

TO: ZBA

RE: Denison/Ashfield quarry permit

FROM: Deb Foster

Recently at a public hearing, I mentioned a quarry permit in Vermont that was denied. There was a request that I present more specific information.

Acknowledging that no two applications are identical, I am submitting some of the reasons the Design Review Board (their ZBA), District Commissioners and the State Environmental Court used in their denials that may pertain to conditions to be met in the Halifax Zoning Code and Town Plan.

The 90+ page 2010 final decision by the Environmental Court pertains to a stone quarry along Route 100 in Moretown, Vt. near the Mad River.

HALIFAX CONDITIONAL USE PERMIT FOR EXCAVATION AND MINING

Condition #6. The project will not have an undue influence on the aesthetic value of the area...

Interestingly, Moretowns' local DRB (like our ZBA) argued successfully to the State Environmental Court that the quarry permit in an AG/RES district did not meet this aesthetic condition.

Essentially there is case law (Brattleboro Chalet and the Queche decision), that interprets the aesthetic standard as, “...does the proposed project ‘fit’ the surrounding area?”

The Environmental Court denial of the quarry goes on to state that, “The land uses which surround a project are crucial to the analysis. Certain areas are valued as a ...scenic natural environment...”

In the case of the Halifax Zoning Map, of course, these areas are designated in the Conservation District.

The Court asked, “Does the project violate a community standard and are those standards put forth in the local or regional plan? If it is found that such standards exist and that the project would violate these standards, the conclusion would be an adverse impact.”

The Court found that: The noises and activity the proposed quarry will bring to this area will be unique. They are not currently experienced in any fashion within the residential area.

The Halifax and Moretown applicants both compare the quarry impact to forestry projects. The Court addressed this comparison also. The Court essentially found that forestry projects do not continuously operate in the same area for decades.

The Environmental Court concurred that “when a noise is so new and foreign in a natural area, the quarry noises will be a recognizable intrusion on such a setting... The industrial-type noises emanating from the quarry will be a disruption of and an intrusion upon the neighbors’ and visitors’ enjoyment of this area and will represent an adverse impact upon the neighborhood. The quarry will contradict the very characteristics that brought this designation upon this area.”

The Environmental Court concluded that: the noises are incompatible with this neighborhood: the quarry does not conform to the standard.

CONFORMANCE TO THE TOWN PLAN:

The Halifax Town Plan, adopted by the community, feels so strongly about the goals of the Conservation District, it emphasizes that the center of the Conservation District should not be disturbed and should be left in its natural state.

The proposed quarry, as we know, is located in the heart of the Conservation District.