

# TOWN OF EDDINGTON, MAINE

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## PLANNING BOARD

April 3, 2014

6:30 pm

MINUTES

**CALL TO ORDER:** Tom Vanchieri called Meeting to order at 6:30 pm.

**ROLL CALL:** Members present were Tom Vanchieri, Frank Higgins, Susan Dunham-Shane, Henry Hodges, Gretchen Heldmann, Michael Shepherd, Craig Knight, Charles Norburg, CEO and Charles Gilbert, Town Attorney.

### **MINUTES:**

**NEW BUSINESS:** Dan Barker was present representing Chuck Lawrence D/B/A Southstreet Development Company for their application for a new cold storage building at Tradewinds. It will be a 26' x 54' garage with no heat or power, there will be a window on each side and garage doors, and they will use the existing slab. The Board reviewed the application and there were a number of items that were not addressed. Susan asked if they had any worry about water onto the downward slope and ditch because they have a pitched roof now. Frank questioned when the map from the applicant was done.

Motion that we cannot accept the application because it is not complete, the map is not updated, it doesn't depict existing conditions, the stamp by the engineer is not current and there are not enough copies.  
**By Frank/Gretchen 2<sup>nd</sup>. Vote 4-0 in favor**

**UNFINISHED BUSINESS:** The Board continued the review of the Hughes Bros., application for a quarry on Fox Hill.

Section 402.11, Janet Hughes explained that the Maine Historic Preservation Commission has provided them with a letter that there will be no historic properties affected by the proposed undertakings and a copy of the letter is on page 110 of their binder. She has also provided a copy of an email from the Penobscot Nation that states that the project appears to have no impact on a structure or site of historic, architectural or archeological significance to them on page 258 of the binder. Janet also explained that the Town's mapping in the Comprehensive Plan did not show any deer or eagle habitat and IFWL shows no protected resources in the site area. With all of the information and review of ordinances, they believe they have met all the criteria and proved that there is no adverse impact upon historic or scenic areas.

Move that based on the submission of exhibits 7, 8 and the new addition of 43.a in the blue binder provided by Hughes Bros., that the application meets the requirements of the Ordinance Section 402.11  
**By Susan Dunham-Shane, Henry Hodges 2<sup>nd</sup>. Vote: 4-0-1 in favor (Gretchen Heldmann)**

Section 402.12, Janet explained that exhibits 10 and 11 from the Town's Comprehensive Plan do not show any historic or scenic areas on the site of the proposed activity.

A procedural question was addressed to the Town's Attorney, Charles Gilbert, because someone in the audience, Attorney Sally Mills, wants to speak. Mr. Gilbert explained that Eddington's Ordinance does not allow people to participate except at the Public Hearing but the Board can decide whether to let her make her procedural pitch or not. The Board received an email from Russell with a letter from Attorney Sally Mills and Attorney Andy Hamilton response. Ms. Mills explained that her client would

like the Board to continue the hearing because Hughes Bros. supplied additional information to the Board during and after the hearing and they would like to be able to review such information and provide further comment. Mr. Hamilton's response explained that Hughes Bros., objected to any postponement of the continuation of the April 3, 2014 meeting because of the impending meeting on the proposed moratorium scheduled for April 8, 2014. Susan feels she has a point because 2 items were late to the party. Also, at the Public Hearing Hughes Bros., said it would provide answers to the audiences' questions. Frank said we need to differentiate between items that the Board asked for from the applicant and the responses from Hughes to the Public Hearing questions. He also stated that the Public Hearing is closed. Mr. Gilbert explained that anyone can speak at a Public hearing and that there is a class of people that have a standing in regards to this application, being the neighboring residents they have additional rights to express their opinions. We do not know whom Ms. Mills represents. Andy Hamilton stated that the Chairman closed the Public Hearing that night and the applicant is allowed to present additional information that was requested by the Board. Mr. Gilbert agrees that if they decide to let people speak, it is unfair to address items already reviewed. If they decide to let someone speak, they can only address items not discussed yet.

Motion to hear the procedural pitch from Attorney Sally Mills and put a 3-minute time limit.

**By Gretchen/Susan 2<sup>nd</sup>. 2 yes/2 no-Tom votes yes to break the tie.**

Sally Mills explained that she represented some residents that lived within ½ mile of the sight and Ray Wood Jr.. She referred to her letter and the new items they would like to review and consult their own experts on and request that they be allowed to make further public comment on the new items.

That was basically it, and the Board Chair moved on. Ms. Mills registered a standing objection.

Motion that based on information provided, this Board finds that it will not have an adverse impact upon historic or scenic areas as identified in the Comprehensive Plan or by the Town and the application meets the requirements of Section 402.12.

**By Frank/ Henry 2<sup>nd</sup>. Vote 4-0 in favor**

Section 402.13, Ken Smith of Maine Drilling and Blasting has an early morning appointment, so they asked if he could speak first for this section. Janet said there are no unusual fumes or glare on the project site. She said there are no sources of vibration other than the drilling and blasting. The state has strong rules on both and DEP requires they be monitored.

