

**TOWN OF BROOKLYN  
PLANNING AND ZONING COMMISSION  
Regular Meeting  
Wednesday, December 4, 2019  
Clifford B. Green Meeting Center  
69 South Main Street  
6:30 p.m.**

**MINUTES**

- I. Call to Order** – Carlene Kelleher, Acting Chair, called the meeting to order at 6:33 p.m.
- II. Roll Call** – Carlene Kelleher, Jules D’Agostino, Earl Starks, Alan Fitzgerald, Austin Tanner, Charles Sczuroski. Michelle Sigfridson was absent with notice.

**Staff Present:** Jana Roberson, Director of Community Development, Rick Ives, First Selectman and Ex Officio Member (left at approximately 8:17 p.m.).

**III. Seating of Alternates**

Motion was made by A. Tanner to seat Alternate Member, Charles Sczuroski as a Voting Member for this meeting. Second by E. Starks. Motion carried unanimously (6-0-0).

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

Motion was made by J. D’Agostino to approve the Minutes of the Regular Meeting of November 6, 2019. Second by E. Starks. No Discussion. Motion carried unanimously (7-0-0).

**V. Public Commentary** – None.

**VI. Unfinished Business:**

- a. Reading of Legal Notice:** None.
- b. Continued Public Hearings:** None.
- c. New Public Hearings:** None.
- d. Other Unfinished Business:**

- 1. **SPG 19-003 - Gravel Special Permit**, Strategic Commercial Realty, Inc., d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

Jana Roberson explained that the public hearing had been set to open on December 17, 2019, all neighbors have been notified, signs have been posted (documentation had been submitted by David Held of Provost and Rovero). Ms. Roberson commented that the Commission should refrain from discussing the Application until the public hearing opens, with the exception of information that the PZC should have in order to make a decision regarding whether to move forward on the potential need for review consultants.

Ms. Roberson provided the following information to Commisison Members, with the caveat that it will be fully documented and re-introduced during the public hearing when the Applicant will have an opportunity to ask questions and rebut:

- Eastern Connecticut Environmental Review Team Report #610 regarding Brooklyn Sand & Gravel, LLC (dated February 2007). Ms. Roberson explained that although this was for a different proposal involving the same parcel, for a different project by a different applicant, the site analysis information is relevant to this proposal. This report listed endangered species on the property.
- Letter from the Connecticut Department of Energy & Environmental Protection, NDDDB Preliminary Assessment No. 201913018 (two pages dated November 12, 2019) which lists endangered species in the vicinity of the project including the blue-spotted salamander, the eastern spadefoot toad, and some species of special

concern (box, wood and spotted turtles and the eastern bog-nose snake). The letter also includes general protection strategies. Ms. Roberson stated her understanding is that the PZC's specific protection strategies for the site are forthcoming.

- A portion of the now executed Amended and Restated Stipulation and Settlement Agreement between the Town of Canterbury and the following parties: LaFramboise Sand and Stone, Inc.; Strategic Commercial Realty, Inc. dba Rawson Materials; and River Junction Estates, LLC. Ms. Roberson stated that Section 16.4 is relevant regarding truck traffic on Maynard Road.

Ms. Roberson explained that a Hydrogeologist has been retained on behalf of the IWWC to examine the hydrogeology of the 30 acres on Maynard Road. She provided the following and asked that Commission Members review it and discuss whether to hire a consultant:

- Draft Scope of Services – Traffic Engineer (dated December 4, 2019);
- Draft Scope of Services – Herpetologist (dated December 4, 2019);

There was discussion regarding whether this would also need to go before the Canterbury PZC. Madelyn Smith, Rawson Materials, explained that it would not because they have a processing permit in Canterbury and it has been approved to bring material onto the site. Mr. Tanner asked if any gravel would be removed from Canterbury and Ms. Smith stated that they have gravel permits for their Canterbury sites where they remove gravel from.

