

**TOWN OF GOSHEN
PLANNING BOARD
APPROVED PUBLIC HEARING MINUTES
MARCH 4, 2008**

Members Present: Chairperson John Wirkkala, Vice Chairperson Allen Howe, members Rich Moen and Jonathan Purick, Selectmen's Representative Melanie Bell, and board alternate Carl Wideberg

Others Present: Town Attorney H Bernard Waugh; Shaun Carroll, Jr., and Richard Fraser, representing Guildhall Sand & Gravel (and Newport Sand & Gravel); Dan McCabe, Peter Gill, Cyndi Phillips, Jack Warburton, Fred Trommsdorff, Diane Landry, Mark Landry, Ed Andersen, Sr., Jim Carrick, Nancy McDonough, Fred McDonough

The Planning Board Public Hearing was called to order by Chairman John Wirkkala at 8:00 pm. He explained that since the Board's Secretary was absent, the Board would be relying on a tape recording of the meeting.

This was a Public Hearing to consider an application from Guildhall Sand & Gravel to conduct an excavation at the company's Lear Hill property, known locally as the "Davis Site."

Chairman John Wirkkala read an introductory statement that explained that Guildhall does not currently have a permit in effect. Their previous permit lapsed in October 2007. Guildhall is now applying to the Board to obtain a permit for the next three years under Goshen's excavation regulations and RSA 155-E. The Board had met with Guildhall on November 27, 2007, to review their permit application for completeness and had identified specific items that required supplemental information. The Board also suggested a few items for which the applicant might want to request waivers from Goshen's regulations. Subsequently, Guildhall sent a letter to the Board to request two specific waivers. It also submitted a revised application to respond to the Board's finding of incomplete information. Mr. Wirkkala introduced the Board and the Town's attorney Bernard Waugh.

Waiver Requests

The Board then considered the applicant's request for waivers, as specified in the applicant's letter to the Board, dated December 21, 2007. Ms. Cyndi Phillips recommended that since the secretary was not available and a tape recorder was in use, all speakers might identify themselves before speaking. Mr. Wirkkala read the applicant's letter for the benefit of members of the public. Two waivers were requested: 1) Section III.3.A.4 & III.3.C.3 – Seal of engineer or surveyor; and 2) Section III.3.C.8 – Cross-section views.

Mr. Howe stated that he had no objection to granting the requested waivers. Mr. Wirkkala said that he agreed with Mr. Howe that he also had no objection, based on the

fact that this was an application for a long-standing excavation site and a known preparer. There being no further discussion, Mr. Wirkkala called for a vote. Mr. Moen made a motion to grant the waiver requests. Mr. Howe seconded the motion. All voted in favor.

Review for Completeness

The Board next considered the completeness of revised application, with site plans dated 1/4/08.

Mr. Wirkkala raised a procedural issue. He said that some of the applicant's written responses to the Board's 11/27/07 list of missing information appeared to still need additional detail. He asked Mr. Waugh if it made sense for the Board to ask the applicant to put into writing any additional detail that the Board might require. This would allow the Board to rely on the applicant's own words as stated in their formal application and would not need to be part of what the Board would include in a three-year permit. Mr. Waugh said that it would be reasonable to incorporate any additional application submittal into the permit by reference.

Mr. Wirkkala then said that he thought that there were issues concerning two main areas of the application – deficiencies of the plan sheets (maps) and of the narrative in the application booklet. He asked the Board which area they would prefer to begin with. Mr. Howe said that he didn't have many comments relating to the maps, so he thought it would be desirable to have Mr. Wirkkala proceed with raising his questions about the maps.

Plan Sheet (Map) Issues

Mr. Wirkkala noted that both maps have been truncated. The top portion of the site is not shown. This involves about 225 feet missing along the north side of the property. As this area abuts the property of Judy Lewis, who in the past has been a non-approving abutter, the Board needs to be especially careful about the final contour lines in this area. Mr. Carroll mentioned that he did not think that Ms. Lewis had a problem with the site any longer. However, Mr. Carroll and Mr. Fraser both agreed that Mr. Fraser would redo the maps to include the missing property. Mr. Wideberg suggested that this could be accomplished by making a third drawing with a match line – but maintaining the current scale. Ms. Phillips suggested that Mr. Fraser could reset the print margins to allow for the full drawing. Mr. Fraser agreed to fix the problem..

