

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION**

**Special Meeting
Tuesday, April 18, 2017
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** - Chair, Michelle Sigfridson, called the meeting to order at 6:32 p.m.
- II. Roll Call** – Michelle Sigfridson; Carlene Kelleher; David Fuss; Aaron Kerouac; Jeryl Mohn; Jules D’Agostino.

Alan Carpenter was absent with notice. C. Dunlop was absent.

Staff Present – Jana Roberson, Director of Community Development.

III. Seating of Alternates

Motion was made by D. Fuss to seat J. D’Agostino as a Voting Member. Second by C. Kelleher. Motion carried (5-0-0).

IV. Public Commentary

D. Fuss stated that he would be at the Transfer Station to collect donations for Brooklyn Kids Camp. He provided flyers for an “Earth Day Event” at the Community Center on April 29th, beginning at 9 a.m.

V. New Business

1. Discussion and potential action on GBR 17-001 Brooklyn Sand and Gravel Renewal, Wauregan Road (Route 205), Map 30, Lot 97, RA Zone.

D. Fuss recused himself and sat in the audience.

David Held, Provost & Rovero, represented the Applicant. He recapped his understanding of last month’s meeting: The excavation for this renewal would be 100,000 cubic yards which would be the limit of what is approved under the underlying special permits that have been issued for this site.

Mr. Held stated that the topic now is the restoration plan and he referred to his letter to J. Roberson (dated April 18, 2017) and analysis sheets (included in the packets to the Commission Members) in which he addresses questions from ZEO Martha Fraenkel and J. Roberson.

Mr. Held explained his answers to Ms. Fraenkel’s questions:

- Quantities of A Horizon and B Horizon soils. (Map showing stockpile locations and computation sheets were included in the packets to the Commission Members). There are about 19,000 cubic yards of A & B Horizon soils in the four stockpiles shown on the map and he stated that there are a multitude of other smaller stockpile areas with topsoil and subsoil around the site (too small to quantify). He said it is impossible to estimate how much A Horizon and how much B Horizon as a lot of it is mixed in the stockpiles. He stated that the volume required to spread the 27.3 acres with a depth of 3 inches of topsoil would be 9,600 cubic yards. They have about twice as much as what is needed, so they could go to 6 inches in depth for that entire area.
- Cost of grading to achieve the proposed restoration plan. Mr. Held did an earthwork analysis to determine that the site is balanced accounting for 100,000 yards proposed to be excavated this year and that some of that would be washed out and that some would be brought back to do the restoration grading. Cost estimate to bring into compliance with the Zoning Regulations and to establish an end use for the property after the excavation – just over \$207,000.00. There has never been a stated end use for this project (just a final grading plan). He suggested that the location with the river frontage it sets up well for two fairly large residential lots. He stated that the restored areas would be relatively flat and would work well for a horse farm.
- Cost of planting warm season grass seed. Included in the previously stated cost estimate. The seed mix they are specifying/proposing is considered a warm season grass mix and was taken from the 2002 E&S Guidelines and is one of the three recommended mixes for restoring a gravel bank.

Mr. Held explained his answers to Ms. Roberson's questions:

- How will dust be controlled in freezing temperature conditions? Mr. Held explained that the site is not typically extremely active during freezing conditions because the plants require water to run, but there are still trucks bringing imported material or taking finished product out (for concrete production), so if they do need additional dust control it would be done with calcium chloride (if they can't use water trucks because of freezing). This would be most applicable to the main entry drive.
- Detailed information regarding truck trips. Mr. Held explained that their estimate of an average of 60 truck trips per day in/out of the site with a maximum of 80. It is based on 100,000 yards (maximum) being excavated on site; 100,000 yards being imported to the site, processed, and then all that material going out of the site. This calculation does not account for material that will be lost in the processing (15 percent). He stated that the numbers may be a little on the high end.

Mr. Held stated that he has never counted the trucks. There are periods of lower demand and periods of higher demand. They submit quarterly reports. J. Roberson suggested that a counter may be appropriate, but there was no interest.

Discussion ensued regarding depth of topsoil (A Horizon and B Horizon). Ms. Fraenkel suggests 3-4 inches of the B Horizon topped with 2 inches of the A Horizon (helps retain moisture and facilitate re-vegetation). No soil testing has been done to determine the organic content. Syl Pauley calculated that the topsoil would provide less than an inch of coverage. Mr. Held stated that he disagrees with Mr. Pauley and he explained that it is standard procedure for any gravel bank operation to strip the A and B topsoils together and

stockpile them together. He said that nobody tries to separate them. A. Kerouac would feel more comfortable if a soil scientist were to determine that there is more A than B in the mixed stockpiles. The Regulations do not specify requirements of A and B.

