

Bucksport Planning Board
6:30 P.M., Tuesday, December 6, 2011
Bucksport Town Office
50 Main Street

AGENDA

- 1. Call to Order**
- 2. Roll Call**

<input type="checkbox"/> John Daniels	<input type="checkbox"/> Marc Curtis	<input type="checkbox"/> George Hanson
<input type="checkbox"/> Gail Hallowell	<input type="checkbox"/> Rosemary Bamford	<input type="checkbox"/> Edward Belcher
<input type="checkbox"/> David Grant		
- 3. Review and Acceptance of Minutes:** Minutes from the November 1st & 12th meetings.
- 4. Chair's Report**
- 5. Code Enforcement Officer's Report**
- 6. Limited Public Forum-**An opportunity for the Public to address the Board on matters related to land use or planning in the Town of Bucksport.
- 7. Unfinished Business:**
 - A. Application for approval of an expansion of an existing mineral extraction operation on property located on Bucksmills Road, and identified on town tax map 15 as lot 15. The applicant proposes to mine stone in an area not to exceed .99 acres.
Applicant: Wardwell Construction & Trucking Corp.
- 8. New Business:**
 - A. Application for approval of a change of use of a one-family dwelling to a retail business at 155 US Route 1. The applicant proposes to occupy the building with a gift shop and bakery. The change of use is subject to approval of a Contract Zone for the property, which is identified on tax map 28 as lot 28. A public hearing will be conducted for the Contract Zone request.
Applicant: Carol Metthe
- 9. Administrative Business**
- 10. Discussion**
- 11. Adjournment**

Bucksport Planning Board
6:30 P.M., Tuesday, December 6, 2011
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50 Main Street

MINUTES

1. **Call to Order:** 6:30 P.M. by George Hanson, Chair

2. **Roll Call**

<input checked="" type="checkbox"/> John Daniels	<input checked="" type="checkbox"/> Marc Curtis	<input checked="" type="checkbox"/> George Hanson
<input checked="" type="checkbox"/> Gail Hallowell	<input checked="" type="checkbox"/> Rosemary Bamford	<input checked="" type="checkbox"/> Edward Belcher
<input checked="" type="checkbox"/> David Grant		

Staff present : Jeffrey Hammond, CEO

3. **Review and Acceptance of Minutes:** The draft minutes from the November 1 & 12, 2011 meetings were reviewed.

MOTION(Bamford): To approve the November 1 & 12, 2011 meeting minutes.

SECOND(Hallowell)

DISCUSSION: Member Curtis asked that the November 12th minutes reflect that the planning board's site visit was adjourned prior to the time at which 5 board members entered the gravel pit with the property owner. There was considerable discussion between the board and the CEO about the appropriateness of the board members continuing their site visit after the meeting was adjourned, and without all members of the public accompanying them.

Member Bamford amended her motion to incorporate the proposed change, and Member Hallowell seconded the motion.

VOTE: 6-0-1 Motion adopted (Member Grant abstained because he was not present at either meeting.)

4. **Chair's Report:** None.

5. **Code Enforcement Officer's Report:** The CEO asked the board if anyone would like a copy of the 2012 edition of the Maine land use laws booklet. All members indicated that they would each like a copy.

6. **Limited Public Forum-**An opportunity for the Public to address the Board on matters related to land use or planning in the Town of Bucksport.

Don Houghton, editor of The Enterprise, having heard the discussion about the board's site visit, suggested the board read the "open meeting law" to ensure they are up to date on their understanding of the law.

7. **Unfinished Business:**

- A. **Application for approval of an expansion of an existing mineral extraction operation on property located on Bucksmills Road, and identified on town tax map 15 as lot 15. The applicant proposes to mine stone in an area not to exceed .99 acres.**

Applicant: Wardwell Construction & Trucking Corp.

David Pooler was present to represent the applicant, who was also present. The chair decided to limit the board's review of the application so that time could be provided to conduct new business on the agenda.

Mr. Pooler provided the board with an updated site plan that showed additional information asked for during the site visit, including location of the test well, tree line location along the buffer, and proposed elevation of the stone excavation area. A map showing the location of area water wells within a ½ mile of the excavation area was provided to the board. The minimum distance to a well is 100 feet.

Tom Larain from Maine Drilling & Blasting provided the board with a presentation on blasting. Mr. Lorain described how dust, noise and vibrations were managed during and after a blast. Blasting ingredients would not include any pollutants. Some odors are generated by the blast, but they are minimal. Mr. Larain talked about the pre-blast survey process. The board asked several questions during the presentation. Upon conclusion of the presentation, David Pooler offered some follow-up comments and responses to the board's questions. The CEO noted that the applicant will be subject to compliance with the DEP noise standards, as they are stated in the town's land use ordinance.

