April 26, 2017 at 7:15PM. Voted in favor.

**NORTHERN PASS/PREPARATION FOR FILING FURTHER SUPPLEMENTAL TESTIMONY**

The Board reviewed information submitted by Kate Hartnett and will discuss further at their April 5, 2017 meeting.

The meeting was adjourned at 9PM.

Recorded and transcribed by Jane Boucher  
Pending Approval by the Planning Board

**From:** Sylvia von Aulock <SvonAulock@snhpc.org>  
**To:** Kate Hartnett (nhkate98@gmail.com) <nhkate98@gmail.com>; dave <dave@randomorbits.com>  
**Cc:** Jane Boucher <f5fy@aol.com>  
**Subject:** FW: Deerfield - Rollins Excavation Permit- response to engineer's comments  
**Date:** Wed, Mar 22, 2017 9:27 am

Hoping all the Board members see this prior to the meeting although I don't have the email of the new board member. Note, Pete and Fred have also been sent the same.

*Thanks, Sylvia*

Sylvia von Aulock  
 Deputy Executive Director  
 Southern NH Planning Commission

438 Dubuque St.  
 Manchester, NH 03102  
 603-669-4604

**From:** James F. Raymond [<mailto:jraymond@uptonnhfield.com>]  
**Sent:** Tuesday, March 21, 2017 4:36 PM  
**To:** Sylvia von Aulock  
**Subject:** Deerfield - Rollins Excavation Permit- response to engineer's comments

Sylvia,

At your request, we reviewed the comments you received from the applicant's engineer to the proposed excavation permit for Nellie Rollins. A few points in response to those comments:

1. Term. The regulations give a one year term to an excavation permit (§VI. F). My file contains an unsigned permit sent me in 2009 that recites in the introduction that the permittee must apply for a renewal in each even year, which suggested a two year term. RSA 155-E:8 includes: "A permit shall specify the date upon which it expires." As I understand, the Board has not taken any formal action to renew the prior permit, although it has allowed Ms. Rollins to continue operations. DES through the AoT permit has separate regulating authority that does not supersede the Board's authority as regulator under RSA 155-E, see RSA 155-E:1, III. Accordingly, the Board can reasonably find that the prior permit lapsed, that the current proceedings are not simply a renewal, and that Ms. Rollins must reapply. If the excavation was in operations as of August 24, 1979, it may be grandfathered from the permit requirement, but it would still be subject to the operational standards in RSA 155-E, for violation of which the Board has the enforcement powers in RSA 155-E:10.
2. Additional Conditions. If these proceedings are considered as a new application for a lapsed permit, the Board may impose whatever conditions it reasonably considers necessary, as with any other permit. Even if it is renewal, the regulations authorize the Board to impose additional conditions, Regulations, §VII A. The Board may decide on the format of the renewal permit; if it wants to restate the existing conditions, it may.
3. Terminology for Disturbed Area. The applicant questioned the terminology in condition 7 for the disturbed area. The statute, RSA 155-E, refers to excavation and reclamation, so the proper term may be an "excavated area that has not been reclaimed," but I don't think it matters, as the intent is clear.
4. Other changes. The applicant questions other terms, such as "declared emergencies" in Condition 15. The Board is entitled to use whatever terminology it reasonably considers appropriate.
5. Inspection Costs. The applicant questions Condition 28. RSA 155-E: 11, III, authorizes the Board to collect its reasonable expenses for proceedings before the Board. RSA 155-E:10, II authorizes the Board to collect fines and penalties, and the superior court may award the town its costs and attorneys' fees for enforcing the permit. You

might change that section to state that the Applicant shall pay for any inspection fees and that the Regulator may be entitled to recover its attorneys' fees and costs for enforcing the conditions of the permit.

In sum, the proposed permit complies with your regulations and the statute. You might edit some of the wording, but not to the extent suggested by the applicant. The permit may be treated as a new permit granted because the old permit lapsed, but even if it is a renewal, the Board may add additional conditions to the permit as a condition of the renewal.

Jim

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## EXCAVATION PERMIT

Issued to

**Nellie A. Rollins**

**Parade Road**

By

**Town of Deerfield, Planning Board**

**P.O. Box 159**

**Deerfield, NH 03037**

Nellie A. Rollins (hereinafter referred to as the **Permittee**) of 30 Raymond Road, Deerfield, N.H., is hereby authorized to excavate materials from property located at NH Route 43 and Parade Road, Tax Map 209, Lot 35, and in accordance with the plan entitled "Gravel Excavation and Restoration Plan, Tax Map 209, Lot 35, Nellie Rollins, NH Route 43 and Parade Road, Town of Deerfield, Rockingham County" prepared by Sandford Surveying and Engineering dated June 27, 2007 and revised October 5, 2016.

