

DEERFIELD PLANNING BOARD
DEERFIELD, NEW HAMPSHIRE
NOVEMBER 15, 2016

MINUTES OF MEETING

PRESENT: Board members Peter Schibbelhute, Selectmen's Representative Fred McGarry, David Doran. Also present secretary Jane Boucher

7:10PM Chair Peter Schibbelhute called the meeting to order.

APPLICATION FOR PUBLIC HEARING; EARTH EXCAVATION RENEWAL PERMIT; PARADE ROAD; STEVE ROLLINS FOR OWNER NELLIE ROLLINS
Chair Schibbelhute read the Notice of Public Hearing by which Steve Rollins is making application for an Earth excavation Permit for property located on NH Rte 43 and Parade Road, Deerfield, NH (identified as Tax Map 209 Lot 35) consisting of 153.950 acres. The owner of the property is Nellie Rollins, 30 Raymond Road, Deerfield, NH 03037.

Steve Rollins, Nellie Rollins, Earl Sandford and several abutters and residents were present.

Fred McGarry moved to accept the application. David Doran seconded. Voted in favor.

Earl Sandford presented plans saying that they are requesting a renewal of an existing application . He noted that they are using the original approved application with a description of what has changed.

Mr. Sandford said that grading for Phase I has been finished and slopes have been vegetated. He noted that the State of NH Alteration of Terrain Permit process requires an updated plan every five years, which is due in 2018.

Mr. Sandford said that they are present for renewal noting changes as brought to grade, pavement in, construction has begun on the shed, the septic system has been installed.

Mr. Sandford referred to a letter that he just received from NHDES regarding dust control, which they will reply to.

Mr. Sandford said that it was their intent to stay within the guidelines of the original excavation plan.

Peter Schibbelhute advised that the Planning Board is currently working with the State to update excavation regulations.

Fred McGarry noted that there were concerns when blasting was taking place regarding nitrate contamination of ground water.

He said that, at the time, DES had come out to take samples from neighbors wells to determine if there had been an impact with regards to nitrates. At that time there was determined that there was no impact. Mr. McGarry said that he felt that this should be done on a semi-annual basis.

Mr. McGarry said that the original approval was to put gravel down and not use topsoil. He felt that the Planning Board was wrong in not requiring topsoil or wood chips which would control the dust generation. He felt that the Planning Board should work with Mr. Rollins on a reasonable approach to control the dust.

At this time Chair Schibbelhute read a letter dated October 27, 2016 from NH Department of Environmental Services to Mr. Rollins asking him to resolve some deficiencies. A copy of the letter is attached to these minutes.

Mr. Schibbelhute also read a response from Mr. Rollins to NH DES advising that Deerfield Sand and Gravel will resolve the problem.

Peter Schibbelhute asked Steve Rollins how much longer did he need to have the stockpiles in one place. Mr. Rollins said he would like to move the piles from the east side of the property. He said this should be done by mid-summer.

Cheryl Brosnahan, an abutter, complained that the stockpile has become larger and creating more dust.

Peter Schibbelhute asked Mr. Rollins that when he moved the stockpiles what did he intend to do with the gravel area on 1 B. Mr. Rollins said that depended on the Planning Board. If the Board let him park his trucks on the corner of Parade Road and Rte. 43, he would be able to seed 1 B and it would result in less dust.

Cheryl Brosnahan questioned why did it take a year to move the dirt.

David Doran said that Mr. Rollins had indicated to NHDES that he could water the roadways adequately but would have difficulty watering the stockpiles. Mr. Doran asked Mr. Rollins why that was the case.

Mr. Rollins replied that the water truck is gravity fed and there is no pump on it. Mr. Doran asked if a pump could be put on the water truck. Mr. Rollins replied "yes" a pump could be installed.

Mr. McGarry said that , in his opinion, the PLanning Board was

remiss when not requiring that topsoil be used during the reclamation. He said that the Planning Board cannot allow the residents of the Town to be subjected to the amount of dust they have been getting as a result of the Board's improper interpretation of the statute.

Fred McGarry said that the plan should identify the fueling area and storage of fuel. A statement should be added "All re-fueling on paved areas".

Cheryl Brosnahan, 29 Parade Road, said that smoke from diesel fuel coming into her home and she asked the Board is going to do about it.

Steve Rollins said that if the Board allows him to park his vehicles on the corner he will do so and eliminate the problem.

Fred McGarry said that Mr. Rollins would have to provide proper screening, such as a fence.

A resident of 52 Nottingham Road spoke questioning what the Planning Board's objection was to Steve Rollins parking his trucks on the corner. She said he parks them neatly and it is not an eyesore. She asked what is the problem. Fred McGarry said people have said it is an eyesore.