Member Hallowell expressed concern about the vegetated buffer observed during the site visit. Mr. Pooler acknowledged that the buffer may not comply with town and DEP requirements, and offered to install an 8' tall berm to rectify the problem. The CEO suggested the board determine when the berm should be constructed, and exactly how it should be constructed. The buffer along the southerly side of the pit should also be addressed due to concerns about noise expressed from an abutting property owner. The chair asked Mr. Pooler to update the site plan to show a berm along the road. The southerly buffer was discussed, and will be addressed again when the board begins their standards review. Member Bamford expressed a concern about the steep slope along the northerly side of the pit. Mr. Pooler noted that required slopes will be established at the time of reclamation.

Mr. Pooler asked the board to commence their standards review so that the application review will be completed under the existing ordinance, rather than the recently amended ordinance. After discussion, a motion was made:

MOTION(Daniels): To commence standards review at this time.

SECOND(Bamford)

DISCUSSION: The board discussed how the new ordinance would apply to the application. The CEO noted that, under the new ordinance, an expansion of the rock excavation beyond an acre would not be allowed. Contract zoning would not be allowed for rock excavations. It was noted that the applicant had originally asked for his application to be reviewed under contract zoning, so the CEO suggested that it be clarified if the applicant still wanted to have his application reviewed under contract zoning. The applicant stated that they were not interested in requesting approval under contract zoning.

VOTE: 7-0 Motion adopted

The CEO advised the board to note in the record that a site visit was conducted on November 12th. It was so noted.

The board commenced standards review. Environment standards were reviewed.

1) Soils are suitable for the land use.

DOCUMENTATION: The board did not find this standard to be applicable because no structures were proposed.

- 2) Stormwater runoff from the land use is minimized to the greatest practical extent and adequately managed to reduce the risk of relevant detrimental effects.

DOCUMENTATION: The board found this standard to be applicable. It was noted that all stormwater would be internally drained.

- 3) Soil that may be exposed during any soil disturbance activity of the land use is adequately protected from unreasonable erosion and sedimentation.

DOCUMENTATION: The board found this standard to be applicable. The applicant will be utilizing best management practices to prevent erosion and sedimentation.

- 4) Surface and subsurface waters are adequately protected from the detrimental effects of any water pollutant from the land use.

DOCUMENTATION: The board found this standard to be applicable. It was noted that blasting agents would contain no pollutants. The board discussed if there was a stream near the property that could be impacted. Mr. Pooler stated that there is no stream in the vicinity.

- 5) The ambient air environment is adequately protected from the detrimental effects of any air pollutant from the land use.

DOCUMENTATION: The board found this standard to be applicable. It was noted that water would be used to control drilling dust. Water could be used to control dust generated by the crusher. The access road is paved to reduce dust from truck traffic.

- 6) Significant wildlife habitat, and other important habitat as identified in the Bucksport Comprehensive Plan, as adopted, are adequately protected from any relevant detrimental effect of the land use.

DOCUMENTATION: The board found this standard to be not applicable.

- 7) Vegetation within any applicable shoreland district is protected from excessive cutting or removal.

DOCUMENTATION: The board found this standard to be not applicable.

SITE VISIT DOCUMENTATION TO VERIFY COMPLIANCE WITH ANY ENVIRONMENT OBJECTIVE:

An additional site visit is not required at this time.

SPECIAL CONDITIONS TO ENSURE COMPLIANCE WITH ANY ENVIRONMENT OBJECTIVE:

No special conditions were required at this time.

The board concluded their application review for the evening. The CEO commented on what appeared to be criticism directed toward him from the applicant at the last meeting on November 1st. Mr. Wardwell suggested that frequent visits to his pit from MSHA inspectors were due to complaints from the CEO. The CEO stated that he has never contacted any MSHA official for any reason, and wanted to clarify that with Mr. Wardwell, the board, and the public.

8. New Business:

- A. Application for approval of a change of use of a one-family dwelling to a retail business at 155 US Route 1. The applicant proposes to occupy the building with a gift shop and bakery. The change of use is subject to approval of a Contract Zone for the property, which is identified on tax map 28 as lot 28. A public hearing will be conducted for the Contract Zone request.**

Applicant: Carol Metthe

Carol Metthe was present. The CEO conducted an introductory presentation. The applicant was requesting approval of a contract zoning change to allow the use, and the

CEO explained why contract zoning would be needed. The lot does not have sufficient shore frontage for a commercial use, and a variance granted by the board of appeals would be unlikely. The contract zone would allow the use, without regard to the dimensional deficiency. The board was advised that the applicant had changed her plans, and baking would not be included at the new location.

The applicant did not conduct a presentation. The board asked general questions. Regarding the actual shore frontage width, it was noted that the shoreline frontage was described in the deed. Measurement of shore frontage is measured in a straight line between property side lines.

The chair invited public comments. The CEO read a letter from Two Rivers Realty in which they supported the change of use. No other comments were submitted.

It was noted that the applicant had not submitted a survey and would like to request a waiver of that requirement.

MOTION(Grant): To waive the requirement of a survey.

SECOND(Bamford)

DISCUSSION: None

VOTE: 7-0 Motion adopted

Upon conclusion of preliminary discussions, the board commenced their standards review.