In regards to blasting, Mr. Smith explained that DEP regulates this very heavily. They present a blast plan to the state and if they want changes, they have to redo the plan. He said that even though a human body can feel a blast, it is not necessarily creating damage. Frank explained that the Board has to decide if the applicant provides proof that it will not have significant detrimental effect. It was asked if there can be a condition that Maine Drilling and Blasting be required to do this work. Janet said they will make a condition of their License that who ever they use has a licensed qualified explosive business. It was suggested that instead, a condition could be made that a copy of the License be presented to the Town and updated on an annual basis. Mr. Smith further explained that they will go to the site to do some drilling first and then they will blast. At the start of the project they may have to do more blasts than normal, but they will be smaller blasts. Janet Hughes said the blasting will be twice a year, one blast in April and again in August They will blast and then move the rock because nothing else will be allowed on site. Development Blasts depend on the location and what type of material they are looking for and they will do them 2 to 6 times a year at the beginning. The surface area multiplied by how deep you are going determines the number of blasts needed. Before any blasting, DEP requires water samples. If anyone has any concerns, the water will be retested. Maine Blasting will provide a Certificate of Insurance to the Town.

The drilling rigs create dust and they have a dust collecting system on the machine. There is a water system on the drill so when the dust lands it is damp. Mr. Smith said there is dust when blasting but it settles pretty quickly. Tom asked if MSHA controls them and Mr. Smith said no. Henry asked if they plan blasting dependent on the weather and Mr. Smith said yes they do, it will be louder on overcast days. The pond adjacent to the site will be equipped to keep the dust down. There is no regulation restricting blasting if wind is above a certain speed. Charles Gilbert said that it could be a

condition of approval to regulate blasting.

Janet said the highest potential to generate dust is the road. Posting the speed limit at 15 mph will minimize the dust. They will have a dedicated water truck to make sure the surface conditions of gravel remain moist. They will equip the ground water control pond with a spray system. Janet said they will keep calcium chloride on hand for when water doesn't control the dust. Susan asked if the calcium chloride will affect the down grading land with run off and Janet answered no. Janet suggested that members of the Fire Department attend a Mine Safety and Health Class. She also said they will leave a key at the Town Office in case they need to get in.

Tom asked Charles Gilbert if it was a conflict of interest in regards to Janet Hughes doing the Sound Test for a project for Hughes Bros.,. Charles said that per our Ordinance they just need to be done by an engineer. He also said "This could be an area that they could ask for an outside engineer. " as per Section 401.6 of the Ordinance. Janet explained that she is an Environmental Engineer and she looked at the Ordinance and the regulations are very general so she looked at general sound tests. They plan to put up burms and the first year they want to use a loader. Janet said they have no plan to use a hoe ram, but it could be used in the future. They will use a bulldozer to build the road. There will be 5 or 6 transport trucks that will not be kept on the site at night. There will be one excavator and one loader on site. The pumps and generator will be in a hole. Susan would like another sound study because their test results are so close to the restrictions in the Ordinance. Section 709.4 says that sound shall be measured at each property boundary line. Gretchen explained that the purpose is to test what the residents hear for noise now. And it was noted that no measurements were made downhill.

Motion that the Planning Board, after discussion of the merits of the information supplied by the applicant, seeks the services of a qualified outside sound consultant to conduct an independent study of the subject area in accordance with the Town of Eddington Ordinance on sound regulations under Section 709, Noise Standards, cost to be borne by the Applicant in Section 401.6, Additional Information and Studies.

**By Susan/Gretchen 2<sup>nd</sup>**

During discussion it was decided to amend the motion to add "The amount of escrow will be determined at the next meeting after researching potential options."

**By Susan/Gretchen 2<sup>nd</sup> Vote 4-0 in favor**

Susan will find some names of Sound Consultants, get credentials and cost comparisons for the next meeting. Mr. Hamilton would like to see the Consultant proposal and they will not agree to the escrow amount until they see the proposal. Mr. Hamilton also said they have to address the post construction monitoring protocol. They will continue to review the Application and deal with the other sections at the next meeting.

**OTHER BUSINESS:**

**STAFF REPORTS:** Charles Norburg informed the Board that there is nothing in the Ordinance addressing Agricultural Livestock. It falls under Right to Farm. The Board would like Charlie to give them a summary of this subject at the next meeting.

**PLANNING BOARD COMMENTS:**

**PUBLIC ACCESS:**

**NEXT MEETING:** The next meeting would be on Thursday, April 10, 2014 at 6:30 pm.

**ADJOURNMENT:** Motion to adjourn at 9:44 pm.

**By Henry/Frank 2<sup>nd</sup>. Vote: 4-0 in favor**

Respectfully Submitted,

