

WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes

April 9, 2013

Present: Glenn Seward, Shannon Harrington, Barbara Truex, Genevieve Lemire, Bob Gray (Project Manager, Imerys), Robin Reilly (Imerys Talc Vermont, Inc.), Tom Kenyon, Dick Beatty, Courtney McKaig, Tom Hayes (Hayes & Windish), Robbo Holleran (Forester), Glenn Bowman (Williams & Co. Mining, Inc.), Martha Harrison

1. Call to Order – DRB Chair Glenn Seward called the meeting to order at 7:00 PM and noted that the DRB has just returned from a site visit to the Williams & Company Mining property in connection with the public hearing on the agenda for tonight.
2. Changes to the agenda – None
3. Coakley Remediation – Attorney Tom Hayes was present on behalf of Louis and Bonnie Coakley and reported that the rock movement has occurred. Attorney Hayes asked if anyone has visited the site recently. Glenn said no; the DRB was supposed to be contacted regarding the items on the remediation stipulation and they never were. Tom said Forester Robbo Holleran is ready to proceed with planting more trees than indicated in the agreement. Robbo said the trees were ordered in January and he has 3' plastic tubes to protect the trees from deer browse. Robbo said he plans to plant 30 poplars and 30 maples as close to the ridgeline as feasible, around May 1st, which is the ideal time for planting. Glenn asked Attorney Hayes why the DRB was never contacted regarding the stipulation. Attorney Hayes said a couple of reports were sent. Glenn said the DRB was supposed to have been brought into the fold for the dismantling so they could see where the rocks were going to go, and they were supposed to meet with Robbo to see the proposed planting areas. Since no site visit ever happened, Glenn said, he would suggest scheduling one. Attorney Hayes agreed and added that the planting areas are going to be determined by where the soil is and where the crest of the hill is. Genevieve said she is interested in seeing how the rock pile was dismantled and where the rock was placed. Shannon asked if any rock was removed from the property. Attorney Hayes said the property owner was not allowed to remove the rocks from the site. Attorney Hayes said they wanted to give it away for free after Tropical Storm Irene but no towns would take it because they had heard that there were issues involved. Glenn said if it goes off-site, that constitutes mining and quarrying and there are zoning issues with that. Glenn noted that the stipulation indicates that the project has to be complete by December 1, 2013. Glenn asked Robbo if he is going to mark the planting areas or just plant the trees where he can. Robbo said he's going to plant them where he can. Glenn asked Robbo to notify Martha Harrison when the trees have been planted. Robbo agreed. Glenn said the DRB will schedule a date for a site visit prior to the planting and let Attorney Hayes know. Tom Kenyon asked what happened about the rocks on the neighbor's property. Glenn said that was not part of the stipulation but he doesn't want to get into the legal issues tonight.
4. Public Hearing - Glenn opened the public hearing on application #2513 by Williams & Company Mining, Inc. (landowner) and Imerys Talc Vermont Inc. (applicant) for flood hazard review and conditional use approval to excavate material from a Special Flood Hazard Area at 4469 Route 44 (parcel #1-36.2) and place it on the adjacent property (parcel #1-36). The proposed development is subject to review under Sections 2.3-6, 2.3-7, 3.14, 4.12, 5.1, 5.2 and 5.3 of the West Windsor Zoning Regulations. The development is also subject to review under the West Windsor Flood Hazard Area Regulations. Glenn asked if there are any conflicts of interest or if there has been any ex parte communication. Shannon said she has done work for Imerys at this property but does not feel that she has any conflict of interest. Glenn reviewed the definition of an interested person and swore in Bob Gray, Robin Reilly and Tom Kenyon. Glenn asked Bob if all the written information has been submitted. Bob said the town has received a letter from Sacha Pealer and he has received an email from Todd Menees. Bob said Fisheries Biologist Lael Will also visited the