There was discussion regarding reclamation being done in portions (5 acres) as relating to the final reclamation. C. Kelleher asked what the reclamation looks like for each five-acre portion. There is more than five acres open at this time. Mr. Held stated that the area along the river is being reclaimed. The slopes on the pond to be graded have been topsoiled (not vegetated yet) as part of last year's permit (approximately 3 acres total are in the process of being reclaimed). Mr. Held stated that it is based on the recent IWWC permit renewal and on the IWWC permit for last year.

There was more discussion regarding A and B topsoils. J. Roberson asked if any topsoil had been removed from the site. Mr. Held stated that there may have been some topsoil removed from the site prior to the Applicant owning the site, but it is not known. The Applicant did not start the excavation.

J. Roberson stated that there is not a lot of agreement between Mr. Held, Syl Pauley and Martha Fraenkel. It is clear from the numbers submitted by Mr. Held that pure, A Horizon stockpiles are slightly over 2,000 cubic yards which would not be enough for two inches. Ms. Roberson explained that she has seen some of the other gravel pits in Town that did not go through a stringent review/analysis of reclamation plan and, 15 years later, they are still a virtual moonscape/failure of reclamation. She does not want to see that happen here.

D. Fuss left at 7:00 p.m. He had been seated in the audience.

There was more discussion regarding re-grading that has been done and topsoil that has been spread/going to be spread. Mr. Held explained that a lot of the areas on the site that are pretty close to final grades have been backfilled with washing fines, so topsoil placed on top of that material would have pretty decent water-holding capability. You can apply organic matter to the washing fines and grow good crops. It is a matter of establishing fertility and getting organic matter built up (based on Mr. Held's own personal observation and experience).

M. Sigfridson asked whether the Commission is having this discussion regarding the topsoil because they are re-examining the reclamation plan or to determine if the bond is sufficient. J. Roberson explained that it is for both as the bond estimate is based on the site reclamation plan and the bond amount should accurately and fully reflect the cost of reclamation. To answer a question of whether there is a requirement in the Regulations for 4 inches of topsoil, J. Roberson read from Section 13.4 - Performance Bond. Discussion ensued regarding the restoration plan which has already been approved. Mr. Held explained that the restoration plan for this year is essentially the same as last year, but they extended the grading out a little to account for the new area to be excavated for this permit period. There is a \$200,000 bond in place currently. There was discussion regarding increasing the amount of the bond. Mr. Held stated that he had come up with an estimate of \$207,000 after discussions with Staff. Several acres have been restored except for seed and mulch, so Mr. Held feels that the existing bond is adequate. Discussion continued. Mr. Held stated that one of Ms. Frankel's concerns is the balance of the site. J. Roberson explained that the goal of the reclamation plan is to have the site ready for the next use. She stated that, if the contours shown in the final grading plan (that was submitted) are achieved and the site is effectively re-vegetated, the site would be ready for the next use.

There was discussion regarding how the pond is to be treated during reclamation. J. Roberson explained that filling the pond is in the bond estimate now and can be subtracted if the IWWC decides that the pond should be kept. Mr. Held stated that it is a question with the IWWC that has not been answered yet. This is why Wetlands is renewed before P&Z. This renewal is for one year.

There was more discussion regarding whether there is enough A Horizon topsoil on site. C. Kelleher stated that the Commission will rely on Staff to determine because Syl Pauley and Mr. Held disagree. M. Sigfridson and A. Kerouac expressed agreement. Mr. Held explained that, from his observation, he feels that the three acres by the pond that have been topsoiled with the A and B mix is more A Horizon. Mr. Kerouac suggested setting a parameter due to 5/8" being too little and 4 inches may be excessive (depending on the mix). J. Mohn expressed concern with changing the requirement since the reclamation plan was approved when the bond was approved when the last renewal was issued, particularly since Mr. Held says that there is enough material to spread 5-to-6 inches of A-B mix throughout the site.

JoAnn Paul, Attorney representing the Applicant, stated that the goal is to re-vegetate and if it is re-vegetated with the material on site, you have met your goal. If what is on site is not sufficient to re-vegetate, you will know it because the site will be bare and that is where the performance bond comes in. She does not feel that the amount of A and B soil is relevant if the site is re-vegetated as required. The Regulations do not give detail on what the Commission can mandate. Mr. Held explained that it is a matter of knowing how to work with what you've got. Attorney Paul stated that the only question that needs to be answered tonight is: Is the Commission satisfied that the \$200,000.00 is sufficient for the bond? Mr. Held had presented earlier that worst case would be \$207,258.00.