Mr. Wirkkala then asked whether the contour lines that are indicated by the legend as "existing contours" are actually the contours as of the date of the plan sheets (1/4/08). He noted that the contours of the area labeled as "brought to final grade, 2006" had the same contours as it did on a map submitted by the company in 2004. Mr. Fraser said that Board members who had visited the site had seen the work that had been accomplished and that there was an area of 6.71 acres that had been brought to final grade, even though the contours shown on the plan sheets do not reflect this. The Board did not request the company to update the "existing contours" for application completeness.

Mr. Wirkkala next discussed the issue of the proposed final grade, as shown on Plan Sheet 2. In particular, he raised the issue of whether there was a contradiction between contour lines shown outside the gold polygon and the statement made as Plan Sheet Note 7, which states: “Gold colored polygon includes area expected to be involved with excavation activity during the life of the RSA 155-E permit.” He asked whether there would be future grading outside the gold polygon. Mr. Fraser and Mr. Carroll examined the map and indicated that contours might need to be blended. Mr. Fraser said that some contours outside the polygon were already at final grade, although the plan sheet did not show this to be the case. Mr. Moen suggested that he would like to leave the final grade lines outside the gold polygon. Mr. Howe suggested that Mr. Fraser should provide a written statement that explains that final grade contours outside the gold polygon were already in place. Mr. Fraser agreed to revise the map to deal with Board concerns.

Mr. Wirkkala then stated that beginning in 2001 Guildhall had added to its plan sheets an indication of the area of the excavation site that was actually open as of the date of the plan sheet. This was a practice that the company had followed through 2006, which was the last map received prior to the current application request. The current plan sheets do not show the actual area that is open. Mr. Howe suggested that it might be more desirable to show areas that have already been set to final grade and are not going to be excavated within the gold polygon. They might show the area that has not been worked, rather than the area that has been worked. Mr. Fraser said that if the Board had no objection, he could do as they had done in the past. The Board agreed to this.

Mr. Wirkkala asked for clarification whether the faint orange delineation, which was not explained in the legend, represented the limits of the area brought to final grade in 2006. Mr. Fraser said that it represented his AutoCad delineation of this area. He said he will include this in the legend.

Mr. Wirkkala then noted that there was no delineation of the limits of the “pile of material” marked on each plan sheet or of the limit of the “stockpile area” for loam that is shown on Plan Sheet 1. These areas have been labeled but not delineated. Mr. Fraser agreed to supply delineations.

Mr. Wirkkala asked if all haul roads that will be needed during the life of the three-year permit are shown on the plan sheets. The applicant said that they were. Mr. Wirkkala asked specifically if there would need to be a haul road to access abutting land in Unity where Newport Sand & Gravel has received a permit for excavation. Mr. Carroll said that there would be no such haul road as part of this permit.

Issues with Narrative Responses in the Application

Mr. Wirkkala said that as he was losing his voice, he would ask Mr. Howe to address any issues that he might have at this time.

Mr. Howe said that he had a concern about the applicant's response to Excavation Regulation item III.3.B.2, which requests a "Statement as to the estimated volume of material to be removed annually and over the life of the project; and a description of project phasing." He said that the applicant said that it is impossible to predict the amount to be removed and that they had given a "guess" as to the material to be removed over the life of the project. He asked how the applicant had arrived at a best guess of 200,000 to 1,000,000 cubic yards of material over the life of the project. Mr. Fraser said that there is "no science" to it; there are different types of material that Carroll Concrete processes, and some of the material is of no value and remains on the site. He said that he could make a calculation based on the contours over the year. Mr. Howe said he was looking for an estimate of possible total volume.

Mr. Howe noted that the seasonal high water level at three test pit locations is reported to be about 10 to 13 feet and at a fourth test pit it is 38 inches. He noted that the Town's excavation regulations specify that excavation must not occur within 8 vertical feet of the seasonal high water mark. Therefore, one could use test pit information and contours to estimate the total volume. He said that the applicant's estimated upper limit of 1,000,000 cubic yards would require excavation to a depth of 21' over the entire 30 acres. He asked how Mr. Fraser had come up with the given number. Mr. Howe, Mr. Fraser, and Mr. Carroll discussed the limits of possible total volume in relation to contour lines and high water table levels. Mr. Howe noted that there are many areas of the site for which no water table level information is available.

