

THESE MINUTES MAY BE APPROVED AND/OR AMENDED AT THE FOLLOWING MEETING

**Town of Richmond
Planning Board Public Hearing**

September 9, 2014

7:30 PM

Richmond Veterans Hall

Members Present:

Richard Drew, Chairman
Lloyd Condon, Secretary
Norma Thibodeau
Wes Vaughan
Jon Pratt
Butch Morin, Alternate

Members Absent:

Deb Duffy, Vice Chairman
Carol Jameson, Selectman Rep

Public: Bonnie Pratt, Mike Parrott, Paul Grasewicz and Attorney Joseph S. Hoppock.

Meeting called to order @ 7:30.

Butch Morin seated for Deb Duffy.

1. Public:

Nothing from the public:

2. Excavation Revocation Public Hearing: Map 405-086

Jon Pratt recused himself.

Chairman Drew gave a brief outline of how the Public Hearing will proceed. .

Attorney Joseph S. Hoppock, P.L.L.C., Esquire, submitted to the board a proposed order in support of the Selectmen's request to revoke the Pratt Excavation Permit for Map 405 Lot 086 located at 110 Fish Hatchery Road, Richmond NH.

The grounds are failure to comply with the permit, failure to comply with the conditions of the permit and failure to comply with RSA 155-E. There are two concerns with the permit as it stands presently. The Pratt's did not consistently follow the reclamation plan which the Planning Board approved in December 6, 2011. Part of the reclamation plan required the Pratt's to maintain a reclamation bond (RSA 155-E:4-a, VII) on February 9, 2012 a bond was secured in the amount of \$14,000.00 which was in effect until February 9, 2013. The insurance company would not reissue the bond to the Pratt's. The Pratt's have been unable to find another company to carry a bond for their excavation site.

March of 2014 the Town of Richmond had a hearing in the Cheshire County Superior Court to enjoin and obtain an injunction against excavation activity at the site. That final order from the Cheshire County Superior Court was given to the Planning Board from their Attorney for their review. As of the day of the order, March, 6, 2014 as part of the conditions of the permit approved by the Planning Board the Pratt's were to have a progress log submitted yearly. Further, they were asked to provide every two years a copy of that report to the Department of Environmental Services. Reports have not been submitted to DES as part of their reclamation plan. There has been

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one report which was submitted on February 15, 2013 to the Town of Richmond.

The request to the Planning Board at the hearing tonight, would be to revoke the Pratt's excavation permit without prejudice. This means that in the future if the Pratt's could secure a bond they could file for the excavation permit in the future. The permit may be approved subject to appropriate conditions that could be imposed in the future by the Planning Board.

One question was asked if the Proposed Order would be recorded at the Registry of Deeds. Answer from the Attorney was no, the lay out was created to make the situation easier to understand.

Paul Grasewicz, PE. Graz Engineering, L.L.C. engineer for the Pratt's addressed the Planning Board with information he gathered on August 15, 2014. He took photos of the area and submitted a plan with the contour of the original lines at the time the excavation permit was granted (12.6.2011). The plans presented do not show current working status, no new current grades have been taken. Areas that are labeled stripped not excavated have been stripped of vegetation but no excavation work has been done. Camera symbols on the map indicate where the photos were taken from with corresponding numbers on the photos.

There is an area indicating where the shallow basin grading will occur. The width and depth can't be accomplished until material is removed from the site. The material can't be removed as there is no place for them to put the material. They have a working area where both sand and loam are stockpiled taking up the extra space. The need now is to get material off of the site to make room for additional material. The basin request needs to have more material removed to be completed. At present the basin is graded to handle 4-5" of water at the low end this prevents the water from running off the hill it collects in the basin.

Comment from the board: this is the type of report the board would like to have submitted in the future. But, at this time the report is about one year to late and shows no present grades.

Paul Grasewicz added that the growth is growing and after the 2' rain in August there was a small amount of erosion but nothing significant. Bonnie Pratt added that at this time no further material has been removed from the site. Storage piles have gotten larger to help accomplish the work that is needed.

Bonnie Pratt took the floor to address the Planning Board on the bond status. The Pratt's have tried different financial institutions to secure a bond. Most financial institutions will not deal with such a small size bond they are looking for larger amounts than the initial \$14,000.00 required by the Planning Board.

Bonnie introduced Mike Parrott who is willing to put up the bond and will oversee everything. It was the Board's understanding that the bond needs to be put in an account that can be accessed by the Town. Mr. Parrott explained that he writes bonds all the time and he knows how they work. He went on to state that the reclamation is at the point that it needs to be finished and if the Town stops it now no further work can be done. Mr. Parrott admitted that he doesn't have any knowledge of the site plan and what is expected but that the bond should be complied with first.

