

**TOWN OF PHELPS
ZONING BOARD MEETING
MINUTES**

November 17, 2011

MEMBERS PRESENT

Scott Fremouw, Chairman, Ed Clark, Zoning Officer, Joyce Mitchell, Jeff Caves, Brooks McKinney, Steve Westfall, Alternate, Glen Wilkes

CALL TO ORDER

Chairman Mr. Fremouw called the Zoning Board Meeting to order at 7:02 p.m. at the Phelps Town Courthouse.

The Pledge of Allegiance was said by all.

Introductions were made.

Mr. Fremouw informed the board that only the front sheet of application and any necessary maps would be sent electronically. If anything further is needed, it can be requested through Mr. Clark.

MINUTES

The minutes of the October 20, 2011 meeting were considered. One correction was noted. A motion was made by Mr. Wilkes to accept the minutes with the correction. Ms. Mitchell seconded the motion. The motion carried unanimously. Mr. McKinney abstained.

PUBLIC HEARING

Application 1021-11
Susan Parson, 2093 St. Rt. 488, Clifton Springs
An area variance for Kennel Permit. The variance requested is 80 feet on one side and 75 feet on the other.

The public notice was published on November 10, 2011. Mr. Fremouw opened the public hearing at 7:19 p.m. There were some questions about the amount of the variance requested. Questions were answered. No further comments.

Public hearing was closed at 7:25 p.m.

Mr. Caves had a question about comment on the application of this owner being within a ¼ mile of a public nature area. Ms. Parsons is within ¼ mile of the Ontario County Pathways. There was also a question about the “see reverse side” on the application. The electronic copy sent didn’t include the reverse side of the application. That was clarified as “area variance to south of the 80’ having 220’ where 300’ is required to existing dwelling”.

Mr. Westfall was appointed as a voting member as Mr. McKinney had missed the last meeting when this was discussed.

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There was discussion regarding which board should approve which applications (area variance, kennel permit and on premise business permit). It was clarified that the Zoning Board has requirement to approve/disapprove the kennel permit and the area variance. The area variance can be acted on tonight. There was question about if the kennel permit can be acted on during this meeting, as the wording in the public hearing notice was confusing. It was agreed we could act on both tonight since the public hearing notice did state that the public hearing was for an area variance for a kennel permit.

Mr. Caves moved that this application be declared a Type 2 action per SEQR 617.5 (15), which reads as follows:

(15) minor temporary uses of land having a negligible or no permanent impact on the environment.

Ms. Mitchell seconded. Mr. McKinney abstained. The motion carried.

Findings for the area variance:

- 1) Owner has moved the outdoor kennel and dog run to accommodate recommendation from Zoning Board/Officer
- 2) Planning Board has reviewed the map and recommends approval.
- 3) Shih Tzu (small) breed dog (15 lbs or smaller).
- 4) 15 dog maximum.
- 5) Existing neighborhood will not be adversely affected.
- 6) Zoning Officer has no issues or concerns.
- 7) No public comment.
- 8) Existing established tree line as a screen.
- 9) Variance would be 75 feet on the north side and 80 feet on the south side.

Mr. Wilkes made a motion to accept application 1021-11.

Mr. Caves seconded. Mr. McKinney abstained. Motion carried.

Findings on the Kennel Permit:

- 1) No public comment.
- 2) Shih Tzu (small) breed dog (15 lbs or smaller).
- 3) Dog run is in the rear not the side yard.
- 4) 15 dogs maximum.
- 5) Kennel is located in the lower level of house.
- 6) Site plan approved by the Planning Board October 27, 2011.
- 7) Not all the size requirements of this lot were in place, however the area variance application (1021-11) granted (November 17, 2011) remedies that.
- 8) If any of these findings should be altered the applicant would need to present back to the board.
- 9) No noise or adverse affects on the property.

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10) Removal of fecal waste has been established; trash and farmer for fertilizer

Mr. Wilkes made a motion to accept application KP7-11 based on the findings. Mr. Caves asked if there are restrictions to be applied to this special use permit. Mr. Wilkes said he didn't believe so. Mr. Fremouw asked Mr. Caves what restrictions he thought would make him more comfortable with this application. More findings were discussed and Mr. Caves seconded the motion. Motion carried. Mr. McKinney abstained.