site yesterday with Todd and, according to Bob, she suggested proceeding with the project sooner rather than later so the silt will not wash back into the stream in a high water event. Glenn noted that Section 2.3-6 of the zoning regulations indicates that the Williams & Co. Mining property is in the Light Industrial/Commercial district, and 2.3-7 indicates that the abutting Imerys property is in the Conservation district. Glenn noted that filling is a permitted use. Martha added that the fill will not be in the floodplain. Martha also noted that Pond #9 is partially in Reading. Bob said that both Pond #8 and #9 are partially in Reading. Martha said West Windsor cannot approve the placement of fill in Reading. Regarding Section 3.14, Glenn said any development, other than the listed exceptions, requires conditional use review. Glenn noted that Section 4.12 lists the requirements that have to be met for landfill projects. Robin said she thinks the reclamation plan that's in place meets those criteria. Regarding Section 5.1, Glenn noted that a site plan has been submitted that indicates the location of existing structures, streets, driveways, power lines, and other utilities. Glenn said he doesn't think off-street parking spaces are applicable in this situation. Bob had a drawing labeled "C-1" which has the contours and the floodplain, which he submitted as part of his application. Bob noted that an identical drawing labeled "X-1" was submitted years ago when Glenn Bowman applied to convert the talc plant to a pellet plant; that plan is on file with the town. Glenn noted that the site plan indicates acreage and boundaries. Glenn asked about wildlife habitat or endangered species. Robin said she did not look at that map layer but she thinks most of the habitat lies on Imerys property. Bob said Imerys is creating habitat on the adjacent property. Martha asked if Act 250 looked at that aspect of the reclamation plan. Robin said yes; there is a forest management plan as part of the reclamation plan to reconnect wildlife corridors and enhance the deeryard. Glenn noted the natural features on the site plan. No one was aware of any cultural features present. Glenn said he doesn't think Section 5.1(8) and (9) are applicable. The DRB agreed. Glenn said he thinks most of Section 5.2 is not applicable. Genevieve noted section 5.2(C) regarding the protection of natural resources. Shannon asked Bob if he's going to put in a silt fence. Bob said he's not sure how he could put in a silt fence. Shannon agreed that the trees are an obstacle. Bob said he is planning to have an excavator with a smooth bucket come in and peel the material back. Shannon asked Bob how long the project will take. Bob said less than a week. Glenn noted that the berm will protect the brook. Bob agreed that the material piled on top of the berm will be removed but the berm itself will remain. Barbara asked if the berm will be seeded. Bob said yes. The DRB reviewed the general standards for conditional use. Robin said that the proposed use will not have an undue adverse effect on the capacity of existing or planned community facilities or services. Robin said she thinks the project will improve the character of the area affected. Bob said the project will not have an undue adverse effect on traffic on roads in the vicinity after the project is finished. Bob said the empty trucks will use Route 44 to come into the site but, after they are loaded, they will stay on the mill property. Bob said if there is anything put on the roads, they will get the contractor to clean it up. Glenn asked if this activity complies with bylaws now in effect. Bob said he has no idea. Martha said she is not aware of any noncompliance. Robin said the project will not have an undue adverse effect on the utilization of renewable energy resources. Tom Kenyon said he thinks the sooner this is done, the better it will be for all parties. Bob said the start date for the reclamation project this year is April 29th and the excavation would begin as soon as it's dry enough to place the material on the ponds. Glenn read the three specific standards for conditional use approval. Bob said the project will not unreasonably interfere with access to, use, or enjoyment of adjacent properties, or deny neighboring properties access to light or views. Bob added that he is not aware of any public utilities or infrastructure on the property. Bob asked about the time frame for a decision and the appeal period. Martha estimated that the decision would take about a week and would have a 30-day appeal period. Regarding the flood hazard review, Bob noted that the "C-1" map has contours and flood elevations and shows that the area in question is in the floodplain. Glenn asked Bob if he has received a Project Review Sheet. Bob said the process has started but they have not received it yet. Martha said the Project Review

Sheet will indicate whether any other permits or approvals may be required. Bob said he called Permit Specialist Jackie Carr this afternoon and left a message but he did not receive a call back. Robin said Assistant District Coordinator Stephanie Gile has indicated that she hopes to be able to allow the project with just the Project Review Sheet, as it is not a material change. Glenn asked if comments have been received from the Vermont Floodplain Coordinator. Bob said yes. Martha said Sacha Pealer's letter says that "as proposed the project would meet the minimum NFIP requirements." Sacha's letter also says the town may require certification from an engineer that the project has been completed as proposed, and that the town should ensure that the excavated material is not placed elsewhere in the floodplain. Glenn noted that comments have also been received from the state river management engineer. Martha said Todd Menees, in his email, says the material that was piled on top of the berm should be removed so it doesn't get flushed back into the brook. Other than that, Todd's email indicates that, since there will be no work in the stream itself, he does not have jurisdiction and no stream alteration permit is needed. Shannon added that Todd's email indicates that he is not concerned with any work in or around the tailing ponds. Glenn asked about the base flood elevation. Bob said it is 843' in one area and 844' in another. Glenn noted that all sections of the flood regulations that pertain to structures are not relevant. Glenn asked if there are any water or wastewater systems in the project area. Bob said no; not under the area that was paved in asphalt. Barbara asked if there are any fuel storage tanks in the project area. Bob said no. **Glenn moved to close the proceedings. Genevieve seconded the motion, which passed unanimously.** Glenn noted that this is the final public hearing on this matter. **Glenn moved to go into deliberative session. Barbara seconded the motion, which passed unanimously.** After discussion, the DRB came out of deliberative session by unanimous consent.

5. Other Business – Glenn gave Courtney and Dick some background information on the Coakley stipulation. The DRB agreed to request a site visit on Thursday, April 18th at 6:00 PM.
6. Minutes – December 11th: **Shannon moved to approve the minutes of December 11th. Barbara seconded the motion, which passed with Genevieve abstaining.**
7. Adjourn – Shannon asked Glenn if he is resigning from the DRB. Glenn said yes; Dick Beatty and Dow Davis will be joining the DRB on May 1st and he (Glenn) will become an alternate member, along with Courtney and Jane. Martha noted that Bruce Sahler resigned as an alternate. Martha said there will be at least one hearing on May 14th and possibly as many as four or five. **Genevieve moved to adjourn at 8:15 PM. Barbara seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison