

Town of Milton
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Milton NH, 03851



Planning Board
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February 6, 2024
Meeting Minutes
6:00 PM

Present Members: Ryan Thibeault- Vice Chair, Anthony Gagnon, Karen Golab, Paul Steer, Humphrey Williams, Larry Brown, and Robert Graham-Alternate

Absent Members: Brian Boyers

Staff Present: Bruce Woodruff- Town Planner; Jennifer Conti- Land Use Clerk

Public Attendance: Ken Berry, Berry surveying, and David Paey

- I. **Call to Order:** R Thibeault calls the meeting to order at 6:00 PM. Ryan sat Robert Graham in for Brian Boyers.
- II. **Public Comment:** No Public Comment
- III. **Review/Approval of Minutes:** *P Steer made a motion to approve the minutes for December 5th, 2023. L Brown 2nd the motion. All were in favor.*
- IV. **Public Hearing:** Excavation Permit Renewal application review for David G. Paey, Jr. and Darrell Paey, Owners, on property located at 76 Piggot Rd., Milton, NH, 03851(Tax Map 13, Lot 3) in the Industrial-Commercial Zone and the Excavation Overlay District. R Thibeault asked the Land Use Clerk if the application was complete and if all the fees were paid. The LUC answered that yes everything is all set. ***R Thibeault made a motion to accept the application. P Steer 2nd the motion. All were in favor.*** R Thibeault opened the public hearing at 6:16 p.m.

Ken Berry from Berry Surveying was here to represent the applicant. The gravel pit has been in operation since the 90's. They have been somewhat inactive in the last couple of years. He explained different areas of the pit and what they are used for. The area that the applicant is proposing to move into is an expansion of an area that they have started to work on before. 3100 yards of material was taken out in the last year. All has been used in work that was done for the town. The 2 previous years they didn't export any material. It is not a very active pit at the moment. The objective for tonight is to extend the permit, to make sure the stock pile operation and the work for the community can continue going and to keep an active permit in place. To the best of their knowledge there is a reclamation bond in place. There was a reclamation plan that was put on file with the

town back in the 90's when the project was first permitted. There was some questions and comments from the board to the applicant.

Planners comment: First the Planner commented on L Brown's inquiry about doing a site walk. He states that one can be done, however at this time of year you may not be able to see anything that he'd want to see, and the applicant has given the board many photos that he thinks obviates the need to do a site walk.

Secondly, the board may want to ask the applicant before you decide on this when the reclamation will begin and be complete on the proposed areas of the site plan.

It appears that this application has met all the requirements of Milton's excavation regulations, and excavation permit regulations. The Planner does recommend the approval of this excavation permit renewal possibly with one condition and that's that the applicant submit an in force copy of the surety bond before the chair signs.

Ken Berry addressed the question about reclamation. He said there are stock piles of topsoil on site that has been reserved for reclamation and they have done a partial reclamation as they've finished an area.

Ryan Thibeault closed the public hearing at 6:24 p.m.

H Williams made a motion to approve the excavation permit renewal with an expiration of 12/31/2028 and pending surety bond verification for the chairman to sign. P Steer seconded. All were in favor. (The year is in error. This renewal is for 5 years, so the expiration year is actually 2029.)

- V. **Third party building permit and large projects review with Chief Krauss:** One of the things he's noticed with helping the town on a day-to-day basis is some of the projects that have been done in the past, Northeast Pond Rd is a glowing example of it. There is a lot of problems that that project and the multiple projects on NE Pond Rd have caused not only for the town but also for the road, the houses that were built there and the houses that were built there previously down the hill on the dirt section of the road. In speaking to some of the engineering firms that work for us, one of the questions they've asked was "are there still third-party reviews in town when there is a large project that comes through?" He was told there is not anyone that does third party reviews and that he should speak to the planning board to see if that is something they need to start looking into doing. He thinks especially with the ones on NE Pond Rd projects and some of the bigger projects that if a third-party review looked at some of the plans before they were accepted by the planning board then they might find some other things that we can see before we have the problems that we're now having on NE Pond Rd. The town, and developers are now having to pay to fix things and residents are having to fight and unfortunately are going to ultimately have to sue the town or the developers that put those projects in place that caused the damage to not only the town roads but to the homes that are in the path of all the soil and water that's draining down from those lots from the pattern changes due to clearing the lots. He thinks the surrounding towns south of Milton are going to have less and less development so people are going to start coming to Milton

to develop therefore we are going to need something to not only protect us as a community but also protect the houses that are already there.

R Thibeault thought we had a third-party engineering firm that the town has used.

