

DAVID B. DELMORE
33 Lands End Lane
ERB 03-4

MINUTES OF THE PUBLIC HEARING
SUDBURY EARTH REMOVAL BOARD
WEDNESDAY, AUGUST 13, 2003

The Board consisted of:

Richard L. Burpee, Acting Chairman
Jeffrey P. Klofft, Acting Clerk
Stephen A. Garanin
Elizabeth A. Taylor
Richard D. Vetstein

Notice of the public hearing was published in the Sudbury Town Crier on July 24 and 31, 2003, posted, mailed and read at this hearing.

David B. Delmore was present to represent a petition for an earth removal permit to remove approximately 1,200 cubic yards of sand and gravel from 33 Lands End Lane. Also submitted with the application was a Sewage Disposal System plan dated January 1, 1972, revised February 1, 1972, along with a request for waiver of the requirement for a plan prepared by a registered land surveyor.

Mr. Delmore said he currently does not have an adequate back yard. There is a steep slope which begins approximately 20 feet from the house, rises sharply for 10 feet, leveling off for 40 feet and rising again for about 10 feet. He would like to remove the first hill and regrade the second hill to allow for a more usable back yard.

At some point in time, Mr. Delmore said he would also like to construct an addition to the house. Although the slope of the land is more in the rear, digging into the hill would be necessary for an addition. Because it's such a steep slope, he realizes he must be very sensitive to the runoff.

As a result of his desire for a back yard and the potential construction of an addition, Mr. Delmore said he looked into earth removal. The excavator felt it would be a relatively simple job, taking about 5 days. It would add about 30 feet to the back yard with a more natural slope from the large hill. Also, after speaking with landscapers, he would try for more of a 2:1 slope. Essentially what is proposed is to take the smaller hill out and reslope the large hill to open up the back yard. The result will not be a flat back yard but one his children can better utilize.

Mr. Delmore had no issue with the requirement for a performance bond. He said it was his intention to plant more than the minimum as it is his desire to have an aesthetically pleasing back yard. The area of tree removal at the top of the hill will be planted to insure there will be no runoff issues.

Mr. Burpee felt the area of the proposed excavation was not well defined in terms of connecting to the proposed contours of the property lines. It appeared that the slope continues to the left and right of the house onto both neighbors' property and the plan doesn't show how this will connect to the existing contours and where the earth is going to be removed and at what contour points.

Mr. Delmore referred to his plan pointing out that he tried to box in the general work area. He said it will be contoured down to within a solid 30 feet to each boundary.

Mr. Burpee was unclear about the 30 feet from each property line asking whether that would be where the excavation starts or where the slope is going to start.

Mr. Delmore said it is where the slope is going to start.

Mr. Burpee said if he were to go to the property today and walk in from the left side 30 feet from the area where it is proposed to excavate, standing at that point of 30 feet, would that represent the top of the new contour.

Mr. Delmore said it would. He said the first 30 feet from both property lines will be undisturbed.

Mr. Vetstein asked whether Mr. Delmore had spoken with his neighbors regarding his project.

Mr. Delmore said he did, and none had any objections.

Mr. Vetstein asked whether this project improve the storm water runoff.

Mr. Delmore said he cannot improve it; the intent is to maintain it and he will put in enough plantings to do so.

The Board was in receipt of a letter dated July 24, 2003 from the Town Engineer which notes the following:

1. Suggest the Board require the applicant to grade the back yard so as to prevent storm water runoff from entering Lands End Lane. This can be accomplished by creating a depression in the back yard large enough to contain the first 1" of runoff from the area.
2. Minimum depth of loam should be specified
3. No objection to the hours of operation or the transportation route and recommends approval subject to the above.

Ms. Taylor said because engineered plans were not submitted, she had a couple of concerns about doing what Town Engineer suggests, particularly the depression.

Mr. Delmore said the excavators he spoke with said they have the equipment to do the work and as long as they are not touching the sides at all and maintain the proposed slopes, this will accomplish Town Engineer's suggestion.

Mr. Garanin said he would prefer to have a professional plan to see what is proposed.

Mr. Delmore said he worked with Town Engineer on this project. There were no topographical plans in the Engineering Department and Town Engineer suggested using the sewage disposal plan which does show contours and where area of work will be done.

