

Town of Granby
Zoning Code Review Committee

Meeting Notes – February 17, 2021

A meeting was held via “ZOOM” remote meetings on Thursday February 17, 2021 at 5:00 pm with the following members and professionals present:

John Snow Jr.
David Crockford
Tina Sawyer - absent
Lisa Somers
Lynn Lyons
Christine Bassett
Jamie Lynn Sutphen - attorney
Howard Brodsky - planner
Doug Miller – engineer

Also Present: no one.

Agenda:

- *Home Occupation* regulations update status – Supervisor John Snow stated that the public hearing is scheduled for 2/24/21 and expects the proposal to pass since no objections have been discussed during previous review by the Town Board.
- *Special Permit-Site Plan Review* – 3rd Draft presented virtually by consultants.
- Mining - Continue discussion of issues related to mining.

SPECIAL PERMIT & SITE PLAN PROCEDURES AND STANDARDS

The proposed amendment is designed to blend with the existing code, not be a stand-alone law as the solar regulations were. The consultants reviewed the changes from the last meeting’s discussion via shared ZOOM screen, as follows:

2b. The filing date was removed to allow the Town to easily change and re-establish dates as deemed necessary without having to initiate a local law to do so.

2c. Added sentence regarding the ‘waiver’ for submission requirements listed in 3a. The initial planning board review is the appropriate time to determine waiver items.

2e. Added a clean hands statement that if the property has outstanding violations then it is not eligible to receive review approval.

2f. Added a clause enabling the collection of escrowed fees to cover the expense of hiring professional consultant by the planning board for review of proposals.

3. The consultants emphasized the importance of the exhaustive listing for submission requirements to ensure that the board has the information needed to take action on applications. The waiver ability is also important because it allows the board to eliminate required documents for applications that are simpler in nature and without much impact to the surrounding area; the list would be burdensome to those applications. David Crockford asked how that should be documented, Howard Brodsky replied that the meeting minutes could detail which provisions and the reason why it’s being waived.

Final points:

~ The text doesn’t address the Town’s issue with provisions for holding funds for an escrow account, which the State removed. The text authorizes for the collection of funds only.

~ Looking into modifying the text within Appendix A of the Ordinance to include collection of escrows for all zoning applications.

~ Consultants will provide a completed draft of the proposed SUP and Site Plan regulations for the planning board to review at their upcoming meeting on 3/2/21. An advisory opinion will be needed to start the Town Board process.

MINING

The consultants supplied documents describing zoning strategies that could be used to regulate mining activity in the Town that the APA (American Planning Association) refers to as flexible zoning techniques. Three different types of zones are named– conventional, overlay and floating.

Definitions of each of the zone types with associated legal implications written by the APA provides useful information for the committee members to decide which zone could represent allowable areas in the Town for mining. Planner Howard Brodsky had also developed a chart relaying the similar information as follows:

1. Town-Wide Statement – Comprehensive list covering entire Town including uses that are allowed and uses that are prohibited. Easy to follow and transparent but may be problematic for future development.
2. Conventional Zone – Town creates multi-purpose but distinct zones, wherein specific uses are allowed. Long-term designation with specific location on zoning map where each zone is unique in purpose with its own uses and dimensional requirements. Is predictable but can lack controls for complex land uses/structures.
3. Overlay Zone – A single or limited purpose district that is expected to work with the existing conventional underlying zone. Located on zoning map with stable boundaries and has an intended focus ie. wetlands or historic value, which can modify the underlying uses. Potential for conflicts by interaction with the existing conventional uses.
4. Floating Zone – A single or limited purpose district that replaces the existing conventional zones at specific locations. Not shown on zoning map initially, placement is by reviewing development design concept which can consist of a single use (ie. mining) or group of land uses (ie. residential). Also called PUD or PDD – planned development which replaces the underlying conventional zone. Although not predictable they afford the Town more control by establishing the requirements.

Attorney Jamie Sutphen stated that what is existing can't be changed by what we're doing, but we can change the future of mining land use in the Town by adding appropriate controls dependent upon what we want. *She asked what do we want? What does the Town Board want?*

~ Lynn Lyons responded no more, we have enough.

~ Christine Bassett responded that she agrees we have enough large mining operations which she believes are a huge problem for the Town currently and in the future, primarily because they fall under the sole jurisdiction of the DEC. She also stated she is okay with operations under 1,000 cy which can be handled effectively with special use permit through the Town.

~ Supervisor Snow was in agreement that the Town has enough large mines - 19 large mines that are controlled by the DEC, that were mostly developed before zoning and are not functioning well with the neighborhoods and areas they are located within.

