

# SOUTH HADLEY PLANNING BOARD REGULAR MEETING

## MINUTES OF JANUARY 14, 2019

### As Approved

**Present:** Jeff Squire, Chair; Mark Cavanaugh, Vice-Chair (arrived at 6:18 p.m.); Melissa O'Brien, Clerk; Brad Hutchison, Member; Diane Mulvaney, Member; Larry Butler, Associate Member; and Richard Harris, Town Planner

Mr. Squire called the meeting into session at 6:15 p.m.

#### 1. Minutes

Mr. Harris noted he had previously transmitted copies of the minutes of the November 13, 2018 Meeting and Public Hearing, November 26, 2018 Meeting and Public Hearing, and December 10, 2018 Meeting.

*a. November 13, 2018 Planning Board Meeting minutes*

Mr. Harris referenced the draft minutes which he had previously distributed. The Board members reviewed the draft minutes. A correction was noted.

**Motion** - Ms. Mulvaney moved and Ms. O'Brien seconded the motion to approve the November 13, 2018 Planning Board minutes as submitted. The Board voted **Four (4)** out of **Four (4)** members present in favor of the motion.

*b. November 13, 2018 Planning Board Public Hearing minutes*

Mr. Harris referenced the draft minutes which he had previously distributed. The Board members reviewed the draft minutes.

**Motion** – Ms. Mulvaney moved and Ms. O'Brien seconded the motion to approve the November 13, 2018 Planning Board Public Hearing minutes as submitted. The Board voted **Four (4)** out of **Four (4)** members present in favor of the motion.

*c. November 26, 2018 Planning Board Meeting minutes*

Mr. Harris referenced the draft minutes which he had previously distributed. The Board members reviewed the draft minutes. A correction was noted.

**Motion** - Ms. Mulvaney moved and Ms. O'Brien seconded the motion to approve the November 26, 2018 Planning Board minutes as submitted. The Board voted **Four (4)** out of **Four (4)** members present in favor of the motion.

(Mr. Cavanaugh arrived at 6:18 p.m.)

*d. November 26, 2018 Planning Board Public Hearing minutes*

Mr. Harris referenced the draft minutes which he had previously distributed. The Board members reviewed the draft minutes.

**Motion** – Ms. Mulvaney moved and Ms. O’Brien seconded the motion to approve the November 26, 2018 Planning Board Public Hearing minutes as submitted. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

*e. December 10, 2018 Planning Board Meeting minutes*

Mr. Harris referenced the draft minutes which he had previously distributed. The Board members reviewed the draft minutes. A correction was noted.

**Motion** - Ms. Mulvaney moved and Ms. O’Brien seconded the motion to approve the December 10, 2018 Planning Board minutes as submitted. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

**2. Correspondence**

Mr. Harris stated that there is no additional correspondence and the folder of correspondence is in front of Mr. Squire.

**3. Confirm Meeting Dates January through June 2019**

The consensus of the Board was to leave the meetings as they are presently scheduled for now.

**4. Consider Policy on Receipt and Processing of Requests for Continuations of Public Hearings.**

Mr. Squire reviewed the background of this item. Board members indicated they were generally in agreement with the draft policy. There was a question regarding “other closures” of Town Hall.

**Motion** - Ms. Mulvaney moved and Mr. Hutchison seconded the motion to approve the policy as drafted. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

**5. Consider Endorsement of Approval Not Required Plan submitted by WBCMT 2007-C33 Gaylord Street LLC. Property Location: Gaylord Street (Assessor’s Map #18 as Parcel #79)**

Mr. Harris reviewed the proposed ANR Plan. He explained the purpose of the plan.

**Motion** – Ms. O’Brien moved and Ms. Mulvaney seconded the motion to find that the ANR Plan for Gaylord Street LLC meets the requirement for endorsement; accordingly authorize members to sign the plan indicating the Board’s endorsement of the ANR Plan. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

Ms. Mulvaney, Mr. Squire, and Mr. Hutchison signed the plan.

**6. Consider Endorsement of Approval Not Required Plan submitted by WBCMT 2007-C33 Gaylord Street LLC. Property Location: 7-25 Gaylord Street (Assessor's Map #18 as Parcel #86)**

Mr. Harris reviewed the proposed ANR Plan. He explained the purpose of the plan.