Rick Ives asked about truck traffic regarding both sites before material is processed. He said that once it is processed, it can go anywhere as long as the agreement is followed. Ms. Smith explained that the road is subject to traffic limitation and that the current amount of traffic, whether going into the plant or coming out of the plant, would be maintained. Mr. Ives stated that he feels that this discussion is necessary to make the decision as to whether a traffic engineer is needed. He got an understanding of how the traffic would travel, which he found acceptable, and he stated that he did not see what more information an engineer could provide as there are not any options that are unknown.

Discussion continued. Ms. Roberson explained that the PZC would need to make a decision as to whether a traffic consultant would be needed. Mr. D'Agostino feels that a map showing the road is needed in order for the Commission to make this decision. Ms. Roberson provided a map and indicated the locations of the properties, the processing facility in Canterbury, the route that will be used, and explained the agreement (regarding the limited truck trips for which monitoring and copies of documentation could be provided as a condition of approval). Mr. D'Agostino asked about school bus traffic on Maynard Road and he feels that a traffic engineer is needed. David Held suggested that the PZC Members wait to review the Environmental Impact Statement before making this decision as it addresses a lot of the questions being raised. Mr. D'Agostino asked that Ms. Roberson provide information regarding the number of school buses and truck traffic before the next meeting. There was discussion regarding whether to wait for the Environmental Impact Statement and Ms. Roberson reminded the Commission of the timeline. Mr. Held suggested that a traffic engineer would not be difficult to find in the time needed. Ms. Roberson commented that a sufficient brief overview of the project has not been provided and she suggested that the PZC seek guidance from a consultant if there is anything above and beyond the general knowledge of the Town Engineer, the Town Wetlands Agent and the Town Planner. She said that she feels that traffic is a concern, but she feels that the Agreement covers that sufficiently.

Poll of the Commission regarding whether a traffic engineer is needed:

A. Fitzgerald – No, but is concerned regarding the haul road; J. D'Agostino – Yes and would also like information regarding school bus stops; E. Starks – Agrees with A.

Fitzgerald; A. Tanner – Agrees with A. Fitzgerald; C. Sczuroski – Agrees with A. Fitzgerald; C. Kelleher – Agrees with A. Fitzgerald.

Ms. Kelleher stated that it has been determined that a traffic engineer is not needed (5 – No and 1 – Yes).

There was discussion regarding information contained in the Environmental Review Team Report #610 regarding Brooklyn Sand & Gravel, LLC. Ms. Roberson offered to provide copies of the agreement with the Hydrogeologist from GZA (Richard Derosier) specifically for groundwater levels, so it may not address Mr. D’Agostino’s concerns. Ms. Roberson commented that the PZC could ask for additional items to be included in the Environmental Impact Study (to be provided by the Applicant).

Regarding whether a Herpetologist would be needed:

Mr. Ives asked if the PZC would require that the Applicant deal with known or potential habitats of the endangered species. Mr. Held stated that the Applicant’s legal counsel has thoroughly investigated this and is preparing a legal opinion letter that the Town may want its legal counsel to review before making a decision. Mr. Held explained that the position of the Applicant is that the PZC has no legal authority to regulate threatened or endangered species and the Applicant will not pay for consultant fees associated with it. There was discussion. Ms. Roberson will contact the Land Use Attorney for guidance regarding who has jurisdiction.

2. **SPG 19-004 - Gravel Special Permit**, Strategic Commercial Realty, Inc. d/b/a Rawson Materials, 200 acres +/- on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel. (From two separate pits.)

Ms. Roberson commented that no hydrogeologist has been retained by the IWWC for this project.