Wayne Joly stated that had reclaimed some gravel banks in Canterbury where they put back silt and grass grew (which has never been cut for hay). Now, there is a farmer who wants to grow corn there and it is suitable for that (however, no corn had been grown previously). It had been treed, so there was no loam (Type-A material). They put in seed and it came right up.

There was discussion regarding the bond amount. Syl Pauley feels that the \$207,258.00 estimate is adequate if enough A Horizon soil is present. There was more discussion regarding soil types.

Moe Lapierre, Wauregan Road, stated that he's done a lot of stripping and that you don't have A Horizon material where there are acidic trees (soft wooded area), it would be B Horizon subsoil material. There was discussion regarding including flexibility for this in the re-write of the Regulations.

J. Roberson stated that if there were no topsoil on a vegetated site and you remove the vegetation and feet of gravel/material, you will still have to put down topsoil to re-vegetate the site to prepare it for the next use (in a timely fashion). Discussion ensued. A. Kerouac is comfortable with the bond amount at \$200,000.00 assuming that it is not required that the pond be removed. A. Mohn feels the \$207,258.00 bond estimate is probably generous (due to other estimates being high). M. Sigfridson is comfortable with it because Mr. Pauley says it is adequate.

There was discussion regarding hydro-seeding.

J. Roberson stated that there was no contingency amount in the cost breakdown for coming back to fix problems. Mr. Held stated that there was not a separate line item, but the rates reflect that it would be done right the first time.

There was discussion regarding whether conditions from the prior approval would need to be repeated. The last renewal was handled by Staff, so this Commission did not review the reclamation plan in 2016. Martha Fraenkel would incorporate the conditions of the P&Z Commission and some are standard conditions.

There was discussion regarding whether the Commission will continue requiring that quarterly reports be provided. There was discussion regarding whether the start date would be from April 18, 2017 to April 18, 2018 or March 15, 2017 (expiration of previous renewal) to March 15, 2018.

Discussions regarding conditions should the renewal be approved:

- Maximum excavation – 100,000 cubic yards.
- Date of Issuance and Expiration Date: from April 18, 2017 to April 18, 2018 or from March 15, 2017 (expiration of previous renewal) to March 15, 2018.

Poll: Date of Issuance March or April?: J. D'Agostino – March; C. Kelleher – March; J. Mohn – March; A. Kerouac – March; M. Sigfridson – March.

Alan Messori, 36 Almada Drive, asked about truck routing relative to Route 169 and Almada Drive. M. Sigfridson stated that, as it stands, it will remain the same (under the current condition of the current renewal). J. Roberson stated that they have to stay off of Maynard Road and stay on State Highway (Wauregan Road). Mr. Messori asked if they will be allowed come across the farmland off of Route 169. It was determined that Mr. Messori's concerns were actually regarding Rawson Sand and Gravel

Discussions regarding conditions continued:

- Bond

Poll: Change the Bond Amount?: J. D'Agostino – Doesn't Matter (there was discussion regarding his concern that he feels that he does not have enough information); A. Kerouac – Confident with \$200,000.00 assuming IWWC does not make them reclaim the pond; C. Kelleher – Increase the bond to \$207,58.00.

Discussion ensued regarding how changing the bond amount would be handled: Attorney Paul stated that you can add to the bond, but that maybe Mr. Held should not have added the extra \$7,258.00 because he feels that he had already overestimated with the \$200,000.00. Mr. Held stated that the three acres are 90 percent done and just need to be seeded.

Poll continued: Change the Bond Amount?: C. Kelleher - Changed to Doesn't Matter; J. Mohn – Leave it at \$200,000.00, (He advised that two things would have helped the Commission with its consideration: #1. An estimate including an uncertainty +/- amount based upon confidence in the numbers to express the estimate in a meaningful manner, and #2. A contingency as A. Kerouac had mentioned).

