

**Town of Phelps
Planning Board
Minutes**

November 21, 2011

MEMBERS PRESENT

Ron Allen, Chairman, Steve McCarrick, Kenny Sontheim,
Dan Hurdle, Ed Clark, Zoning Officer, Collette Barnard

Absent: Grace Carlson, Alternate

CALL TO ORDER

Chairman Ron Allen called the meeting of the Planning Board to order at 7:00 p.m. at the Phelps Town Courthouse.

The Pledge of Allegiance was said by all.

Introductions were made.

MINUTES

The minutes from October 27, 2011 were considered. Mr. Hurdle made a motion to accept the minutes. Mr. McCarrick seconded. Ms. Barnard abstained. Motion carried.

APPLICATION PERMIT
#SD1110-11 FOR DALE
HEMMINGER

Application SD1110-11: James Allen, Jr.: 2046 Griffith Rd, Phelps, NY. Subdivide 2 lots from parent parcel containing 54 +/- acres. Lot 1 containing 2.286 acres with existing house & buildings located on the North side of Griffith Rd. about 304 feet East of NYS Rte 488. Lot 2 containing 0.959 acres of vacant land located on the South side of Griffith Rd. about 163 feet East of NYS Rte 488. Remaining lands to be 51 +/- acres.

Public hearing opened 7:05 p.m.
No public comment received.
Public hearing closed at 7:06 p.m.

Mr. Hurdle made a motion to accept application SD1110-11 as stated above. SEQR Type 2 per SEQR 617.5 (17) and (26), which reads as follows:

- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns; and
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities.

Map November 8, 2011 will be the final site plan. There is public water. Ms. Barnard seconded. All carried.

APPLICATION PERMIT
#SP921-11 FOR JUAN
BENITO

Application SP921-11: Juan Benito, 1940 Spafford Rd, Phelps, NY. Commercial site. Site maps were reviewed again. Owner is preparing to put the culvert in. There were questions regarding why culverts were needed. It is low land that needs it per Mr. Clark. There is no drainage currently which causes the problem. Mr. Hurdle felt that the swales would only cause gathered water not drainage. Ms. Barnard asked about septic. It was

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agreed that it must be a raised bed septic. The mobile home wouldn't be put on property for a couple of years. Currently, they just need the culverts in so the trucks and trailers can be parked there. The pole barn would be erected within 6 months to a year. Office building will not be in around the same time. Mr. Allen instructed the owner's spokesperson that they would need septic for the office building. Someone on behalf of Mr. Benito would need to come back before any buildings are erected. It was confirmed that it would be just a truck and trailer business. There are a couple of storage pods. These are his personal property. Mr. Sontheim stated that this should be used/look like a business; not a junk area. There was discussion over a broken down car on the property currently. There should be a stipulation about nothing unlicensed on the property once it becomes a business. The lighting will be dark sky compliant.

Mr. Hurdle wasn't happy with the site map; specifically the drainage situation. Ms. Barnard suggested having a drainage Engineer take a look at the property and make a proposal. Ms. Barnard agreed she would like to see a drainage plan. Mr. Allen also agreed. Mr. Clark had concern about drainage at this site as well. Various drainage options were discussed.

Ms. Barnard made a motion to accept application SP921-11 as preliminary site plan dated September 19, 2011. A detailed drainage plan has been requested for next meeting. Mr. Sontheim seconded. All carried.

OPEN DISCUSSION

Mr. Sontheim spoke of the Zoning Board Meeting held on November 17, 2011. He was concerned no one from the mining community appeared for the meeting. He also explained he felt he was unsure what the Planning Board's role in these renewals actually is. Mr. Sontheim hopes that the Town of Phelps Board will share the information gathered regarding the special use permits and how the code is modified to make us more effective. He is hoping there is a better process down the road.

Mr. Clark stated that since there has been a moratorium in place, there really have been no changes since 2009. The mines must seek renew however no changes have been allowed due to the current law.

Mr. Sontheim felt that the Town needs new standards in which to do business. He felt Mr. Dendis should not have a vacant trailer on his site. It has been there for 4 years. Mr. Fremouw was present and explained that Mr. Dendis was requested to remove the trailer. He said he would. The trailer has never been moved. Mr. Fremouw was upset as well that it has been 2 years since the request and the trailer has yet to be moved.

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It was discussed that there really is very little the Town of Phelps can do in regards to these mines. Mr. McCarrick explained how the previous Supervisor took the controls away from the board. Mr. McCarrick stated he got on the Mining Committee because he has seen what he would like the Town of Phelps mines to look like. It was confirmed that our code will be upgraded due to the work of the Mining Committee and the Attorneys.

Mr. Sontheim stated it was not just Mining. It is all special use requests. He was upset about the process of handling special use requests and cited as an example the way a recent request for a kennel operation versus the mining requests were being done.

Ms. Barnard thought there is code available to us today to do what we need to do with the special permits. Ms. Barnard also felt that the Planning Board should review these mine renewal regardless if there were changes or not.

Mr. Fremouw also admitted to being confused by the process. He feels that the DEC has full control. He feels the Town has no control at all. Ms. Barnard said we can disapprove renewals. Ms. Barnard felt just because they have a DEC permit, doesn't mean we owe them a special use permit. Ms. Barnard felt that the Zoning Board may not be able to disapprove a renewal, but did feel the the Planning Board might have some more flexibility when it came to the miner's site plans.

Mr. McCarrick stated that Hanson felt they do not need a special use permit. The company feels they should be grand fathered in. Mr. McCarrick did feel that Hanson does need a special use permit per our code book, but they are standing strong that they don't need one.

Mr. Fremouw made it clear that the Zoning Board didn't mean to overlook the process of Planning Board review of these special use permits; specifically mining. Mr. Fremouw wanted to know what to do during a review for one of these special use permits. Mr. Sontheim felt the Zoning Board is the "big picture" review, while the specifics are the Planning Boards responsibility.

There was some frustration about the current meeting turning into Zoning Board issues. Mr. Allen felt Mr. Fremouw was invited to discuss the issues that occurred at the Zoning Board Meeting on November 17, 2011. After the discussion everyone did feel the discussion was necessary.

Ms. Barnard wondered if there were any more mining renewals due. Mr. Clark said the Ridley mine would be coming. It was agreed that the mining laws need to be implemented before the

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Planning/Zoning Board has much control over anything.

Mr. McCarrick had a question regarding a customer that wants to buy 49 acres. 37 acres of woods. He wants to subdivide and put a right of way to the woods. He wants to sell it for logging. Mr. Clark said this would be an AG related business if a business at all. 37 acres is not buildable or pitable. Mr. McCarrick felt the trees were too immature to get anything profitable at this point. It would take years before it was loggable again. The right of way would have to go with the 37 acres; not the farmer.

NEXT MEETING

December 22, 2011. No one had conflicts with the holiday.

ADJOURN

Mr. McCarrick made a motion to adjourn the meeting. Ms. Barnard seconded. The motion carried unanimously. The meeting was adjourned at 8:24 p.m.