REVIEW

Application SUP113-11-Ridley Acres Corporation, 1403 Ridley Road, Phelps. Teresa Elliott was present to discuss the request. Issue a special use permit for use of premises as an 8-unit mobile home park due to a change of ownership and a need for a permit renewal.

Ms. Mitchell hoped that some changes on the premises would occur such as clean up of the property. Ms. Elliott assured the board, with Mr. Clark's agreement, that they have cleaned up quite a bit of unsightly garbage.

There was a question about whether the Department of Health had issued their permit yet. The owner's present said that the approvals were in the works. Mr. Fremouw made it clear the board's duty was to review and approve/disapprove the continued use of the park. It was determined that the Department of Health certificate was required to gain a special use permit. This is a review and will need to be reviewed by the Planning Board. A public hearing by the Zoning Board would be held during the December 15, 2011. If by the public hearing there is no Department of Health permit this application will be unable to move forward.

The park currently does have a valid special use permit. Mr. McKinney raised the question whether board action was required. Mr. Clark clarified that this is also a renewal not just a transfer.

Mr. Fremouw asked if there were any other questions. There were none. The owners were instructed to be present at the November 21, 2011 for the Planning Board meeting. The site map was old and the owner's were instructed to bring an updated site plan. Mr. Clark explained to the owners what was required in a new site plan. Mr. Allen informed the owners that the site plan was not needed for the November 21, 2011 meeting. They will review the transfer of ownership and the site plan will be for the following month regarding the renewal.

Mr. Caves moved that this application be declared a Type 2 action per SEQR 617.5 (26), which reads as follows:

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(26) license, lease and permit renewals, or transfers of ownership thereof, were there will be no material change in permit conditions or the scope of permitted activities.

Mr. Wilkes seconded the motion. The motion carried unanimously.

MINING REVIEWS

There were no representatives present for any of the below mining reviews.

Mr. Fremouw made it clear these were for permit renewals only. Ms. Mitchell stated there is a moratorium in place and effective until March, 2012. The Planning Board should not be approving expansions or anything new. Parts of the moratorium were read. This was to confirm that the meeting tonight was to just approve renewal of existing special use.

Mr. Wilkes asked if anyone was aware of anything new taking place at the mines. Mr. Clark assured the board they have walked these mines several times.

SENECA MEADOWS: Bostwick Road: MLR# 80763. Ms. Mitchell cited from the DEC inspection report dated April 11, 2011. The mine is in process of reclamation. No issues at this time. Requesting approval because the process of reclamation is not complete. DEC permit expires June 9, 2015. A 2-year renewal requested to adhere to Town Law requirement.

Findings:

- 1) There are no violations cited on this mine.
- 2) This property is in the process of full reclamation and termination.
- 3) The mine is operating within their existing DEC permit.
- 4) This is a pre-existing, non conforming use in a RAG district

If this mine digs within the 2 years, they will become active again. If they do nothing in the 2 years, but decide after the 2 years to dig, they must go back to the DEC for approval.

Mr. Wilkes made a motion to accept the application for renewal of this application based on the findings. Mr. Caves seconded the motion. The motion carried unanimously.

ELAM SAND AND GRAVEL: MLR# 80037. This mine is also getting ready to do reclamation. Ms. Mitchell cited from the DEC inspection report dated March 10, 2011. East corner of reclamation looks good. Gates have been locked.

Findings:

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- 1) DEC review of the property looks good with a few touch up areas. There is no activity.
- 2) Zoning Officer has no concern.
- 3) No public comment.
- 4) This is a pre-existing, nonconforming use in a RAG district. It is also located in a M1 zone.

Ms. Mitchell made a motion to approve MRL #80037. Mr. Caves seconded the motion. The motion carried unanimously.