Ms. Roberson provided the following information to Commisison Members, with the caveat that it will be fully documented and re-introduced during the public hearing when the Applicant will have an opportunity to ask questions and rebut:

- Letter from the Connecticut Department of Energy & Environmental Protection NDDDB Preliminary Assessment No. 201913012 (dated November 12, 2019) which lists endangered species in the vicinity of the project including the blue-spotted salamander, the eastern spadefoot toad, and some species of special concern (box, wood and spotted turtles and the eastern bognose snake). The letter also includes general protection strategies. Ms. Roberson stated her understanding is that the PZC’s specific protection strategies for the site are forthcoming.
- A packet of information regarding the Quinebaug Solar Project. Ms. Roberson explained that this information is relevant for this property as well as the for the Solar Project. Ms. Roberson explained that additional studies had been done which may also be relevant.
- Scope of Services – Hydrogeologist (a copy was provided to David Held). Mr. Held requested, if it is decided to hire a consultant, that multiple consultants provide cost proposals (for competitiveness). Ms. Roberson agreed that it could go out to bid and it could be jointly selected.
- Table 6-2 regarding Avoidance, Minimization, and Mitigation Measures for the Quinebaug Solar Project. Ms. Roberson indicated a herpetofauna protection area located between the two pits which she feels is relevant.
- Draft Scope of Services – Traffic Engineer (dated December 4, 2019);
- Draft Scope of Services – Herpetologist (dated December 4, 2019);

Ms. Roberson indicated the property on the map and suggested that the Commission consider help from an expert who could review the gravel pit plans, make recommendations relevant to the known resources on the site. She referred to the Scope of Services for a Hydrogeologist and commented that the PZC has jurisdiction over existing and potential water supply (including ground water).

There was agreement stated among the Commission Members to hire a hydrogeologist.

Motion was made by A. Fitzgerald to hire a hydrogeologist regarding SPG 19-004 Gravel Special Permit, Strategic Commercial Realty d/b/a Rawson Materials, 206 acres on south side of Rukstela Road, removal of 1,945,000 cubic yards of material. Second by E. Starks. Motion carried unanimously (6-0-0).

There was discussion regarding whether a traffic engineer would be needed. Ms. Roberson stated that it is the same issue as with Application SPG 19-003 and she said that they are bound to the now executed Amended and Restated Stipulation and Settlement Agreement between the Town of Canterbury and the processor. Mr. Ives stated that they are bound by that Agreement, but they could go out another way. David Held stated that the Applicant is voluntarily binding themselves to the Agreement to use the haul road only. Ms. Roberson commented that it can be made a condition of approval.

Poll of the Commission regarding whether a traffic engineer is needed:

A. Fitzgerald – No; J. D’Agostino – No; E. Starks – No; A. Tanner – No; C. Sczuroski – No; C. Kelleher – No. (6 – No and 0 – Yes).

Regarding whether a Herpetologist would be needed:

As with Application SPG 19-003, Ms. Roberson will contact the Land Use Attorney for guidance regarding who has jurisdiction.

3. **GBR 19-001** – Gravel Bank Renewal, Sansoucy Quarries (Paul Sansoucy), 45 acres on east side of Pomfret Road (Map 26, Lot 19A), renewal of 2014 Gravel Special Permit.

Jana Roberson stated that the site walk had been cancelled due to snow and has been rescheduled. She received confirmation that the bond is still in place. Action does not need to be taken until after the site walk. Visibility will be checked then. Tabled to the next regular meeting of the PZC on December 17, 2019.

## **VII. New Business:**

### **a. Applications:**

1. **SPG18-002** – Special Permit for Sand and Gravel – FCR Realty LLC, 200 acres north of Brickyard Road and west of Day Street (Assessor’s Map 35, Lot 7; Map 41, Lot 6; Map 42, Lot 43), Proposed removal of 97,650 cubic yards of gravel over 8.8 acres, BY ORDER OF THE COURT.

J. Roberson explained that the Commission is required to vote to grant the special permit that was previously denied. Per the Town Attorney, conditions can be applied.

J. D’Agostino commented that the Commission should provide substantial evidence when denying (or approving) an Application. Discussion ensued and Mr. Ives agreed that it is important to be careful with responses. Ms. Roberson commented that this kind of thing is learned at training sessions. Discussion continued and Ms. Roberson offered that she could meet with a Commission Member go over information whenever any Commission Member needs a better understanding of information provided.

