

Approved Minutes

Canaan Planning Board

Meeting June 12, 2014

Meeting was called to order by Charles Townsend at 7:00 pm

In attendance were Charles Townsend, David McAllister, Carol Ann Morrison and Stephen Ward acting for John Bergeron.

Mary Pinkham-Langer CNHA presented information about Excavation regulations: She feels there is no need to repeat RSA 155-E in our regulations, but that we should be addressing what isn't in the Statute. For instance: Commercial vs. Incidental excavations. Adjustments can be made for incidental excavations, such as landscaping, leveling grade and agriculture. Only we as the board can decide what is incidental and what is actually commercial under the guise of "incidental."

The board can grant exceptions for permits by regulation. In general, an exception would remove less than 1000 cubic yards of earth from a site within a tax year. However, there can be a case where much more than this is removed, but is incidental to the project, such as a shopping center, which needs to blast and haul away in order to level the site to build on it. A key to whether something is incidental is the amount of time the excavation is going to take. It shouldn't be long (such as the above shopping center.) Also, what is it they're doing? Even an incidental excavation should be part of a public hearing, and include drawings, which can be hand drawn. A paper trail is necessary. It is important not to be fooled by someone getting a building permit (easier to obtain) who is really planning to remove and sell gravel before developing a property, and may take years or never develop the property.

Sometimes applicants claim to be "grandfathered." In order to be grandfathered, the project needs to have been lawfully existing (permitted) as of August 1979 and active no later than 1977. Between August 4, 1989 and August 4, 1991 a report needed to be filed with the state including information about how much area had been excavated, how much was left to be excavated, how much had been taken out, and the amount of cubic yards left to be removed. If this report was not filed, there is no grandfathered status. The grandfathering runs with the lot, not the owner, but they need the paper. They are only grandfathered for the lot that was permitted, not any adjacent lots or expansion of the excavation. Applicants, despite grandfathering, still must meet minimum

standards. DES permits also transfer with the land for a gravel pit, with notice. Local permits do not travel with the land without prior notice.

RSA-155E regulates removal of “earth” which is considered loam, gravel, rock, sand, and bedrock/ledge that has been blasted. It does not regulate mines or “dimensional stone”(blocks.)

Along with excavation permits, DES requires Alteration of Terrain permits if the *intent* is to disturb more than 2.3 acres (100,000 square feet) **total**. If there was area that had already been cleared in 1981, the applicant can go another 2.3 acres without a permit. DES requires updates on plans for gravel pits every 5 years.

Sometimes towns accidentally “grandfather” excavations which do not have the proper paper work. They then become legal until such time as they stop working the pit. Towns also need to check for excavations without permits.

Ms. Pinkham-Langer stated that aquifers should be protected through the Master Plan, for instance, “no excavating within xxx feet of the high water table or aquifers.” This varies from town to town. It is important to protect known aquifers.

Some other things she suggested are:

- Towns should demand surety for the performance of reclamation.
- Plans should detail existing and ending conditions.
- Towns may ask for reclamation plans from an expert paid for by the owner.
- The landowners/excavators should not be the ones to determine the cost of reclamation; this should be done by an independent expert.
- The bond should have an end date at least 1-2 years after the expected end of the reclamation, since sometimes plants don't take the first year.
- Permits can be no more than \$50.00 by statute
- Excavation plans should also go to Conservation Commission

Ms. Pinkham-Langer is willing to do a longer workshop for our board at our discretion.

Annexation Covenant: Voluntary Merger of lots of Record

Tax Map 12 Lot # 55B and Tax Map 12 Lot #53

Kathleen Hill and Joseph Motta 12 Juniper Road Canaan

Alan Hill 265 Jerusalem Road Canaan

Members of the public attending were Kathy Hill, Mrs. Motta, and Joyce Harvey.

The Board was informed that on June 11, 2014, both lots were transferred into common ownership. The property is being bought by the Montegenas, but the well for the property is on the smaller lot. This combination allows the whole property to be served by the well, and also means the property cannot be re-subdivided into two abutting properties without coming to the Planning Board.

Steve Ward moved that the Board approve the combination of two lots into one larger lot. Carol Morrison seconded the motion, and it was approved unanimously. The Board signed the Covenant of Annexation.

Brief Status Report: the Marc Sanbourne subdivision. No news.

Continued Hearing: Major Subdivision for Canaan IV Real Estate Trust:

The hearing was opened at 7:50

Scott Sanborn reports that restrictions on the property vis a vis mobile homes are not reflected in any deeds, but in fact only as a note on a 400 acre subdivision plan from 1984. It will be in the new deeds and subdivision plans.

DOT is okay with the drainage issue, but has concerns about sight distances in the winter, since the driveway just barely meets requirements in the summer. It is still in review.

We are also still waiting for approval of the covenant contract for driveway/road construction.

It will be filed along with the deeds (in lieu of a bond) and state that no lot can be sold until the Planning Board approves the construction of the road.

This hearing has been continued until June 26, 2014 at 7:15 PM in the Senior Center, with a possibility of continuing it beyond that into July.

A question came up after Mr. Sanborn left as to whether the 36 acres this subdivision is on have been combined into one lot before being subdivided into the new plan.

Minutes Review: The minutes of May 22, 2014 were approved with corrections. Moved by Steve, seconded by Dave. All were in favor.

Correspondence: Received Annual Update to Land Use Regulations. This is being referred to John Bergeron. Received an abutter notice back which was not picked up by the abutter.

Motion to adjourn the meeting was made by Dave, seconded by Carol, all were in favor. The meeting was adjourned at 8:15 PM.

Respectively submitted,

Carol Ann Morrison
Acting Scribe