**Motion** – Ms. O'Brien moved and Ms. Mulvaney seconded the motion to find that the ANR Plan for Gaylord Street LLC meets the requirement for endorsement; accordingly authorize members to sign the plan indicating the Board's endorsement of the ANR Plan. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

Ms. Mulvaney, Mr. Squire, and Mr. Hutchison signed the plan.

**7. Consider Endorsement of Approval Not Required Plan submitted by Tammy J. O'Neill. Property Location: 611 Newton Street and 8 Boynton Avenue (Assessor's Map #28 as Parcels #208 and #210)**

Mr. Harris reviewed the proposed ANR Plan. He explained the purpose of the plan. There was a comment about a shed and the proposed alteration of a nonconforming lot. It was noted that the nonconforming lot is already undersized and the ANR Plan will result in it being less nonconforming.

**Motion** – Ms. O'Brien moved and Mr. Cavanaugh seconded the motion to find that the ANR Plan for Tammy O'Neill meets the requirement for endorsement; accordingly authorize members to sign the plan indicating the Board's endorsement of the ANR Plan. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

Ms. Mulvaney, Mr. Squire, and Mr. Hutchison signed the plan.

**8. Consider Notice of Intent to Sale property under Chapter 61A by Mary Elizabeth O'Meara, et al. Property Location: Lithia Spring Road (Lot 4 on ANR Plan being a portion of Parcel #23 on Assessors Map #58)**

Mr. Harris reviewed background of the request and the Board's role. There was discussion regarding who was proposing to sell the property. It was mentioned that if the conversion was regarding the large parcel, then might be reason to acquire the property.

**Motion** – Ms. Mulvaney moved and Mr. Cavanaugh seconded the motion to recommend that the Town not exercise its right to acquire the property. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

Since the public hearing is not scheduled to begin under 6:45 p.m., Mr. Squire asked Mr. Harris to review the Development Update and Planners Report.

**15. Development Update and Planner's Report**

Mr. Harris provided an update on the following items:

- Proposed Zoning Map Amendments – (He noted that the reports have been revised and posted on the Town's website)

- Proposed Group Home – (The engineer is still working to finalize the project plans. They have submitted a letter regarding the exempt status of this project – under Chapter 40A, Section 3 MGL. Mr. Harris has referred the letter to the Town Counsel for an opinion.)
- Proposed 40R District: (The Attorney General’s Office has approved the Zoning Bylaw amendments from the May 2018 Annual Town Meeting. Mr. Harris is working on the application for Final DHCD Approval and the Incentive Payment Grant application. The Design Guidelines will likely be ready in February.)
- Design Review Bylaw: Mr. Harris suggested that this is one of the items that should be put forward for Town Meeting in 2019
- Working on a model Subdivision Regulation with other communities and the PVPC.
- Urban Renewal Plan and Redevelopment Authority: (The consultant is in the process of completing a several relatively minor corrections in the plan revisions which the Conservation Administrator/Planner noted)
- Land & Water Conservation Fund Grant Applications: (Work has begun on the River to Range Trail components funded under this grant.)
- Complete Streets Program Participation: (Fuss & O’Neill are working on the engineering details for this project.)
- Other Grant Applications: The Administration submitted a DLTA Request to the Pioneer Valley Planning Commission to undertake work in support of the Town’s efforts to comply and implement the new EPA Stormwater requirements.
- Open Space & Recreation Plan and Master Plan Updates: (The consultant team is working on background research and will be meeting with several stakeholders including MPIC on Wednesday January 16th)
- Mr. Harris plans to attend the Massachusetts Association of Planning Directors annual conference in North Adams in May.

Mr. Squire recessed the meeting for the public hearing at 6:45 p.m.

**9. PUBLIC HEARING: Special Permit Application by South Hadley Motors LLC for Used Vehicle Dealership – Property Location: 510 New Ludlow Road and identified on Assessor’s Map Number #8 as Parcel #74.**

The Public Hearing was held. (See minutes of Public Hearing.)

The meeting reconvened at 7:01 p.m.

**10. DECISION: Special Permit Application by South Hadley Motors LLC for Used Vehicle Dealership – Property Location: 510 New Ludlow Road and identified on Assessor’s Map Number #8 as Parcel #74.**

With the public hearing closed, Board members discussed various issues including lighting, hours of operation, number of cars, and repairs of vehicles. It was noted that the facility will only operate between 8 AM and 5 PM.

