



Office of
ZONING BOARD OF APPEALS
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William Cadogan, *Chair*
Darlene Sodano, *Vice-Chair*
Julie Johnson, *Clerk*

Anthony Genova, *Member*
Craig Stevens, *Member*

John Giunta, *Associate member*
Kelly Chambers, *Associate member*

MEETING MINUTES
September 17, 2014 at 7:00 p.m.
Memorial Hall, Room 2

1.0 Preliminaries

- 1.1 Call the meeting to order:** Chairman Cadogan called the meeting to order at 7:10pm.
- 1.2 Roll Call:** Present were Members Bill Cadogan (BC) and Tony Genova (TG) and Associate members Kelly Chambers (KC) and John Giunta (JG). Also present was Administrative Assistant Karen Chapman. BC appointed KC and JG as voting members for this meeting.
- 1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting:**
 - 3.2 Mandatory Referral from Planning Board re: 366 & 368 Main St.** KC moved to add 3.2 to the agenda, seconded by TG with all voting in favor.
- 1.4 Review & approve minutes: 8/27/14:** JG moved to approve the minutes of 8/27/14 as written. TG seconded with all voting in favor.

2.0 Hearings/Appointments/Work Sessions:

- 2.1 7:00pm: Continuation of Public Hearing –Kevin Smith on behalf of George & Hugh McGovern – Off West Meadow Rd – Special Permit for Earth Removal in the Aquifer Protection District – Zoning Bylaw §§145-40, 145-46, 145-65.**

BC reopened the hearing at 7:11pm. JG read the minutes of the 4/30/14 hearing and signed a certification for missing a single session in order to vote on this application. Present for the applicant was Kevin Smith (KS), who submitted engineered plans for the project. A civil engineer dug test holes to determine the depth to groundwater which was found at 132” at Test Hole B. Calculations were completed to estimate the amount of material that will be removed from the site and redistributed on the site. There is 56,900 yd³ total to move, with 12,000 yd³ to use on site and 44,900 yd³ to remove from the site. The 44,900 yd³ will be moved over a number of years and the applicant will come to the Board for a renewal before this permit expires in three years. Proposed cuts and fills are on the engineered plan and the second sheet shows the property lines, abutters and locus of the property. In order to move to the next hearing, TG moved to continue this hearing until 8:00pm, with KC seconding and all in favor.

BC reopened the hearing at 8:00pm. In terms of Townsend Zoning Bylaw §145-46(D)(1-7) for earth excavation, the Board found as follows:

- 1. Property lines, names and addresses of all abutters, including those across any way:** these requirements are present on the plans.
- 2. Existing contours at five-foot intervals in the area from which materials are to be excavated and in surrounding areas, or as determined appropriate:** contours present at ten-foot intervals.
- 3. Natural features such as wetlands, the one-hundred-year floodplain, ground cover and surface and groundwater. Water table elevation shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed**

excavation, congruent with the size and geological makeup of the site: wetlands on the site are shown and there was no groundwater detected to a depth of 132 inches.

4. **A topographical map showing drainage facilities, final grades, and proposed vegetation and trees:** a plan with proposed final contours was submitted, as well as a map of vegetation removal.
5. **Erosion and sediment control plan:** this requirement has been waived.
6. **A restoration plan including the amount and cost of proposed restoration materials:** the proposed project is considered a restoration plan of the agricultural use.
7. **The location of monitoring wells which have been used to establish the high water table. The highest elevation of the water table shall be determined by observation wells monitored during the months of April and May. The observation wells' location shall be determined by the Board of Health or its designated agent. The information concerning height of water table shall be gathered before application for a special permit is made to the SPGA:** seven test holes were completed and shown on the plan, the requirement to have Board of Health determine well locations has been waived.

In terms of Zoning Bylaw §145-65(F)(1)(a-g) Special Permit for earth removal, the board found as follows:

- a. **Adequacy of the site in terms of the size for the proposed uses:** the Board found the property is adequate.
- b. **Suitability of the site for the proposed use:** the Board found the site is suitable for the proposed use.
- c. **Impact on traffic flow and safety:** truck traffic will be regulated pursuant to the conditions of the permit including consultation with the Chief of Police.
- d. **Impact on neighborhood visual character, including views and vistas:** the board determined that the proposed project will be an upgrade to the neighborhood.
- e. **Adequacy of method of sewage disposal, source of water and drainage:** the Board determined that the proposed methods are adequate and there will be no water moving off the site.
- f. **Adequacy of utilities and other public services:** the Board determined this not applicable.
- g. **Impact on ground and surface water quality and other environmental and natural resource considerations:** the Board determined that the proposed project will have no impact regarding the environment and the activities will not excavate soil any closer to the water table than seven feet pursuant to §145-40, Aquifer Protection District.

TG moved to waive the following requirements under §145-46D: under D(2) contour intervals at 10 feet are acceptable; under D(5) no erosion and sediment control plan is required; and under D(7) no Board of Health determination is required. John Giunta seconded the motion with a roll call vote as follows: TG-yes, JG-yes, KC-yes, BC-yes. The motion passes.

TG moved that pursuant to §145-65(F) of the Townsend Zoning Bylaw, the proposed use will not have adverse effects, which overbalance its' beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. JG seconded the motion with a roll call vote as follows: TG-yes, JG-yes, KC-yes, BC-yes. The motion passes.

