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AB minutes January 10, 2013

Town of Washington Board of Appeals

PO 408, Washington, ME 04574

January 10, 2013

The meeting opened at 7: 33 pm.

Present were: Chairman: Norman Casas; Vice-chair/Secretary: Henry Chapman; Member: Dorothy Sainio; CEO Bob Temple. Absent: Members: Lowell Freiman and George Carlezon also Alternates: Jim Kearney and Chris Vigue. Attendee: Henry Sainio.

The **minutes** of December 13, 2012 were accepted with all in favor.

Old Business:

There was no old business.

New Business:

There was no actual new business, but Mr. Temple explained the variance request which the Board may expect at the next meeting. J.C. Stone Company, who are working on the Ludwig pit on Old Union Road, will be asking for a variance to allow them to mine rock closer to the water table than is allowed by the Town ordinance and the state statute. He had received a legal opinion from the Maine Municipal Association (MMA) that the variance provision in the Town Mining ordinance also applied. With approval from the Selectmen, Mr. Temple had drafted new application forms for a variance request, and had given one to J.C. Stone.

He explained that it would show the appellant, the property owner, the applicable ordinance including book and page, all needed information. There would be a form for a variance request, one for administrative appeals, one for the Board of Assessment Review, and one for interpretation of the ordinance. He showed the Board the draft of the most urgent one. He said that when the appeal was made, there would be a finding of fact order draft showing what submissions are required and explaining the normal decision making process of the Board for the appeals provision. He will outline the process as if it were an order that the Board would normally do and that will guide the Board through the process, providing technical information the Board would need. The applicant will receive a copy too so that he knows what information and evidence he must provide for the Board. The last piece of the outline will contain any additional information requested by the Board at the pre-application meeting. Any missing information would be requested at that pre-application meeting and provided at the final review. Mr. Temple will incorporate into the review any language from the Appeals section of the Land Use Ordinance (LUO). The first page of the form will

show any justification for granting the variance. Then the finding will state that the Board has reviewed the provision for this aspect and will quote the language from the ordinance. It will state that the condition has or has not been met. If it is not obvious, the minutes will reflect that when the review is done. There will be a statement that (in this case) the lot is not in the Shoreland zone and therefore those standards do not apply. The last part will present additional information for the application requested by the Board at the pre-application meeting. If there are other issues, the Board can require that the applicant provide the additional information. He said this upcoming application will test the draft.

Mr. Casas advised that the draft should be coordinated with the bylaws. Mrs. Sainio did not feel the by-laws had to be in an application form. Mr. Casas responded that the Board needs to be sure that whatever was in the application agreed with requirements in the by-laws. Mr. Temple suggested that the by-laws be attached to the application or that there be a check box on the form stating that the applicant has a copy of the by-laws.

He said the applicant J.C.Stone will probably submit a document showing what the pit looks like from the air. He asked what the Board thought of making an exhibit list to be attached to the final approval so that there would be a record of all submissions. He noted that the planning Board felt it was a waste of time, but he would be willing to do it if the Appeals Board wished. He personally liked the idea as it would identify what was in the record and pinpoint what the Board has looked at. Mrs. Sainio felt the Board would have the exhibits anyway. Mr. Casas added that they would be in the Town Office anyway. Mr. Temple felt it would help if the exhibits were enumerated so that there would be a checklist of what was there. He noted that when the application was finished, the entire thing would be scanned with all its attachments so if someone wanted to review it at another time, it would be simple to open a PDF file. Mr. Temple explained that the Planning Board used conditions as an exhibit. Mrs. Sainio thought the Appeals Board should use exhibits if Mr. Temple thought them necessary. He said they might not be necessary, but were a good check. Once the application was finished, it would be filed, and would all be there. Things had disappeared from some of the old records. Mr. Chapman thought exhibits were a good plan. Mr. Temple said he felt nervous about an application that involved the Mining Ordinance, but had told the Selectmen that he would not have a problem with an Appeals Board decision, even if he did not agree with it.

The pre-application would most likely be in February. At the end of that meeting the finding of fact order would be drafted so that the Board would have everything it needed for review. A public hearing will take place in March. Mr. Casas asked how much time was allowed for a decision after that. He did not think it was as long as another month. Mr. Temple said they could make the decision on the same night after the public hearing. It was determined from looking at the mining Ordinance that the Board has thirty days for its decision. Mr. Temple said he would research the statutory requirement for when the public hearing must be held.

The meeting adjourned at 7:50 pm.

Respectfully submitted,

Liane Chapman

Recording Secretary.

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