

**Town of Sterling**

**Earth Removal Board**

**Meeting Minutes 06/03/2019**

Chairman Kilcoyne called the meeting to order at approximately 6:30pm followed by The Pledge of Allegiance

**Members present:** Kilcoyne, Mosley, Rich, Miller

**Members Absent:** Rivers

Chairman Kilcoyne commented meeting is subject to recording, Mosley recording for purposes of minutes.

Kilcoyne commented that Craig Miller is replacing Russ Philpot as the Planning Board representative to the ERB. Kilcoyne reviewed the agenda.

Mosley moved to go into Public Hearing, second by Miller, unanimous vote to approve.

**PUBLIC HEARING, 68 HEYWOOD ROAD.**

The applicant James Simpson was present along with his engineer Doug Andrysick and his attorney. Mr. Simpson provided the permit application, application fee and list of abutters notified by registered mail.

Mr. Simpson reviewed the permit application for the parcel with is approximately 5.6 acres in an area zoned RR. He plans to build a single family for which building and septic plans have been approved by the town. An NOI as been approved by the Conservation Commission as well. He is currently working with National Grid on their approval since they have an easement for power lines through the property. Approximately 570 yards of material has already been removed from the site. Mr. Simpson wants to remove approximately 19,700 additional yards of material to create a buildable grade for the house and septic. The location of the house on the lot is limited by the NOI and National Grid easement.

Mr. Simpson's attorney commented that an accessory use of the property, such as removing sellable sand and gravel, is allowed, when it is subordinate to the primary use but related to the primary purpose.

Jeff Donaldson, 72 South Nelson Rd spoke for the abutters. He commented that the land was purchased originally to provide access to an abutting parcel that Mr. Simpson wanted to purchase in order to build a subdivision. That parcel of land was acquired by the town due to non payment of taxes. He commented that once the material is removed, there is no guarantee that a house will actually be built. He commented that the value of the proposed material to be removed is the approximately equal to the price Mr. Simpson paid for the land and that building the structure would cost approximately another \$200,000.

He commented that the removal of material to date, 570 yards, has been disruptive to abutters and removal of the proposed 19,700 yards would be extremely disruptive.

He commented the abutters would like additional conditions imposed for this project. They are obtaining a variance from the ZBA, receive approval from National Grid and provide protection from erosion, dust, etc. for the abutters property. They feel the towns protective bylaws do not allow earth removal in areas zoned RR and therefore the variance is required. He also commented that people are parking on the property using it as an access point for ATVs. They would like to see a gate and signage on the property driveway to stop this activity.

Cheryl Cronin and Kim Donaldson, abutters expressed their concern with the project and living next to a “mining operation” while the material is being removed which would take months. They commented that potential of erosion along their property lines is an issue. They are concerned about immediate and long term impacts to the neighborhood and their property.

Mr. Simpson commented that a permit to remove up to 1000 yards was approved at the last ERB meeting. He believes the need for a variance is up to the ERB to determine.

Kilcoyne suggested having the town attorney decide if a variance is required.

The board reviewed permit conditions with Mr. Simpson. Conditions 5, 11 and 13 would be indicated as not applicable. Mr. Simpson suggested that they would be willing to halt work on Saturday as well as Sunday.

Mr. Mosley asked if it would be feasible to use the town land behind Mr. Simpson’s property as a place for the removed material rather than having to haul it away. Kilcoyne will discuss this option with the town administrator. Mosley will discuss this option with Matt Marro and the Conservation Commission.

Rich asked what happens if the Donaldson property erodes, Mr. Simpson said there would be no retaining walls. He will have an engineered plan for slopes with grading and seeding requirements.

No vote was taken on the permit. Further discussion will take place at the next meeting.

## **7 CHOCKSETT ROAD DRAINAGE PROBLEMS**

John Durkin represented Ms Demarais who is out of town. Mr. Plante was in attendance.

Mr. Durkin stated Whitman and Bingham is working on a plan to mitigate the drainage issues. They have surveyed the site to define existing conditions of the slopes, detention pond, etc. He estimated it would take 6-8 weeks to define existing conditions and develop a mitigation plan; they are 4 weeks into the process.

He commented that in the short term they wanted to go ahead and put some asphalt grindings on the road and clean out the bottom of the pond.

Mr. Plante commented he was good with the short term actions and the plan to move forward.

The board confirmed that blasting can continue on the site. It appears that an administrative error dropped the blasting indication from the permit. The board thinks the best way to correct this is during the permit renewal process for the site which comes up in the fall of 2019.

### **BARBERS CROSSING**

James Vevone represented the owners of Barbers Crossing. He commented that at the time the lower parking lot was created, approximately 3000 yards of material was moved onto abutters property. The parties have agreed on plans to move the material back to Barbers Crossing property. The applicant provided the permit application, permit fee and list of notified abutters.

Because the material is being moved from on property to another an Earth Removal permit is required as is a public hearing. The board agreed on June 27<sup>th</sup> at 6:30 for a public hearing on the matter. The applicant will take care of the public notice for the hearing.

### **38 CLINTON ROAD**

Ms Rich recused herself from this discussion.

Mr. Foley reviewed the status of the project. The board reviewed the letter provided from the outside engineer, Haley and Ward, hired to review the geotechnical reports from the project. The board was comfortable with their review and the fact that there were no issues cited.

At the last meeting the board voted to conditional close out the permit pending the outside engineering review. Based on no issues being identified, the permit is considered closed.

Kilcoyne would confirm with our attorney that no additional votes need to be conducted.

### **NEW BUSINESS**

Ms Rich rejoined the discussion.

Next meeting will be tentatively scheduled for June 18<sup>th</sup> at 6:30 and a public hearing scheduled for June 27<sup>th</sup> at 6:30.

Mosley moved to adjourn at 8:26, Miller second and motion passed unanimously.