

**OSSIPEE PLANNING BOARD
MEETING MINUTES
June 2, 2020**

Minutes have been recorded for the convenience of summarization by Laura Nash, Planning Board Secretary and are deleted once minutes are approved; any amendments to the minutes are noted in ***bold & italic*** type.

REGULAR PUBLIC MEETING

Call to Order: Sharon “Sharie” Cohen called the meeting to order at 7:00 PM.

Pledge of Allegiance: was recited by all in attendance.

Roll Call: Sharon “Sharie” Cohen - Chairman, Ash Fischbein – Vice Chairman, Connie Billings, Roy Barron, Krystal Eldridge, Bruce Stuart, Jonathan Smith (Select. Rep), Alternate-Tim Otterbach, Steve McConarty (ZEO).

Regularly Scheduled Meeting

Meeting Minutes: Review to approve Meeting Minutes of 03/17/2020, 04/07/2020, 04/21/2020, 05/05/2020 and 05/19/2020.

A **Motion** by Barron to approve the minutes of the March 17, 2020, April 7th, April 21st, May 5th, and May 19th, 2020. Fischbein seconded. No Discussion. A unanimous vote was taken by show of hands. **Motion passed.**

Financial: Budget Report: 04/01/2020 – 04/30/2020 the Board reviewed, and no discussion was heard.

Unsatisfied Conditions: (continued from previous PB Mtgs): See separate sheet with details.

- **Case #20-2-BLA & Case #20-2-SUBD:** Northern Tire & Alignment and Four Investors Trust of 1225 Route 16. Tax Map: 101 Lot: 008 & 009 was Granted Conditional Boundary Line Adjustment and Subdivision Approval. The Board received on 04/15/2020 the Fire Chief’s letter of Approval.

A **Motion** by Cohen to remove the Fire Chief’s letter of Approval for **Case #20-2-BLA & Case #20-2-SUBD:** Northern Tire & Alignment and Four Investors Trust of 1225 Route 16. Tax Map: 101 Lot: 008 & 009 from the list of Unsatisfied Conditions. Stuart seconded.

Discussion: Billings commented that final approval cannot be given because there are conditions still pending. Cohen explained that she was only removing the Fire Chief’s letter from the list of Unsatisfied Conditions. With no further discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

- **Case #20-1-SPRA:** Northgate Ossipee, LLC of 110 Nichols Rd. (former 60 Nichols Rd.) Tax Map: 029 Lot: 001 was **Granted Conditional Site Plan Review Amendment Approval (Pending)** 4. “No renting staff housing out to campers” to be documented into final plans- The Board received on 03/25/2020 Revised plans including the pending statement.

A **Motion** by Billings to remove this condition from the list of Unsatisfied Conditions, **Grant Final Site Plan Review Amendment** and sign the final plans. Barron seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

PUBLIC HEARING

New Business:

Gravel Pits:

- **Case # 18-1-GP:** (Continued from 09/18/2018)

Brad Leighton c/o Jon Rokeh, Rokeh Consulting for 75 Chickville Rd. Tax map: 239 Lot: 001 has submitted an Earth Excavation & Reclamation Permit to re-open the 75 Chickville Rd. Gravel Pit, which is under new ownership.

1. Legal documentation to support which owner put forth the reclamation fees, Coyne or Leighton. (Pending)
5. Legal opinion from the Town of Ossipee's, Attorney Sager on the disbursement of Mr. Coyne's money. (Pending)

A **Motion** by Cohen stating a "Possible Resolution: for Mr. Leighton to sign a legally binding contractual agreement, drawn up by the Town Attorney, Rick Sager, that if an heir of Mr. Coyne's comes forth later on, the heir would be entitled to the surety, and Mr. Leighton will be required to put forth the cash surety for the gravel pit." Barron seconded.

Discussion: Attorney Jonathan Springer for Brad Leighton stated his client is agreeable to that approach but suggested the following. There has to be some protection for him (Leighton) against a situation where someone comes forward and claims to be an heir, without going through the Probate Court and without allowing Mr. Leighton to contest the claim. (Keeping in mind that Mr. Leighton's position is that the cash surety is a corporate asset belonging to the company which he purchased from Mr. Coyne).