M. Sigfridson stated that \$200,000.00 is the amount for the Bond (based on the Poll).

Discussions regarding conditions continued:

- Processing of imported materials. Consulted with Section 13.5.4.2 of the Regulations. J. Roberson stated that the documentation of stockpiles was completed as part of this renewal (map).
- Restoration. J. Roberson asked Mr. Held if he had confirmed in writing that the area authorized for excavation in 2012 (in the southeast corner of the site) has been backfilled to elevation 156. Mr. Held stated that it is the area being restored now near the river. It may not be the exact location, but it is at an appropriate elevation for the area (it was looked at with the IWWC approval).
Mr. Held explained that they are excavating to a depth where they know the material is good based on how deep they could dig test holes and there is a possibility that when they apply for an additional special permit they may want to take what they are excavating this year and just go deeper. He said it would be senseless to put topsoil there and then dig it back off.
J. Roberson read from the Restoration Notes on page 5 of the plans.
- Safety. Snowfence to remain in place.
- There was discussion regarding plan revision date.
- Dust control.
- Truck traffic.

The Commission discussed the order of the conditions. Attorney Paul stated that she is not sure it is appropriate to date a permit retroactively. There was discussion and it was decided that the date of issue would be April 18, 2017 and the date of expiration would be April 18, 2018.

Motion was made by J. Mohn to approve the gravel bank renewal application of Brooklyn Sand and Gravel for the property located on the east side of Wauregan Road, Assessor's Map 30, Lot 97, identified in the files of the Brooklyn Land Use Office as GBR 17-001, in accordance with all final plans, documents and testimony submitted with the renewal application and including the following conditions:

- 1) Excavation is limited to the area shown on the submitted plan dated 1/24/2017 (last revised 2/8/2017) and prepared by Provost & Rovero.
- 2) The submitted performance bond in the amount of \$200,000 shall remain in place for the life of the operation including restoration of the property to the satisfaction of the Town unless modified by the Planning and Zoning Commission or its designated Staff.
- 3) Dust shall be controlled throughout the year using water or calcium chloride as appropriate for conditions.
- 4) All truck traffic to and from the operation will remain off Maynard Road and travel on State highways to and from Brooklyn Sand and Gravel on Wauregan Road.
- 5) The Inland Wetlands and Watercourses Commission approval with conditions and the Planning and Zoning Commission approval with conditions must be included on the final plans.
- 6) The quantity of imported material may not exceed mined material in accordance with Brooklyn Zoning Regulations Section 13.5.4.2 as measured by truckloads and converted to cubic yards. Reporting shall be submitted by the permittee to the Brooklyn Zoning Enforcement Officer quarterly **on June 15, 2017, September 15, 2017, December 15, 2017, and March 15, 2018.**

- 7) Restoration shall commence upon completion of excavation within the approved project phase as provided in the Zoning Regulations and as noted in the Restoration Notes on page 5 of the approved plans. Failure to do so will result in appropriate enforcement action including the use of bond funds to restore the site.
 - 8) Snowfence shall remain in place around the process water pond to meet requirements for safety per Section 13.6 due to steep slopes. There shall be no modification of this requirement unless approval has been granted by the Zoning Enforcement Officer.
 - 9) The permit shall be approved for a one-year period from date of issue on April 18, 2017. The expiration date is April 18, 2018.
 - 10) The Commission authorizes the proposed additional excavation of 100,000 cubic yards. No further renewals under the existing permit shall be issued once the additional 100,000 cubic yards is removed.
- Second by C. Kelleher.

Discussion:

- J. D'Agostino asked if hours of operation should be included. J. Roberson explained that it had been decided not to because they are specified in the Zoning Regulations.
- Kerouac asked that, in condition #10 permit be changed to permits. It was decided to change it to permit/permits. It was also changed in condition #9.
- There was discussion regarding the reporting periods and date of issue/date of expiration. There was disagreement. Attorney Paul suggested that they would report starting March 15, 2017 and carry the reporting through April 18, 2018, and it would solve the problem by indicating that the June 15, 2017 report shall include all work done from March 15 through June 15, 2017 and the last reporting date ends in April.

It was decided to add an interim report to April 18, 2018.

There was discussion regarding when the 100,000 starts. M. Sigfridson stated that it would start April 18, 2017. Anything excavated/sold from the end of the last renewal until now would appear on the June quarterly report.

Attorney Paul stated that her client is willing to put on the record stating that there is zero for the month from April 18th back to March 15th.

Linda Trahan of 26 Maynard Road and **Pamela Lukin** of 28 Maynard Road asked about what was imported, processed, and removed. Ms. Lukin stated that from sitting on Route 205 the trucks go in there all day long, so in a whole month nothing got exchanged? She said it is always asked, What is excavated? But, the other 50 percent of the equation is not asked, What is being brought in, processed, and removed?

