

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, March 6, 2019
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** – M. Sigfridson, Chair, called the meeting to order at 6:37 p.m.
- II. Roll Call** - Michelle Sigfridson, Carleen Kelleher, Jules D’Agostino, Austin Tanner, Earl Starks;
Alan Fitzgerald – Alternate,
- III. Seating of Alternates**

Motion was made by J. D’Agostino to seat Alternate Allen Fitzgerald as a Voting Member for this meeting.
Second by E. Starks. Motion carried unanimously (5-0-0).

- IV. Adoption of Minutes:** Regular Meeting February 6, 2019

Motion was made by A. Tanner to approve the Minutes of the Regular Meeting of February 6, 2019. Second by A. Fitzgerald.

Discussion:

- J. D’Agostino suggested that a better system be used for the minutes when agenda items are moved so that the minutes will be less confusing to the reader. J. Roberson suggested the following: Instead of using the agenda format for the motion, the motion be written as a sentence.
- Page 1, Item V., last paragraph: C. Kelleher asked that it be added to the minutes that there had been discussion and it had been decided that, in the future, any items that require discussion with the Commission be included as an item on the agenda rather than discussing it under public commentary.

Motion carried unanimously with the noted suggestions (6-0-0).

Public Info Session February 19,2019

No action taken as there was no meeting held due to lack of quorum.

- V. Public Commentary:**

A.J. Kerouac asked if all 6 votes are required to be in the affirmative for Items VII.a.1 and 2.

William Bailey, Route 169, asked if questions will be answered by the Commission during the public hearing regarding 291 Canterbury Road and he asked where 291 Canterbury Road is. Ms. Sigfridson stated that the Commission will do their best to answer questions and that the location of 291 Canterbury Road will become apparent during the public hearing.

- VI. Unfinished Business:**

- a. Reading of Legal Notice:** J. Roberson read the Legal Notice for **SPG 19-001** which was published in the *Killingly Villager* on February 22 and March 1, 2019.

- b. Continued Public Hearings:** None.

- c. New Public Hearings:**

1. **SPG 19-001 Gravel Special Permit** - HM & E Co, LLC/Applicant, E. Arters/Owner, 120 acres, 291 Canterbury Road (Assessor’s Map 23, Lot 1; Map 22 Lot 1-2; Map 22, Lot 1-4), Phased excavation of approximately 20,000 cubic yards of rock.

M. Sigfridson opened the public hearing.

Norm Thibeault, Killingly Engineering Associates, represented the Applicant for the proposed rock mining activity. Property Owners, Doug Hartin, Elaine Arters and Jack Arters were seated in the audience. Mr. Thibeault explained that there has been a history of rock removal, by hand, on the property which began in 1953 by Jack Arters and his brother Harry Arters (now deceased). Mr. Thibeault gave an overview:

- The Application involves 0.8 acres (area of excavation).
- Access to the property is via an easement across 355 Canterbury Road (which is a couple hundred yards to the south of 291 Canterbury Road. The access is after the point where Blackwells Brooks crossed beneath Route 169.
- It is a small operation which generates approximately 1,500 yards of saleable rock per year (60-80 truckloads annually).
- Rock is obtained by two methods:
 - 1) Pre-split process in which a licensed, drilling and blasting contractor drills 20-30 down along the face of the rock at a depth of 8-10 feet behind the working face and puts a small charge of blasting powder in and this splits a sheet of rock off of the existing face. This does not produce a large explosion.
 - 2) An excavator is then used to pull the face down which falls at the face of the slope and it is then split by hand. Mr. Thibeault noted that the three members of the Commission (J. D'Agostino, E. Starks and A. Fitzgerald) that had previously done a site walk, watched a demonstration of the hand splitting process.
- Rock is on a per-order basis (no huge stockpiles on site). It is either stacked on pallets or on roll-off containers taken from the site.
- Not a major traffic generator (approximately 1-2 truckloads per week).
- Mr. Thibeault indicated the area on the plan and explained that on the original application, it was shown as a phased project (107,000 cubic yards) with several phases beyond this Application. It did not seem practical to obtain a permit for 70 years, so they reduced the project to a smaller footprint of 20,000 cubic yards.
- The final condition of the site will be an exposed ledge face. Final grades are shown as approximately five percent across the site up against the ledge face. The existing supsoil/topsoil on site can be spread and re-vegetated/re-seeded to establish turf.
- All traffic enters from the one driveway shown on the plan which runs sort of parallel to Canterbury Road and comes out through the egress point at 355 Canterbury Road.
- He said there are very good sight lines in both directions and that it is easy to get in and out.
- The access drive is typically well-maintained.
- Proposed processing on the site. There are approximately 1,500 to 1,800 cubic yards of unmarketable small/flat pieces of rock. They would like to process it to be able to use it for maintenance of the access drive so they won't need to purchase it elsewhere and also to process it to good structural fill which could be used as road base. He explained that after this initial amount of excess blast rock is processed, there would only be a minimal amount processed (if any) on an annual basis.
- Article 13:
 - Traffic: Trucks that exit north, go toward Route 6. Trucks that exit south, go toward Route 14.
 - Fueling – No defined fueling area. Fueling does not happen on a regular basis as there is not a lot of equipment on site.
 - Proposing to occasionally crush and there may be a small screening operation set up as well (if approved).

