Appeals Office

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June 5, 2006

BOARD OF APPEALS

7:00 P.M. at the Town Office

MINUTES

Members present: Chairman Matthew Schaefer, Elden Lingwood, Lawrence Murch, Michael Higgins, and Mary Picavet. Peter Leavitt was absent.
Staff present: John Cooper, Code Enforcement Officer; Karen Strout, Recording Secretary.

Call to order: Chairman Matthew Schaefer called the meeting to order at 7:05 pm.

This meeting was continued from May 22, 2006.

Map 17, Lot 43, R & LRR1
62 Inlet Point Road
Liastasa Management LLC & Meyers Associates
Conditional Use permit for Mineral Extraction

Presentation by applicant's agent:

Pat Cayer of Land Services, Inc. and Mike Meyers of Meyers Development & Associates were present to answer questions. Pat Cayer supplied two DEP handouts to the Board which have been placed in the file. Cayer stated the documents should answer some questions posed at the May 22nd meeting about noise and dust levels. Cayer reviewed these documents with some detail and summarized by saying that the **noise level** to comply with the regulations was that the level should not exceed 60 dba at the property line. Cayer further stated that he was not sure exactly what noise this project would generate, as he could not find sufficient resource information on what the noise would be for the type of equipment being used. He also commented that unfortunately he did not get to speak with Mr. Grover.

Phasing Cayer explained that The Haul Road would be constructed first. Next would be removal of trees and stumping. Cayer pointed out the location of the berms on the map and outlined the proposed plan. He explained the two areas that had been labeled as extraction area one and two (This map is part of this project's file). The applicant is proposing to concentrate activity during the summer months – Memorial to Labor Day to the removal of materials from the easterly side of the berms labeled as area one, the side that is away from the homes on the water. During the winter month they plan to concentrate in area two. Cayer commented that he hoped that would be a reasonable compromise.

Chairman Schaefer asked how the plan would work if more than one season were involved? Cayer responded that first they need to build the Haul Road. Until after Labor Day they would work in the area labeled one. After Labor Day they would go to the area labeled two. On May 31st they would go back to the other area again.

Schaefer asked if there had been any change in thinking in about the use of Inlet Point Road since their last meeting. Cayer said he was reluctant to limit access. He understood that they wanted to limit unnecessary traffic, but it would be difficult to monitor.

Schaefer asked about the overall timing of the project. Cayer related that the plan stated two years- with completion by Feb '08, but they might be done earlier.

Public Comment:
Gary Bucklin of 51 Inlet Point Road commented that "it was a fair compromise" with the seasonal phasing plan.
Mickey Carr of 49 Inlet Point Road asked how far away would they be working ?? Cayer replied that it would be 800 feet to Gary Bucklin's property line.

Board Action:

Chairman Schaefer commented that he felt the best way to proceed would be through a series of motions that would become the conditions of approval.

A threshold matter of discussion would be to review the basic requirements of the ordinances sections that apply: Land Use Ordinances IX E 1 Mineral extraction 9A Conditional uses and Shoreland Ordinance Section 15 M Mineral extraction.

MOTION: moved by Schaefer and seconded by Murch that the Board determine that item 3 of section IX A of the Land Use Ordinance of the Town of Raymond must be interpreted in context of a mineral extraction project consistent with other provisions of the ordinance which make mineral extraction projects permissible uses in all zones and that the application needs to be interpreted in light of those other sections of the ordinances.
Vote was unanimous 5/0.

MOTION: moved by Schaefer and seconded by Murch that the Board find the applicant has satisfied the conditions of IX 9 A of the Land Use Ordinance based on the information presented to the Board and subject to the conditions of approval that the Board may impose in the event the application is granted.
Vote 5/0 unanimous.

MOTION: moved by Schaefer and seconded by Murch that the Board require the applicant to submit true and accurate copies of all charts, maps, and materials used in the discussions, not previously submitted, to the Code Enforcement Officer for the BOA files.
Vote 5/0 unanimous

MOTION: moved by Schaefer and seconded by Murch that the Board find that the application for conditional approval has included plans that illustrate adequately the satisfaction of provision of IX 9 E 1 based on the information the Board received at this time and subject to any conditions the Board may impose in conjunction with this application.
Vote unanimous 5/0.