There was some question on what the Planning Board review would be in regards to these special use renewals on these mines. Mr. Fremouw stated the Zoning Board usually just reviews and approves if there are no changes with the site plan. Ms. Barnard wondered how the Zoning Board would know if the site plan had changed if the Planning Board doesn't review? Mr. McCarrick stated that 2 years ago the Planning Board did request to have stuff removed from a site. Ms. Barnard remembers reviewing two years ago as well. Mr. McKinney thought there was ambiguity in the law as it relates to renewal of special use permits in Mining. If special use permits are required for businesses within the Town, the Town can require mines to go through site plan reviews because it is standard for other businesses. However, if there are stipulations, might be hard for the Board to get the mines to comply. Once the Mining Committee finishes their review, some of these issues will become clearer. Mr. Wilkes reinforced the need for the Planning and Zoning Board to be in sync when it comes to these mining issues/laws.

SYRACUSE SAND AND GRAVEL: Gifford Road: MLR# 80025: Ms. Mitchell cited from the DEC inspection report dated October 14, 2011. The permit sign was noted. The terms were noted. No changes were noted. There was more garbage located near the garage area, but no activity at time of inspection. DEC permit expired October 20, 2011. Due to the expiration of the DEC permit, Mr. Clark was requested to invite them to the next meeting for review. The board couldn't act on this due to the expired permit. Mr. McCarrick stated this could possibly be a request for a special use permit for the trucking business they are running there.

SYRACUSE SAND AND GRAVEL: Lake Rd: MLR# 80634. Ms. Mitchell cited from the DEC inspection report dated October 14, 2011. DEC permit valid until January 18, 2016. Permit sign posted. Markers noted. Additional seeding is required. No compliance issues at this time. Mr. Clark also did a walk through November 16, 2011. The mine was compliant with all currently regulations.

Findings:

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- 1) Zoning Office doesn't have any concerns.
- 2) Pre-existing nonconforming use in RAG district.
- 3) They have applied for renewal.
- 4) No operational changes.

Mr. Wilkes made a motion to accept the application.
Mr. McKinney seconded. The motion carried unanimously.

DENDIS SAND AND GRAVEL: Boyd Pit: MLR# 80518. Ms. Mitchell cited from the DEC inspection report dated June 13, 2011. NO permit sign was found. A new sign had been sent to be posted. This was their second violation. No permit term markers. This is their 3rd violation. No activity at time of inspection. Photos were taken. DEC permit expires February 12, 2014. Due to violations, Mr. Clark will send back for review next month.

There was a complaint from a homeowner near pit that the line marker had fallen into the pit. The DEC will be contacted to rectify.

DENDIS SAND AND GRAVEL: Palone Pit: MLR# 80650. Ms. Mitchell cited from the DEC inspection report dated March 10, 2011. Northwest corner looks good. Markers must be posted. There were none found. Set backs are good. Special conditions were good. Violation needs to be discussed. This will be moved for review at next month's meeting.

DENDIS SAND AND GRAVEL: Phillips Pit: MLR# 80076. Ms. Mitchell cited from the DEC inspection report dated April 18, 2011. No permit posted. Permit is required to be posted. No activity at time of the inspection. New expiration date on DEC permit was May 23, 2016. There was a letter in 2008 to the DEC about the no-use of this pit. Must discuss this next month due to possible reclamation.

DENDIS SAND AND GRAVEL: Cress Rd: MLR# 80760. Ms. Mitchell cited from the DEC inspection report dated March 14, 2011. Area north of the mine has off site water discharge. This area should be seeded and removed from the permit term. Area northwest corner was considered reclaimed. This was not valid. No permit markers. Violations noted on permit therefore will be tabled for review at next month's meeting.

DENDIS SAND AND GRAVEL: Hayes Rd: MLR# 80685. Ms. Mitchell cited from the DEC inspection report dated March 14, 2011. Site not active. No off site discharge. Needs permit term markers. This will be reviewed as well next month.

OLD BUSINESS

None

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NEW BUSINESS None

ZONING OFFICER BRIEFS None

PUBLIC COMMENT There was a question on who to send DEC issues to. The person at the DEC for compliance is Dan Sak per Ms. Mitchell.

ADJOURN A motion to adjourn the meeting was made by Mr. Caves. Seconded by Mr. Wilkes. Motion carried unanimously. Meeting was adjourned at 10:10 p.m.

Respectfully submitted,
Stephanie Kelly
Secretary