- Mr. Thibeault explained that materials are typically processed right where they fall and then put in small stockpiles (or placed on pallets or roll-off containers) along the eastern side of the access drive.
 - Syl Pauley feels that there are no issues regarding archeological concerns. Mr. Pauley's comments dated February 28, 2019, were included in packets to Commission Members.
 - Water Table: Lowest grades proposed are approximately 26-28 feet above Blackwells Brook which is the assumed Water Table. Most of the 108 acres is all rock with steep cliff/slopes.
 - 13.5.2 – General Conditions: They are not proposing any excavation nearer than 25 feet from the highway line, 200 feet from any building or structure, or less than 100 feet from any property boundary. They are several hundred feet from any property boundaries and more than that from any other structure.
 - They will not have excessive slopes in excess of 30 percent in the 25 feet to 200 feet from the highway line.
 - They are proposing to keep the topsoil and subsoil on site to restore the areas as shown on the plan.
 - They are not proposing any kind of machinery or processing less than 200 feet from any property line or street line or less than 500 feet from any residence.
 - 13.5.6 - Due to the nature of the product, dust generation from this operation is very limited. The mining area is isolated by a wooded terrain that keeps any dust generated contained within the site. The heavy tree cover which completely surrounds the site will remain intact. There is no activity in the winter when there is no tree cover.
 - The access drive is well-maintained by the Applicant to allow safe passage for trucks to the site and minimal dust generation.
 - Proposed hours of operation: Monday through Friday 7 am to 6 pm; Saturday 7 am to 12 pm. No activity on Sundays or major holidays.
 - Due to the location of the site, stockpiles and equipment storage are not visible to adjacent properties. This was demonstrated from Route 169 on the site walk that three Commission Members participated in.
 - Connecticut Guide for Erosion and Sedimentation Control will be followed. Plans have been thoroughly reviewed by Syl Pauley and Martha Fraenkel and their comments are reflected in the plans before the Commission.
 - Since the site is comprised of only 0.8 acres, there will not be areas of more than five acres exposed at any time.
 - No soil will be removed from the site. It will be utilized on site.
 - Safety: The remote location of the operation provides a condition that there are not trespassers on the property to access the location. Plans call for the addition of construction fencing at the top of the slopes of phase limits and a permanent fence at the project limit when the project is completed.
- Mr. Thibeault noted that although the quarry has not been permitted, it has been in operation for many years. Mr. Hartin has been mining rock there for 17 years and has been under the assumption that he was operating in accordance with the Regulations. He has received blasting permits from the Fire Marshal.
- Noise: There is no heavy impact equipment and he stated that the blasting that is done is more of a vibration in the ground.
- Mr. Thibeault explained how attention had been drawn to the operation when a blaster, not usually used, had put a charge in that was greater than what was normally used.

- Mr. Thibeault read two letters into the record (which had been submitted): Alan and Jennifer Sill, 365 Canterbury Road, in favor (dated January 6, 2019); Doug Phaiah, 355 Canterbury Road, in favor (dated January 2, 2019).

J. D'Agostino asked about a swale that had been discussed at the site walk. Mr. Thibeault explained that Syl Pauley suggested that a drainage analysis be done for a 25-year storm. In the area were the access road occasionally overtops, a 24-inch overflow pipe is needed (it is shown on the plans and Mr. Thibeault indicated the location). Mr. Thibeault explained that IWWC approval has not been obtained.