Attorney Springer suggested that the agreement provides that any such potential heir has to file a motion to reopen the probate, give notice to my client (and an opportunity to appear and contest the claim) and get a final court order from the probate judge as to the heir's entitlement to the funds.

Attorney Springer said Mr. Leighton certainly understands that if the probate court awards the money to an heir then he (Mr. Leighton) will be required to furnish a replacement cash surety for the reclamation of the gravel pit.

Billings opposed the potential arrangement because it does not ensure that the money for reclamation would be held by the Town Treasurer. Billings considers this arrangement to be a promissory note and the Planning Board has no ruling in the by-laws to cover such arrangements. Billings noted:

1. The Town Treasurer will not release the surety until he receives a letter from the Planning Board stating the reclamation of the gravel pit is complete and it's okay to release the funds.
2. Billings considered this agreement as a promissory note and could not find an RSA granting the Planning Board the authority to suggest signing of a promissory note.

Discussion ensued again over who's money is being held for the surety of the gravel pit; Coyne's or Leighton's. If it's Leighton's, Billings wants him to provide the proof otherwise the surety currently being held is in Gary Coyne's name. After discussion, Billings wants to ensure that Mr. Leighton reclaims the pit prior to any cash surety is released to Mr. Leighton. The Board wants and is confident that Attorney Sager through legal verbiage will ensure the pit is reclaimed before dispensing of any funds or the Planning Board will have the authority to shut down the gravel pit operation until either reclaimed and/or cash surety is provided. Discussion continued until Cohen ended the circle of discussion and called for a vote of the motion. Billings opposed. All others voted in favor by show of hands. **Motion passed.** The secretary was instructed to convey the Boards concerns to Attorney Sager.

New Business:

- **Case #19-9-SPR: REHEARING** –New Circular Wireless (AT&T) c/o SmartLink. Representing Agent is Adrienne Banks for 88 Walker Hill Rd. Tax Map: 252 Lot: 022 are requesting a Site Plan Review for placement of a wireless facility per Section 6409 Eligible Facilities Request to add (9) wireless antennas, (9) remote radio units, (1) walk in cabinet and (1) generator to be installed. Also proposing to add an extension of the existing structure by (15) ft. to raise the tower from 122 ft. to a total height of 140 ft. at the wireless Base Station. (This case was originally continued until April 7, 2020 pending receipt of SE from the ZBA but returned on February 4, 2020 with revised plans in compliance with the zoning ordinances and was conditionally approved. That decision has been null, and void and the applicant is here for a rehearing.)

Cohen acknowledged a request was received on 05/28/2020 for a continuance. New Cingular Wireless (AT&T) c/o Smartlink would like to request a continuance from the upcoming Planning Board Meeting/Public Hearing until the July 21st Planning Board meeting. New Cingular Wireless believes they will be better suited to represent themselves with no restrictions such as the ones required for June 2nd.

A query of maintaining a copy of the application was confirmed. Otterbach commented he went by the location and it is not visible from the road and there is a long driveway up to the location.

A **Motion** by Cohen to approve the request for a continuance for **Case #19-9-SPR: REHEARING** –New Circular Wireless (AT&T) c/o SmartLink. Representing Agent is Adrienne Banks for 88 Walker Hill Rd. Tax Map: 252 Lot: 022 until the July 21st Planning Board meeting. Barron seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

There was a brief recess until the next applicant arrived. Discussion and suggestions were made of not including times on the next schedule to ensure all applicant's are present and awaiting their turn before the Board. Cohen moved forward with other business.

Intent to Excavate: Barron was provided a copy of all the following Intents to Excavates for his inspections.