During the month of May and no later than June 1<sup>st</sup> of 2018, the Permittee shall apply for a renewal of this permit from the Town of Deerfield Planning Board (hereinafter referred to as the **Regulator**), granted the authority under RSA 155-E. This permit is NOT TRANSFERABLE.

The Alteration of Terrain (AoT) permit from the Department of Environmental Services for this site must be updated by September 1<sup>st</sup> of 2018. If this Excavation Permit is renewed in 2018, the frequency of renewal will be increased to every five (5) years to coincide with the updating of the AoT permit.

This permit allowed under RSA 155-E:4a, 155-E:5, 155-5a and the Town of Deerfield Excavation Regulations dated April 5, 1989 is granted subject to the following conditions and restrictions:

1. No excavation shall be permitted below road level within 50 feet of the right-of-way of any public highway as defined in NH RSA 229:1.
2. No excavation shall be permitted within 50 feet of the boundary of any abutter or within 150 feet within any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced.
3. Existing vegetation shall be maintained or additional vegetation provided within all buffer areas described in paragraphs 1 and 2 above to maintain a vegetative screen from the activities in the pit.
4. Drainage shall be maintained as to prevent the accumulation of free standing water for long periods. Excavation shall not result in siltation of streams or degradation of any water supplies.
5. No fuels, lubricants or other toxic polluting materials shall be stored on site unless in compliance with State laws or rules pertaining to such materials. The Permittee shall follow Best Management Practices

for Fueling and Maintenance of Excavation and Earthmoving Equipment, WD-DWGB-22-6, prepared by NH Department of Environmental Services.

6. Where temporary slopes will exceed 1:1, a fence or other suitable barricade shall be erected to warn of danger or limit access on the site.
7. Restoration bond - Prior to the removal of top soil or other overburden material from any land area that has not yet been excavated, the Permittee shall have in place a reclamation bond or other security prescribed by the Regulator in the amount of \$5,000 per acre disturbed. No more than two acres shall be open or un-reclaimed at any time unless the Permittee has increased the size of the reclamation bond to reflect the area open. The total amount of security currently held for this excavation is \$10,000, allowing no more than two acres be open.
8. Any excavated area of one contiguous acre or more, which: is depleted of commercial earth materials, including bedrock, has been excavated to finish grade or from which no earth materials have been removed for a two-year period shall be reclaimed in accordance with NH RSA 155-E:5, within twelve months following such depletion or two years of non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.
9. Site Restoration - Restoration shall consist of either of the following:
  - a. Placement of wood chips to a minimum depth of 6-inches or
  - b. Placement of topsoil a minimum of 4-inches deep, fertilized with a fertilizer suitable to grow and sustain grass on the soil placed.
  - c. Restoration using topsoil shall be in accordance with US Department of Agriculture, Natural Resources Conservation Services, Technical Note PM-NH-21 "Vegetating New Hampshire Sand and Gravel Pits", as amended, a copy of this document is attached to this permit.
10. Reclamation - The previous permit allowed the Permittee to consider reclamation as a gravel surface. However, due to the dust created by a non-vegetated surface, reclamation shall be in accordance with Condition 9 and RSA 155-E:5, I. The Permittee shall reclaim all disturbed areas with either wood chips or have vegetation actively growing by 30 June 2017. Any area not meeting the conditions of Condition 9 shall be considered as unreclaimed and subject to the bonding requirement (\$5,000/acre) contained in Condition 7. Any area which is paved or has a structure in accordance with an approved site plan approved by the Regulator shall not be included in the unreclaimed area. The Permittee shall notify the Regulator when the reclamation conditions have been met or increase the reclamation bond to match the total area of the site which is disturbed and/or unreclaimed.
11. Drinking Water Well Sampling of on-site and neighboring wells - Sampling domestic wells shall be conducted every three months. Collected water samples shall be analyzed for nitrate and nitrite nitrogen by EPA Method 352.1, as revised. Results shall be forwarded to the Regulator, the Deerfield Health Officer and the owner of the well or their successor within 30 days of the completion of the analysis. Well owners shall be notified by telephone by the Permittee on the day the results are

received by the Permittee. Should the concentration of total nitrate nitrogen equal or exceed 9 mg/l in any well, the Permittee shall discontinue all blasting until the concentration shows a clear downward trend over two subsequent rounds of sampling. Should the concentration of nitrate nitrogen exceed 10 mg/l in any well, the Permittee shall provide alternate drinking water to the property owner(s) with the well in exceedance, and discontinue all blasting until approved by the Regulator. The following wells of the property owners of the Tax Map and Lot shall be sampled:

