

Appeals Board Meeting  
July 14, 2016

Present: Bob Temple, Cathy Blake, Lowell Freiman, Charlotte Henderson, James Kearney, Dorothy Sainio. Public: Henry Sainio, Robert Marks, Debbie Bocko, Wesley Daniel, Nancy Linscott, Jon Whitten, Jr., Peter Drumm

Lowell Freiman called the meeting to order at 7:00pm with roll call. Charlotte Henderson will sit in for Norman Casas who was not present.

**Dorothy Sainio motioned to accept the May 12, 2016 summary as written, James Kearney seconded, all in favor.**

**Dorothy Sainio motioned to accept the October 12, 2015 summary as written, Charlotte Henderson seconded, all in favor.**

Lowell Freiman started the preconference hearing asking if anyone on the Board or community has a conflict of interest. Seeing none the preconference hearing was continued.

Lowell Freiman read the provision, in the Ordinance, that gives the Appeals Board authority to hear the appeal. Section 4, 1 allows the Board to do an Administrative Appeal.

Lowell Freiman asked the Board to determine if the applicant has standing to appeal, meaning that the applicant has suffered direct and personal injury from the decision being appealed from. Peter Drumm, counsel, explained the Board, on the evidence presented, is not making a finding on whether or not you agree with their position but have they laid out recognizable harm that they are experiencing to great standing. Lowell stated, in the paperwork presented, there is several references to people's proximity and ways that they would be harmed if this were to be approved. The application is detailed in aspects of traffic, noise, visibility, etc.

Suzanne White, Rosemary and Bruce Fowles had family medical emergencies and were not able to attend this meeting. Deb Bocko was the only applicant at this meeting. **Charlotte Henderson motioned to consider the absence of Suzanne White, Rosemary and Bruce Fowles a valid reason, medical emergency, for not being here, Dorothy Sainio seconded, all in favor.**

**Dorothy Sainio motioned that the applicant met the required deadline for the appeal, Charlotte Henderson seconded, all in favor.**

Deb Bocko lives on McDowell Road a direct abutter to the Linscott's, downhill from the pit. The impact would be noise, safety, environmental and road issues. **James Kearney motioned that the applicant has standing to appeal, Charlotte Henderson seconded, all in favor.**

Lowell Freiman stated that the Board will determine the issues, written in this summary, and to be used in future public hearings. Lowell read four points –

1. The Consent Decree was not followed and thus no application for a permit is allowed.
2. The safety of the roads is not adequate to sustain the increased traffic that will be generated.
3. Environmental Hazards that could impact abutters was not adequately considered by the Planning Board in coming to their decision.
4. The Planning Board failed to take into consideration the past performance of the applicants when coming to their decision to allow the pit to go forward as described.

Bob Temple will get a list together for all the people that should be notified of the public hearing.

Lowell Freiman requested that the record be deemed complete and exhibits numbered for easy reference during the upcoming meetings. He also asked the applicant if anything else of relevance should be added to the record. Deb Bocko asked that the Planning Board meeting summaries be added as well as the town road survey on McDowell Road though the applicant doesn't feel it met what they wanted looked at. Deb also had photos, of the road, she wanted to submit. The record will be as follows (exhibits will be numbered):

1. Administrative Appeal Application
2. Summary of reasons for appeal written by Rosemary Fowles, Esq.
3. Letter from Rosemary Fowles submitted to Planning Board
4. Letter from Deborah Bocko, 2-9-16, submitted to Planning Board
5. Linscott Application Deficiencies, 10-9-12, page 8 of 10
6. Stop Work Order, 05-29-12
7. Violation of Stop Work Order, 08-27-12
8. Minutes of meeting 07-10-12, page 2
9. Agenda for 02-12-16 meeting
10. Consent Decree
11. Linscott Pit Mitchell Hill Road Reclamation Plan
12. Letter to Scott Braley, Plymouth Engineering, Inc. from Bob Temple 05-15-15
13. Reclamation plan 12-18-14
14. Letter to Berkley and Nancy Linscott from the Select Board 09-05-13
15. Letter to Patrick Mellor, Esq. from Frederick Newcomb, III 03-02-15
16. Letter to Patrick Mellor, Esq. from Bob Temple 03-19-15
17. Planning Board Agenda 04-14-15
18. Planning Board Summary 04-14-15
19. Submission Checklist and final Findings of Fact Order for Berkley & Nancy Linscott 05-18-16
20. Town Road Survey Form and pictures
21. Deb Bocko's pictures of McDowell Road
22. Letter from Deb Bocko to the Planning Board 02-29-16
23. Planning Board Summaries 09-08-15 to 05-31-16

**Charlotte Henderson motioned to add the Planning Board Summaries as exhibit #23, Dorothy Sainio seconded, all in favor.**

**Dorothy Sainio motioned that the record is complete when all the information is presented to the Board (pictures/summaries), Charlotte Henderson seconded, all in favor.**

Peter Drumm asked Deb Bocko, Jon Whitten and Nancy Linscott if there were any objections to the exhibits presented for the record. They are comfortable with the exhibits.

Lowell Freiman stated the Public Hearing will be held on August 4, 2016 at 7PM. Bob Temple will get information together, hearing notice, and abutter addresses.

Dorothy Sainio motioned to adjourn the meeting at 7:48PM, Charlotte Henderson seconded.

Respectfully submitted,

Mary Anderson