**Motion** – Mr. Cavanaugh moved and Ms. O’Brien seconded the motion to find that the proposed special permit for used auto sales conforms to the Special Permit standards and is approved subject to the following conditions:

- 1). Consistent with the prior use of the subject property, and as concurred with by the applicant, no more than twenty (20) vehicles may be on display or “for sale” on this property at any one time.
- 2). The selling of the used cars will be limited to 8 AM to 5 PM.
- 3). Any vehicle kept on the property must be in operable condition and properly registered.
- 4). All vehicles shall be parked within the delineated spaces in accordance with the approved parking plan.
- 5). No repairs of vehicles shall be undertaken on the project site.

The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

**11. PUBLIC HEARING: Special Permit Application by Pamela & Jason Estes for Conversion of a Single-Family to a Three-Family Dwelling – Property Location: 54 North Main Street and identified on Assessor’s Map Number #20D as Parcel #24. (NOTE: This Public Hearing is advertised for 7:00 p.m.)**

**Mr. Harris stated that the public hearing has been cancelled in light of the Building Commissioner determining that the proposed use did not require a Special Permit. He noted this is a different determination than the one made by the current Building Commissioner’s predecessor.**

**12. DECISION: Special Permit Application by Pamela & Jason Estes for Conversion of a Single-Family to a Three-Family Dwelling – Property Location: 54 North Main Street and identified on Assessor’s Map Number #20D as Parcel #24.**

Since the public hearing was cancelled, no action was required nor taken on this agenda item.

**16. Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)**

Ms. O’Brien noted the next Bike-Walk Committee event is January 20, 2019 at 12:45 at the Bynan Conservation Area off New Ludlow Road.

Mr. Hutchison requested that the discussion of amending Section 255-35 (WSPD) be placed on an agenda as soon as appropriate – possibly the meeting agenda.

Linda Young, 15 Westbrook Road inquired about the application for 54 North Main Street. Mr. Harris stated that he had a rather intense discussion with the Building Commissioner because he felt the application required a Special Permit for a 3 family dwelling. However, the Building Commissioner determined otherwise. There was a suggestion of clarifying the Zoning Bylaw. Mr. Harris stated he did not know how the Zoning Bylaw could be clearer. There was further discussion noting that the owners were already operating a three-family. A question was raised as to how they could subdivide the property with wetlands in the back of the property. Mr. Harris stated that the owner could file an ANR Plan.

Linda Young, 15 Westbrook Road offered an update on the Master Plan and OSRP updates. Mr. Harris thanked Linda Young and stated that the work will begin in February.

Ms. Mulvaney noted the deadlines for election papers to be submitted. There was discussion as to the various boards and positions open for election.

Mr. Squire recessed the meeting for the public hearing at 7:16 p.m.

**13. PUBLIC HEARING: Special Permit Application by Chicopee Concrete, Inc. for Major Excavation Permit – Property Location: West side of Hadley Street (aka State Route 47) and along Sullivan Lane and are identified on Assessor’s Map Number #54 as Parcels #15 & #20 and on Assessor’s Map Number #56 as Parcels #26, #42, & #43. (continuation of August 27, 2018 and November 13, 2018 public hearings) (NOTE: This Public Hearing session is scheduled for 7:15 p.m.)**

The Public Hearing was held. (See minutes of Public Hearing.)

The meeting reconvened at 10:39 p.m.

**14. DECISION: Special Permit Application by Chicopee Concrete, Inc. for Major Excavation Permit – Property Location: West side of Hadley Street (aka State Route 47) and along Sullivan Lane and are identified on Assessor’s Map Number #54 as Parcels #15 & #20 and on Assessor’s Map Number #56 as Parcels #26 & #43.**

Since the hearing was continued, no action was taken on this agenda item.

**17. Adjournment**

**Motion** – Ms. Mulvaney moved and Mr. Hutchison seconded the motion to adjourn. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion. The meeting was adjourned at 10:40 p.m.

Respectfully submitted,

**As Approved**

Richard Harris, Recorder

Attachment A

List of Documents Reviewed in January 14, 2019 Planning Board Meeting

<u>Document</u>	<u>Record Location</u>
Planning Board Meeting Agenda and Background Information	Planning Board Agenda Packet Files
Zoning Bylaw	Planning Board Files
Draft Policy on Continuations	Planning Board Files
ANR Plans – Gaylord Street	Planning Board Plan Files
ANR Plan – 611 Newton & 8 Boynton	Planning Board Plan Files
Notice of Sale of Property – O’Meara et al	Planning Board Files
Application, plans, and related materials for proposed New Ludlow Road South Hadley Motors Used Vehicle Dealership Special Permit	Planning Board Project Files
Application, plans, and related materials for proposed Hadley Street Major Excavation Special Permit Application	Planning Board Project Files

9. PUBLIC HEARING: Special Permit Application by South Hadley Motors LLC for Used Vehicle Dealership – Property Location: 510 New Ludlow Road and identified on Assessor’s Map Number #8 as Parcel #74. (NOTE: This Public Hearing is advertised for 6:45 p.m.)

13. PUBLIC HEARING: Special Permit Application by Chicopee Concrete, Inc. for Major Excavation Permit – Property Location: West side of Hadley Street (aka State Route 47) and along Sullivan Lane and are identified on Assessor’s Map Number #54 as Parcels #15 & #20 and on Assessor’s Map Number #56 as Parcels #26, #42, & #43. (continuation of August 27, 2018 and November 13, 2018 public hearings) (NOTE: This Public Hearing session is scheduled for 7:15 p.m.)

**SOUTH HADLEY PLANNING BOARD PUBLIC HEARING**

**REQUEST SPECIAL PERMIT FOR USED CAR SALES**

**MINUTES OF JANUARY 14, 2019**

**As Approved**

**Present:** Jeff Squire, Chair; Mark Cavanaugh, Vice-Chair; Melissa O'Brien, Clerk; Brad Hutchison, Member; Diane Mulvaney, Member; Larry Butler, Associate Member; and Richard Harris, Town Planner

Mr. Squire called the public hearing to order at 6:45 p.m.

Ms. O'Brien read the public hearing notice:

*The South Hadley Planning Board, in accordance with the provisions of Chapter 40-A, Section 11, Massachusetts General Laws will hold a public hearing on Monday January 14, 2019 at 6:45 p.m. in the Selectboard Meeting of the South Hadley Town Hall at 116 Main Street, South Hadley, MA to discuss the application of South Hadley Motors, LLC, 510 New Ludlow Road, South Hadley, MA 01075 for a Special Permit under Article V and Article IX of the Town's Zoning By-Law (Chapter 255 of the Town's Bylaws). The applicant is seeking a Special Permit to allow operation of a business to buy and sell used vehicles.*

*The subject property is located along the north side of New Ludlow Road and identified on Assessor's Map Number #8 as Parcel #74.*

*Plans and the application may be viewed at the Office of the Planning Board during normal office hours (8:30 a.m. to 4:30 p.m.). Additionally, the plans and application are posted on the Planning Board's "Project Plans M-Z" page on the Town's website [www.southhadleyma.gov](http://www.southhadleyma.gov) in file titled "New Ludlow Road Used Car Sales SP Application 2018-11-26".*

*Any person interested in, or wishing to be heard regarding, this application should appear at the time and place designated.*

*Melissa O'Brien, Clerk  
South Hadley Planning Board*

*Publication: Friday, December 7, 2018 and Friday, December 14, 2018*

*Please Note: The Planning Board meeting and all public hearings for January 14, 2019 have been moved to the Town Hall Auditorium.*

Mr. Squire reviewed the procedure for the public hearing. There was discussion as to why the application is before the Board – it was noted that the applicant is seeking a Used Car Sales License from the Selectboard but they need a Special Permit for the use as well.

The applicant explained they are seeking permission to continue the sale of used cars. It was noted that the site has been previously approved for used car sales.

Mr. Hutchison suggested that the area to be used needs to be clarified. Ms. Mulvaney inquired about limiting the use of the property to the sale of used cars and not allow repair of vehicles on the premises. There were questions and comments made about the hours of operation and illumination of the site.

Linda Young, 15 Westbrook Road inquired about the hours of selling of cars.

The applicant's representative explained that they only plan to sell cars from 8:30 a.m. to 4:30 p.m. and do not plan to do major repairs on vehicles at this location. They indicated they anticipate 20 vehicles will be on the site for sale.

There was further discussion as to the lighting of the site.

There being no further public comment, Mr. Squire closed the public hearing at 7:01 p.m.

Respectfully submitted,

**As Approved**

Richard Harris, Recorder

## **SOUTH HADLEY PLANNING BOARD PUBLIC HEARING**

### **REQUEST SPECIAL PERMIT FOR MAJOR EXCAVATION – CHICOPEE CONCRETE OFF HADLEY STREET**

**MINUTES OF JANUARY 14, 2019**

#### **AS APPROVED**

**Present:** Jeff Squire, Chair; Mark Cavanaugh, Vice-Chair (arrived at 6:18 p.m.); Melissa O'Brien, Clerk; Brad Hutchison, Member; Diane Mulvaney, Member; Larry Butler, Associate Member; and Richard Harris, Town Planner

Mr. Squire called the public hearing to order at 7:16 p.m. He noted that this is continuation of the hearings began on August 27, 201 and November 13, 2018. He noted that the public hearing was continued from November 13, 2018 for the following reasons:

- 1). Reviewing a revised Operations Plan; and,
- 2). Reviewing a draft decision regarding possible conditions for a Special Permit.

Rob Levesque of Rob Levesque Associates representing the applicant introduced various representatives of the applicant including Sofia \_\_\_\_\_ from Rob Levesque Associates; Val \_\_\_\_\_ LSP; Jason Ouellette, Chicopee Concrete; and \_\_\_\_\_ attorney representing Chicopee Concrete.

Rob Levesque noted that the reason for requesting the continuation from December 10<sup>th</sup> scheduled hearing date. He reviewed the history of the gravel operation noting that the site had been excavated for over 60 years. A permit was issued in 1980 and another one in 2000. It is their position that the existing operation is a grandfathered pit. He introduced Val \_\_\_\_\_, LSP to review the Operations and Maintenance Plan.

Val \_\_\_\_\_, LSP provided an overview of the Operations and Maintenance Plan which had been submitted for the Board's review. He explained why turbidity would not be an issue arising from the excavation operation. In terms of petroleum releases, he indicated that DEP suggests that releases rarely travel more than 400 feet and oils typically don't migrate.

Mr. Hutchison questioned whether the 1 year transit time for suspended solids to reach the well would be based on the existing or proposed operation. Val \_\_\_\_\_, LSP indicated that it would make a difference as most petroleum stays on soil. The change in vertical separation does not make much difference as the horizontal distance is the basis for the transit time.

Val \_\_\_\_\_, LSP stated that the site specific analysis and plan is based on the USGS Report. In response to questions, he stated that the transit time is based on the closest point of the excavation – not the perimeter of the property. The study of the excavation did not look into the interplay of the river and he explained why that was not a factor.

Rob Levesque, representing the applicant asked if there were questions regarding the Operations and Maintenance Plan which the Board requested. Ms. Mulvaney inquired about the potential changes in monitoring. Mr. Harris commented about the use of the terms “mobile” and “non-Mobile” equipment noting that only the “screening” is listed as non-mobile.

Frank DeToma, District 2 Board of Water Commissioners commented that the USGS study speaks of the interplay of the river and ground water levels. It suggests that this needs to be studied.

Rob Levesque, representing the applicant, reviewed the equipment that is to be kept or used on site and the draft conditions which Mr. Harris had distributed.

There was discussion regarding the number of truck trips expected on a daily basis. Rob Levesque, representing the applicant, indicated that the 160 trips previously mentioned was “conservative” – it could vary depending on the level of activity. Jason Ouellette, Chicopee Concrete representative, indicated that on a busy day, they would likely have 20 trucks operating. They could have 120 trips per day depending on the conditions of demand, availability, etc.

Mr. Cavanaugh inquired about the frequency of the peak trips. Rob Levesque, representing the applicant, noted that the project volume was based on 4 projects that each took a week. However, other companies may bring purchase the material and bring their own trucks for the hauling.

Ms. O’Brien noted that the submittal suggested that there may be changes to the monitoring program as if anticipating that it may be reduced. Mr. Harris suggested that the Planning Board conditions would give the Board the authority to determine if the monitoring were to be increased or decreased.

Rob Levesque, representing the applicant, indicated that they have no real objection to the draft conditions. He stated that the applicant has gone above and beyond the requirements of the Zoning Bylaw.

Mr. Cavanaugh inquired about the time frame for responding to emergencies such as spills. Val \_\_\_\_\_, representing the applicant noted that eh stated times in the O & M Plan are standard. Rob Levesque, representing the applicant, stated that the actual response time would be quicker than the regulatory required reporting time.

Rob Levesque, representing the applicant, noted that the applicant has complied with the Zoning Bylaw requirements. The project is not subject to MEPA since a State permit is not required and not being sought. The work lies outside of the Conservation Commission jurisdiction – the applicant received a positive determination for the boundaries.

Mr. Squire stated he would open up the hearing for comments from other boards, committees, and departments.

Bill Deluca, Chair of the Conservation Commission stated that the Commission has not decided the work is outside their jurisdiction. He reviewed a section of the General Bylaws which he suggested gives the Commission jurisdiction and then reviewed various issues/concerns the Commission has regarding the project including:

- Inconsistency with Master Plan
- Quantify of excavation
- Concerns/opposition from 3 Boards and Mount Holyoke College
- At a minimum, there should be an independent impact study
- If the Board gets this project wrong, the Town will be dealing with this matter for decades
- He questioned the comment about the quickest route is vertical or horizontal

Val \_\_\_\_\_, representing the applicant, explained the hydrology of the movement of sediment and contaminants.

Rob Levesque, representing the applicant, stated that Chapter 240-2(a) restricts the Conservation Commission's jurisdiction. He stated that the Commission has not been asked for a determination of jurisdiction since all the work is outside of the wetland buffer. At the request of the Conservation Administrator/Assistant Planner, they moved their boundaries further away from the riverfront boundary. The applicant did not and will not respond to the letters received after the 35 day period.

There was further discussion/disagreement as to the limit of the Conservation Commission jurisdiction regarding this project with Bill Deluca and Rob Levesque expressing different opinions.

Mr. Squire noted that the Planning Board has limited jurisdiction. If something arises that falls in the Conservation Commission jurisdiction, the Conservation Commission can still take action.

Walter Wolf, Chair of the Board of Health, inquired as to what the property is zoned. He stated this activity is mining.

Mr. Squire stated that one could call this activity mining. The property is zoned Agricultural.

Walter Wolf stated that agricultural is typically crops, etc. He then reviewed a letter from the Board of Health regarding this project. He stated that the Board is required to receive a letter by mail and that did not happen. He requested that an impact study be undertaken.

Mr. Harris stated that the Bylaw does not require that the Board's be given notice by mail.

Kate Bedard, Fire District 2 Board of Water Commission member stated:

- If this project goes through, each phase should be taken separately
- There needs to a third party hydrogeological monitoring of the project
- Need to look at each phase independently

Rob Levesque, representing the applicant, stated that he and his client understand the concerns. If something goes wrong, the applicant/operator has liability. He reviewed the history of the excavation activity at this site. The applicant has met all required regulations and is willing to apply additional controls.

\_\_\_\_\_, Mount Holyoke College Geology Department referenced a report that describes the site. Mr. Harris stated that the Board needs the report to be able to use its information.

Frank DeToma, Chair of Fire District 2 Board of Water Commissioners inquired about Section 255-84 requirements. Mr. Harris described what that section requires and its limitations.

Rob Levesque, representing the applicant, stated that the applicant has met the requirements of Section 255-84.

Kevin McCaffrey, Mount Holyoke College, referenced a letter he had submitted on behalf of the College. He stated that they would prefer that this project not be moved forward until the concerns of the Board of Health and Conservation Commission have been addressed to their satisfaction.

Neva Tolepka, Conservation Commission member reviewed her professional background. She reviewed the materials that have been submitted and suggested that the applicant has not demonstrated that they have met the requirements. Specifically, she stated that they have not shown evidence that it will not have a negative impact on the water, air quality, etc. There is a risk of pollutant migration that could adversely impact the ground water.

Darrell \_\_\_\_\_, a resident stated that he works in the mining industry. He stated that it is confusing that the Zoning Bylaw and the application don't refer to this activity as mining. He stated it is mining under Federal law.

Mr. Squire stated that the Board has no jurisdiction over other permits. It was noted that if the Town approves a permit and an activity requires a State or Federal permit, the party still must obtain such permits.

Darrell \_\_\_\_\_, do they have a Federal Mining and Safety ID? Mr. Squire stated that is a fair question to ask.

Jessica Collins, Board of Health member, stated she did not envy the task of the Board. They have done a lot of work so far. She suggested that the 12 criteria that were mentioned were a good start.

Vern Blodget, 11 Sycamore Knolls submitted a letter. He stated that the application is deficient because it does not state that the project site is in the Water Supply Protection Overlay District. He reviewed parts of the Zoning Bylaw and suggested that the required notifications of boards was defective – process was not followed.

Winston \_\_\_\_\_, \_\_\_\_\_ referenced the USGS Report and noted that the greatest source of well water in the area was the Connecticut River and Dry Brook Hill. He suggested that an independent study of the project’s impact on groundwater should be undertaken.

Robert Pleasure, \_\_\_\_\_, noted that he worked with Vern Blodget on his statement. He is retired but worked many years in Washington on mine safety. He questioned the classification of this project noting that it is a mine but the Zoning Bylaw does not use that term. He commented that the Chair suggested the Board has limited jurisdiction but the preamble of the Zoning Bylaw gives broad authority. Groundwater flows are dynamic – one needs to develop with the environment, health, and safety considerations. Staff erred by not mailing notice to the various boards. He reviewed the record of the applicant and had asked for copies of the previous permits but the staff didn’t have them.

Rob Levesque, representing the applicant, stated that the applicant is seeking a local permit for an activity that is listed as permitted under 255-35D.

Mr. Hutchison stated that a Special Permit is required under the Water Supply Protection District. Mr. Harris indicated that a Special Permit is not required for this use.

Robert Pleasure, \_\_\_\_\_, stated that the schedule does not list every industry. The fact that the notice did not say it was in the WSPD is error that is prejudicial.

Kate Ballentine, Mount Holyoke College professor thanked the Board. She stated that more research and modeling of groundwater flows is needed. The application says little about any restoration plan. There is a lot of expertise in this room and the Board should make use of it. She questioned what is the benefit of this project to the Town?

\_\_\_\_\_, Mount Holyoke College professor thanked the Board for hearing everyone tonight. They have been trying to get a copy of original permits but the Town departments could not find copies. This application challenges the health of the area. They referenced the 2003 USGS Report and suggested that this project was playing Russian roulette with the District 2 public water supply.

\_\_\_\_\_, Ashfield Lane stated that the Town can only lose if the Special Permit goes forward. This will have adversely impact the air, roads, water, etc. Just because the excavation has been occurring for generations does not mean it is okay to continue.

Mr. Hutchison raised questions about the use schedule versus the Assessor's Property Card. He noted the card identifies the use as "Industrial – Sand & Gravel Mine". He suggested that "Major Excavation" could also be industrial.

Rob Levesque, representing the applicant, stated that the definitions are in the Zoning Bylaw.

There were further discussions about the definition of "major excavation" and mining.

Michael \_\_\_\_\_, resident, inquired if this was a prohibited area. He also noted that this project involves a lot of truck traffic. Mr. Harris stated that it was not prohibited but requires a Special Permit. He provided a map which depicts the area in which Major Earth Removal, Excavation and/or Fill activities" are prohibited under Section 255-84.

Mr. Squire asked if it would be wise to have Town Counsel advise on this matter. Mr. Harris noted that he has talked with Town Counsel who has confirmed his interpretation of the Bylaw in regards to how "Major Earth Removal" is classified relative to Section 255-35.

Pat Markie, attorney representing the applicant, stated that there are some legitimate and terrific questions being raised. He suggested the Town Planner knows more than most attorneys regarding zoning. He would be happy to submit a legal memorandum for Town Counsel and the Board to review.

Robert Pleasure, \_\_\_\_\_, stated he would also be submitting a memorandum on this subject. He suggested that if the applicant is not registered with the Federal agency, then they are not receiving proper training and the site is not being inspected because they are operating under the radar. The applicant is not allowing District 2 to view the site. He further suggested that, to make a determination on this Special Permit application, the Board needs to know that the applicant is in compliance with Federal requirements. The risks to the Town are substantial.

Rob Levesque, representing the applicant, stated that comments are questioning the credibility of the applicant firm. They are registered and receive training on an annual basis. It is unfair to impugn their character based on speculation.

Robert Pleasure, \_\_\_\_\_, stated he was not impugning their character. This site may not be registered. Their character is not at issue. He asked if they have the capacity to do restoration and to comply with the Federal requirements.

Larry Dixon, District 2, asked if the Name of the company is registered in the Federal MSAA data base.

Mr. Squire stated that the request is reasonable. He stated his biggest apprehension is in regard to the potential impact of removal of the amount of material which is being

proposed. He further suggested that the Stormwater impact would be negligible as would the projected amount of traffic.

Mr. Cavanaugh commented that he wasn't sure what hydrogeological study as to the impact of the removal of the quantity proposed on the water table would show. He noted that it is a testament to the operation that it has been operating for 60 years and not had an impact on the groundwater.

Ms. O'Brien stated that it has become clear that there are many unknowns. New excavation may impact the recharge area. It speaks to the need for a professional opinion to advise on this issue.