There was discussion regarding the \$55,000 performance bond amount (must be submitted within 30 days of action by the Commission) which is slightly higher, per acre, than Syl Pauley usually requires.

There was discussion regarding reclamation and Mr. Ives stated that he thinks they may be a little high because there may be a couple of phases that should have been closed already, but they are probably okay regarding the amount of acreage that is open. Ms. Roberson checked the plans and stated that Phase 1 was 4.8 acres and Phase 2 is 4 acres. Mr. Fitzgerald asked that the following be added to the conditions of approval: Phase 1 be reclaimed before starting the second Phase.

There was discussion regarding whether this would come under the prior Regulations vs. the current Regulations. The Court Order is unclear.

Motion was made by A. Tanner to approve the gravel bank Special Permit application of FCR Realty, LLC for the property located to the north of Brickyard Road and west of Day Street (Assessor's Map 35, Lot 7; Map 41, Lot 6; Map 42, Lot 43), to remove up to 97,650 cubic yards of gravel over 8.8 acres, and identified in the files of the Brooklyn Land Use Office as SPG 18-002, in accordance with all final plans, documents and testimony submitted with the Application with the finding that it is a permitted use in the zone and that potential impacts can be mitigated with the following conditions:

- The alternate access haul road to Church Street shall be removed from the final recorded special permit plans because it is currently unsuitable to accommodate gravel truck traffic.
- All conditions included in the Inland Wetlands Commission approval shall be included in the zoning approval.
- Excavation is limited to the area shown on the submitted plans dated 4/4/2018 (revised 10/2/18, 3 sheets) and prepared by KWP Associates.
- Dust shall be controlled throughout the year using water or calcium chloride as appropriate for conditions.
- Within 30 days of action, a performance bond totaling \$55,000 will be submitted by the Applicant to the Brooklyn Land Use Department. The form and content of the bond shall be reviewed and approved by Town Staff.
- The Inland Wetlands and Watercourses Commission approval with conditions and the Planning and Zoning Commission approval with conditions shall be included on the final recorded special permit plans.
- Draft final approved plans shall be printed on paper and submitted to Town Staff for checking prior to printing on archival material.
- The final approved plans bearing the seal and signature of the appropriate professionals and the December 4, 2020 renewal date and shall be printed on archival material, signed by Commission Chairs, and recorded along with the Special Permit in the office of the Town Clerk.
- Hours of operation shall be 7 a.m. through 6 p.m. Monday through Friday and 7 a.m. to 12 p.m. on Saturday. No operational activities shall occur on Sundays or holidays listed in Section 13.5.7 of the Brooklyn Zoning Regulations.
- Reclamation of Phase One shall commence prior to the initiation of excavation on Phase Two in accordance with Section 13.5.10 of the Brooklyn Zoning Regulations (effective July 1, 2018).

Second by A. Fitzgerald. Motion carried (5-0-1). C. Kelleher abstained as she had originally recused herself from this Application.

Mr. Ives left at this time (approximately 8:17 p.m.).

**b. Other New Business:**

**1. Potential Zoning Map/Text Corrections**

The following potential changes/corrections were discussed:

- 1) *Explanation: The purpose of this change is to correct a typo in the Zoning Regulations. Pg. 44*

**3.C.2.4.5 Permitted Principle Uses in the RA Zone - Other Uses**

Now: Earth Materials Processing in accordance with Section 6.B.2P.  
Proposed: Earth Materials Processing in accordance with Section 6.P.

The Commission Members were in agreement with this change.

- 2) *Explanation: The purpose of this change is to correct an oversight in the preparation of the Zoning Regulations. The Planning and Zoning Commission intended to remove all references to importation of material for processing. Pg. 149*

**6.P.3.3 Standards for Earth Materials Processing**

Now: All earth materials imported for processing must be clean as defined by CT DEEP and free from any solid waste.  
Proposed: All processed materials must be clean as defined by CT DEEP and free from any solid waste.

The Commission Members were in agreement with this change.

