

Monkton Development Review Board
Meeting Minutes
October 23, 2012
Approved: 11/27/2012

Attendance:

DRB Members Present: Marsha Abramo, Chris Acker, Peter Close, Janet Dermody, Curtis Layn, Philip Russell, and John Winsor

DRB Members Absent: None.

DRB Alternate Present: Thea Gaudette (voting)

Others in Attendance: Ken Wheeling, ZA, Deb Gaynor, Kristen B. Farrells, Jill MacTavish, David Shlansky, Andrew Gill, Pedro Zevallos, Eric Goddard, Claudia Orlandi, Jim Dumont, Miles Waites, Peter Norris, David Layn, Linda Pannelle, Stephen Pilcher, Roy Budnik, and Mark Nolan.

Peter Close called the meeting to order at 7:30pm.

Old Business

Marsha Abramo made a motion that the Board would go into Executive Session to discuss a letter on ex parte communication and conflict of interest; Curtis Layne seconded it.

Vote: 6-0-0

The meeting was called back to order at 7:55pm.

1. Brisson Stone LLC/Burchfield Management (BS/BMC) 2012-02- Change of Use

Continuation of the Evidentiary Hearing on BS/BMC application on the discrete issue of whether a gravel extraction is synonymous with a quarrying operation based on the 1978 Regulations and 1986 Amendments.

Kristen Farrell did not receive a mailing.

Liam Murphy explained both ex parte communication and conflict of interest. All communication such as the letter on ex parte communication from the applicant should be directed to the Board chair and cc'd to all parties.

There has been no ex parte communication by board members.

Conflict of interest was discussed. Chris Acker recused himself due to a conflict of interest. BS/BMC suggested that officials who publically prejudice an application have shown a conflict of interest such as someone who denied an application. The Zoning Administrator does not have voting responsibilities on the Board.

The applicant, BS/BMC, asked if there were any private deliberations of this project; there have been none as only procedural issues have been discussed.

Time for closing arguments was discussed.

Witnesses were sworn in.

David Shlansky, BS/BMC, presented its witnesses starting with Eric Goddard, civil engineer Knight Consulting Engineers. Mr. Goddard's education and experience was reviewed. Dr. Roy Budnik's, Geologist from Poughkeepsie NY, education and experience was reviewed. Mr. Shlansky put himself forward as an expert witness on sale of gravel, and creation and operation of a gravel quarry in Addison County.

Summary of points made during the testimony, discussion and question and answer:

- Gravel is a particle size and the mechanism of whether it is a natural alluvial deposit or made by crushing stone is irrelevant.
- State of Vermont specifications and terminology for gravel, stone and mixes were discussed. Crush gravel with its angular shape has some different qualities than alluvial gravel in mixtures. Crushed rock specifications were discussed. Screening and mixing can be used to meet mix specifications. Gravel mixes have other particle size materials in their specification.
- State of Vermont DOT uses AASHTO definitions for gravel instead of UDSA definitions.
- Bedrock is on the site.
- Gravel for sale is a particle size, ¼ - 3 inch, and can be either natural or crushed stone.
- Natural gravel deposits do not need blasting unless ledge is found. Most gravel pits will leave the ledge, however some will convert their operations to a blasting operation with a modification to their permit.
- Mining is anything that is removed from the ground that produces a product for sale. Mines are called quarries as are rock extraction operation.
- In NY, alluvial gravel on-site is a surface mining operation where as sub-surface mining includes blasting so the permits differ because of the blasting.
- In Vermont, Act 250 differs between gravel extract operation and rock quarries because of blasting.
- Neither Mr. Goddard nor Mr. Budnik, expert witnesses, had visited the site.
- Expert witnesses believe the 1978 Monkton regulations and amendments allow quarrying as a gravel operation.
- The Town of Monkton's gravel purchases were submitted as evidence of gravel sales.
- Mr. Shlansky said it was common knowledge that gravel includes crushed-stone.

Submissions that are part of the public records were discussed. Marsha Abramo will go through all files and clarify submissions this week. Mr. Shlansky will create a list of everything sent to the Board by the end of the week and send it to all interested parties. Mr. Dumont will do the same thing.

Questions for Dr. Miles Waite:

Dr. Waite provided references for his definitions of gravel from past testimony. Mr. Shlansky asked Dr. Waite about his expertise.

A summary of Mr. Shlansky closing remarks are below:

- Gravel for sale in the region includes crushed stone.
- Monkton buys crushed stone as gravel.
- BS/BMC believes people have a legal right to develop their land per town regulations and law regardless of what people like or do not like.

- They believe a case presented by Attorney Murphy in his letter suggesting the Board should deny the permit was a bad example and misleading because the case is not similar to their operation.
- Monkton's 1978 regulations allow crushed stone as gravel.

Mr. Dumont stands by a letter submitted on February 25th.

Peter Close stated that the Board is trying to sincerely determine the intent of the 1978 Regulations and whether their proposal fits into them. The Board will decide on this discrete issue.

Thea Gaudette move to continue this to date certain on November 27th at 9:05pm. The motion was seconded by Philip Russell. Vote 6-0-0.

2. Mike Norris Subdivision for Property on Mountain Road 2007-06-MAJOR

The applicant came to the board after they discovered missing information for septic easements. The project materials, deed, and Mylar map were reviewed the Board. The Board developed a letter to Mr. Norris.

The Board determined that the project was complete as the Mylar was signed on July 28th, 2011 and received for record by the Town Clerk on August 28th, 2011. If necessary, the Board will reopen the subdivision at final plat to review any modifications presented by the applicant.

3. DRB Forms Peter Close asked the Board to look at new DRB forms.

4. Schedules for future meetings were reviewed.

Adjournment

Philip Russell moved to adjourn the meeting at 10:05pm. The motion was seconded by Chris Acker and passed 6-0-0.

Respectfully submitted,

Wendy Sue Harper
Recording Secretary