Mr. Carroll talked about how the shape of the pit and the height of the elevations limit excavation possibilities. He also described how a presence of good material influences where excavation takes place within the pit. He further discussed how test pits are dug in sand pits.

Mr. Howe said he would like to see the company follow a logical thought process to develop an estimate of how much material can be taken out of this pit. He noted that the applicant had said the pit was nearing completion. He added that he didn't expect an estimate to be 100 percent accurate, but that by looking at test pit information one should be able come up with an educated estimate.

Mr. Carroll said that there are some projects that are coming up in the local area that may require sand but he doesn't know if his company will get these projects. Mr. Howe again said he would like to generate an estimate of material for the lifetime of the project and that there are several ways to do it. He said that you could look at the historic trends and see if they are increasing or decreasing trends, and couple that with some information about the economy and anticipated contracts to get an estimated annual amount.

Mr. Carroll said that they have been "down that road" for a number of years with this Board, and the company's estimates backfire. He asserted that the Board slashes the company down on the number of truckloads allowed, and then the company has to haul in Unity or other places. He further asserted that the Board then uses that information against the company by limiting the permitted operations of the company. He said they

just want to operate in this town and provide sand, asphalt, etc. for roads for citizens and their children. He said that they “cannot even breathe” in this pit. Mr. Carroll went on to say that he doesn’t mind if the Board narrows down the operation and tells him what the limits will be, but he doesn’t want the Board to use the company’s information against the company.

Mr. Carroll then said that if the Board gives the company five or six things they need to do, then the company will fix up the maps and come back at the next meeting and they’ll nail it down. Mr. Howe said that that is what the Board is trying to do. He emphasized that there are only a couple of areas of real concern to him. He said that he is dealing with one very small part of the regulations now, one where he would like to see an estimate of what the company intends to excavate annually and over the lifetime of the pit.

Mr. Carroll said that he doesn’t know what future jobs the company will get; the business is economy-driven. All they can do is estimate the number of truckloads of crushed stone – 110 per day – that are required to supply the processing plant. Mr. Fraser cited [alternate Board member] Jack Scranton as agreeing that the business is economy-driven. Mr. Fraser said that the business typically has a 7-year cycle, but now they have been in a 10-year cycle, with a downturn.

Mr. Howe suggested that the company could use its economic information in conjunction with its historical data to come up with a projection. Mr. Fraser objected. Mr. Wirkkala said he wanted to clarify that Mr. Howe was trying to pin down the number to something between the extremes of the company’s “guess.” Mr. Howe said he was just trying to suggest an idea for projecting the estimated volume of material annually and over the life of the project. Mr. Carroll said the life of the project could be another 20 years – or 5 years. He added that they will keep the pit open – not just as an eyesore – but as long as there is money to be made. He pointed out that the company had closed out a lot of the pit and that they were planning to do more seeding in May of this year. He said he wanted to maintain flexibility in what is open. Mr. Howe reiterated that he just wants an estimate of the volume.

Mr. Wirkkala said that the Board should ask the company to make the estimate and then it could be discussed in the next meeting with the Board. He pointed out that the state requires the company to give an annual estimate to the Town anyway. Mr. Carroll said that the Board had put a cap on what they could excavate in the past. Mr. Wirkkala said that the Board had imposed a cap in the past because it had considered the interests of citizens as well as the interests of the company. Mr. Howe said he would like the company to say what they would like to do and how they made their calculations. He said that he considers the company’s response on this part of the application to be incomplete.

Mr. Howe said that his other area of concern is the reclamation plan, Section III.3.C of the regulations. He noted that the company had supplied, as an attachment to the application, a document on vegetating New Hampshire gravel pits, which was put out by the National Resources Conservation Services [NRCS]. He said that he want to know just what the company wants to do, and whether the company wants to depart from

recommendations in that document. He said he understands that there is a long history here, and that he doesn't expect an application of loam over the entire area. However, he wants to know what the applicant proposes to do and when they will do it. Mr. Fraser said that NRCS provides specific guidelines.

Mr. Howe said that the NRCS booklet says that NRCS can provide a qualified environmental professional to evaluate the site. Mr. Fraser said that company has sponsored training sessions at the Davis pit and that it is a model for reclamation. He added that he would be happy to have someone from NRCS come over. Mr. Howe said that it would be helpful to the Board to have a neutral professional person come over, and if the company would agree to that, this would be beneficial.

