

**SANFORD PLANNING BOARD MINUTES**  
**MEETING March 17, 2010 – 7:30 P.M.**  
**Town Hall Annex Third Floor Chambers**  
AMENDED  
**Amended with Corrections**

**MEMBERS PRESENT:** Kelly Tarbox, Chair  
Robert Hardison, Vice Chair  
Joseph Herlihy  
John McAdam  
David Mongeau  
Gregory Vermette  
Gary Morse, Secretary

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Charles Andreson, P.E., AICP, Town Engineer  
Michael Casserly, P.E., Assistant Engineer

**STAFF ABSENT:** James Q. Gulnac, AICP, Planning & Development Director (w/notice)  
Barbara Bucklin, Administrative Assistant (w/notice)

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**I. CALL TO ORDER**

Chair Tarbox called the meeting to order at 7:30 P.M.

**II. PUBLIC HEARINGS**

1. **File #06-09-R: North Country Land, Inc., c/o John Hutchins**, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.

Chair Tarbox called for a representative to present the project.

Jon Pizey, Hissong Development Corp., informed the Board that they have entered into a lease agreement with North Country Land, Inc. to operate a mineral extraction facility at the site known as Hay Brook Mineral. He went on to explain that there are three activities that they would like to do that are not included in the current operations manual. These are to bring in crushed stone from other sites and sell it wholesale to contractors; import recycled processed asphalt that would come in as a finished product and sell it to contractors who use the material as road base and other purposes; and to wash the sand material that is on site, and described the washing process.

Chair Tarbox asked if staff had any comments.

Staff member Casserly, assistant engineer, commented that he saw no reason why, environmentally or otherwise, the washing activity request could not be approved by the Board if they wished. Chair Tarbox confirmed with staff that this was a permitted activity under the current ordinance.

Chair Tarbox asked if anyone present wanted to speak in favor of the proposal; there was no one.

Chair Tarbox asked if anyone present wished to speak against the proposal; again, there was no one.

Chair Tarbox asked if Board members had any questions. They did not.

Chair Tarbox closed the public hearing.

After public hearing item #3, Chair Tarbox informed the Board that they could consider voting on some of the public hearing items tonight, specifically addendum c in item 1, the washing request.

Chair Tarbox asked the Board what their wishes were. Board member Herlihy confirmed that the washing element was allowed under the current ordinance. Staff member Andreson replied that it was agreed upon by the CEO and Planning Director that this activity was currently allowed under the ordinance. Mr. Herlihy said his concern was that this property that is in a residential zone would become an industrial property. He stated that at some point he wanted the operation to stop and the property be returned to the original nature of a residential use. He also said he was concerned about the request to import off-site materials. Discussion took place.

The other members of the Board were okay with approving the washing request.

Chair Tarbox called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached) that the washing of sand from the site is a process which separates fines from the sand producing two materials: sand to be used in other on-site materials and residue for other possible uses. The Board further finds that an addendum to the approved Manual of Operations in original file #17-07-R to permit this process is approved. The Board further stipulates that should the activity ever require further review and approval by the State of Maine Department of Environmental Protection, this action would supersede this approval and be made part of the approval.

Vice Chair Hardison seconded the motion.

Chair Tarbox asked if there was another item that should be made part of this approval, and that referred to the stockpiles and washing process needing to be within the 10-acre cell. It was determined that this was already part of the approval because it was stated in the finding of facts.

A vote was taken, and the motion passed 7-0.

2. **File #999-10-T(1): The Planning Director** is requesting that the Planning Board consider a revision to Section 280-5 Definitions Mineral Extraction and Section 280-91 Mineral extraction standards.

Chair Tarbox asked staff member Andreson to present the proposal. Charles Andreson, Town Engineer/Public Works Director, is representing Planning Director Gulnac.

Mr. Andreson explained that this item is linked to the proposal that Hissong Development Corp. is requesting for their mineral extraction activity. The current definition of mineral extraction does not allow for the importation of materials from other sites. The proposed definition for mineral extraction was developed by both the Codes Enforcement Officer and the Planning Director. Mr. Andreson gave further explanation of the proposed definitions and process.