J. D'Agostino voiced concern regarding sight line to the right when tri-axles are exiting the site. There was discussion and Mr. Thibeault stated that they could take a look at it.

Barbara Forte, 425 Canterbury Road, asked if the operation will increase. Mr. Thibeault explained that it will remain as is and he explained the process. She stated that she is opposed because of concerns regarding safety and because of the scenic road. Mr. Thibeault asked if she had noticed the operations of the quarry over the fifteen years that she had lived near it. Ms. Forte stated that she had not. Mr. Thibeault explained the operation and indicated the areas of the site on the plan.

J. Roberson orientated the site and the neighborhood using Google Earth. Mr. Thibeault indicated the access easement.

William Bailey asked where Blackwells Brook crosses Route 169. Ms. Roberson indicated on Google Earth and continued with her orientation. She showed how the site is insulated from neighbors. She explained the steep, eastern-facing slope (Tatnic Hill) that runs parallel to Route 169. She explained that IWWC will be looking at impacts to the down-slope wetlands resources at its meeting next Tuesday.

Mr. Hartin explained that they use 355 Canterbury Road more for directional purposes so people will know where to go. There was discussion regarding the access drive. Ms. Roberson noted damage made by trucks to the driveway apron (shared with 355 Canterbury Road). She stated that the sight line looking south is very long and straight noting that it is difficult to ride a bike on Route 169 due to almost no shoulder. She stated that the sight line looking north is very good noting damage to the shoulder/roadway.

William Bailey spoke about bicyclist safety and that he notices that they ride facing the traffic. He also explained that the tri-axles exiting usually have to do a two-or-three-point turn. He suggested that, if the driveway were perpendicular to Route 169, the trucks would have a better view and may not have to make the two-or-three-point turns. The problem is when going south.

Mr. Bailey also complained that they have loading and unloading trailers in the road. **Mr. Hartin** explained that they have eliminated that.

Mr. Bailey would like to see the safety issues addressed, but he stated that he does not have a problem with the operation. **Mr. Hartin** offered to put up "Trucks Entering/Exiting" signs.

Mr. Thibeault suggested two alternatives: Mr. Hartin could insist that all drivers turn north when exiting; or to widen the apron to accommodate the larger trucks. There was discussion.

Jack Arters spoke of his history with the operation.

Mr. Thibeault added that the agreement with Mrs. Arters is that the footprint of the operation cannot extend any further to the north or south. It can only extend a little further to the west within the confines of the Regulations. He said that they are about 150 feet from that point and, at the current rate of rock removal, it is 60 to 70 years away.

There was discussion regarding scheduling a second site walk allowing the remaining Commission Members and the public the opportunity. M. Sigfridson stated that, going forward, site walks should be done while public hearings are open to allow the public to see what the Commission sees. Ms. Sigfridson suggested that the public hearing for this Application be continued.

Mr. D'Agostino asked that safety issues be addressed. Mr. Thibeault will measure sight lines. Mr. D'Agostino asked about a "T" entrance and for reasons why it would or would not be possible. Mr. D'Agostino added that he was there in December and the site was not visible from Route 169.

Ms. Roberson stated that bonding is typically required, but not a mandatory requirement. Mr. Thibeault stated that is not mandatory for removal of more than 3,000 cubic yards per year or activity on more than an acre. He asked that the Commission consider not requiring the bond because of the footprint of the operation and the amount of material that is actually generated for this operation. Ms. Roberson spoke with Syl Pauley, who said that he was not aware that it was a gravel operation. She asked Mr. Pauley to take another look at it.

There was discussion regarding limiting the number of truck trips per day as done with Mr. Sansoucy. Ms. Sigfridson suggested three truck trips per day. Mr. Hartin stated that he would only need three truck trips per day on a very rare occasion.

Mr. D'Agostino asked about no material being brought into the site being a condition of approval. Mr. Thibeault clarified that what Mr. D'Agostino is looking for is, no material would be brought into the site for processing, but he explained that they may need to bring in material occasionally for maintenance of the road.

Tentative date for a site walk is March 12, 2019, at 4 p.m. (meet at the Brooklyn Town Hall, 4 Wolf Den Road). There was discussion regarding liability should someone get injured on the site walk. The Applicant may post a sign at the site entrance warning of the dangers of the site.