Mr. Moen commented that some members of the Board have been through this process before, but that Allen is new and hasn't had the experience of visiting the site and seeing Mr. Kelsey's presentations. He added that he doesn't want Allen to feel that he is on the "hot seat" or that the Board is not backing him up. Mr. Howe indicated that this was not a problem for him.

Mr. Carroll stated that the company has invited the Town to come to reclamation workshops and he would welcome having Board members come to future workshops and see what can be done with silt and so forth.

Mr. Howe said that he was not criticizing what the company has done. Rather, in terms of reviewing an application, he feels that if the Board is spending time on making sure there is a bar scale on the map, while not spending time to make sure there is a reclamation plan that is specific to this site, then he's not really doing his job. He stated that the NRCS attachment is a boiler plate document that is not specific to this site, but that he has the sense that NRCS feels that a specific plan can be developed.

Mr. Wirkkala noted that some of the proposed final grades are 2:1, whereas the Board requires a maximum of 3:1 – which is also steep. He said that the Board recognizes that the Davis site has 30 acres that are all open and that the Board needs to work with the company. However, he reminded everyone that the Town also has a zoning ordinance that prohibits building on slopes over 25%. So when this pit is reclaimed, there will be areas that will never be buildable. He said that this means that those very steep slopes will require some type of native vegetation. He commented that warm season grasses may be great as an interim measure, and they may build up organic matter in the soil, and maybe in the long term they will be beneficial for introduction of native species. But the excavation regulations require that native species be reintroduced at a certain point if an area is not to be used for parking lot or some such purpose.

Mr. Wirkkala summed up his comments by saying that he thought that what Allen is saying is that some sections of the pit will be in need of a different type of treatment than other sections. At some point, the Board should have a reclamation plan that will deal with the entire site and then the Board can start talking about what happens specifically in each area. He then said that as the plan is refined, we will need the NRCS people to

work in cooperation with the company and the Board so that we end up with a reasonable reclaimed site.

Mr. Wirkkala said that, in the meantime, there is a huge amount open in the pit – 30 acres – and we want to work towards closing it down. He said that he was glad to hear that the company plans to seed something like 6 acres this season. However, he said, tonight we just need to find out if the application is complete. Mr. Fraser, returning to the reclamation discussion, lamented that Board had not attended a previous workshop that NRCS and Carol Ogilvie attended. Mr. Wirkkala noted that that particular workshop had been scheduled on a weekday, when Board members were unable to attend.

Mr. Fraser asked Atty. Waugh if it would be possible for the Board to designate a member to work as a liaison with the company and be present for the seeding, and whether this would help or hinder things. Mr. Howe said this would hinder things, because what the Board needs is a neutral professional. He pointed out that the Goshen regulations state that a reclamation plan can be reviewed by a professional at the applicant's expense, which is allowed by RSA 155-E. Mr. Fraser suggested that Carol Ogilvie could do this.

[Note: The Board's audio tape ran out at this point.]

Ms. Bell stated her opinion that the reclamation plan should be reviewed by the NRCS. Mr. Carroll and Mr. Fraser agreed that they would contact the NRCS if this is what the Board desires.

Mr. Purick said that he appreciated Mr. Howe's desire to obtain detailed information so that the Board could evaluate the reclamation plan. He said that he would also support an NRCS review.

Ms. Cyndi Phillips commented that she felt that there were problems with attitude on the part of the applicant that were not helpful to winning goodwill with townspeople in Goshen. She said that the requests from the new Board member were not unreasonable.

Mr. Fraser said that apologized for any perceived insult and that he did not intend to be negative. It was his hope that the company could have a better working relationship with the town.

Mr. Wirkkala said that the next issue he would like to address is the issue of whether or not the Board needs to notify the Town of Newport under the state's regional notification requirements. He noted that in the company's narrative under III.3.B.3, the company proposed a daily average of 110 trucks, which is an increase over the 77 allowed in prior permitting. He asked Mr. Waugh whether this proposed increase would trigger the notification requirement, which mentions traffic networks as a factor.

Mr. Waugh said that he would need to take a few minutes to study the statute.

Mr. Fred Trommdorff [an abutter] said that he did not understand why this issue was coming up again. He said that the number of trucks had previously been capped at 77 and he saw no reason why the Board would want to change something that had been established and was working. Mr. Wirkkala said that Goshen has a three year permitting for excavations and that this allowed everything to be reconsidered every three years.