Ms. Mulvaney indicated she concurred with Ms. O'Brien that there are a large amount of unknowns.

Mr. Hutchison stated that he is principally uneasy with the scope of the proposed activity. He noted that the applicant has suggested that this excavation could be going for generations. This has the potential to impact the Town in increments over a long period of time.

Rob Levesque, representing the applicant, noted that the Agricultural district allows homes, etc. He stated that the Subdivision Control Law allows a subdivision with about 50-60 lots by right. He reviewed calculations of septic tanks, etc. He noted that the Board most recently granted a permit in 2000 for excavation of a portion of the site. In referencing the USGS Report, he noted that they have allowed monitoring wells. DEP suggests an annual monitoring and the applicant was agreeable to more wells than DEP suggests and more frequent monitoring. The proposed excavation would leave 90 feet between the floor of the pit and the high ground water – the 9.2 foot separation indicated on the plans was based on soils and not standing water.

Mr. Squire stated that the Board would need to make certain that all conditions are met. He suggested a third party study would be the appropriate next step.

Mr. Harris noted that there was a suggestion that Mount Holyoke College faculty could do the study. Ms. Mulvaney and Mr. Squire stated that the Town should go outside of the Town for a consultant to do the work.

Mr. Harris suggested that we need to define the scope of such a study.

\_\_\_\_\_ District 2 Board of Water Commissioners member inquired as to who would do the inspections.

There was discussion regarding who would undertake the inspections. It was suggested that the Town should employ a third party inspector paid for by the applicant.

\_\_\_\_\_, asked about the older permits. Mr. Squire stated what is available will be made available.

Rob Levesque, representing the applicant, reviewed the permitted areas.

Kathleen Davis, resident of District 2 asked for copies of the permits, plans, etc.

Rob Levesque, representing the applicant, stated he would provide the Town copies of what they have in their files.

Jim Canning, Conservation Commission member stated that they need more information. He suggested appointing an ad hoc committee to review this matter. He queried as to what would be the goal of the study.

Mr. Squire stated that he would like have a hydrogeologist review the proposed development project and provide an assessment of its potential impact on the public water supply. He would want to consult a hydrogeologist to see what the scope of such a study would look like.

Mr. Butler, suggested reviewing the old permits and look at the scope of a new permit.

Ms. Mulvaney asked for a copy of the older permits. She would like to know what the impact study would look like.

Jodie Miller, District 2 resident, inquired about the scope of study.

\_\_\_\_\_, 84 Shadowbrook commented that it needs to be an independent study. Even if the risks are small, the potential impact could be catastrophic. They questioned if ramping up the pace of excavation would increase the potential risk of damage or worse to the water supply.

Bill Deluca, Chair of the Conservation Commission stated it needs to be an independent study.

There was discussion as to whether the study could be undertaken in the same manner as a peer review.

Comments were made as to the scope of the study. Mr. Hutchison suggested that the study should consider value of leaving the site as it is.

Rob Levesque, representing the applicant, stated he was skeptical about what a study would show and whether it will change things – opinions, etc.

Mr. Harris stated that the study would inform the Board in making a determination based on the applicable criteria and to formulate conditions for a permit.

James Canning, Conservation Commission member stated that a third party study should quantify the risk factors.

Mr. Squire stated that the study would be undertaken to give the Board the information they need to make an informed decision.

Ms. O'Brien suggested that the study should assess the ecological values.

Robert Pleasure, \_\_\_\_\_ suggested it should be an independent study.

Kate Ballentine, Mount Holyoke College professor suggested that there are other options for the property. They Board should turn down this proposal. The Board should broaden the scope of a study.

Mr. Squire suggested continuing the public hearing to January 28, 2019 at 6:45 p.m. for the purpose of

- 1). Reviewing the old permits
- 2). Reviewing the criteria for acting on the application
- 3). Obtaining input from an independent hydrogeologist

**Motion** – Ms. Mulvaney moved and Ms. O'Brien seconded the motion to continue the public hearing until January 28, 2019 at 6:45 p.m. for the following:

- 1). Review of the old permits
- 2). Review of the criteria for acting on the application
- 3). Input from an independent hydrogeologist

The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

There being no further public comment, Mr. Squire announced that the public hearing is continued until January 28, 2019 at 6:45 p.m. With concurrence from the other members, Mr. Squire recessed the hearing at 10:39 p.m.

Respectfully submitted,

**As Approved**

Richard Harris, Recorder