

OFFICIAL

**HOOKSETT ZONING BOARD OF ADJUSTMENT
MINUTES
Tuesday, August 10, 2010
HOOKSETT MUNICIPAL BUILDING
35 Main Street**

CALL TO ORDER

The meeting was called to order at 7:02 pm by C. Pearson

PLEDGE OF ALLEGIANCE

INTRODUCTION OF THE BOARD

C. Pearson, R. Duhaime, R. Bairam, D. Pare, Alternate, J. Levesque, Council Rep. T. Lanphear, Alternate

Staff: Peter Rowell, Code Enforcement Officer

ELECTION OF OFFICES

*R. Bairam motioned to appoint C. Pearson as Chairman. Seconded by D. Pare
Vote unanimously in favor*

*R. Bairam motioned to appoint R. Duhaime as Vice Chair. Seconded by D. Pare
Vote unanimously in favor*

APPROVAL OF MINUTES

July 13, 2010

*R. Bairam motioned to approve the minutes of July 13, 2010. Seconded by R. Duhaime.
Vote unanimously in favor. (C. Pearson abstained)*

CONTINUED PUBLIC HEARINGS

FALCON BROOK

Maurais Street

Map 45, Lot 33-2

A request for a Special Exception from Article 18 Section E to construct two (2) roadway crossings on the parcel to access the majority of the buildable/non-wetland buffer land.

Matt Peterson, representing Paul Maurais: We gave a presentation to the ZBA two (2) months ago. Since then we met with the Planning Board and the Conservation Commission, which have both submitted letters of support. We have a letter from Stantec and agree to meet all the conditions as stated. The wetland impact will not change based

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on their comments. It was just the buffer and they asked to extend the retaining wall to minimize the buffer impact.

C. Pearson: You are agreeable with all concerns addressed by Stantec?

M. Peterson: Yes, if we extend the headwall, we can minimize the buffer.
That was the majority of the comments and he mentioned moving the driveway. We are agreeable to the 5 x 3 box culverts.

Open Public:
No comments

Close Public

C. Pearson read a letter into the record from the Conservation Commission stating they are in full support of the project.

Planning Board letter was read into the record, which states they approve the plan with the conditions as stated by Stantec in a letter dated June 21, 2010.

R. Duhaime motioned to grant the Special Exception with the condition that they meet all concerns as stated in Stantec's Letter dated June 21, 2010. Seconded by R. Bairam. Vote unanimously in favor.

NEW PUBLIC HEARINGS

BURL LAND CLEARING

150 Londonderry Turnpike
Map 43, Lot 49

A request for a Variance from Article 10 Section A to allow an Industrial Use in a Commercial District.

Karen Molten, manager at Burl Land Clearing: We are looking for a variance to grind stumps. We have been in Hooksett since 2001. We didn't anticipate grinding stumps but it is what we do and that possibility was expected. We normally like to grind on the job site but sometimes it isn't possible. We are currently a residential and commercial tree cutting, stumping and grinding business. We don't do this all the time. We have a 2004 approved site plan. The site plan has no restrictions. We were approved as a land clearing company and we thought all aspects of what we do were allowed. We are looking for approval to grind the stumps on site. We usually do it for one or two months and we don't do it everyday.

We store logs on the site. They are loaded on the trucks and brought to the mills. If they are too large and can't be used, then we grind them like we do stumps.

J. Levesque: What are the hours of operation?

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D. Burl: They start at 6:30 am and they leave at 6:00 pm.

K. Molten: We are willing to work within specific hours if that is necessary.

P. Rowell: The act of grinding is an industrial use. They were approved for storage. Any other use is considered industrial.

C. Pearson: Where on the site are you proposing to do this?

David Burl, owner: We are currently doing it on the second half, behind the shop. We are willing to move that if that makes the neighbors happy to the lower lot, which is closer to Route 28. One side of our shop is a wooded lot; it would be on that side.

K. Molten: We would move it if it would be better. It is elevated but I don't know the elevation. The grinder is noisy. We would be willing to put a sound barrier on the site.