Cheryl Brosnahan questioned why Mr. Rollins has been allowed to operate his pit for over eight years without a permit.

Fred McGarry the Planning Board was remiss on having Mr. Rollins renew every two years.

Cheryl Brosnahan this is very discouraging and with all the complaints, she is very disappointed in people running this Town. She asked the board to shut down Mr. Rollins operation until he has a legal permit.

Jack Hutchinson spoke noting that Steve Rollins has worked very well with the Town. He felt that there was an opportunity here for the Board to allow Mr. Rollins to move his vehicles. The Board should also be accommodating as well to find solutions to the problems of abutters as well as the operator of the business.

David Doran said that, as a temporary measure the Board could allow Mr. Rollins to move his vehicles. He asked Mr. Rollins if there was an area in 2 a or 2 B that could be utilized.

Mr. Rollins replied that it would be a while, as he had to make room for the piles first. He said it would take him a year to get the piles out and another year to move the trucks. He said

that it depends on how long before the material is gone.

Cheryl Brosnahan said she will not wait a year. This situation is about her health.

Fred McGarry felt David Doran had a good suggestion.

John Dubiansky said he understood there was complaints about parking at the corner. He questioned why the Town would make Steve Rollins put up a fence, when the vast majority of people in the Town have no objection to trucks being parked in the area.

A resident of Nottingham Road questioned if there was a town ordinance that does not allow a person to park on his own land. Mr. McGarry replied that in the instance of a commercial operation, which this is, there are restrictions on parking.

Fred McGarry said that the Board should try to connect our approval process with that of the NHAOT permit, which is not up for renewal until 2018. We could allow temporary parking of vehicles until 2018 and evaluate until that time.

Steve Rollins said they will continue to water between the stockpiles, they have paved and planted grass and trees.

Steve Rollins requested that his hours be extended to include Saturdays. He said that he preferred to be open on weekends, but if a local contractor needs to finish up a job he would be able to accommodate him.

Abutter to the property began saying that "no way" would they allow Saturday operations. They would literally have "no life".

Tyler Partridge owner of TNT Landscaping said that he has recently had a project and Steve Rollins helped him with a weekend delivery. He felt it would be helpful to town residents to allow him to open for a few hours on a Saturday.

Cheryl Brosnahan said that they will fight this "tooth and Nail". There is no way that they will put up with Saturday hours.

Mark Todd, an abutter, said that he realizes that everyone needs to make a living. He noted that the gravel operation does affect their quality of life. He felt that people had to plan on their work schedules and that is what Mr. Rollins should do.

Steve Rollins said that he would like to open on Saturdays, perhaps 8-2. This would be deliveries only and would be beneficial to town businesses.

David Doran said he would like more time to think about the hours of operation before making a decision.

Fred McGarry read the Excavation Permit for Nellie Rollins, dated 6/27/07. A copy of the permit is attached to these minutes.

Earl Sandford expressed concern regarding the Towns application for a renewal permit. He felt the application for renewal, which the Town has never used, is unheard of and he would recommend to fight it legally. He felt this was a renewal and should not be treated as a new application . He recommend that the Board look at what other towns do .

Fred McGarry said that before the Board approves the permit a sight visit should take place.

Cheryl Brosnahan asked the Board to include a visit to her home at the time of the sight visit.

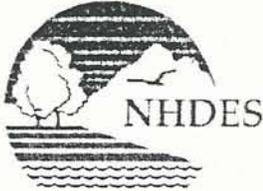
Fred McGarry moved to allow temporary parking of trucks owned by the applicant adjacent to Phase II A to 2018, and at that time the Board will review the permission. David Doran seconded. Voted in favor.

David Doran moved and Fred McGarry seconded to conduct a sight visit to the Excavation Site on Saturday, November 19, 2016 at 9AM. Voted in favor.

Fred McGarry moved to continue the Public Hearing to December 28, 2016 at 7:15PM. David Doran seconded. Voted in favor.

The meeting was adjourned at 9:30PM.

Recorded and transcribed by Jane Boucher
Pending Approval by the Planning Board



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

October 27, 2016

Steven T. Rollins, Owner
Deerfield Sand and Gravel
28 Raymond Road
Deerfield, NH 03037

LETTER OF DEFICIENCY
No. ARD 16-011

Dear Mr. Rollins:

The purpose of this Letter of Deficiency is to notify you, Steven T. Rollins, doing business as Deerfield Sand and Gravel (Deerfield Sand and Gravel) that the New Hampshire Department of Environmental Services, Air Resources Division, (NHDES) has identified a deficiency, listed below, relating to requirements for fugitive dust specified in NH Code Admin. Rules Env-A 1000. In addition, NHDES has identified specific actions and timeframes to be achieved by Deerfield Sand and Gravel to demonstrate compliance.