- Ambrose Bros. Inc. - Archer's Pond Road, Tax Map: 231 Lot: 001. Total acreage of Lot: 66. Date of permit: 07/05/2012. AoT permit: AOT-0437. Total Permitted area is 5 acres. Excavation area is 5 acres. Reclaimed area is 0 acres. Remaining cubic yards of Earth to Excavate is approximately (unknown) cu. yds. Estimated cubic yards of sand is 500 cu. yds. To be done by Robert Ambrose of Ambrose Bros. Inc. Taxes paid and Board of Selectmen approved.
- Edward Evans of Chickville Land Holdings, LLC – 172 Dorr's Corner Road, Tax Map: 231 Lot: 022. Total acreage of Lot: 92.75. Total Permitted area is 16 acres. Excavation area is 7.0 acres. Reclaimed area is 6.0 acres. Remaining cubic yards of Earth to Excavate is approximately 165,000 cu. yds. Estimated cubic yards of gravel is 35,000 cu. yds. Estimated cubic yards of sand is 10,000 cu. yds. and Estimated cubic yards of stone products is 2,000 cu. yds. To be done by Evans Brothers of Chickville Land Holdings, LLC. Taxes paid and Board of Selectmen approved.
- Coleman Concrete, Inc. 39 Route 28, Tax Map: 124 Lot: 023 Plant #606. Total acreage of Lot: 20. Date of permit: Grandfathered. AoT permit: (not listed). Total Permitted area is 0.75 acres. Excavation area is (unknown) acres. Reclaimed area is (unknown) acres. Remaining cubic yards of Earth to Excavate is approximately (unknown) cu. yds. Estimated cubic yards of sand is 1,000 cu. yds. To be done by Coleman Concrete, Inc. Taxes paid, and Board of Selectmen approved.
- Eastern Materials, Inc. – Polly's Crossing Road, Tax Map: 243 Lot: 002. Total acreage of Lot: +/- 355. Date of permit: Not Listed. AoT permit: WPS-5830. Total Permitted area is 28.3 acres. Excavation area is +/- 2 acres. Reclaimed area is 0 acres. Remaining cubic yards of Earth to Excavate is approximately +/- 200,000 cu. yds. Estimated cubic yards of gravel 10,000 cu. yds. Estimated cubic yards of sand is 10,000 cu. yds. To be done by Downey Shea. Taxes paid and Board of Selectmen approved.

- Jeddrey Gravel Pit – Polly’s Crossing Road, Tax Map: 244 Lot: 002. Total acreage of Lot: 106.1. Date of permit: Not Listed. AoT permit: AoT 1710. Total Permitted area is 22.10 acres. Excavation area is 11.0 acres. Reclaimed area is 11.0 acres. Remaining cubic yards of Earth to Excavate is approximately 608,000 cu. yds. Estimated cubic yards of gravel 25,000 cu. yds. Estimated cubic yards of sand is 1,000 cu. yds. Estimated cubic yards of sand is 10,000 – 15,000 cu. yds. To be done by John Jeddrey. Taxes paid and Board of Selectmen approved.
- Route 16. Tax Map: 250 Lot: 008. Total acreage of Lot: 71. Total Permitted area is 117 acres. Excavation area is 3.4 acres. Reclaimed area is 1 acres. Remaining cubic yards of Earth to Excavate is approximately (unknown) cu. yds. Estimated cubic yards of gravel 40,000 cu. yds. Estimated cubic yards of sand is 40,000 cu. yds. Estimated cubic yards of Loam is 1,500 cu. yds. Estimated cubic yards of Other Fill 15,000 cu. yds. Total of 96,500 cu. yds. To be done by Jonathan Oakes of Pike Industries, Inc. Taxes paid, and Board of Selectmen approved.

FYI - In accordance with RSA 676:18 IV – received a Plan of Land prepared for Ralph A. Maxfield of 349 & 351 Ossipee Mtn. Rd. Tax Map: 062 Lots: 008 & 009 for PB files.

Cohen acknowledge receipt of the plans.

- **Case #20-1-EERP:** Eastern Materials, LLC c/o Mike & Shea Downey of Archers Pond Rd. Tax Map: 243 Lot: 002 is requesting renewal of Earth Excavation & Reclamation Permit.

A **Motion** by Barron to accept the application as complete. Smith seconded. No discussion. A unanimous vote was taken. **Motion passed.**

A **Motion** by Barron to renew the gravel pits permit. Fischbein seconded. Discussion: Fischbein questioned if a gravel pit does not have a surveyed plot plan; can they request a waiver. Several members of the Board informed him no because the owner must show where they have dug and where they have reclaimed and for a renewal, there is usually a plan on file. A unanimous vote was taken. **Motion passed.**

- **Case #19-8-SPR:** Frank Varney of 44 Route 28. Tax Map: 126 Lot: 018 is requesting a Site Plan Review to formalize a gravel driveway (4,097 sq. ft.) and construct a 4,800 sq. ft. building to store and maintain his own vehicles and trailers. Mr. Varney will not take in outside vehicle or trailer service work and will not be open to the public. (Case Continued since 12/3/2019)

Cohen read an email from Mark McConkey, Representing Agent for Mr. Varney, “Madame Chairman; I apologize for the informality of my correspondence as I am away, working from my phone. As Frank Varney's agent. We wish to withdraw the Site Plan Review application at this time. Respectfully, Mark McConkey.”

