

TOWN OF GOSHEN
ZONING BOARD
CONTINUATION OF PUBLIC HEARING
NEWPORT SAND AND GRAVEL
JULY 21, 2009

MEMBERS PRESENT: Chairman Thomas Lawton, Peta Brennan, Cynthia Phillips, Bob Johnson, newly elected member Allen Howe, and Sue Peacock, Planning Board Secretary

OTHERS PRESENT: Attorney Timothy Britain, Rob O'Neal of Epsilon, Stephen Pernaw, David Rauseo, Building Inspector Jack Warburton, Dan Peterson, Select Board Representative Jim Carrick, Shaun Carroll, Jr., Kathy Carroll, Ashleigh Carroll, Bea Jillette, Virginia Schendler, George Johnson, Kim Gaddes, Gordie Bartlett, Keith Hall, Fred & Nancy McDonough, David & Patricia Stephan, James & Mary Walter, Ray Porter, and Paula Lawton.

The Board Of selectman appointed Allen Howe for the fifth member of the zoning board. A member of the planning board can seat in on the zoning board. His fairness and ability is viable.

Two board members are absent at the time. Attorney Britain would like to have questions asked until the two board members arrive. Mr. Lawton stated that if there was anything that the applicant wanted, was our intention not to take a final vote, but to write a draft decision. Mr. Lawton would like to have the ball moved forward, and at the next meeting have a formal decision. Attorney Britain stated that there is follow up that he would like to address-first to verify items, DES alteration of terrain permit-had it been updated, it has been updated, and it was in the process back in April, there WPS 5574S, alteration of terrain permit. Mr. O'Neal did a sound analysis supplement dated June 3, 2009 to the sound analysis. Mr. Rauseo to report epsilon-updated report to reflect findings. Mr. Pernaw is present to answer any questions. Attorney Britain has an update to complete the records to what has been filed, and with respect to special exception for this project. There is a memo regarding federal regulations to the extent of highway.

Attorney Britain stated that he also brought minutes from previous minutes to go over.

Ms. Gaddes believes that she does not think it is fair to update any new information until all board members are present. Mr. Howe stated that he concurs until the information is read. Attorney Britain stated that there is no new information that is being presented tonight and that the reports being presented are only filed information and to make all information complete.

Mr. Lawton stated that there is to be no deliberations tonight, and that he would like to suggest a recess until 8:00 or until the Board members arrive to address the problems that have arisen. Recess until 8:00, Mr. Howe seconded and all were in favor.

At 8:00 the public hearing re-convened as all members were present. Ms. Brennan had a question regarding the sound analysis of 22 Lear Hill Rd, and the confusion of discrepancy.

Mr. O'Neal of Epsilon stated that his report is looking two different ways to describe sound. The 66-82 are L-max or short term instantaneous maximum values. The 55 is the one hour LEQ sound level from the models based on the busiest one hour truck traffic period. Mr. O'Neal stated that the hour which was same sound level that was measured today. DBA sound energy of peak hour in and out, and just the truck impact. Ms. Brennan stated that the trucks would make a lot more noise than say an SUV. Ms. Brennan questioned Mr. Carroll to develop the 22 acre parcel and as to why there is a 3 phase permit with the state. RE: amendment: Attorney Britain stated that they are doing the project and that it is an amendment. Attorney Britain stated that what was submitted in November and December and that just referenced. Mr. Carroll stated that plan is for the plans that were submitted. Mr. Carroll stated that it references only what we are planning to do. Mr. Carroll answered question from Ms. Brennan regarding esker and which the buffer is not being removed. May 1:Mr. O'Neal report June 3, 2009 memo based on comments from prior meetings, the purpose was to just get more sound analysis, on the elevated location background sound levels do decrease. Table 2 of memo elevated levels Lear hill Road, Cross Road, and Washington Road. May 1st: measurement of all noise levels of whatever traffic, and what is happening at the project which is hypothetical since there are no happenings going on there.

Mr. Rauseo submitted three pages which should replace pages 24 and 25 which refers to the sound impact. Attorney Britain stated that which to maintain consistent.

Mr. Lawton stated that he would like to open the discussion to the public to those who are in favor of this project.