Background

Deerfield Sand and Gravel operates a sand, gravel, and stone processing facility located at 35 Parade Road in Deerfield, New Hampshire (the Facility).

On July 16, 2013, NHDES received a complaint that fugitive dust emissions from the Facility had drifted onto a property located at 29 Parade Road in Deerfield, New Hampshire ("the Property"). Later that day, NHDES spoke by telephone with you and informed you of the requirements to control the emission of fugitive dust from the Facility.

On June 6, 2014, NHDES received an anonymous complaint that, among other things, fugitive dust emissions from the Facility had frequently blown onto the complainant's property. On June 11, 2014, NHDES visited the Facility and met with you. During the site visit, you stated that Deerfield Sand and Gravel controls fugitive dust by spreading calcium chloride on the driveways at the Facility. NHDES observed and photographed fugitive dust emissions at the Facility. NHDES informed you of the requirements to control the emission of fugitive dust from the Facility.

On April 15, 2015, NHDES received a complaint that emissions from idling of motor vehicles and fugitive dust emissions from the Facility were blown onto the Property. On April 16, 2015, NHDES visited the Facility and met with a representative from Deerfield Sand and Gravel. During the site visit, NHDES provided the representative with a fact sheet on the health and environmental effects of fugitive dust and best management practice for controlling fugitive

DES Web Site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964

dust. NHDES also informed the representative of the requirements to control the emission of fugitive dust from the Facility.

On April 29, 2016, NHDES received a complaint that emissions from idling of motor vehicles and fugitive dust emissions from the Facility had blown onto the Property. On May 16, 2016, NHDES visited the Facility and the Property and observed and photographed fugitive dust emissions blowing from the Facility onto the Property. NHDES observed that most of the dust was coming from stockpiles of sand and gravel. During the site visit, NHDES met with you and you stated that Deerfield Sand and Gravel uses a water truck to water roads at the Facility, but it was too difficult to water anything but the roads. NHDES informed you of the requirements to control the emission of fugitive dust from the Facility.

On May 11, 2016, NHDES received a complaint that emissions from idling of motor vehicles and fugitive dust emissions from the Facility had blown onto a property located at 32 Parade Road in Deerfield, New Hampshire. On May 23, 2016, NHDES sent a letter to you that informed you of the complaint and reminded you of previous complaints that NHDES received regarding fugitive dust emissions from the Facility. The letter went on to inform you of the requirements to control fugitive dust emissions and some best management practices that could be used to control fugitive dust emissions. Enclosed with the letter was a copy of Env-A 1000.

On June 9, 2016, NHDES received a complaint and photographs showing fugitive dust emissions on the Property that had blown in from the Facility.

On September 1, 2016, NHDES received a complaint that emissions from idling of motor vehicles and fugitive dust emissions originating from the Facility had blown onto the Property.

Applicable Requirement

- Env-A 1002 requires any person engaged in any activity within the state that emits fugitive dust to take precautions throughout the duration of the activity to prevent, abate, and control the emission of fugitive dust. These rules require that you control dust from all site activities, throughout the year, including vehicular movement and loading operations. Dust must also be controlled during periods of non-operation (i.e., nights, weekends, and seasonal closures).

Required Actions

NHDES believes that these deficiencies can be resolved by you taking the following actions:

- i. Immediately prevent, abate, and control the emission of fugitive dust from all areas of the Facility.
- ii. No later than **30 days** from the date of this letter, submit, for review and approval by NHDES, a fugitive dust action plan to prevent, abate, and control the emission of fugitive dust from all areas of the Facility. The plan shall include, but not be limited to the following:

- a. The use of water or hydrophilic material on operations or surfaces, or both;
and
 - b. The application of asphalt, water, hydrophilic material, or tarps or other such covers to material stockpiles.
- iii. No later than **30 days** from the date that NHDES approves the fugitive dust action plan, implement the fugitive dust action plan.

Please address all information to James Tilley at the following address:

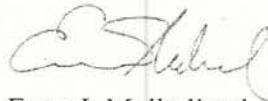
NHDES Air Resources Division
Enforcement Section
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

In the event that compliance is not achieved within the time period indicated, NHDES may initiate formal action against you, including issuing an order requiring the deficiencies to be corrected and/or referring this matter to the NH Department of Justice. NHDES reserves the right to pursue administrative fines or civil penalties for the violations noted above.