P. Rowell: I took the pictures on the site today but the grinder was not on the site today.

K. Molten: The objective is to stockpile to a certain point and then grind for a few weeks.

Open Public

Charlie Crawford, 6 Waynes Way: Read from the minutes of the Planning Board meeting. The top lot was just supposed to be for trailers. This is now machines which load trucks which idle and the lights shoot down to my yard. Is this the only process? Their representative said there would be no grinding on this site. In response to what was said regarding the 2 months of grinding is ridiculous. They have two (2) excavators that mulch the piles and then a loader comes in a grinds. It creates dust and is going from 6 am in the morning. I look at the truck all day long. I see this all day. It is unbelievable. (pictures were distributed) I think they always knew they were going to do stump grinding. The minutes continually say no stump grinding. I would like to read a letter from my 90-year-old neighbor. (See file)

There is no dust control on this site. I cannot leave my windows open during the week. My house is worth nothing with stump grinding in my backyard. I made a complaint and he said he would stop after he finished the job. The Board needs to go out a see this situation before it gets out of hand. The by pass is for commercial use but this is industrial use.

Leo Boucher, 7 Waynes Way: I am the last house on the end. It is noisy and dusty. It is like someone putting a diesel truck and leaving it running. It is constant. The dust is a big issue also.

Moe L'Heroux: I own Hill Haven Park to the south of this property. I am opposed because I question whether this is a forgiveness or an expansion. It is a permanent construction site that will never be finish. If this expands his operation, he has clear cut his lot up to my property line. I have had several conversations and he agreed he was on

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my property. It has gotten worst. The pile in the photos that are buried are mine. It is obvious the trees that were dropped were not dropped by nature. I request a fence and sound barrier if this is approve. The line between the parcels allows no buffer zone, which requires a buffer between MDR and commercial. I can hear the operation now and I'm sure the residential neighbors can. If I can hear them now, I can't imagine what it will be when the grinding starts. Go to the use of commercial area and see what will work with a grinding operation. Even if it is industrial, you cannot be a nuisance and that includes noise, dust, etc. Finally, this would be spot zoning at it's worst. The value of the surrounding property would be diminished. He was not going to grind stumps when he got this approval.

Photos were distributed to the Board.

They are talking about moving it down the ridgeline. I haven't expanded my property, which I might do and I shouldn't have to contend with this industrial use.

I attempted to be good neighbor and talk to them and I found this week when I visited the site that it's gotten worst. The large boulders are on my property.

Craig White, 69 Morrill Road: Our complaint is the noise. If they are not grinding stumps now, I don't know what they are doing. Even with the foliage now it is very loud. In the late fall and winter months it is even louder. I have two kids and when the machinery is running, the kids don't want to walk the land. It causes my dogs to bark when the machinery is running. Our major complaint is the noise. If they were going to grind stumps in the back, it would be louder to us. We don't have a dust problem and the noise is throughout the day.

Brian Johnson, 162 Londonderry Turnpike: I'm the first house on Wayne's Way. It has been my problem since this was built. An inspection was done prior to blasting and they said if there were a problem they would address it. I had a crack and they never addressed it. Now I have water running through my yard and into my basement. The trucks are running at 5 am. Their lights go through my window. I don't want a sound barrier wall. I lived in Lawrence and I didn't move NH for a sound barrier wall. I understand they want to expand but they are expanding at a cost to us. If this is approved, we are all being zeroed out. If they want to grind, they should do it on a bigger site. When that truck comes down the hill and puts on it's brakes, it wakes my 3 year old. This is affecting everything in my household. I don't think they would like me starting my lawn mower at 5:00 am under their window.

Roland Crete, 155 Londonderry Turnpike: I'm against any more of what they are doing. When they stripped all the vegetation from that hill, all the water is now going in my yard and out to Joanne's Drive. If you are changing to Industrial, you should contact the people on Joanne because it will affect them. We don't have the noise problem but we have the dust problem.

Doug White, 69 Morrill Road: We have 17 acres and my wife and I would like to someday build a house there. We would not build there with the current situation. We are further than Waynes Way and I can't imagine what they are going through.

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Roland Lalibertee, 66 Morrill Road: The noise and the crusher, it was up next to my property and they were grinding 300 – 400 feet from my house. I'm at the dead end of the street. It is loud and I don't know what to say, but it doesn't seem right. I'm sure the people on Autumn Run can hear this as well. There are piles right up against my property. I have a stake and the stumps are against the stake.

D. Pare: What is the buffer?

P. Rowell: I don't know what was shown on the site. There is a vegetative buffer between residential and commercial which is 25 feet.