Mr. Burpee said from the contour plan that the flat area of the back yard, which is quite small, is at about the 150 foot contour. It looks like it is proposed to go back to the 160 foot contour.

Mr. Delmore said that was correct.

Discussion then followed on the existing and proposed contours. Mr. Burpee felt that if the Board were to specify that on the left side and right side there must be a 30-foot undisturbed area and that excavation couldn't go back beyond the 162 foot contour, the area of excavation would be defined without the applicant having to incur the expense of an engineered plan.

Mr. Klofft added that it could also be specified that grading couldn't start any further back than the 175 contour line.

The Board was in agreement this would define the area.

Mr. Burpee asked how the area will be landscaped.

Mr. Delmore said with circular beds with planting including hydrangeas, trees and grass on the hill.

Mr. Klofft said grass on sloped areas will hold the soil. He would recommend either sod or hydro seed.

Mr. Garanin asked whether the area was on town water. Mr. Delmore replied that it was.

There were no further questions from the Board. The public hearing was closed. After deliberation the following motion was placed and seconded.

MOTION: "To grant David B. Delmore, owner of property, an Earth Removal Permit under Article V.A of the Town of Sudbury Bylaws, to remove up to 1,200 cubic yards of sand and gravel from property located at 33 Lands End Lane, Residential Zone A-1, in accordance with the Plan dated January 8, 1972, revised February 1, 1972 submitted with the application, which is incorporated herein as part of this Permit, subject to the following conditions:

1. The area within 30 feet of each side property line will remain undisturbed . The new contour lines will be reintegrated with the existing topographical lines that are within those 30 foot areas. The area of excavation will not go back further than the 162 contour line. The area of disturbance will not go further back than the 175 contour line. The resulting slope will be at 2:1 or less.
2. Six (6) inches of loam will be required to cover the slope, leaving a depression large enough to contain the first one inch of runoff.
3. The disturbed area will contain one of the following: hydro seed, sod, or other plantings.
4. Hours of operation for earth removal shall be 8:30-4PM, Monday through Friday, with no Saturday or Sunday hauling.
5. The truck route from the site shall be via Warren Road, Raymond Road and Route 20.
6. All trucking companies involved in the removal of earth from the site shall keep and maintain logs (for at least one year) recording the actual amounts of earth trucked from the site. Such logs shall be made available to the Town Engineer and the Earth Removal Board upon written request.
7. Truck activity shall not impede traffic on Lands End Lane.
8. Appropriate measures shall be taken to prevent the tracking of material onto any public way. Any material tracked onto a public way will be swept up and removed on a daily basis.
9. Appropriate measures shall be taken to stabilize the soil on outgoing trucks via the use of covers.
10. All efforts shall be made to reduce the amount of dust generated due to truck traffic. This shall include, but not be limited to, the sprinkling of the roadway with water, spreading of calcium chloride or any other means to minimize the dust as approved by the Town Engineer.

11. Prior to removal of any earth, the applicant shall provide a Surety Bond in the amount of \$17,674.00, in a form acceptable to the Town Treasurer, to guarantee completion of the work, to ensure that appropriate measures are taken during and following completion of the work, to provide for street sweeping and other appropriate measures to prevent tracking of material onto the public ways, and to repair any damage to public ways caused by the trucking activity.
12. The starting date for removal shall begin after this Decision has been filed with the Town Clerk and after the posting of the Surety Bond in accordance with Condition 11 above and subsequent notification to the Earth Removal Board of same.
13. The applicant shall complete all earth removal within three (3) months after the starting date as defined in Paragraph 12 above.
14. An As-Built plan, prepared by a Registered Civil Engineer or Land Surveyor shall be submitted at the completion of the project and accompanied by a certification that the work has been completed by design. Town Engineer shall certify acceptance of said plan and shall notify the Earth Removal Board of same.
15. This Earth Removal Permit will expire in one (1) year on August 13, 2004, and may be renewed at the Board's discretion provided application for extension is made thirty (30) days prior to expiration.

VOTED: In Favor: 5 (unanimous) Opposed: 0

Richard L. Burpee, Acting Chairman

Jeffrey P. Klofft, Acting Clerk

Elizabeth A. Taylor

Stephen A. Garanin

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