Chair Tarbox asked Mr. Andreson if the definition of beneficiation was also being added. Mr. Andreson said it was and went on to explain the process.

Chair Tarbox asked if anyone present wanted to speak in favor of this proposal.

Jon Pizey, Hissong Development Corp., stated these activities were a natural extension of the mineral extraction operation process and feels the proposal would be a benefit to the ordinance.

Chair Tarbox asked if anyone present wanted to speak against the proposal.

Shirley Sheesley, Codes Enforcement Officer, said she had some minor changes to the proposal the Board may want to consider. Under the proposed definition of mineral extraction: add a hyphen to the word offsite. Chair Tarbox said it was agreed to by the Board to remove this word and just address it as imported material. The next recommended change referred to the term beneficiation – Ms. Sheesley said the reference to centrifugal force should be changed to centrifugal separation. She confirmed this in the NAICS manual. The next recommendation referred to the use table. Ms. Sheesley felt the reference to changing from PR (permitted with review) to P (permitted) as a CU (conditional use) was confusing. She stated the change should read: changing from PR to CU.

Chair Tarbox asked if there was any further comment on this item; there was not.

Chair Tarbox closed the public hearing.

After the vote on item #1, the Board agreed to further discuss the mineral extraction definition change in work session. The Board did not vote on this matter.

**3. File #03-10-S: Adam Blaikie & Associates, c/o John Hutchins, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.**

Chair Tarbox called for a representative to present the project.

John Hutchins, Corner Post Land Surveying, Inc., representing the applicant gave a brief explanation of why the change was being requested, which was to adjust a lot line between two existing lots of an approved subdivision so the house under construction could meet zoning ordinance set back requirements.

Chair Tarbox asked if this problem happens often, and if there are procedures in place to try to prevent this problem.

John Hutchins said there are things that can be done to prevent this, and discussion took place.

Staff member Casserly said in past situations where this has occurred, the Board has considered what to do to prevent this problem. Mr. Casserly said that certification by surveyors early during the construction process could alleviate this issue and asked if the Board wanted to discuss this tonight or another time. Chair Tarbox said the Board may consider this process at a later date.

Chair Tarbox asked if anyone present wanted to speak in favor of the proposal; there was no one.

Chair Tarbox asked if anyone present wanted to speak against the proposal; again, there was no one.

Chair Tarbox closed the public hearing.

After the decision on item #2, the Board discussed whether or not they were going to vote on this request.

Board member Herlihy asked how the setback error continues to happen. He doesn't feel that this should be a common error. Discussion took place on ways to prevent this from happening in the future. The Board also asked Mr. Hutchins to inform his client that the Board will not be inclined to approve requests to amend the lot line if a building doesn't meet setback requirements in the future, especially if both lots are under different ownership.

The Board decided to approve this request tonight.

Vice Chair Hardison made a motion that the Planning Board confirm the finding of facts (see attached) and approve the amendments to application file #15-06-S, Final Minor Subdivision, Springvale Station, submitted by Corner Post Land Surveying, Inc. dated 02-19-2010 application file #03-10-S has been prepared in conformance with the subdivision requirements of the Sanford subdivision ordinance and grant approval of the application subject to the conditions of the original approval.

Board member Morse seconded the motion.

A vote was taken, and the motion passed 7-0.

### **III. NEW BUSINESS**

There were no new business items.

### **IV. OLD BUSINESS**

#### **1. File #10-09-R: YMCA Sanford-Springvale YMCA, c/o Ken Lamoreaux, The Sheridan Corporation, Fairfield, Maine.**

Chair Tarbox asked if the issues regarding sidewalk grading were resolved. Both staff members Casserly and Andreson stated the issues were resolved.

Chair Tarbox asked Mr. Casserly if his comment on borrow soil in his memo dated 3/9/10 had been addressed. Mr. Casserly said he was able to confirm that his comment had been addressed after his memo was written, and Mr. Gulnac made reference to it in his finding of facts.

