

**TOWN OF LYNDEBOROUGH  
PLANNING BOARD MEETING MINUTES  
April 19, 2012**

**MEMBERS PRESENT:** Vice Chair Mike Decubellis, Bob Rogers, Tom Christenton, Larry Larouche, Julie Zebuhr, Selectmen's Representative Arnie Byam and Alternates Bill Ball and Steve Brown; Clerk Pauline Ball

In Chairman Mader's absence, Mike Decubellis began the meeting at 7:30 p.m.

**NEW BUSINESS:**

**Scott Snow; Old Temple Road; Lot 230-016: "after the fact" excavation permit**

Present: Scott Snow

Mr. Snow was present to complete a paper trail for the "after the fact" excavation permit for the removal of sand/gravel from his property which he donated to the town. This material (approximately 6000 yd.) was transported to the town's stockpile and is being used to maintain the town's roads. This transaction began in the fall of 2011 and Mr. Snow was unaware, at the time, that an excavation permit was needed to remove the material. Pauline Ball said that this issue came to the attention of Kate Thorndike and Mr. Snow was asked to help establish the paper trail. The expired March 31, 2012 application was filled out by Mr. Snow and Road Agent Kent Perry. Mr. Snow informed the Board that a new application will be needed because there is additional material to be removed by the road agent. Mr. Snow felt that he should remit a check to pay the required state fees, although the town had waived the fee.

T. Chrisenton, referring to the town's use of this material, thought there was an exemption for this use and asked to review RSA 155-E before the Board proceeded with this issue.

In the meantime, B. Ball recalled that sometime in the past, a resident of Crooked S Road offered to give the town some gravel and it was "squashed" because a permit was needed to remove soil from the property.

Referring to the additional sand/gravel to be excavated, Mr. Snow stated that the road agent will be removing about 2000+ yd of material; another hill of material will eventually be excavated and sold. He presented photographs of the area that was excavated and reclaimed, as well as the proposed area for future excavation.

At this time, T. Chrisenton read RSA 155-E 2 IV Highway Excavations citing the following conditions: **(a) a copy of the pit agreement executed by the owner, the agent, and the governmental unit shall be filed with the regulator (PB) prior to the start of excavation (after the fact). The failure to file such agreement, or**

the failure of the excavator to comply with the terms of such agreement, shall be deemed a violation of this chapter, and may be enforced pursuant to RSA 155-E:10. (b) such excavation shall not be exempt from local zoning or other applicable ordinances, unless an exemption is granted pursuant to subparagraph (c), or from the operational and reclamation standards as expressly set forth in RSA 155-E:4-a, 155-E and 155-E:5-a, which express standards shall be sole standards with which such excavations must comply in order to retain their non-permit status as provided under this paragraph. Before beginning such excavation, the governmental unit or its agents shall certify to the regulator that: (1) the excavation shall comply with the operational and reclamation standards of RSA 155-E:4-a, RSA 155-E:5 and 155-E:5-a. (2) the excavation shall not be within 50 feet of the boundary of a disapproving abutter or within 10 feet of the boundary of an approving abutter, unless requested by said approving abutter. (3) the excavation shall not be unduly hazardous or injurious to the public welfare. (4) existing visual barriers in the areas specified in RSA 155-E:3,III shall not be removed, except to provide access to the excavation. (5) the excavation shall not substantially damage a know aquifer, so designated by the USGS. (6) All required permits for the excavation from state or federal agencies have been obtained.”

B. Ball commented that Mr. Snow would need to reclaim the excavated area. Mr. Snow explained that the topsoil was stripped away and then put back after the excavation was completed.

B. Rogers responded with the following motion: **The Planning Board has found that this operation is consistent with the exception as read by T. Chrisenton and does not need a permit.** T. Chrisenton seconded the motion. M. Decubellis asked if there was any further discussion. J. Zebuhr asked if the permit was to comply with a town or state rule. T. Chrisenton replied that it was a state law but highway excavations are exempt from permit status so long as these conditions are met. M. Decubellis asked for a vote. B. Ball voted not in favor but it was determined that there was a quorum of full members so as an alternate, his vote was not required. Therefore, the VOTE in favor of the motion was unanimous.

A. Byam explained to Mr. Snow that as long as the road agent approves the excavation and the material is going to the town for road maintenance, he did not need a permit. T. Chrisenton added that any other planned excavation that is not going to the town will require compliance with RSA 155-E regulations. B. Ball stated that an application, public hearing, abutter notification and fees would be required for that part of the excavation operation. Because there was still some confusion, A. Byam explained that the exempted agreement was between the Board of Selectmen, the Planning Board and Mr. Snow; therefore a permit was not needed.