TG moved to grant a Special Permit for a term of three years to H&G Realty Trust based on the findings of fact and pursuant to Zoning Bylaw §§145-46 and 145-65 for the proposed project to remove approximately 45,000 cubic yards of material over a period of several years from the property on West Meadow Road (Assessor's Map 4, Block 22, Lot 0). The project shall be carried out according to the submitted plans and the following conditions:

CONDITIONS:

- A. Applicant shall submit information regarding the proposed project to the Massachusetts Natural Heritage and Endangered Species Program for approval and shall submit a copy of the approval to the Zoning Board of Appeals and Building Commissioner before beginning the project.

- B. Before beginning the project, the applicant shall consult with the Conservation Commission regarding wetland resource area locations affected by the proposed activities.
- C. Pursuant to 145-46D(7), one monitoring well shall be located near Test Hole B on the plan entitled "Gravel Removal Plan" to monitor groundwater height.
- D. Pursuant to §145-46H, inspection of the operation may be made at any reasonable hour by an agent of the SPGA to determine if conditions of the special permit are being enforced.
- E. Pursuant to §145-46(I)(1-8):
 - (1) No excavation, other than excavation necessarily incidental to a valid building permit or subdivision approval can be undertaken within 10 (ten) feet, measured horizontally, of an existing public way or an adjacent property line.
 - (2) No earth or gravel shall be excavated closer to the maximum high water table than seven feet.
 - (3) All topsoil and subsoil stripped from operation areas shall be stockpiled and used in restoring the area.
 - (4) Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within 60 days after the special permit has expired or been revoked.
 - (5) Hours of operation shall be between 8:00 a.m. and 4:30 p.m. on weekdays only. Trucks may enter and leave the premises only within such hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load. Applicant may remove and deliver agricultural products from and to the site as has been customary in the past.
 - (6) Trucking routes and methods shall be subject to approval of the Chief of Police insofar as he may regulate any industrial trucking.
 - (7) All access roads leading to public ways shall be treated or paved with suitable material to reduce dust and mud for a distance of 200 feet back from the way. The operator shall clean up any spillage on public ways.
 - (8) Access roads shall intersect a public way at right angles for a distance of no less than 50 feet and shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view. All access roads shall have at least 250 feet visibility in each travel lane entering a state numbered or maintained highway and at least 150 feet visibility on all other streets. Access roads shall not drain directly onto public ways.
- F. Pursuant to §145-46(J): Restoration shall be carried out according to the plans submitted, conditions of the special permit, and the following minimum conditions:
 - (1) Restoration shall be carried on simultaneously with excavation (where applicable), so that when any five acres have been cleared and stumped and five acres are in active mining operation. At least five acres shall be restored before work commences (including building haul roads) on the next contiguous five acres (where applicable). Final restoration work shall be completed within 120 days after expiration or withdrawal of a permit or upon cessation of operations.
 - (2) No slope shall be steeper than 2:1 (two feet horizontal to one foot vertical) (50%); 4:1 (four feet horizontal to one foot vertical) is preferred for erosion control and shall be required in sensitive areas.
 - (3) Retained subsoil and topsoil shall be spread over the disturbed area and treated with appropriate fertilizer or other suitable material and seeded with the appropriate material for the agricultural use on the site.
 - (4) Unless the special permit conditions expressly require alteration of drainage patterns, the land shall be left so that natural storm drainage shall leave the property at the original natural drainage points, and so that the total discharge at peak flow and the area of drainage to any one point is not increased.
 - (5) Natural vegetation shall be left and maintained on undisturbed land for screening, noise reduction and erosion control purposes.

- G. The Special Permit shall be valid for three years from the date of this decision and shall be renewed before the permit expires in order to continue the restoration project.

KC seconded the motion, with a roll call vote as follows: TG=yes, JG=yes, KC=yes, BC=yes. The motion passes.

2.2 7:30pm: Continuation Public Hearing –North Middlesex Regional School District – Variance from Zoning Bylaw §§145-5, 145-33 for parking space dimensions.

BC reopened the hearing at 7:35pm. Present for the applicant were John Hart and Erin Prestileo of SMMA, Peter Collins of HEERY, Attorney Bryan LeBlanc, Sue Lisio, Superintendent Joan Landers, and School Committee Chair Sue Robbins. Atty LeBlanc submitted a letter requesting to withdraw the application without prejudice and after speaking with the Board's Town Counsel John Goldrosen, decided to withdraw the letter. Erin Prestileo submitted a letter with details in support of the variance. The Board reviewed Town Counsel's opinion. BC states he doesn't think our Bylaws are restrictive and is not in favor of granting a variance. A discussion ensued and ended with Attorney LeBlanc resubmitting the letter from the applicant requesting a withdrawal without prejudice. KC moved to accept the letter of withdrawal of the application with TG seconding and all in favor.

3.0 General Business:

- 3.1 Mandatory Referral from Planning Board re: 8 Jefts Street – Site Plan Review Machine Shop:** The Board had no comment.
- 3.2 Mandatory Referral from Planning Board re: 366 & 368 Main St:** The Board had no comment.

4.0 Correspondence:

- 4.1 Letter from ZEO to Bruce Wilbur re: Use of 8 Jefts Street:** noted.
- 4.2 Vacancy Posting for Open Positions:** noted.
- 4.3 Letter of Resignation from Julie Johnson:** The Board will recommend an Associate member to fill Julie's position at the next meeting.

5.0 Schedule:

Next meeting: October 29, 2014 @ 7:00pm

- 6.0 Adjournment:** TG motioned to adjourn at 8:35pm, with KC seconding and all in favor.

Minutes taken and transcribed by Karen Chapman

All materials used in this meeting can be found in the Town Clerk's street files or the Zoning Board office.