Please be advised that Env-A 1102.02 requires the owner or operator of a motor vehicle to limit idling time in any 60-minute period to 5 minutes when the ambient air temperature is above 32 degrees Fahrenheit (°F) and 15 minutes when the ambient air temperature is at or between -10°F and 32°F.

If you believe that NHDES has cited these violations in error, or have questions regarding these matters, please contact James Tilley, Senior Enforcement Specialist, at (603) 271-0885 or by email at james.tilley@des.nh.gov. A current copy of the Air Resources Division Rules can be obtained from the NHDES website at <http://des.nh.gov/organization/commissioner/legal/rules/index.htm>, or by contacting the NHDES Public Information Center at (603) 271-2975.

Sincerely,



Evan J. Mulholland
Compliance Bureau Administrator
Air Resources Division

EJM/sre

Enclosure: *Fact Sheet ARD-42, Fugitive Dust*

cc: NHDES Legal Unit

cc: EPA Region 1
Chairman, Town of Deerfield, Board of Selectmen
Town Administrator, Town of Deerfield

Certified Mail #7011 3500 0001 0291 7207

EXCAVATION PERMIT

Town of Deerfield

P.O. Box 159

Deerfield, NH 03037

Nellie A. Rollins (also know as the Developer) of 30 Raymond Road is herby authorized to excavate materials at 30 Raymond Road as shown on a plan entitled "Gravel Excavation and Restoration Plan Tax Map 209, Lot 35, Nellie Rollins, NH Route 43 and Parade Road, Town of Deerfield, Rockingham County" prepared by Sandford Surveying and Engineering dated June 27, 2007. During the month of March and no later than April 1st of an even numbered year, the Developer shall apply for a renewal of this permit from the Town of Deerfield Planning Board. This permit is NOT TRANSFERABLE. It is granted subject to the following conditions and restrictions:

1. No excavation shall be permitted below road level within 50 feet of the right-of-way of any public highway as defined in NH RSA 229:1.
2. No excavation shall be permitted within 50 feet of the boundary of any disapproving abutter or within 150 feet within any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced.
3. Vegetation shall be maintained or provided within the peripheral areas described in paragraphs 1 and 2 above.
4. Drainage shall be maintained as to prevent the accumulation of free standing water for long periods. Excavation shall not result in siltation of streams or degradation of any water supplies.
5. No fuels, lubricants or other toxic or polluting materials shall be stored on site unless in compliance with state laws or rules pertaining to such materials.
6. Where temporary slopes will exceed 1:1, a fence or other suitable barricade shall be erected to warn of danger or limit access on the site.
7. Prior to the removal of top soil or other material from a new excavation area, the excavator shall file a reclamation bond or other security prescribed by the regulator in the following amount: \$10,000.
8. Any excavated area of five contiguous **acres** or more, which either is depleted of commercial earth materials, excluding bedrock, or from which no earth materials have been removed for a two year period, shall be reclaimed in accordance with NH RSA 155-E.5, within twelve months following such depletion or two year non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.

9. Except for exposed rock, all areas which have been affected by the excavation or otherwise stripped of vegetation shall be spread with topsoil or covered by soil capable of sustaining vegetation and shall be planted with seedlings or grass suitable to prevent erosion.
10. Areas visible from a public way, from which trees have been removed, shall be plated with tree seedlings, in accordance with acceptable horticultural practices.
11. Excavation and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of.
12. All slopes, except exposed ledge, shall be graded to natural repose for the type of soil of which they are composed, but should not in any case be left steeper than 2:1. Change of slope shall not be abrupt, but shall blend with the surrounding terrain.
13. Any standing body of water created by the excavation which constitutes a hazard to safety or health shall be eliminated.
14. The topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural portions of the flow.
15. Within twelve months of the expiration date of the permit or the completion of any excavation, whichever occurs first, the owner of the excavated land shall have completed the reclamation of the areas affected by the excavation to meet the conditions contained in this permit.
16. Excavation shall only occur in accordance with the terms of this permit and shall be limited to the areas and depths as shown on the approved excavation plan.
17. The conditions numbers 1 through 10 included in the Development Bonding Agreement Affidavit (attached) dated April 17, 2008 shall be an integral component of this Permit.

VIOLATION OF ANY CONDITION OF THIS PERMIT MAY RESULT IN REVOCATION OF THE PERMIT BY THE REGULATOR. NOTICE OF REVOCATION SHALL BE EFFECTIVE WHEN DELIVERED TO THE FOREMAN OPERATING IN THE EXCAVATION AREA OR THE APPLICANT AT THE FOLLOWING ADDRESS: 30 Raymond Road, Deerfield, NH 03037.

Dated: _____

Regulator / Chairman,