The Town Planner states that the chief's example of Northeast Pond makes a lot of sense. That sometime in the distant past the planning board at the time that approved those subdivisions should have had third-party engineering review at the beginning and then if they had developed all the lots at the same time have third-party construction engineering inspections. Unfortunately those lots were approved long ago and the planning board at the time didn't think of any of that stuff then. What the planning board has done over the last several years has revised the site plan regulations and the subdivision regulations to include the possibility of doing both those things. Third-party engineer review of plans especially when identified by somebody like the Town Planner who has engineering experience but is not a PE that this might be a problem area. The planning board did that with a couple of failed applications before the town had an engineer. We do have an engineering firm on a master contract that we can call in at any time and the rates are set but it is something that we may have to revisit soon. The planner thinks that some procedures should be put into place. The town does not pay for the engineering firm the applicant/developer does. A development agreement would have to be put in place.

Chief Krauss asked the Planner if there was currently a trigger point? That when a development or a number of homes that sets off the automatic third-party review or is it only a third-party review when the board reviews it and makes a decision that they want the third-party review?

The Planner answers that whenever a developer has to construct and install infrastructure especially storm water infrastructure and public utility like infrastructure which includes roads then that's when the planning board will do that. It says so right in the subdivision regulations. With regard to site plans the planning board really didn't think about it very much for the small development around the corner from here and so nothing was said to the owner that they would have to prove to the board that they're building everything correctly. He sees that now as an oversight on his part. He should have advised the board to get that escrow and to get that developers agreement in place.

L Brown commented that he was on this board when the original Northeast Pond project was approved. He still regrets that they failed to not be able to do more within the restrictions and rights of the developer at that point. There is nothing that prevents a developer and let me say this; the land clearing it so that the leaves are pulled off the trees on the next property. Leaving it fallow for a year and then coming to the planning board and saying oh by the way. When we first walked that property there were brooks, giant hemlock roots, and brooks flowing through. There was tremendous coverage and protection for the land. That was the major thing. The small houses were done on mom and pop outcroppings that the town did not have the authority to interfere with a single lot development. The DPW director tried and lost. to the best of his knowledge and belief the second developer came through, waited, and then his infrastructure which was not under

the control of the planning board for any pivot point for our ability to control and there was no engineering specific third-party review that could be triggered.

Chief Krauss states that he knows a lot of the Northeast Pond Road lots were older lots of record problems in the past. That's just our example that we're seeing that everybody can go take a look at and see the problems that we're having. He just doesn't want to see more developments come into our community and have the same problems. The BOS brought up Lord Lane last night. That's a road that we still haven't accepted because of different issues. Lord Lane's been here for a little while and he expected the road to have been accepted but it has not been. If you go on Lord Lane and you see some of the driveways that come off the road it surprises him that some of them were accepted driveways due to the steepness going to the homes coming back onto the road. If he was part of a board, he would have a hard time accepting that as a public road with those types of driveways coming into a public road. He just doesn't want to see the planning board get jammed up.

H Williams stated that in keeping with what we're talking about here with the third party review, as Bruce said that he and Brian, the Code Enforcement Officer or whoever works on the project can put procedures in place. So it's not just storm water and it's not just infrastructure but when there is a trigger for a third party review that they're going to need that, and he thinks that's a great project for 2024.

R Thibeault said it seems like they're mixing two things here. The planning board's role from his understanding is that they review plans making sure stuff comes in. In the more recent years they've done a fairly good job of getting a third party to review those plans but once we approve those plans and it goes on to the next phase it's kind of out of the hands of the planning board to make sure that the plans are being followed. He thinks that's a different board discussion.

The Planner said that it's not a different board, it's the staff.

R Thibeault said which is controlled by a different board not the planning board.

H Williams said it kind of falls under the board of Selectmen at that point for people that are working for them.

R Thibeault said that there's two separate issues that they seem to be talking about tonight but the only issue that this board really can have an effect on is the initial review stage. He doesn't want people to get confused.

H Williams stated that he thinks in all honesty he thinks it can also help with enforcement because of understanding of the rules and requirements. It's kind of a combined effort at that point with the planning board and the BOS to be able to work through that.

K Golab asked the Planner that after something is approved by the board is there anything that the board can do and what are the type of things they can do?

The Planner answers with yes, the PB can require the developer to come back to the board and prove that they are doing everything and that they've got all the pieces in place

to do all of the things that are engineered and construct them properly. That is called a compliance hearing. It's kind of brutal on the planning board members than it is on the developer that must by statute appear and stand before them. If after the compliance hearing the planning board either gives the developer a timeline to do things and a requirement for surety that they will get done. If there is no compliance and you don't get the surety then the planning board can revoke the plan and that's bad, that's the nuclear option. The planning board does have a say in this if they're requested to. He believes that what's probably missing is on the staff level and has to do with job descriptions has to talk about site plan and subdivision review by staff.