He explained that there are some items missing, the town filed a cease and desist order preventing them from filing taxes on dirt coming out. But, his knowledge of the minutes and timeframe is limited, Mr. Parrott doesn't want to put together a bond and find out that they have a limited timeframe to accomplish the reclamation.

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The plan updated by Graz Engineering and submitted to the Planning Board is not a current plan, this is the old plan with updated locations of work in progress. The original bond amount was submitted by Paul Grasewicz and then reviewed by SVE Associates before the Planning Board accepted the estimate.

Attorney Hoppock brought the board's attention to RSA 155-E:4-a VII, in reference to bonds. This bond will be placed by the regulator (Planning Board) sufficient to finish the reclamation of the area excavated. In the Court Order of March 6, 2014 the Court ordered the Pratt's to take the following actions within sixty (60) days of the order: 1. Provide proof of reinstatement of the reclamation bond of at least \$15,250.00. This allowed for the clause in the original Conditions of Approval for a cost increase.

Attorney Hoppock suggested putting the \$15,250.00 into an escrow account with Bonnie Pratt, Town of Richmond and Attorney Joseph S. Hoppock on as the account holders. He went on to suggest that to add another party to the account could create problems. At this time there is no paperwork showing that a bond is in place or will be put in place by any agency. His suggestion was to move forward and revoke the permit and then move forward when there is proof of required items in place. He suggested that statutorily the permit needs to be revoked.

Motion made by Butch Morin to close the Public Hearing. Seconded by Wes Vaughan.

Discussion if the permit is revoked Mrs. Pratt asked if she would have to have a new application, new plans and reapply with the fees all over again. Yes, she would have to reapply for the permit.

All in favor. None opposed. Motion carries.

Deliberation included discussion on the Court Order and information presented by both parties. This is a process which needs to take place on the advice of the Town Attorney and the Court Order.

Motion made by Butch Morin to approve of the revocation of the existing excavation permit. Seconded by Wes Vaughan.

Discussion concluded that the board's hands are being led by a Court Order that has created legal obligations that need to be fulfilled. The courts gave the Pratt's 3 months and it has now been 6 months and 3 days for the Pratt's to abide by the Court Order. Nothing has been accomplished.

All in favor. None Opposed. Motion carries.

3. Mail:

No Mail.

4. Minutes August 26, 2014:

Page 2, Under 5. Two Lot Subdivision. Correct the word unti to **until**. Change the word tabled to **discussed**. Under 6. Excavation Regulations: First sentence change the word of to **to**.

Page 3, Under 2 Excavation Policy: remove the word Permit and the word during to **while**.

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Page 4, Under 7, change the word tabled to **discussed**.

Under 8. Change State representative to **Mary Pinkham Langer**.

Motion made by Lloyd Condon to accept the minutes as amended. Seconded by Wes Vaughan. All in favor. None opposed. One abstention from Jon Pratt as he wasn't present for that meeting

5. Lot Line Adjustment: Map 405-38 and 405-39

Waiver requests were not voted on by the board but are complete and on file.

7. Two Lot Subdivision-Boundary Line Adj: Map 410-51, 410-52, 410-53

Review of Map 410-51,52,53. The Planning Board went through the submitted application to determine if all questions have been answered.

Waiver request completed for the Soil overlay, approval for NH water supply and pollution control. Driveway permit isn't physically in the folder but it has been applied for. Due to an auto accident there was no power to retrieve them on Monday at the Selectman's meeting. He will bring them with him.

Fees are included.

Added the abutters that were missing (4).

Added the flow line of water.

Wetlands on Proposed Lot and Proposed Lot 52-1 are not on the map.

Seems everything has been addressed.

Application is considered complete and the Public hearing has been scheduled for September 23, 2014 @ 8:00 PM located at the Veterans Hall.

8. Excavation Regulations:

Information has not been completed at this time. Discussion will be moved to September 23, 2014 meeting.

9. FEMA discussion:

Discussion move to September 23, 2014 meeting

9. Master Plan:

Discussion moved to September 23, 2014 meeting

10. Subdivision Checklist update:

Discussion moved to September 23, 2014 meeting.

11. Other:

Mr. Fleishmann will be invited to the September 23, 2014 @ 7:30 for a solar conversation. He was looking for ideas of what the board was looking for. He has already met with the Voluntary Energy Commission. The idea

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suggestions included what was needed to use the maximum from solar installation. Could you create a solar panel array and then use the power else where? Would it work on a flat roof like the Fire Department roof?

Motion made by Butch Morin to adjourn the meeting. Seconded by Jon Pratt. All in favor. None Opposed.
Motion Carries.

Meeting adjourned @ 8:45

Respectfully Submitted:

Kandace Mattson

Attachments:

1. Signed revocation for Map 405 Lot 086.