- 3) Separation to groundwater?  
Ms. Roberson explained that the prior Regulations for gravel pits require creating a 6-foot separating distance between the bottom of the pit and the groundwater table unless separately approved by the Commission. This is how you make a pond. Margaret Washburn feels that there should be no excavation below the water table. Ms. Washburn recommends bringing the first sentence of Section 13.5.1 of the prior Regulations back into the current Regulations. Ms. Roberson explained that this would be part of gravel regulations and it would not prevent a pond from being excavated (especially regarding agriculture). Discussion ensued. Mr. Tanner feels that gravel operations should be able to dig a pond.

No decision was made. Ms. Roberson will consult with the hydrogeologist that will be hired about this. She will draft language for review by the Commission using language from the prior Regulations with a special vote by the Commission.

- 4) Buildings in the front yard?  
Ms. Roberson explained that Rick Ives has concerns regarding setbacks because the current Regulations do not allow accessory buildings in the front yard (anywhere between the front of the house and the road). The setback is an unbuildable area that is offset from the property line. She explained that “yard” and “setback” were used somewhat interchangeably in the prior Regulations, but the Commission tried to fix that when writing the current Regulations, so they are now defined (the distance between the yard and the setback is described). Mr. Ives feels that accessory buildings

should be allowed in the front yard as long as they are not in the setback. Discussion ensued.

The Commission asked that Ms. Roberson draft flexible language (applied across the board - site plan review) for review.

Mr. D'Agostino, and the other Commission Members, extended their gratitude to Jana Roberson for her work on the New Zoning Regulations.

2. Discussion of Plan of Conservation and Development Update

The last POCD was adopted in October 2011. The following needs to be done:

- Review the prior POCD;
- Check off what has been done;
- Re-prioritize;
- Add new objectives as needed.

Mr. D'Agostino suggested that other Boards and Commissions be invited to discuss the top three items that they would like to be considered by the PZC. Ms. Roberson suggested beginning by using the matrix in the back of the document. There was agreement to involve the other Boards and Commissions.

**VIII. Reports of Officers and Committees:**

1. Staff Reports.

ZEO Report dated December 2, 2019 was included in packets to Commission Members. There was discussion regarding 9 Eino Drive, 28 Gunnar Drive and 337 South Street.

2. 2020 Meeting Dates.

Ms. Roberson explained that the first meeting in January would be on the second Wednesday due to the Holiday on January 1<sup>st</sup>. There was discussion regarding March 17<sup>th</sup> being St. Patrick's Day and it was decided to leave it in (it could be cancelled if needed).

Motion was made by A. Tanner to approve the 2020 Regular Meeting Dates as follows: January 8 & 21; February 5 & 18; March 4 & 17; April 1 & 21; May 6 & 19; June 3 & 16; July 1 & 21; August 5 & 18; September 2 & 15; October 7 & 20; November 4 & 17; December 2 & 15. Second by J. D'Agostino. Motion carried unanimously (6-0-0).

3. Budget Update.

Included in packets to Commission Members. No discussion.

4. Correspondence.

No discussion.

5. Chairman's Report – None.

**IX. Public Commentary**

There was discussion regarding whether the gravel pit is part of the solar project property. Ms. Roberson explained that the solar panels are not on the same land that is being gravel mined. Dust creates a problem for the solar panels, so the hope is that the mining will be done before the solar panels go in. However, that may not happen because gravel is demand specific. Mr. D'Agostino asked that Ms. Roberson add the following to the map for the next meeting: identify the two properties and where the excavation site and solar panels will be; and where the haul road is. Ms. Roberson provided color copies of the map to those who wanted them and she orientated the area. Mr. D'Agostino asked

Ms. Roberson to overlay the proposed gravel permits onto the map. Mr. Roberson offered to meet with Mr. D'Agostino to go over the plans. Ms. Roberson explained that at the beginning of the public hearing, the Applicant should spend enough time to make sure that everyone understands the Application.

**X. Adjourn**

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

J.S. Perreault  
Recording Secretary