Mr. Walter stated that Mr. Carroll Sr. and Jr. are very trustworthy; the worst sounds that are to be heard are the first sounds of the drop of the bucket. He hears trucks and he also drives for DOT, and he stated that the trucks do not get that noisy, and working in this area the trucks do not make that much noise except when the trucks get up past 35 mph. He believes that the decibel level is nothing. He thinks that Mr. Carroll is going to do what he says he is going to do, and is the most truthful man that he knows. Mr. Porter said that the trucks going from Lear Hill Rd is a lot less noise.

Mrs. Walter said that she does not think that the laws were not intended to keep Mr. Carroll from harvesting the land.

Mrs. Walter questions the decibel level of motorcycles, which she believes is louder than the trucks. She believes that Newport Sand and Gravel is supplying jobs and giving to the town and thinks that there are other factors. She supports Newport Sand & Gravel. Mr. McDonough doesn't think that the sound and truck traffic is probably less loud than trucks coming over hill and he has no objections. Mr. McDonough believes that it is Mr. Carroll's land, and as far as the impact on the town, no one knows, and is a man of his word. A lot of wildlife over at the Davis pit. Mr. Hall said that Mr. Webb strongly supports this gravel pit. Keith Hall expressed his personal opinion and said that he has mixed emotions about things. Mr. Carroll handed out a letter dated June 16, 2009, from Paul Krause, which states that he feels that both parties will benefit with this renewed partnership.

Ms. Gaddes is a semi abutter to Anderson property, she spoke regarding tier effect, which she will submit documentation stating her opposition to this project. She does not have a problem with people doing with their property as they see fit, but when someone is doing something on their property directly affecting a neighbor or the Town, it puts it in a different light. She is puzzled to why this has gone on so long. She referenced the town wide survey, which states the opposition of the Anderson pit. There was reference to 100 percent of people were against, and some people were intimidated and bullied. The results given from the last application found as facts. Ms. Gaddes requests that the ZBA become familiar with the all the information she is submitting to the Board.

Ms. Gaddes believes that we in Goshen have zoning laws: agriculture, a residential agricultural property and there have been numerous proposals over the years, which have had to disclose because they would look over into a gravel pit, a market analysis was done to prove to ourselves. Ms. Gaddes stated our property value would decrease 10 to 15 percent even before the gravel pit is started. This tourist area and that we have natural beauty which could have a negative effect on property. Ms. Gaddes stated that on May 29, 2009 a market analysis on her property was done. Ms. Schendler read the analysis which states that if the gravel pit is approved it is believed to have a negative effect on the property based upon the current value, and will create an economic 10 to 15 percent devaluation. Ms. Gaddes' neighbor also had a market analysis done, which showed a decrease and damage to buildings.

Mr. Johnson spoke regarding sound analysis which is not exactly recording the truck traffic that will be there, based on weighted, but not what is exactly there until the trucks are actually there. Until a sound pressure level is done, you never will know what the impact is, and there are certain physics to decibel levels. Annoyance factor and how do you measure that, and he just wants to see facts. Ms. Schendler spoke regarding the whole notion of zoning, and that Goshen is trying to have zoning laws. Ms. Schendler has conservation land, and a lot of animals. Ms. Schendler read a letter in which there was two times that this project had been rejected. Today in 2009, Mr. Carroll owns land, equally important there have been radical change in the town, and a radical change in the truck activity. There are more trucks on haul road, 110 trucks going on Rte 10, the issue of reclamation at the Davis pit which has not been discussed at recent meetings. That has been modified that since writing this letter 13 of 18 acres of the Davis pit has been reclaimed. The Zoning Board's decision will impact generations to come. Mr. Stephan owns a piece of property and most of his property is across from the pit, which exists in the residential area of Goshen. Mr. Stephan stated that so far 5 court rulings that have let this company have 5 minor adjustments, and now the Anderson pit, and the judge lets these people come back time after time, which has a feeding effect on people who are subject to their worrying. Mr. Stephan said that the beauty and the abundance level have been going on since 1953. Mr. Stephan stated to stop this absolute freeness to keep bringing up this lawsuit. He said to walk through the town and up and down the hills. Mr. Stephan said that Goshen is a nice town, and good reason to say we do not want a 200 acre gravel pit right in the center of our community.