Map	Lot	Current Owner
208	132	Carl Savard, 9 Mountain View Road
209	35-1	Cheryl and Ronald Brosnahan, 29 Parade Road
209	45	Mark and Debra Todd, 32 Parade Road
209	35	Nellie A. Rollins, 35 Parade Road (both wells on the lot)

Should any property owner refuse to have their well sampled, the Permittee shall notify the Regulator to determine if an alternate well shall be sampled. Should the concentration of nitrates be less than or equal to 5.0 mg/l for two consecutive rounds of sampling for a well, the Regulator, at the request of the Permittee, may reduce the frequency of sampling of that well to no less than annually until all blasting activities have been permanently terminated.

12. Control of dust - Control of fugitive dust emissions has been an ongoing issue at this site. At a minimum, the control of fugitive dust emissions shall be in accordance with the "Deerfield Sand & Gravel Fugitive Dust Action Plan" dated November 16, 2016 and submitted to the NH Department of Environmental Services. A copy of that Plan is attached to this permit.
13. Identification of a source of water for dust control - The Permittee has identified \_\_\_\_\_ as the primary source of water for dust control. The alternate source of water shall be \_\_\_\_\_.
14. Particulate monitoring – Particulate concentrations may be monitored by the Regulator or its agent at the perimeter of the site. A particulate monitor such as a Dust Trak II particulate monitor, equipped with an impactor that monitors particulates less than 10 micrometers in size (PM-10). Downwind particulate concentrations shall not exceed 150 µg/m<sup>3</sup> above the upwind background conditions. Exceedance of this value would be prima facie evidence that dust control measures are insufficient and work on site shall be stopped or suspended and dust control activities shall be re-evaluated.
15. Hours and days of operation – Hours of operation for the site shall be 7:00 AM to 5:00 PM Monday through Friday, excluding State or Federal holidays. Operation outside these hours shall only occur during municipal or State declared emergencies.
16. Marking of property lines on the south and northwest side of the site - The property lines along the southerly side of the site, abutting Map 209, Lot 35-1, from Parade Road to the northeasterly corner of Lot 35-1 and the westerly property line abutting Route 43 and Map 208, Lot 132 a minimum of 300' from the existing utility platform shall be clearly marked with blaze marks and paint on trees. Such

markings shall be no more than 50' apart and shall clearly mark the appropriate property line. Marking of property lines shall be completed within 60 days of the date of approval by the Regulator.

17. Extension of the earthen berm – The earthen berm near the property line of Map 209, Lot 35-1 shall be extended 140' to the east from its existing terminus point along the edge of the 50-foot buffer to Lot 35-1. The berm shall be a minimum height of 6-feet above the existing undisturbed ground. The slopes of the berm shall be no steeper than 2:1 and shall be fertilized and seeded with a suitable grass seed in accordance with the requirements in Condition 9. Extension of the berm, including seeding and fertilizing, shall be completed by June 30, 2017.
18. The Permittee's engineer shall certify that Conditions 10, 16 and 17 have been completed and the dates of their completion. That certification shall be provided to the Regulator no later than July 7, 2017.
19. Parade Road Maintenance - Soil sweeping of Parade Road shall be conducted to maintain the surface in a clean condition, free from any material tracked from the pit in either direction from the entrance to the pit as conditions require and as determined by the Regulator or its agent.
20. Letters of Deficiency - Any Letter of Deficiency issued by the NH Department of Environmental Services or any other state or federal agency identifying a deficiency or deficiencies in the operation of the excavation shall be grounds for suspension of this permit by the Regulator unless or until a Letter of Compliance is issued that acknowledges that the deficiencies have been corrected.
21. All slopes, except exposed ledge, shall be graded to natural repose for the type of soil of which they are composed, but should not in any case be left steeper than 2:1. Change of slope shall not be abrupt, but shall blend with the surrounding terrain.
22. Any standing body of water created by the excavation which constitutes a hazard to safety or health shall be eliminated.
23. The topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural rate of flow.
24. Within twelve (12) months of the expiration date of the permit or the completion of any excavation, whichever occurs first, the Permittee shall have completed the reclamation of the areas affected by the excavation to meet the conditions contained in this permit.
25. Excavation shall only occur in accordance with the terms of this permit and shall be limited to the areas and to the depths as shown on the approved excavation plan.