J. Gryval, 5 Elmer Ave: I'm here to support this variance. I admit when presented to the Planning Board, their rep said there would be no chipping but when business increased you cannot always chip at the site. As far as I know, Peter was talking about the buffer zone. Mr. Burl doesn't own the property to the north. There is a triangular piece in the back between the residential properties. Chipping is a part of the business. When presented, the engineer stated there would be no chipping off site. You have to do what you have to do to stay in business. If you deny this variance and they can't chip, you will put them out of business. This business is run by the family and it supports the family. The chipping is a small part of the business. There is a retention pond in the front of the property and that is all dry. This was engineered and if there was water it would be there. This is a commercial zone and Wayne's Way was approved in the early 80's. From the map, Lot 43-50 is owned by someone else and abuts the residential area on the north side. The blasting has nothing to do with Mr. Burl. There are pre-blasting inspections and they go on record. I think this is a great business and a way to work with Mr. Burl to get this resolved and a way that this won't be a problem to the neighbors.

R. Duhaime: Do you think this is an industrial use or a commercial use?

J. Gryval: I think it is industrial because the product that they make is the chips. Per Steve Buckley, he recommended they apply for a variance and then apply for a new site plan.

Mr. L'Hereux: I agree he may have a successful business. I have 17 acres and I'm using 6 acres. I have a successful business as well. When we were told this was going in, we were told it wouldn't be grinding. We would have fought a lot harder if we knew this is what they were doing. What happens when I start developing my land; there is no buffer.

Close Public

C. Pearson: Are you currently grinding?

K. Molten: We have but we haven't since we finished the project; maybe about a month.

D. Burl: We use the grinder to reload product onto the trailers.

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P. Rowell: I acted on a complaint and visited the site. At the time they were grinding and the agreement we came to was they would finish the pile that was there and stop. If they wanted to continue, they would have to come to the Zoning Board. There is a large pile waiting to be ground. There was also an order to remedy in 2006 for processing stumps on the property.

R. Duhaime: Is there any dust suppression going on now?

K. Molten: No and I have my office window open all day and I don't get any dust.

R. Duhaime: What can you do to address these issues?

K. Molten: The trucks are running to load the trailers. There is noise all year long. I am happy to do grinding between 9 am and 4 pm if that would be easier for the neighbors limited to 4 or 5 days a week.

R. Duhaime: Do you have trucks in and out at 5 am?

D. Burl: We don't start until 6:30 am. The lights are difficult to address in the winter.

K. Molten: I live on a busy street and I deal with lights.

D. Burl: We can use some of our mulch and make a berm even 50 feet. We put mulch on all our barriers. We make wood chips that are sold to the power plants.

K. Molten read the application in to the record (see file)

C. Pearson: When you say substantial justice to continue to do what you've been doing, are you saying you've been doing this?

K. Molten: No it is similar to what we've been doing. We wouldn't have any other place to do the grinding.

C. Pearson: What have you been doing for the last 10 years?

K. Molten: We have done it on the site in the past. In the past two (2) years we had to do more grinding on site than in the past. We are now doing smaller jobs, which require bringing the stumps to our shop.

C. Pearson: So you have been doing this?

K. Molten: The past two years, yes.

D. Burl: It would be devastating if we lost the ability to do this.

C. Pearson: At what point did you start grinding?

D. Burl: It was always part of our business. I don't know why the engineer said that.

K. Molten: We didn't expect to do this but it is part of our business.

P. Rowell read a letter from the former Code Enforcement Officer dated August 31, 2006 regarding an illegal operation and references the grinding of stumps.

D. Pare asked if Peter could read the ordinance where it says chipping is an industrial use.

P. Rowell: When I viewed the minutes of the Planning Board meeting, which become part of the decision and can be pulled back as evidence, they clearly say no grinding was allowed. They applied for a site plan to store logging and chips with an office. There was no mention of processing the material and it was to be brought to the site and moved off site.

K. Molten: We would like permission to process the stumps and make a barrier to make it better for the neighbors.

C. Pearson suggested a site visit and requested the stump grinder be on site at that time.

J. Levesque requested copies of the letters from the previous Code Enforcement Officer and copies of the site plan.

P. Rowell: I think it is clear that the grinding of the stumps is out of compliance with the approved site plan. Even if he started cording up the wood and moving it as firewood, it would also be an industrial process, similar to Pike processing quarry stone.

***R. Bairam motioned to continue the public hearing to September 14 to set a date for a site walk. Seconded by R. Duhaime.
Vote unanimously in favor***

ADJOURNMENT

The meeting was adjourned at 9:00 pm.

Respectfully submitted,

Lee Ann Moynihan