Chair Tarbox asked if there were any other items that he needed addressed. Mr. Casserly stated he was satisfied with the project.

Chair Tarbox asked if any Board members had any comments; no one did.

Chair Tarbox called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached) and find that the major site plan contained in File #10-09-R has been prepared in compliance with Article XVII Site Plan of the Town of Sanford municipal code and Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below grant final approval:

- a) Construction must commence within one (1) year of the approval of the site plan and a certificate of occupancy issued within three (3) years. Failure to comply will result in the approval being declared null and void.
- b) The traffic impact fee shall be paid at the time of the issuing of the construction permit.
- c) A waiver of 30% of the parking requirement is granted for Phase I of the project.

- d) The applicant has provided verification of a DEP stormwater permit.
- e) All outstanding review fees have been paid.
- f) The applicant will schedule a pre-construction meeting with the town engineer at which time the applicant will comply with the requirement for a performance guarantee (if needed) and the establishment of an inspection escrow.

Board member Mongeau seconded the motion.

A vote was taken, and the motion passed 7-0.

## **V. APPROVAL OF MINUTES – March 3, 2010**

Chair Tarbox called for approval of the minutes.

Board member Morse made a motion to accept the minutes as written.

Vice Chair Hardison seconded the motion.

A vote was taken, and the motion passed 6-0.

## **VI. PLANNING DIRECTOR'S REPORT**

1. **File #999-10-T(2): The Planning Director is requesting** that the Planning Board consider a revision to Section 280 Attachment 1, V. Utility Uses, A Principal Uses 3. Transmitter towers within designated transmitter overlay zones and Section 280-94 Transmitter and alternative communications tower.

Chair Tarbox tabled the item as the Planning Director was not present. The following bulleted items were addressed or discussed, but not on the agenda.

- Staff member Andreson asked if the Board could look at the memo about the Board meeting schedule from staff member Gulnac. He wanted to know if the Board could vote on it or give their acclamation on the schedule tonight or if the Board wanted to discuss it in work session.

Vice Chair Hardison asked why there was a four week window from the time an application was deemed complete until it was scheduled for a meeting. His question was what needed to be done to process an application that would take four weeks. Mr. Andreson said he would like to have Mr. Gulnac address the concern because Mr. Andreson was not familiar with the process. Vice Chair Hardison said he would like to wait until Mr. Gulnac was available for discussion so the process description could be clarified. Vice Chair Hardison's question was based on his concern that the process may not be in the best interest of the applicant. Discussion took place.

The consensus of the Board was to take no action on Mr. Gulnac's request until the Board could have the questions and concerns addressed by Mr. Gulnac.

- Chair Tarbox mentioned a few items that the Board would be reviewing in the future: antique store and dog kennels as additional uses.
- Staff member Andreson told Chair Tarbox that Shirley Sheesley, CEO had an administrative item for the Board. Ms. Sheesley told the Board that she has a subdivision plan that shows clearing limits, and when she goes to inspect the property the lawn is twice the size that is shown on the plan. Ms. Sheesley wants to know how strict the Board is when it approves a plan that delineates a clearing limit.

Discussion took place. General feeling from the Board was that they never intended the clearing limit boundary to be enforced, but Board member Morse feels that it should be something the Board should make clearer on the plan.

Staff member Andreson said that for the most part, if a property owner exceeds the clearing limit, especially years later, it would not be a town issue. It would be up to the neighboring abutter to bring civil action against the property owner.

More discussion took place about:

- if the Board wanted to be stricter about clearing limits
- process to follow if the Board did decide to do so to make the infraction enforceable
- which actions the town could take if someone did exceed clearing limits if the Board makes the issue enforceable

Ms. Sheesley wanted to clarify with the Board that if an applicant submitted a building permit to her office that would show a garage within the clearing limits, her office would be allowed to issue the permit.

The Board discussed the enforceability of an encroachment into the clearing limit shown on the plan some more.