Attorney Britain responds to comments, factual issues provide an overview, and that this village was created, and that people fought and died for freedom. Attorney Britain said that within the confines of the law, what the law permits is a gravel pit. Four experts were

hired regarding this case, the gravel pit and the data has satisfied the standards. Attorney Britain stated this is NOT the same application that came before the town back in 2000. There are different legal standard then which applied back in 2000.

There are different noise regulations than in 2000. Attorney Britain stated that eighteen percent of citizens who received one of the 650 Master Plan surveys responded. No one can tell you what the noise will be on an empty piece of land. There has been ambient data collected, the sound activity; Mr. O'Neal tried to do his best, which he can educate further on his data collected. Attorney Britain stated that this project is incumbent on this board, the engineers, and the data. Attorney Britain spoke regarding Ms. Gaddes information submitted which is irrelevant due to the fact it is from 2000. Mr. Krause letter that was read supports the Anderson project, which does not reflect the town, and there is not an overwhelming outcry against this project. Attorney Britain stated that 18 and half percent of citizens opposed with respect to 650 surveys sent out. The project meets all the criteria, is outside of the town, is screened, will be reclaimed, and is in an area where a gravel pit exists. You have to mine the sand where the sand and gravel is and that is where naturally it is going to be excavated. Attorney Britain said that this is an essential product, a resource that is limited and important to maintain the business. The property most affected by this project back in 2004 was sold for 94 percent of the asking price. This is a property that is zoned to allow sand and gravel provided that the criteria be met, and we have met the criteria. Mr. O' Neal stated that the sound levels comments and the equipment that is used is type 1, top of the line state of art equipment to measure ambient sound levels in the environment-one of the most studied collected data is exactly what is required by the towns requirement of noise regulations. Both of the criteria's are facts-scientific data set very strict standards and are standard methodology. Mr. Rauseo's conclusions of letter, of market analysis, the process that involves confirmations of sales his opinion that the data that was done by a broker and that it is just an opinion. Mr. Howe stated he thought Mr. Rauseo's whole analysis is highly dependent on his ability to accurately assess values. Some assessments require manipulations due to different years in which properties actually sold. Does Mr. Rauseo have any information for the Board so we can evaluate how accurate his assessments are? Mr. Rauseo described his approach. Mr. Rauseo has appropriate credentials and is not a beginner at this type of work. He has been dong this work for over fifteen years.

Mr. Carroll stated that the number of trucks is exactly the same number as to the Davis pit and that they are not running simultaneously. Mr. Carroll stated that he has not gone back on anything that he has said. Mr. Carroll briefly talked about the Davis pit and what he has done, every aspect, talked to town about donating a part of that to the town for the town to do something with. Mr. Carroll stated that the Town should benefit, things that we are doing, and he talked about his pits.

Mr. Howe stated that he would like to see hard copies from Ms. Gaddes.

Ms. Brennan questioned Attorney Britain regarding the information being irrelevant. Attorney Britain stated that the prior application is much different from this application, the zoning ordinances have changed. The impact to the community has changed. The size of the property has changed. This is a different project altogether.

Mr. Carroll stated that this is a five year project and will be reclaiming as soon as he can, will not see physically the equipment or the loaders, there will be no blasting and the stone will remain the way it is.

Ms. Gaddes believes that her property does apply in reference to proximity, a view is much more value. Is exactly the same information given at the last meetings?

Ms. Gaddes read information regarding past removal measurements. She wondered how many cubic yards do 110 truck loads remove daily. She talks about history and how the master plan is being reworked. Ms. Gaddes asked Mr. Carroll how many cubic yards will be removed from 110 trucks. Mr. Howe read from the application and what was in there was 200,000 cubic yards total annual removal.

Mr. Howe stated that he believes that the public comment should be closed and wants to read over all the information being presented.

Mr. Lawton stated that this is going to be fact finding. The Zoning Board has a very specific job to do and hoped for a preliminary poll for tonight. Mr. Lawton stated that we are not in a position to take any votes tonight.

The hearing was continued until Thurs, August 20th at 7 p.m.

Mr. Howe made a motion to close public hearing. Ms. Brennan seconded and all were in favor.

Mr. Lawton made a motion to adjourn 10:06 Cynthia seconded, and all were in favor.

Faithfully submitted,

Sue Peacock

Planning Board Secretary