

**Bucksport Board of Appeals
7:00 P.M., Tuesday, November 17, 2009
Bucksport Town Office
50 Main Street**

AGENDA

1. Call to Order

2. Roll Call

Jeremy Daigle, Chairman
 Richard Tennant
 Emery Deabay

Louis Levasseur
 W. Kim Delbridge

3. Review and Acceptance of Minutes: Minutes from the October 12, 2009 meeting.

4. Unfinished Business:

A. Administrative appeal of a decision of the Planning Board.
Applicant: Vaughn Thibodeau & Sons

5. New Business

6. Other Business

7. Adjournment

**Bucksport Board of Appeals
7:00 P.M., Tuesday, November 17, 2009
Bucksport Town Office
50 Main Street**

MINUTES

1. Call to Order: 7:00 P.M. by Chairman Jeremy Daigle.

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| <input checked="" type="checkbox"/> Jeremy Daigle, Chairman | <input checked="" type="checkbox"/> Louis Levasseur |
| <input checked="" type="checkbox"/> Richard Tennant | <input checked="" type="checkbox"/> W. Kim Delbridge |
| <input checked="" type="checkbox"/> Emery Deabay | |

Staff present : Jeffrey Hammond, Code Enforcement Officer

2. Review and Acceptance of Minutes: Minutes from the October 12, 2009 meeting were reviewed.

MOTION(Levasseur): To approve the October 12, 2009 Minutes as submitted.
SECOND(Deabay)
DISCUSSION: None
VOTE: 5-0 motion adopted

4. Unfinished Business:

**A. Administrative appeal of a decision of the Planning Board.
 Applicant: Vaughn Thibodeau & Sons**

Mary Denison was present to represent the Applicant.

The CEO advised the board of a concern about payment of fees for the legal assistance provided to the board. Ms Denison objected to the amount requested for deposit, however she did submit payment to ensure that the application review would not be delayed.

The board reviewed a letter from the town attorney addressing the board's question about the acceptance of information that is not part of the public record. The general consensus of the board was that the guidance provided by the town attorney was not helpful. After discussion, a motion was submitted:

MOTION(Deabay): To not accept any information that is not part of the public record.
SECOND(Delbridge)
DISCUSSION: None
VOTE: 3-2 motion adopted

The board reviewed the draft Findings prepared by the CEO. No changes were requested. The board then proceeded to begin deliberation on the Criteria.

MOTION (Deabay): The Record is adequate to support the Planning Board's decision on Criterion 1(6).
SECOND(Levasseur)
DISCUSSION: The board discussed the issue of vagueness with this Criterion.
VOTE: 3 YES 2 NO motion adopted (Members Levasseur and Delbridge opposed)

Comments from those Members supporting the Planning Board's decision:

Member Deabay stated that Planning Board Members Grant and Hallowell had adequate information from the Chief of Police to support their finding that the Applicant had not made adequate provision to avoid travel hazards on Route 46. He described the Chief of Police as an expert witness.

Chairman Daigle stated that he believed the Planning Board had adequate information to arrive at their decision.

Comments from those Members opposed to the Planning Board's decision:

Member Delbridge stated that Route 46 is a highly-traveled road and it did not seem that the additional truck traffic would make a difference. He believed the road is not in the best condition, but the road should not be viewed as unsuitable for truck traffic.

MOTION(Deabay):The Record is adequate to support the Planning Board's decision on Criterion 2(3).

SECOND(Daigle)

DISCUSSION: None

VOTE: 2 YES 3 NO motion failed (Members Delbridge, Daigle and Levasseur opposed)

Comments from those Members supporting the Planning Board's decision:

Member Deabay stated that the anticipated truck traffic to and from the quarry has the potential for causing congestion and unsafe conditions caused by loose rocks falling from the trucks onto the road.

Comments from those Members opposed to the Planning Board's decision:

Member Levasseur stated that MDOT believed the increase of truck traffic would have little or no effect on the use of Route 46.

