

Excavation of Material Study Committee
September 12, 2016 Minutes

Prepared by: Lee Hartmann

These minutes are not verbatim – they are staff’s interpretation of what took place at the meeting. – Open Meeting Law – Section III.

Committee Members in attendance: Brian Wick, Russ Appleyard, Betsy Hall, Malcolm MacGregor, Marc Garrett, Michael Main, Jack Risso and Richard Serkey.

Staff Member: Lee Hartmann

Mr. Wick opened the meeting.

Mr. Appleyard asked about fines for zoning violations. Mr. Hartmann said that in all cases the Building Commissioner has the authority to issues fines of up to \$300.00 per day. Mr Appleyard suggested adding language into the bylaw noting the fines. Mr. Serkey said that it was probably not a good idea to mention fines in only one section of the bylaw. Mr. Hartmann agreed.

Minutes

Mr. Serkey moved to accept the minutes of July 25, 2016. Mr. MacGregor seconded the motion. The motion was approved.

Earth Removal Bylaw

The committee discussed the provision that allows by right earth removal for sale to expand, enhance or maintain existing cranberry cultivation facilities provided that the projected volume of earth to be removed is not greater than 25,000 cubic yards.

Mr. Hartmann noted that this provision has drawn a considerable amount of attention. Ms. Hall noted that she has heard some of the same comments. Mr. Hartmann noted that based on Mr. Garrett’s suggestion he would offer as an alternative the following language for consideration.

The Building Commissioner shall forward copies of the zoning permit application and plans to the Planning Board for review. The Planning Board will consider if in their opinion the Earth Removal Operation requires a Special Permit. Said opinion shall be forwarded to the Building Commissioner within 21 days of receipt of said application and plans. The Building Commissioner makes a determination that the earth removal is:

- a. Objectively necessary and incidental to an identified lawful principal use, a lawful structure, an approved subdivision road, or lawful utility installation; and
- b. Not of such scale or other characteristics as to require special conditioning in order to avoid possible objectionable negative effects (such as heavy equipment noise, vibration, dust or vehicular traffic) to abutting properties, the Town, or the environment; and
- c. Is otherwise in compliance with this Bylaw and all other applicable legal requirements

Mr. Main asked if we could provide a better definition of incidental. Mr. Hartmann agreed to work on such language.

The Mr. Garrett moved to strike the 25,000 cubic yard exemption and insert a Planning Board review and recommendation process as noted above. Mr. Appleyard seconded the motion. The committee voted (7-0-1) with Mr. Main abstaining to approve the modification.

The consensus of the committee was to establish a 10,000 cubic yard threshold for the 5 year prohibition as follows:

1. Up to 10,000 cubic yards of earth are removed by zoning permit per Section 205-18(B) per 205-18(B) or
2. Earth removal in the RR, R40, R25, R20-SL, R20-MD or R20-MF District is allowed by special permit for an identified lawful principal use;

The site shall not be used for any other principal use for a period of five years from the expiration of the excavation period or any extension thereof.

Mr. MacGregor asked the committee to increase the separation from groundwater for non-cranberry earth removal from 5 feet to 10 feet. The consensus of the committee was to increase the separation to 10 feet.

Mr. Hartmann reviewed Town Counsel's comments and edits. The consensus of the committee was to accept the changes made by Town Counsel.

The meeting was adjourned at 6:55 p.m.

Respectfully Submitted,

Lee Hartmann, AICP
Director of Planning & Development

Approved: September 12, 2016