

**MINUTES OF THE PLANNING BOARD MEETING
TOWN OF CHARLEMONT**

July 1, 2004

The meeting was brought to order at 7:04 p.m. by Bill Stephens. Members present were Charlotte Dewey, Ursula Nebiker, Gisela Walker, Dan Miller, and Trevor Mackie. Others in attendance were Ruth Cannavo, Perry Schwarzer, and Phil Banks.

Bill Stephens opened the meeting with the appointment of officers to the Board. Dan Miller nominated Bill Stephens and Charlotte Dewey as co-chairs. The motion was moved, seconded, and passed unanimously. He then nominated Ursula Nebiker as Secretary; the motion was moved, seconded and passed unanimously. Dan Miller was unofficially nominated as Sign Poster, in charge of posting Planning Board meeting dates on the outside notice board.

Gisela expressed an interest in receiving the minutes of the previous meetings before the next meeting. Carlene said that she had been doing that, but found that few Board members actually had the time to read them anyway. It was agreed that Carlene would forward the minutes to Ursula for editing, and Ursula would in turn forward them to all Board members.

Ruth Cannavo questioned the need for minutes to be corrected by the Board when the meetings were usually taped. Bill replied that while the tape helped for documentation purposes, no meeting could be transposed verbatim, so occasionally there would be a need to correct some wording or an omitted detail. It was decided that all meetings would be taped in the future.

Gisela asked what happened with the Bowen gravel pit situation after last meeting. Bill said that he had not yet had a chance to see the wording from Town Counsel. The Building Inspector had issued a Cease and Desist order, by hand and by Certified Mail, on June 17th. Mr. Bowen has refused to cease operations and was heard to be operating by Board members and town residents. Several faxes were sent by Attorney Lombardo (Bowen's counsel) to the Building Inspector, who in turn sent a letter stating that if Mr. Bowen was aggrieved with the Cease and Desist order, he could then appeal to the ZBA within 30 days. It was noted that Mr. Bowen is being fined \$50.00 per day. Bill Stephens stated that he spoke with both Jim Hawkins and Jim Cerrone (now the full time Building Inspector) and let them know that he expects full enforcement of the Cease and Desist order.

Mr. Banks said that he feels there is a difference between a Stop Work order and a Cease and Desist, and that he didn't think a Stop Work order had been issued to Mr. Bowen. Bill Stephens stated that a Cease and Desist is just that -- that all work shall cease. If

there is a difference, they would have to find out, but a Cease and Desist order should cover it.

Bill Stephens said that he went up to the gravel pit and listened for any activity, but because there was a grader running at the trailer park, he was unable to ascertain whether noise was coming from the gravel pit itself. Phil Banks said that there was activity on Sunday, and the original permit stated that absolutely no operations on Sundays were allowed. It was suggested that the State Police could possibly be involved to enforce the Cease and Desist. A letter from Mr. Lombardo was read aloud, which essentially said that the Planning Board had no right to issue the Cease and Desist on the grounds of non-use, that there was indeed proof of use, and that further harassment from the Board would cause Mr. Bowen et al to seek restitution in connection with the defense of the gravel bank issue.

Phil Banks added that he and his attorney had a conference call with Jim Hawkins and that they considered the letter from Mr. Bowen's counsel simply one of intimidation.

The next item on the agenda was discussion of a letter from Jim Hawkins to Paul Fantucchio regarding a special permit for mobile homes at his park and some code violations. Bill Stephens confirmed that he had spoken to Mr. Hawkins, and the matter is being looked into.

The next item concerned two tubing businesses in Charlemont that are operating without permits. Bill Stephens spoke with Jim Hawkins and told him that these businesses should be visited and action should be taken. After some discussion as to how and what type of permit would be required for this type of business, Perry Schwarzer suggested that a Special Permit be drafted that would be specific to these types of businesses, and that it should be ready when they came in for it. More discussion ensued regarding safety issues and the regulation of such businesses, the main point being that these, like any other business, need a special permit to operate. It was decided to have Carlene draft letters to the owners asking them to come in and pick up a special permit application.

Schechterle's gravel pit was discussed. Trevor Mackie had brought in a sample of the fencing that the Schechterle's were using to fence their pit. The Board approved the fencing. It was, in fact, the fencing that was agreed to on their special permit. Bill questioned whether or not the Schechterle's special permit extension would go the full five years or if a year should be subtracted, since they were a year late in re-applying for the permit. The Board will check with Town Counsel on this.

Phil Banks asked who specifically ensures that a given business is registered with the Bureau of Mines. Trevor Mackie said he was told that all the Bureau of Mines is concerned with is the rock crusher, the safety of the employees, and slope issues. The BOM. will be coming to check out the slope of both the Schechterle and Bowen gravel pits.

Perry Schwarzer questioned again as to why Bowen was being allowed to operate, that the Board needs to either go with what they wrote (on the permit) or not, it's all about consistency.

Gisela wanted to know the procedure for putting an item on the Planning Board agenda. She was told to call Carlene and request that it be added.

A motion was made to go into executive session for the discussion of potential pending litigation. The motion was seconded and a roll call vote was taken, which passed unanimously. Perry Schwarzer questioned whether the Board could legally decide there and then to go into executive session and was informed that they could, according to Town Counsel. He then requested a copy of the regular session minutes. At 8:22 p.m. the Board went into executive session.

At 8:42, a motion was made to adjourn the executive session, a roll call vote was taken, and was passed unanimously. The taking, storage, and time of executive session minutes were discussed.

Gisela Walker said the Board should start work on the implementation of the Master Plan, and stated that she would be happy to form an outside committee to assist with this. She asked how often the Board officially met, and was told it has been the practice that we meet regularly on the first Thursday of the month and any other Thursday as needed.

Bill Stephens wanted to keep the Master Plan on the Old Business agenda. Gisela reiterated that this is something she would strongly like to move forward on.

The minutes of the last meeting were approved and a motion was made to adjourn. The motion was seconded and passed unanimously. The meeting adjourned at 8:42 p.m.

The next Planning Board meeting will be held on Thursday, July 15, 2004.

Respectfully Submitted,

**Carlene Millett,
Secretary to the Boards**

**Signed by:
Planning Board**