M. Sigfridson stated that the public hearing for **SPG 19-001** is being continued to the next regular meeting of the Planning and Zoning Commission, on March 19, 2019, at 6:30 p.m. in the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT.

d. Other Unfinished Business:

1. **SPG 19-001 Gravel Special Permit** - HM & E Co, LLC/Applicant, E. Arters/Owner, 120 acres, 291 Canterbury Road (Assessor's Map 23, Lot 1; Map 22 Lot 1-2; Map 22, Lot 1-4), Phased excavation of approximately 20,000 cubic yards of rock. – Continued.

Motion was made by C. Kelleher to add VII.a.3. – **SPG 19-002 Gravel Special Permit**- Brooklyn Sand & Gravel, LLC, 64+- acres, 530 Wauregan Road (Assessor's Map 30, Lots 97, 97-1, 97-2), Proposed removal of approximately 218,000 cubic yards of sand and gravel. Second by E. Starks. Motion carried (5-0-1). J.

D'Agostino was opposed because he feels that anything that is submitted after the agenda is posted should not be added to the agenda.

VII. New Business:

a. Applications:

1. **Request for Waiver of Special Permit** under Sec. 3.4.8.8. of the Brooklyn Zoning Regulations for Proposed Site Improvements at 443-445 Providence Road & 67 Allen Hill Road.

J. Roberson gave an overview of the procedure (requires an affirmative 3/4 vote of the authorized number of Regular Members of the Commission).

Motion was made by J. D'Agostino to not waive the Special Permit requirement as authorized under Sec. 3.4.8.8. of the Brooklyn Zoning Regulations for the proposal at 443-445 Providence Road with the finding that it does not meet the requirements outlined in Sec. 3.4.8.8. There was no second to this motion. Motion failed.

Norm Thibeault, Killingly Engineering Associates, represented Toudis, LLC. They are requesting a modification to the existing special permit. They are proposing to add thirteen additional parking spaces. Included in packets to the Commission Members was a letter from Nicholas Scola, LLC (dated February 27, 2019), requesting a waiver of a special permit application. Also included was an application for Site Plan Review.

At the time of the modification for the restaurant use in a previously approved retail use space (September 5, 2018), they demonstrated 90 seats with sufficient parking to accommodate a 90-seat restaurant. There is concern that the Zone does not allow shared parking. The Owner is concerned regarding employees parking having a detrimental effect on customer parking. They would like to do a boundary line adjustment as Mr. Moutoudis also owns the property to the south (Frodo, LLC) adding a small parcel of land to the existing property to construct the 13-space parking lot there. Mr. Thibeault indicated the location on the plan. He does not consider this a significant change that would have detrimental effects on traffic. It is at a signalized intersection. They do not feel that it will have any effect on the neighborhood or the environment. The aesthetics and function of the site will remain as is. The location of the parking lot, with access through the drive-thru, would be most likely utilized during the evening hours when there is no traffic at the Dunkin drive-thru (80 percent of their business is between the hours of 8 a.m. to 10 a.m.).

There was discussion regarding the parking standards for restaurants not taking into account parking for employees. The plans show 126 seats (potentially) vs. the 90 that had been approved. Ms. Roberson stated that she has a serious concern regarding proper notification because the proposed additional parking area is a different lot than what had been included in the original special permit application. The Frodo, LLC parcel address is 67 Allen Hill Road. Mr. Thibeault stated that they are presenting a boundary line adjustment in conjunction as one application.

Motion was made by J. D'Agostino to not waive the Special Permit requirement as authorized under Sec. 3.4.8.8. of the Brooklyn Zoning Regulations for the proposal at 443-445 Providence Road with the finding that it does not meet the requirements outlined in Sec. 3.4.8.8. Second by A. Fitzgerald. Motion carried unanimously (6-0-0).

2. **Request for Waiver of Special Permit** under Sec. 3.4.8.8. of the Brooklyn Zoning Regulations for Proposed Site Improvements 479 Providence Road.

J. Roberson gave an overview of the procedure (requires an affirmative 3/4 vote of the authorized number of Regular Members of the Commission).