T. Chrisenton added that the road agent should have come before the Planning Board before this operation began. B. Ball concluded the discussion by strongly suggesting that

regardless of the permit status that the affected abutters should be notified of the town's impending action as a courtesy and given the opportunity to attend the meeting with the Town Road Agent to voice any concerns they might have.

**OLD BUSINESS:**

**Wind Farms**

No one on the Board was able to retrieve the e-mail attachment forwarded to the Planning Board by Bret Mader regarding Commercial Wind Farm Operations. This information was sent to B. Mader by NRPC representative Jen Czysz who also suggested contacting Eric Steltzer of the Office of Energy Planning for additional information on wind farms. P. Ball gave J. Zebuhr the printed resource material retrieved from the websites submitted by Ms. Czysz. B. Rogers suggested reviewing the wind ordinances from the towns nearest to Lyndeborough to see how they have addressed this issue. J. Zebuhr said that she had recently attended a Local Government Center meeting in Milford to listen to a scenario on a wind turbine farm and after speaking to a representative, she was told that the state will take over the application process if the farm is over 30 megawatts or more (10+ towers) anything less than that would not be economically feasible for a small town.

After briefly discussing the benefits and drawbacks of natural gas and not having any additional data to discuss on wind energy, the Board ended this topic.

**NEW BUSINESS:**

**Approval of Intent to Excavate applications**

Four (4) Intent to Excavate applications for two grandfathered excavation operations were reviewed and signed by Vice Chair M. Decubellis; two applications for Granite State Concrete (Lots 213-006 & 212-001) and two applications for New Spartan Properties (Lots 238-002 & 245-001.)

Although another issue concerning a future excavation project on recently town-purchased Schoolhouse Road property was not on the agenda, P. Ball asked how the Planning Board will proceed with that operation. T. Chrisenton explained that the road agent will need to come and inform the Board that the materials removed will only be used for town road maintenance. M. Decubellis said one concern may be the boundary line which was located on a hill and was removed when sand was excavated on the abutting property. The road agent will need the abutter's approval if he plans on taking the remaining material to flatten out the area. A. Byam stated that the road agent does not have any excavation plans before 2013 because he presently has a stockpile of sand. T. Chrisenton reiterated that the road agent should be informed that he must meet with the Planning Board when he is ready to go forward. B. Ball recommended that a public hearing be held so that the abutters are informed. Some of the Board did not think it was necessary because it is town owned property with only one major abutter. B. Ball countered that as an abutter to a proposed excavation site the property owner should be

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informed and given the opportunity to speak on the issue. B. Rogers suggested sending out a “courtesy letter” to any abutter explaining the operation and extending an invitation to come to a meeting with any questions or comments. T. Chrisenton replied that the road agent must state at a meeting with the Planning Board that he will not infringe on any of the setback requirements. B. Ball felt that the town should be held to the same standards as any other applicant and requested a Reclamation Plan noting a time frame for reclaiming the land, as well as the materials used.

Again some members did not think it was necessary because it was town owned property and depending on the need for the materials to be excavated, it may take a long time to deplete the site. Once the land is depleted of its sand and leveled off, then a decision can be made on how it will be reclaimed. B. Rogers asked if there were any deed restrictions placed on the property by the former owner (SPNHF.) M. Decubellis replied no.

### MINUTES:

#### **Review of minutes for March 15, 2012**

J. Zebuhr said that she had a couple of changes for the minutes of March 15<sup>th</sup>. She noted the following on Page 2-3 under the Rymut discussion which stated that the abutting property was owned by SPNHF. In fact it is owned by Herbert Swartz with SPNHF holding the conservation easement, therefore the minutes should read: **“the abutting property was owned by Herbert Swartz with a conservation easement being held by the Society for the Protection of NH Forests.”** Under Wind Farms on Page 4, she suggested adding **“proposed”** between “Antrim” and “windmill.”

B. Rogers made a **motion to accept the minutes of March 15, 2012, as amended.**  
T. Chrisenton seconded the motion. The vote in favor of acceptance was unanimous.

### ADJOURNMENT:

T. Chrisenton made a **motion to adjourn the meeting at 8:00 p.m.** B. Rogers seconded the motion and the vote in favor of adjournment was unanimous.

The next meeting will be held on Thursday, May 16th at 7:30 p.m.

Pauline Ball  
Clerk

**Approved by the Planning Board on June 21, 2012**