- 26. Earth and vegetative debris resulting from the excavation shall be stockpiled for reuse, reclamation or removed or otherwise lawfully disposed of.
- 27. Notification of blasting operations – The Permittee shall notify the Deerfield Fire Department and abutters listed in Condition 11, above, in writing a minimum of 24 hours before any blasting takes place.
- 28. Site inspections - The Regulator or its duly authorized agent may enter onto the property to inspect and verify compliance with this permit.
- 29. Inspection costs - Costs incurred by the Regulator in the enforcement of this permit, including inspections and any and all testing, shall be reimbursed by the Permittee.

VIOLATION OF ANY CONDITION OF THIS PERMIT MAY RESULT IN THE SUSPENSION OR REVOCATION OF THE PERMIT BY THE REGULATOR IN ACCORDANCE WITH RSA 155-E:10. NOTICE OF SUSPENSION OR REVOCATION SHALL BE EFFECTIVE WHEN DELIVERED TO THE FOREMAN OPERATING IN THE EXCAVATION AREA OR THE PERMITTEE AT THE FOLLOWING ADDRESS – 30 Raymond Road, Deerfield, NH 03037.

AS PERMITTEE, I UNDERSTAND THE CONDITIONS CONTAINED WITHIN THIS PERMIT AND AGREE TO ABIDE BY THEM.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Nellie A. Rollins, Owner

Dated: \_\_\_\_\_

\_\_\_\_\_  
Steven T. Rollins, Operator

**THE EFFECTIVE DATE OF THIS PERMIT SHALL BE THE DATE SIGNED BY THE REGULATOR.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Regulator/ Chair  
Town of Deerfield, Planning Board

## Rick Pelletier

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**From:** Sylvia von Aulock [SvonAulock@snhpc.org]  
**Sent:** Thursday, March 23, 2017 8:29 AM  
**To:** Andrews, Gloria; Price, David  
**Cc:** Peter Schibbelhute; Mcgarry128@myfairpoint.net; Rick Pelletier; Jane Boucher; Steven Keach  
**Subject:** RE: Rollins draft permit, Deerfield; WPS-7847

Hi Gloria and Dave,  
Thanks for your feedback on the Rollins permit. I have forwarded your comments to the Planning Bd. At last night's meeting they decided on a site visit date for April 19th at 2:00. Please let us know if that works for your team.

Thanks, Sylvia

Sylvia von Aulock  
Deputy Executive Director  
Southern NH Planning Commission - Celebrating 50 Years of Planning Services

438 Dubuque St.  
Manchester, NH 03102  
603-669-4664

-----Original Message-----

**From:** Andrews, Gloria [<mailto:Gloria.Andrews@des.nh.gov>]  
**Sent:** Wednesday, March 22, 2017 1:12 PM  
**To:** Price, David  
**Cc:** Sylvia von Aulock  
**Subject:** RE: Rollins draft permit, Deerfield; WPS-7847

Dave/Sylvia,

I was just reviewing the draft town excavation permit for the Rollins Gravel Pit in Deerfield. I think that the 2nd sentence of the 3rd paragraph should be changed to something like "NHDES will require a written update of, with revised plans documenting the project status, every five years starting in September, 2018 as a condition of the Alteration of Terrain permit no. WPS-7847." The AoT permit does not need to be renewed. If this sentence is talking about the local permit then I think that it needs to be in a new paragraph.

As far as the berm is concerned, the updated plan that I have shows a berm at the location discussed in Item no. 17. I have attached a copy of the updated plan for your use. Let me know if they need an amendment to the permit after your site visit.

Gloria S. Andrews, PE

-----Original Message-----

**From:** Price, David  
**Sent:** Wednesday, March 22, 2017 10:58 AM  
**To:** Andrews, Gloria  
**Subject:** FW: Rollins draft permit

Thanks Gloria. Attached is the town excavation permit (draft). As we discussed, the third paragraph on the first page references AoT. I also noticed that they are requesting that the earthen berm be extended under item 17. This may either require an amendment or an updated