M. Sigfridson stated that her feeling is that any activity that has occurred since March 15th until now is occurring under the previous renewal and if, in the reporting, it shows that something is out of whack, then there is non-compliance with the previous renewal which would come to light if they apply for an additional renewal. A. Kerouac stated that renewal expired in March so it couldn't be under the previous renewal. C. Kelleher explained that what has been done is that the

existing renewal is extended as long as the application for the current renewal has been submitted.

M. Sigfridson suggested issuing the approval effective April 18, 2017, with the 100,000 cubic yards commencing March 15, 2017. She stated that any material imported during the last month or so would count toward the limit for the coming year. Attorney Paul stated that the last report (submitted at the last meeting) was dated March 15, 2017.

Motion was made by J. Mohn to amend his motion to approve the gravel bank renewal application of Brooklyn Sand and Gravel for the property located on the east side of Wauregan Road, Assessor's Map 30, Lot 97, identified in the files of the Brooklyn Land Use Office as GBR 17-001, in accordance with all final plans, documents and testimony submitted with the renewal application, to include changes to condition #6, #9, and #10:

- 1) Excavation is limited to the area shown on the submitted plan dated 1/24/2017 (last revised 2/8/2017) and prepared by Provost & Rovero.
- 2) The submitted performance bond in the amount of \$200,000 shall remain in place for the life of the operation including restoration of the property to the satisfaction of the Town unless modified by the Planning and Zoning Commission or its designated Staff.
- 3) Dust shall be controlled throughout the year using water or calcium chloride as appropriate for conditions.
- 4) All truck traffic to and from the operation will remain off Maynard Road and travel on State highways to and from Brooklyn Sand and Gravel on Wauregan Road.
- 5) The Inland Wetlands and Watercourses Commission approval with conditions and the Planning and Zoning Commission approval with conditions must be included on the final plans.
- 6) The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Reporting shall be submitted by the permittee to the Brooklyn Zoning Enforcement Officer quarterly **on June 15, 2017, September 15, 2017, December 15, 2017, March 15, 2018, and an interim report on April 18, 2018.**
- 7) Restoration shall commence upon completion of excavation within the approved project phase as provided in the Zoning Regulations and as noted in the Restoration Notes on page 5 of the approved plans. Failure to do so will result in appropriate enforcement action including the use of bond funds to restore the site.
- 8) Snowfence shall remain in place around the process water pond to meet requirements for safety per Section 13.6 due to steep slopes. There shall be no modification of this requirement unless approval has been granted by the Zoning Enforcement Officer.
- 9) The permit/**permits** shall be approved for a one year period from date of issue on April 18, 2017. The expiration date is April 18, 2018.
- 10) The Commission authorizes the proposed additional excavation of 100,000 cubic yards **to be calculated commencing March 15, 2017**. No further renewals under the existing permit/**permits** shall be issued once the additional 100,000 cubic yards is removed.

Second by C. Kelleher.

The motion as amended carried (4-1-0). J. D'Agostino was opposed. D. Fuss had recused himself and he left at 7:00 p.m.

VI. Unfinished Business

a. Other Business:

1. Review/Discussion of Draft Zoning Regulations, Topics: Earth Operations, Ground Mounted Solar, Donation Bins, etc. (time permitting)

There was discussion regarding maximum time limits for gravel permits (change from one year to two years with four renewals). Peter Alter does not agree. J. Roberson stated that Martha Fraenkel suggested limiting truck traffic. J. Roberson will look into traffic counters. There was discussion regarding loads that go out that are not full loads.

Moe Lapierre stated that about 25 percent are not full loads and there are a lot of trucks that come in for pick up too.

Instead of approving a total number of yards/volume, a total number of truck trips per day/year would be approved. J. Roberson has not researched it or consulted with Peter Alter about this idea yet.

There are counters that can differentiate between trucks and a passenger car and in-between.

Discussion ensued. J. Roberson will research if others use something other than volume and area.

2. Revise May Special Meeting Date (Suggested 5-23-2017)

First Choice May 24, 2017 at 6:30 p.m.
Second Choice May 23, 2017 at 6:30 p.m.

VII. Public Commentary

Moe Lapierre stated that there is imported material that comes in at their Canterbury site that is kept track of by invoice only.

VIII. Adjourn

Motion was made by A. Kerouac to adjourn at 9:42 p.m. There was no second. There was no objection.

Respectfully submitted,

J.S. Perreault
Recording Secretary