Abutter, Mr. Kolas was present and question why the withdrawal. Mr. Kolas was informed no reason was given. He asked for a copy of the Planning Boards Attorney’s response to the Boards inquiry. He was denied the request under attorney client privilege, as well as the discussion was held in a non-public session and the minutes were sealed. He repeatedly asked what the Attorney determined was the use of the property. Again, he was denied the Attorney’s response. He was informed to follow up with the Zoning Officer for further information.

- **Case #20-4-BLA:** Dan *Hole* Pond Watershed Trust, of 75 Granite Rd. Tax Map: 260 Lot: 001 and Angelo & Cheryl A. Bergen-Varrone of 95 Granite Rd. Tax Map: 260 Lot: 004 are requesting a Boundary Line Adjustment in accordance with Section 7, section 7.01.B.
 - Requesting Waiver from Section 9.05.P and a Waiver from Section 9.06.C

Fischbein called Jim Rines of White Mountain Survey & Engineering, Inc. to see if Mr. Ashe or himself could come earlier since the Board was ahead of schedule with the cases being heard. Jim Rines apologized but Mr. Ashe has been out of work and Jim was presenting cases at other town's. Fischbein put him on speaker and Jim Rines asked the Board for a continuance until the June 16th Planning Board meeting, since he will be here presenting another case. The Board understood the dilemma.

A **Motion** by Billing to approve the verbal request via telephone from Jim Rines of White Mountain Survey & Engineering, Inc. as the representing agents for **Case #20-4-BLA:** Dan Whole Pond Watershed Trust, of 75 Granite Rd. Tax Map: 260 Lot: 001 and Angelo & Cheryl A. Bergen-Varrone of 95 Granite Rd. Tax Map: 260 Lot: 004 request for a continuance until June 16th, 2020. Smith seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

A brief recess 7:40 PM – 7:56 PM while the Board waits for Mr. Swenson to arrive.

- **Case # 20-3-BLA:** Marc & Ruth Swenson c/o Swenson Family Trust of 7 Pocket Mountain Rd. Tax Map: 247 Lot: 007 and 5 Pocket Mountain Rd. Tax Map: 247 Lot: 006 are requesting a Boundary Line Adjustment.

A **Motion** by Billings to accept the application as complete. Smith seconded. No discussion. A unanimous vote was taken by a show of hands. **Motion passed.**

Marc Swenson presented his plan for a boundary line adjustment. The plan is move two back pins while maintaining the front pins to decrease Lot: 006 by 0.81 acres on the easterly boundary bringing it to 5.09 acres and increase Lot: 007 by 0.81 acres westerly bringing it 3.58 acres. Discussion: Stuart noted it would make Lot# 007 more symmetrical.

A **Motion** by Billings to approve a Boundary Line Adjustment for **Case # 20-3-BLA:** Marc & Ruth Swenson c/o Swenson Family Trust of 7 Pocket Mountain Rd. Tax Map: 247 Lot: 007 and 5 Pocket Mountain Rd. Tax Map: 247 Lot: 006. Smith seconded. Discussion: Otterbach inquired about the proposed view easement. Swenson explained it's a view property and instead of looking off to the right the view will be more straight ahead. With the easement they will be able to keep the trees cut and maintain the view.

No further discussion. A unanimous vote was taken by a show of hands. **Motion passed.** Mr. Swenson returned and inquired to who's attention does the mylar plan be sent to. Mr. Swenson was informed of the process by the secretary.

Any Other Business Which May Come Before This Meeting: None was heard.

Next Meeting & Public Hearing: June 16, 2020 @ 7:00 pm

Adjournment:

A **Motion** by Billings to adjourn. Smith seconded. No discussion. A unanimous vote was taken. **Motion passed. Meeting adjourned** at 08:03 PM.

Minutes approved by majority vote of the Board on – _____
Date

Sharon "Sharie" Cohen, Chairman
Ossipee Planning Board