Jamie Sutphen asked if the committee was in agreement with no more and no more expansion?

~ Members of the Committee agreed that the large mines could be contained within their current footprint without any expansion. The consultants commented that we need to pin down and clarify the parcels involved as well as the LOM (Life of Mine) limits and boundaries.

~ Supervisor Snow commented that he would like to examine the parcels surrounding the existing mines because there may be vacant parcels that could be included in the allowable areas. Lynn Lyons commented its just doubletalk.

~ Christine Bassett asked if the overlay is for public perception instead of outright banning. Howard Brodsky replied that creating an overlay is an affirmative act; it recognizes what is currently happening, acknowledges that its there and allows it to happen.

~ Lynn Lyons stated that the Town already does this with conventional zoning wherein mining is allowed in certain districts ((A-1 and A/R) with Town approval and not in others (R-1 and CIT), and it doesn't work. Howard Brodsky replied that the new district that we are forming will have boundaries that mirror the existing mines that we can't control and are under the purview of the DEC. This action will allow ONLY those areas for large scale mining which essentially bans any new mining in the Town.

~ None of the committee members were in favor of the floating zone strategy which could allow new mining through design proposal and adoption of a PUD. Formation of an Overlay Zone for mining will not only map existing activity parameters but keeps the underlying conventional zoning intact in case the mining operation closes and the area is reclaimed.

~ Lynn Lyons asked John Snow what, if any, benefits the Town has received from the existing mines. He replied the Town receives nothing, in fact the assessments for mining properties have been decreasing in value. Assessment is based on the land and the value of the structures, since there are no structures for mining activity there is little value. He added that real property code 720 contains 8 parcels valued at \$557,000, the most recent valuation is \$297,000 for the same 8 parcels. The consultants stated that they would review the taxing requirements because something didn't seem correct.

~ Christine Bassett added that there is no aesthetic value to the operations and that the mines clear-cut acres of trees before applying to the DEC. Howard Brodsky replied that we could establish regulations where no more than ½ acre of clearcutting can occur in a five-year period as a preemptive strategy. He cautioned though that the Town would need to be prepared to enforce it.

~ Engineer Doug Miller commented that nine of the mines are controlled by the same four people and that the properties are investments where the owners have no interest in the good of the Town. He added that the DEC Mappers are quite advanced and may be able to assist in providing definitive parameters of where the mines are active as well as areas that are reclaimed or being clear cut of trees. We will also need a clear understanding of the DEC permits in place which establish the LOM boundaries. Lisa Somers stated that John Snow has amassed a box of mining records which is the basis of information his spreadsheet was generated from. Mr. Snow added that he has some maps accompanying the permits, he'll round up what he has.

~ Engineer Doug Miller also commented on the email sent to the group by John Snow on 2/16/2021 which supports the work we are doing by identifying pertinent Goals and Objectives from the Comp Plan that discusses stewardship of natural resources, protection of farmland, and developing a regulatory framework to protect communities.

~ Lynn Lyons asked about the Town Boards authority to change Zone designations because of the political influence seen years ago which allowed and created many of the problematic mines to begin with. If they can change zones at will then this work will be for nothing. Jamie Sutphen replied that the Town Board is the only authority that can change a zoning district designation by completing the local law process. She also said that the long legislative history thus far of this committee and the previous work begun by the Mining Commission creates an abundance of support and opinion which can be used to prohibit zone changes without conclusive rationale to counter the overlay designation and its limitations.

~ Christine Bassett admitted that she is disappointed with the plan because she would prefer a total ban, to which Jamie Sutphen stated it's just not possible. The consultants were happy with the discussion and stated that it provides guidance for them to formulate the text which was their goal for the discussion.

~ Supervisor Snow stated that the proposal has to appease the County and the wishes of the Town Board in order to even be considered, a total ban probably wouldn't be accepted. There is also a regional perspective to consider which favors allowing stone and soil mining because it's a necessary commodity to build roads, infrastructure, as well as residential construction.

The next meeting is scheduled via remote "ZOOM" meetings for **Wednesday, March 31, 2021** between **5:00 & 7:00 pm**. Howard Brodsky to send link information for ZOOM meeting.

Tasks:

- Provide updated draft of the Special Permit & Site Plan Review regulations for Planning board review on 3/2/2021.
- Provide assessment information to consultants for further review regarding no benefit.
- Determine how to impress upon the DEC need to enforce the Town laws as well as their own issued permits.
- Think about next topic to address. Noted currently cleaning up Ordinance for complete version.

Meeting ended at 6:50 pm.

Respectfully submitted, Lisa Somers, Zoning Code Review Committee Clerk