

BRIAN JADUL & PETER GIVEN  
90 & 96 Lincoln Lane  
ERB 03-2 & 03-3

MINUTES  
SUDBURY EARTH REMOVAL BOARD  
WEDNESDAY, JUNE 11, 2003

The Board consisted of:

Stephen A. Garanin, Acting Chairman  
Jeffrey P. Klofft, Acting Clerk  
Patrick J. Delaney III, Alternate  
Thomas W.H. Phelps, Alternate

The meeting was convened by the Acting Chairman, Mr. Garanin who reported the Board was in receipt of a report dated May 29, 2002 prepared by Charles J. Owen Jr., P.E., and submitted by Brian Jadul as required under Condition 14 of the Earth Removal Permit voted on May 15, 2003. (14. Prior to any removal of earth, the applicants shall supply to the Earth Removal Board for their review and acceptance a report from a professional hydrologist or person determined by the Earth Removal Board to possess equivalent credentials, certifying that the proposed earth removal will not cause or exacerbate water quality issues, including but not limited to elevated levels of sodium, lead, silt, reduced flow or corrosion with drinking water wells on adjacent properties.)

Mr. Delaney felt the report did not go into the detail as required by that condition. The other Board members agreed.

Mr. Jadul felt he had addressed what was expected as was discussed on May 15, 2003 and said he contacted Mr. Owen the next day requesting a report.

Mr. Klofft said the Board voted its decision on May 15; it was not filed with the Town Clerk until May 29, 2003. He said Mr. Jadul should have waited until the filing date after which he would have received a copy of the formal document containing the wording of the Permit and Conditions.

Discussion followed on the report, specifically as to whether a report by a Professional Engineer would be acceptable to the Board. The Board noted that Condition 14 requires a report from a professional hydrologist or person determined by the Board to possess equivalent credentials. The consensus was that if Mr. Owen submits a decisive statement on water quality as required by that condition backed up with his methodology for arriving at that statement, the Board would be inclined to accept that report.

Several neighbors who were present disagreed and felt a professional hydrologist should be required.

The Board said it would have to wait for the next report before making any decision on a hydrologist.

A motion was made, seconded and unanimously voted not to accept the report as submitted and to require a resubmittal which satisfactorily reports on Condition 14 of the Earth Removal Permit.

An informal discussion followed on Mr. Jadul's request for clarification of some items in the Earth Removal Permit. He was concerned with Condition 15 which notes the performance bond provides 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." He did not want to pay for damage by other trucks not associated with this Permit. He added that this was not addressed in the list of items in Town Engineer's itemization of the bond.

The Board said this condition is standard for all earth removal permits. Although it is not mentioned on Town Engineer's list, it most likely is covered in the contingency amount. It was reiterated that this is a standard condition imposed by the Board which stands alone.

Mr. Jadul referred to Condition 2 (loam and mulch) which he felt was excessive. Short of an appeal, he asked if there was a way to meet with the Board in good faith to address this as well as some of the other conditions.

The Board said at this point it can only provide clarification. There is no way to revisit this other than by appeal. Mr. Garanin reiterated that the Permit as filed, with its conditions, is what Mr. Jadul is required to meet.

There being no further business the meeting was closed.

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Stephen A. Garanin, Acting Chairman

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Jeffrey P. Klofft, Acting Clerk

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Patrick J. Delaney, III, Alternate

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Thomas W.H. Phelps, Alternate

WEDNESDAY, JUNE 11, 2003

The Board consisted of:

Patrick J. Delaney III, Chairman  
Jonathan G. Gossels, Clerk  
Thomas W.H. Phelps  
Stephen M. Richmond

And also Associate Members

Elizabeth A. Taylor  
Jeffrey P. Klofft  
Stephen A. Garanin  
Richard D. Vetstein

#### Election of Chairman and Clerk

It was voted to elect Jonathan G. Gossels, Chairman, and Stephen M. Richmond, Clerk, to serve until the next Annual Meeting.

For the time being, it was also agreed to leave the Board makeup as is with four regular members and six associate members to allow alternates to gain experience before appointing a fifth member to the ZBA. The Board emphasized that the intent is for alternates to eventually move up as regular members.

#### Variance Applications

The Board was in receipt of a letter dated May 5, 2003 from William Keller, Chairman, Planning Board which notes that Board has experienced difficulty meeting deadlines for reporting to the ZBA.

It was noted that the ZBA has statutory time frames for scheduling public hearings. Following discussion it was agreed that a joint meeting with the ZBA, Planning Board and Town Planner would be the best way is to address this. It was also agreed, as part of that meeting, to discuss other issues, such as Use Table for which some uses are now prohibited; i.e., Carpet Carousel, Sudbury Animal Hospital, etc.

The Board agreed to draft a list, prioritizing items for discussion.

#### Decision Procedures Checklist

The Board was in receipt of a letter dated May 22, 2003 from Wayne Walker, Assistant Town Manager, requesting adoption of a Decision Procedure Checklist to serve as a record of the procedural steps followed by the Board in its ZBA decisions. This checklist has been recommended by the Massachusetts Interlocal Insurance Association, to which the Town belongs.

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The Board reviewed a copy of the checklist after which it unanimously voted to adopt this checklist as part of the record for ZBA decisions and to include a completed copy with each ZBA petition file.

Review and Vote on Rules & Regulations: At this time the Board agreed to leave the Rules & Regulations as is, but will probably want to revisit the fees at some time, particularly with regard to fees for administrative appeals. Mr. Richmond suggested the Board consider a change in the order of closing the hearings and voting on petitions. Rather than deliberate after all petitions are heard, he suggested closing each individual petition hearing, deliberating, and then voting. He felt it would be more convenient for the petitioner. The Board was in favor with this suggestion; however, if it appears that deliberations will be lengthy, it agreed to suspend deliberations till after the last hearing. This change does not affect the wording in the Rules.

It was then on motion, unanimously voted to adopt the Rules & Regulations with no changes.

Review and Vote on Model Local Rules for Comprehensive Permits

It was on motion unanimously voted to adopt the Model Local Rules for Comprehensive Permits with no changes.

There being no further business, the Annual Meeting was adjourned.

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Jonathan G. Gossels, Chairman

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Stephen M. Richmond, Clerk

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Patrick J. Delaney III

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Thomas W.H. Phelps

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Elizabeth A. Taylor, Associate Member

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Jeffrey P. Klofft, Associate Member

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Stephen a. Garanin, Associate Member

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Richard D. Vetstein, Associate Member