Chairman Daigle stated that the Chief of Police was not an engineer, and that the MDOT engineer identified Route 46 as an appropriate route for truck traffic.

MOTION(Delbridge)The Record is adequate to support the Planning Board's decision on Criterion 7(4).

SECOND(Levasseur)

DISCUSSION:The board discussed the required water quality monitoring plan for the so-called unnamed stream.

VOTE: 1 YES 4 NO motion failed (Members Daigle, Tenant, Delbridge and Levasseur opposed)

Comments from those Members supporting the Planning Board's decision:

Member Deabay stated that the proposed quarry will not adequately protect surface water pollution.

Comments from those Members opposed to the Planning Board's decision:

Member Levasseur stated that the engineers appeared confident that the stormwater management design for the quarry would prevent water pollution.

Member Delbridge stated that the greater concern about water pollution was in the follow-up monitoring and it was up to the town to ensure that was properly done.

Chairman Daigle agreed, adding that all the expert consultants seemed to agree that the plan would work, provided that it would be adequately monitored.

MOTION(Deabay):The Record is adequate to support the Planning Board's decision on Criterion 8(8).

SECOND(Daigle)

DISCUSSION: The board discussed the impact on water quality the extreme change to the landscape from a quarry excavation could have. It was also noted that the

engineering of the stormwater management plan seemed to be well-prepared. Concern about the follow-up monitoring was expressed.

VOTE: 3 YES 2 NO motion adopted (Members Deabay and Levasseur opposed)

Comments from those Members supporting the Planning Board's decision:

Chairman Daigle stated that the noise data from the operating quarry in Prospect was used to verify compliance at the Bucksport site, and that it was difficult to accept it as sufficient proof.

Member Delbridge stated that the Applicant failed to take the required 3 separate noise ambient noise level measurements at the Project site, and that was not fair. He also expressed concern that the noise readings at the Prospect quarry did not include measurements taken at 650 feet and they should have.

Comments from those Members opposed to the Planning Board's decision:

Member Levasseur stated that the decibel rating the Applicant was required to meet was the most restrictive, so additional testing would not have mattered. He believed it was unfortunate that the town did not have its own noise standards rather than relying on the DEP standards.

Member Deabay stated that there was no specific noise data for the Bucksport site, so the Planning Board had to rely on the data from the Prospect quarry.

MOTION(Levasseur): The Record is adequate to support the Planning Board's decision on Criterion 10(10).

SECOND(Daigle)

DISCUSSION: The board discussed the concerns expressed by the public safety department about an expected increase in traffic accidents. The reasonableness of the burden on municipal services was discussed.

VOTE: 2 YES 3 NO (Members Daigle, Levasseur and Delbridge opposed)

Comments from those Members supporting the Planning Board's decision:

Member Deabay stated that the Planning Board correctly based their decision on the concerns expressed by the Public Safety Department about increased occurrences of traffic accidents due to additional truck traffic.

Comments from those Members opposed to the Planning Board's decision:

Member Delbridge stated that he believed there was no unreasonable burden.

Member Levasseur stated that he believed the increase in traffic from the quarry would not cause any more of a burden than an increase in traffic from a subdivision.

MOTION(Daigle): The Record is adequate to support the Planning Board's decision on Criterion 12(9).

SECOND(Levasseur)

DISCUSSION: The board discussed the vagueness issue concerning this Criterion and how the Planning Board addressed it in their decision.

VOTE: 5 YES 0 NO motion adopted

No comments were made by any Member on their vote for Criterion 12(9).

The Board concluded that the Record supports the Planning Board's decision on 3 of the 6 Criteria which are the subject of this Appeal. Therefore, the Administrative Appeal of Vaughn Thibodeau & Sons was denied.

5. New Business: None

6. Other Business: None

7. Adjournment: 8:50 P.M.

Minutes prepared by
Jeffrey Hammond
Recording Secretary