It was decided that if the Board felt strongly about a buffer area or clearing limit, they would do their best to memorialize it so the contractor and any future property owners are clear on where they are allowed to build.

## **VII. ADJOURN**

The meeting adjourned at 8:40 PM.

### **Attachment to March 17, 2010 Minutes Amended**

#### *Finding of Facts for Public Hearing Item #1 File #06-09-R: Hay Brook Mineral Amendment*

- The applicant has provided proof of ownership of the property in question and has standing to make the application.
- As the Board and applicant are aware, the first two activities are not currently considered permitted with respect to use classified as “mineral extraction”; which is being reviewed under file #999-10-T(1).
- The request for a washing process is a permitted activity and subject to review by the town engineer; the Board can take action on the request.
- This meeting satisfies the minimum requirements for a public hearing on request c) above.
- The Town Engineer has reviewed the request to utilize a washing procedure with a recommendation that the washing process and any/all stockpiles are to be located within the 10 acre active open space, with the exception of any current topsoil stockpiles.

#### *Finding of Facts for Public Hearing Item #2 File #999-10-T(1): Mineral Extraction*

The Planning Board did not take action on this item.

*Finding of Facts for Public Hearing Item #3  
File #03-10-S: Springvale Station Amendment*

- The subdivision was approved on May 17, 2006.
- On a motion by Joseph Herlihy and seconded by Bob Hardison, the Planning Board found that application file #15-06-S, Final Minor Subdivision, “Springvale Station”, submitted by Corner Post Land Surveyors had been prepared in conformance with the subdivision requirements of the Sanford subdivision ordinance and recommends final approval of the application subject to the following conditions:
  1. That the applicant will comply with the requirements of Article 6.4 of the Subdivision ordinance;
  2. That the applicant will provide an additional \$250.00 payment to the project escrow account;
  3. That the applicant will provide a payment of \$300.00 (6 lots x \$50.00) map filing fee;
  4. That the applicant understands and agrees to the conditions outlined in Article 13 of the Sanford Subdivision Ordinance;
  5. That before construction permits will be issued for lots 3, 4, 5 & 6 shoreland permits issued by the Planning Board are required;
  6. The applicant will provide a copy of the mylar for the project signed by the Planning Board and showing proof of filing at the county, and six (6) paper copies of the plans;
  7. That no construction is to start until all outstanding fees have been paid; and
  8. That no Certificates of Occupancy will be issued until the Town Engineer has reviewed the project and determined that it has been constructed to the approved plans.
- The proposed amendment does not change any of the original conditions. It simply adjusts the line separating lots 1 & 2 of the approved subdivision.
- Both lots are owned by the applicant.

*Finding of Facts for Old Business Item #1  
File #10-09-R: YMCA Expansion*

- The applicant has provided proof of ownership of the property in question and has standing to make the application.
- An agreement between the YMCA and the Town of Sanford concerning the lease of the 2.4 acre additional land has been supplied and any approval granted by the Planning Board will be subject to the conditions in the agreement.
- The application was reviewed by the Site Plan Review Committee and the plans submitted to the Planning Board reflect comments made by staff in that review.
- The application requires review and a permit from Maine DEP.
- The project is proposed to be constructed in phases. All stormwater requirements will be constructed in Phase I.
- A traffic study was provided. Based upon that study it was determined by the DOT that no offsite traffic improvements would be required. The proposed number of new trips was accepted by the Town Engineer. At the time of the application for a building permit, the applicant will be required to pay the traffic impact fee based upon the number of new trips.
- The application contains two (2) separate plans: a minor subdivision plan (which has been approved), and a major development site plan.
- The current site is considered pre-existing nonconforming as to parking requirements. The approval of Phase I will include a waiver to permit a reduction of 30% in the parking requirements. Parking requirements for the subsequent phases are conforming.
- The Board has reviewed the location of the YMCA sign at the entrance and has determined that no sight obstruction exists and therefore no waiver is required.
- The applicant has responded to comments from staff and the submission contains information addressing all the concerns.
- Subject to final comments from the Town Engineer, the Planner recommends approval.