K Golab asked what the trigger is to request and require a compliance hearing? It can't be suggestive. There has to be some objective, or a complaint.

The Planner said that it can be a complaint, or it could be staff inspections.

L Brown states that in almost every case where there is any wiggle room in the specifications for the development be it large or small, we are a reaction board rather than setting the rigs. What wrote down is that it is the decision of the board that the specifics of the project before the board, irrespective of its size and formal designation, shall in the opinion of the board require third-party inspections and review and the developer shall report at three month intervals to the planning board to prove that they are in compliance with the approval granted. He says that is how you get follow up.

R Graham said that there was a revocation on Bolan Rd. A subdivision was going to go in and they wanted a community septic and well and all the piping and everything was put in and whoever was doing the road dug into the area and then NHDES came in and shut them down because he had gotten into the aquifer.

P Steer likes L Browns definition. That if something like that was to be put into the application then it is a good idea. Once it's approved there has to be follow up. Anything could happen that they wouldn't see.

H Williams says that the board needs to figure out a way to make sure that the process and procedures are in place for what triggers a third party review and what triggers a compliance review.

The Planner says that in addition the trigger for you to do those things and to get a surety right at the very beginning as part of your approval which hasn't been done on smaller projects maybe the board should have. Does it affect public utilities and roadways that the public will be on, does it affect storm water mitigation, storm water management, storm water infrastructure, that's if the development is right next to a significant Wetland. Those are the triggers for the board to say those things. Get a surety up front, have an engineer figure out the cost to do the improvements correctly and add ten percent. Require third-party review of those plans for those things and then finally the construction inspection piece by the town's engineer. The Board doesn't care about a developer that's just doing a site plan. That doesn't affect those things.

H Williams said with what Bruce is talking about, that's just a simple checklist similar to what we're doing in regard to a public hearing. We've got it all down there for the plan reviews these are the steps and if we put it into that he thinks it's just going to simplify the whole the whole process. So you're looking at every project we've got with that checklist.

K Golab asked if they wanted her to work on that checklist?

R Thibeault asked if the board wanted to have this added into the 2024 work plan?

VI. Review and Discussion of the Draft 2024 Work Plan: The Planner made up a draft workplan for the board. He thinks the most important thing for next year is to prepare community facilities and equipment chapter of the master plan (#1 on the priority list). It will involve many groups to do this with the boards oversight.

-Research and rework zoning amendment 2- failed in 2019: this has been on their workplan for a while. The Conservation Commission was against that work. The planner met with a member of the CC to hammer out a compromise and that fell apart. There's flaws in the zoning and the use table which there may be a fix. Working on the village overlay district zoning amendment may be the fix to this.

-Village overlay district zoning amendment: priority number #4.

-Expansion of commercial residential zoning district to back boundary lines of parcels in Milton Mills village: priority #2. The board looked at this two years ago. The planning board put forth a zoning amendment to move that zoning line back to the rear property lines of those commercial Residential Properties in Milton Village that were along the highway in the commercial residential zone. The planner forgot to include all of those properties that are in Milton Mills and some of them are really egregious and his opinion that that expansion of the commercial residential zoning district to the back boundary lines of parcels in Milton Mills should be worked on this year.

-Electric vehicle charging zoning: priority #3. Went to a public hearing but was flawed so it was voted on to discuss it this year.

The planners' ideas of importance

1. Prepare community facilities and equipment chapter of the master plan
2. Expansion of commercial residential zoning district to back boundary lines of parcels in Milton Mills village
3. Electric vehicle charging zoning
4. Village overlay district zoning amendment

The planner doesn't think the following two needs to be worked on yet.

1. Research and rework zoning amendment 2- failed in 2019

2. Develop new zoning districts for zoning amendment per master plan.

The board discussed which order they think would be best.

VII. Planner/Staff Comment: The first meeting in March (5) will not be the organizational meeting because the town elections are not until March 12th. The meeting can possibly be canceled if there aren't any applications that come in. He suggests that the training and the update on the changes to Land Use Law at the state level be done at the March 19th meeting along with the organizational things.

Everyone agreed to cancel the February 20th meeting, and everyone also agreed to cancel the March 5th meeting if no applications were submitted.

K Golab wanted the board to thank Anthony Gagnon for his time served on the planning board. He will not be rerunning. Anthony said thank you and it has been an honor.

VIII. Other Business: None

IX. Adjournment: *A Gagnon made a motion to adjourn at 1908. Karen second. All were in favor.*