Brandon Longe, Home Improvements by Brandon Longe, represented the Owner of Quiet Corner Inn, Manny Patel. Mr. Longe gave an overview of the proposal for an approximate 20' by 30' second-story addition, enlarging the existing caretaker's apartment (adding three bedrooms and one bathroom). Included with the application for Site Plan Review were photos of what it would look like aesthetically. Also, included in packets to the Commission Members was a letter from Brandon Longe (dated February 28, 2019), requesting a waiver of a special permit application. Mr. Longe stated that he had spoken with the Building Inspector (who has not seen the plans). Mr. Longe indicated (on the site plan) the location of the caretaker's apartment in the back of the building. He said that the footprint will remain the same, they would just go up one level. Ms. Roberson asked if the roof pitch and two windows on the front would be the same as in the photo provided and Mr. Longe stated that it would be pretty much the same pitch and roughly the same windows. Mr. Fitzgerald asked about the frame construction and Mr. Longe stated that it would be conventional.

Mr. Longe explained that the front portion of the building is connected to water and sewer, but the back portion of the building is well and septic. He said the proposal would be on the side that is connected to water and sewer. Ms. Roberson suggested that Mr. Longe check with the WPCA and with the Fire Marshal before proceeding with a Site Plan Application and she suggested that the Commission not take action on the Site Plan Application until after Mr. Longe has spoken with these other entities.

There was discussion.

Motion was made by A. Fitzgerald to waive the Special Permit requirement as authorized under Sec. 3.4.8.8. of the Brooklyn Zoning Regulations for Proposed Site Improvements at 479 Providence Road with the finding that it does meet the requirements outlined in Sec. 3.4.8.8. Second by E. Starks. Motion carried unanimously (6-0-0).

There was discussion and Mr. Longe will speak with the Building Inspector and the Fire Marshal and will present the full design and computer-generated photos to the Commission when he comes back before the Commission.

3. **SPG 19-002 Gravel Special Permit**- Brooklyn Sand & Gravel, LLC, 64+- acres, 530 Wauregan Road (Assessor's Map 30, Lots 97, 97-1, 97-2), Proposed removal of approximately 218,000 cubic yards of sand and gravel.

J. Roberson explained that four variance applications had been submitted which will be before the ZBA on March 26th. She stated that their volume has been reached and their permit will not be able to be renewed, therefore, they are seeking a new permit, and as part of that process, they have also submitted a permit application with the IWWC. Everything was submitted simultaneously. Ms. Roberson stated that if the variances are granted, their application will change considerably. She recommended holding off on scheduling a public hearing. C. Kelleher asked about the variances. Ms. Roberson will provide a copy of the application. Ms. Kelleher feels that the ZBA should not be allowed to do things that, by law, they are not allowed to do.

No action was taken.

b. **Other:** None.

VIII. Reports of Officers and Committees:

1. Budget.

J. Roberson will draft a letter regarding the Capital Request for the POCD to present the the Commission for review at the next meeting. A lot of the information in the existing Plan is still good, but there is a need for a list of new strategic goals for the community and a desire to include the public and Town Commissions more. There was discussion regarding procedure for Capital Requests and purpose of POCD.

J. Roberson submitted the budget that had been reviewed by the Commission to the Finance Department. There was discussion regarding the Budget for February.

2. ZEO Report

A memo from Martha Fraenkel, dated February 28, 2019, was included in packets to Commission Members. She asked that the Commission include plan references in motions so that it would be recorded in the minutes. This would assist with enforcement.

There was discussion regarding the enforcement section of the Draft Regulations which had been reviewed b Ms. Fraenkel.

Ms Fraenkel will be retiring as of April 4, 2019.

3. Correspondence. – None.

Ms. Roberson reminded the Commission Members of events that they may sign up to attend.

4. Chairman's Report. – None.

IX. Public Commentary

A.J. Kerouac, asked about the second waiver request (479 Providence Road). He asked if properties along Route 6 don't fall under Article 14 (non-conforming structures) because of the front and sideyard setbacks. Ms. Roberson stated that it is probably non-conforming on the sideyard, but she does not know about the frontyard. She stated that the caretaker's unit is on the conforming part of the building. **Mr. Kerouac** asked where the caretaker's unit is in the Regulations and suggested that it be added as it is included in the Regulations for Putnam and Norwich as an accessory use. It is no longer considered customary and incidental. Discussion continued regarding that there is no non-conformity as they are going up and not changing the footprint. M. Sigfridson stated that the Commission will keep Article 14 in mind as it considers the Site Plan Application.

X. Adjourn

Motion was made by J. D'Agostino to adjourn at 9:24 p.m. Hearing no objection, M. Sigfridson adjourned the meeting.

Respectfully submitted,

J.S. Perreault
Recording Secretary