Environment Standards: The board determined that the following environment standard was applicable: erosion control measures. There were no concerns regarding compliance with this standard. Best management practices for erosion and sedimentation control must be used for the parking lot expansion.

Special Areas Standards: The board determined that no special areas standards were applicable.

Local Areas Standards: The board determined that the following local areas standards were applicable: development patterns, separation and shielding, artificial lighting. There were no concerns regarding compliance with these standards. The existing structure is similar to others in the vicinity, and it complies with setbacks. Existing vegetation provides an adequate buffer and shield for abutting residential properties. A yard light will be installed for the parking lot, and will not be directed toward abutting properties.

Public Safety Standards: The board determined that the following public safety standards were applicable: proper management of solid wastes and the safety and sufficiency of streets. The project will not include an outdoor waste container. All solid wastes will be disposed of at the transfer station. MDOT has approved the change of use of the entrance to a commercial use.

Specific Uses Standards: The board determined that the following specific use standard is applicable: Section 13.15.8.4. Five parking spaces are required, six are provided. Paving of the parking lot is required. The board discussed waiving this requirement.

MOTION(Grant): To waive the paving requirement.

SECOND(Hallowell)

DISCUSSION: The board discussed if paving should be waived. The CEO informed the board of the waiver requirements of the ordinance. Other nearby properties occupied

with commercial uses have paved parking lots. Could the board require paving at a later date, perhaps one or two years later?

Member Grant withdrew his motion. After some confusion over the status of the motion, a second motion was made:

MOTION(Grant): To waive the paving requirement.

SECOND(Bamford)

DISCUSSION: None

VOTE: 2-5 Motion failed.

MOTION(Daniels): To require paving no later than two years from this date.

SECOND(Hallowell)

DISCUSSION: None

VOTE: 7-0 Motion adopted

Dimensions Standards: The board determined that dimensional standards are applicable. All standards are met, except shore frontage. This will be addressed through contract zoning.

The board commenced their findings upon conclusion of the standards review.

MOTION(Bamford): To find that the proposed use has met all applicable environment standards in the ordinance.

SECOND(Grant)

DISCUSSION: None

VOTE: 7-0 motion adopted

No special area standards were found to be applicable, so no finding on these standards is required.

MOTION(Bamford): To find that the proposed use has met all applicable local areas standards in the ordinance.

SECOND(Daniels)

DISCUSSION: None

VOTE: 7-0 motion adopted

MOTION(Curtis): To find that the proposed use has met all applicable public safety standards in the ordinance.

SECOND(Grant)

DISCUSSION: None

VOTE: 7-0 motion adopted

MOTION(Grant): To find that the proposed use has met all applicable specific use standards in the ordinance.,.

SECOND(Curtis)

DISCUSSION: None

VOTE: 7-0 motion adopted

MOTION(Bamford): To find that the proposed use has met all applicable dimension standards in the ordinance, subject to approval of a contract zoning change.

SECOND(Daniels)

DISCUSSION: None

VOTE: 7-0 motion adopted

The board discussed the draft agreement between the property owner and town regarding the establishment of a contract zone for his property. It was noted that the word 'agreement' was misspelled. The agreement was amended to incorporate the 2-year allowance for paving of the parking lot. The board also removed the provision that the owner pay for all related costs incurred by the town for the zone change.

The chair then opened the public hearing to receive comments on the proposed contract zoning change, and the written agreement with the property owner. No comments were submitted.

MOTION(Grant): To approve the establishment of a contract zone and the contract zone agreement, as amended.

SECOND(Bamford)

DISCUSSION: None

VOTE: 7-0 Motion adopted

Upon conclusion of their findings, the chair advised the applicant that the application had been approved. The board's approval of the contract zone change must be confirmed by the town council. Once that is done, the CEO will issue a land use permit.

9. Administrative Business: The CEO advised the board that elections must be done.

MOTION(Curtis): To nominate George Hanson as chairman.

SECOND(Grant)

DISCUSSION: None

VOTE: 6-0-1 Motion adopted (Hanson abstained.)

MOTION(Hallowell): To nominate Marc Curtis as secretary.

SECOND(Grant)

DISCUSSION: None

VOTE: 6-0-1 Motion adopted (Curtis abstained.)

10. Discussion: Member Bamford expressed concern about the recent property damage that occurred as a result of a blast in a Tremont quarry, and that DEP had no jurisdiction to address it because the size of the quarry was less than one acre, similar to Wardwell's proposed quarry. The board was provided copies of the news article. It was suggested that this concern be discussed at the next meeting.

The board conducted a follow-up discussion about the right to know law issue talked about earlier in the meeting. It was decided to ask the CEO to contact MMA's legal services for advice on how to handle the matter. The CEO agreed to do that and report back to the board at the next meeting. It was suggested that a summary description of the board's site visit should be made at the next meeting.

11. Adjournment: 10:31 PM

Minutes provided by
Jeffrey Hammond
Recording Secretary