MOTION: moved by Schaefer and seconded by Murch that the Board find that the application for conditional approval has included plans that illustrate adequately the satisfaction of provision Section 15 M section 1 of the Shoreland Zone based on the information the Board received at this time and subject to any conditions the Board may impose in conjunction with this application.
Vote unanimous 5/0.

CONDITIONS

MOTION: moved by Higgins and seconded by Murch that the applicant submit to the Code Enforcement Officer, as the first condition of approval, the report by Jones Associates delineating the wetlands on the site to determine whether or not they are forested wetlands or not.
Vote 5/0 unanimous.

MOTION: moved by Schaefer and seconded by Murch that the applicant submit for the file, as the second condition of approval, a copy of the letter from the adjacent land owner regarding boundary permission issue.
Vote 5/0 unanimous.

MOTION: moved by Schaefer and seconded by Murch that as condition number 3, that the applicant satisfy all conditions of the Shoreland Zoning Ordinance section 15 M.
Vote 5/0 unanimous.

MOTION: moved by Schaefer and seconded by Murch that as condition of approval number 4, the applicant comply with all conditions, terms, and other components of its own submission unless the Board imposes more stringent conditions.
Vote 5/0.

MOTION: moved by Higgins and seconded by Murch that condition of approval number 5, the applicant authorize the stump removal processing and grinding during weekdays, not on the weekend.
Vote 5/0.

MOTION: moved by Schaefer and seconded by Higgins that as a condition of approval that the applicant perform mineral extraction from Labor Day to Memorial Day in extraction area one only during the tenancy of the project.
Motion was withdrawn.

MOTION: moved by Schaefer and seconded by Higgins that as a condition of approval number 6, that the applicant shall perform mineral extraction in extraction area one only in the period of Memorial Day to Labor Day during the tenancy of the project.
Vote 5/0

MOTION: moved by Schaefer and seconded by Higgins that condition of approval number 7 state that during the remaining months of the year - Labor Day thru Memorial that mineral extraction may take place in either extraction area one or two.
Vote 5/0

MOTION: moved by Higgins that the employee access be limited below the intersection on Inlet Point Road and the Pit entrance and that the contractor instruct the employees.
Motion was withdrawn.

MOTION: moved by Schaefer and seconded by Murch to add as condition of approval number 9, that the applicant be in continual compliance to all applicable ordinances of the Town of Raymond Shoreland and Land Use Ordinances, and meet all of the conditions of approval imposed by the Planning and Zoning Boards.
Vote 5/0

MOTION: moved by Schaefer and seconded by Picavet to authorize the Code Enforcement Officer at his discretion to afford the adjacent properties additional screening in excess of 250', if in his discretion it is necessary to comply with the spirit and intent of the ordinance to protect the abutters.
Vote 1/3 motion defeated.

Discussion: when asked his opinion, CEO Cooper responded that he felt the ordinances covered the screening issue.

MOTION: moved by Schaefer and seconded by Lingood that a condition of approval number 10 be that the applicant satisfy the noise restrictions set forth in the DEP applicable regulations.
Vote 4/1 motion carried

MOTION: moved by Schaefer and seconded by Higgins that there be no adverse impact on the vernal pond situated adjacent to Mr. Bucklin's property.

Discussion:
Cayer asked for a definition of adverse impact. He was told that all interpretive issues were left to the CEO.
Motion was withdrawn.

MOTION: moved by Schaefer and seconded by Murch that condition of approval number 10, the applicant remain in compliance with all applicable DEP regulations, rules, codes, rulings, requirements etc.
Vote 5/0. Unanimous.

MOTION: moved by Schaefer and seconded by Murch to approve the application for a **Conditional Use permit for Mineral Extraction for Liastasa Management LLC & Meyers Associates referenced by Map 17, Lot 43, R & LRR1, 62 Inlet Point Road with the conditions of approval** that were previously laid out and approved with individual motions.
Vote was unanimous 5/0.

Chairman Schaefer asked if this action needed to be recorded at the registry of deeds. CEO Cooper stated he would check with the Town Attorney.

MOTION: moved by Schaefer and seconded by Murch to adjourn at 10:32 pm. Vote was unanimous.

Karen Strout

Board of Appeals Secretary