Mr. Moen and Ms. Phillips both raised a question as to whether the Board might in the future expedite its procedure by meeting with each other prior to a hearing in order to consolidate and clarify questions and presentations in the interests of the Board's and the public's time. Atty. Waugh said that such a meeting could take place, provided that it was noticed as a public meeting.

Atty. Waugh said that it was unclear whether the regional notification statute had any applicability to an excavation. He said that he always advises that decisions should err on the side of caution. Mr. Wirkkala asked the Board whether they wished to send a notice to Newport. Mr. Howe said that he thought the Board should follow its attorney's advice. Mr. Wirkkala noted that the Board has been trying to develop a relationship with other towns in which each town notifies its neighbors of any project which might affect the neighbors. The Board agreed to provide notification of the next hearing to Newport.

Mr. Wirkkala stated that he had several other matters dealing with completeness that he would like to discuss. He noted that the hour was getting late, but said that if the Board was willing to continue the meeting a little longer, he would try to get through his items quickly. The Board agreed that he should proceed with addressing his concerns.

With respect to regulation III.3.B.9, which deals with noise, dust, etc., Mr. Wirkkala suggested that the applicant's response, which stated that discretionary backup alarms had been successfully used in the past and that litter had not been a problem on the site, should be reworded to indicate that discretionary backup beepers will be used in the future and that the company will continue to maintain a litter-free site.

On regulation III.3.B.10, Mr. Wirkkala noted that Mr. Moen had detected ATV tracks at the site during the Board's inspection in October 2007. Mr. Wirkkala asked if this was a rare occurrence or whether there was a possible problem with security. Mr. Carroll said that there was a neighbor who had an ATV who was the only person permitted to access the site and that his presence there provided the company with some security.

In relation to III.3.C.10, the applicant was asked to provide a narrative explanation of test pit data with respect to the final grading plan. Mr. Wirkkala noted that the applicant's response, which specifically includes the phrase "likely not be a situation where a problem would arise," currently does not provide assurance that a problem will not arise. Using test pit data, the applicant must provide a narrative to assure the Board that, after final grading, the new restored surface will be at least 12 inches above the seasonal high water table.

Mr. Wirkkala stated that the applicant's response to regulation III.3.D.1, which asks

about possible future uses of the site, raised a number of issues and that the Board would need to come back to those at a later time.

Mr. Wirkkala expressed his opinion that in relation to III.3.D.2, which asks for a reclamation schedule, the applicant's current answer is overly vague. This regulation requires that the applicant must, at the least, provide the Board with the "anticipated maximum time within which all reclamation shall be complete." He said that if this is 20 years, as Mr. Carroll has stated earlier this evening, then this needs to be expressed in writing.

On the same item number, Mr. Wirkkala asked the location of a future proposed reclamation area located to the south of the 6.71 acres that had been brought to final grade in 2006. Mr. Fraser stated that the area should have been defined as to the "southeast" rather than to the south.

Mr. Wirkkala asked the Board if anyone had additional issues related to completeness. Members agreed that they felt that all completeness issues had been covered.

The Board requested Mr. Wirkkala and Mr. Howe work together to create a list of items that the applicant should provide for application completeness prior to a continuation of the hearing. Mr. Fraser requested that the list be sent to him via email.

The Board and the applicant discussed possible dates for continuing the hearing. The Board suggested the date of March 18th, but the applicant was unable to meet on that date. A date of April 1 was set for a continuation of the public hearing, to begin at 7:00 p.m.

Ms. Bell made a motion to adjourn the meeting. Mr. Purick seconded the motion. All were in favor. The meeting adjourned at approximately 10:15 p.m.

Respectfully submitted,
John Wirkkala
Planning Board Chairperson

**Planning Board Determination on Completeness of Revised Application
Of Guildhall Sand & Gravel**

March 4, 2008

(Supplement to Minutes of 3/4/2008)

Plan Sheet (Map) Issues

1. Print the maps so that the entire property is shown on the maps, at scale of 1" = 100'.
2. Change legend to indicate that the faint contour lines are "pre-existing" and give date.
3. Provide a written statement to the effect that the final grade contours outside the gold polygon on Plan Sheet 2 are already in place.
4. Delineate those areas within the gold polygon that are currently open. Alternatively, delineate those areas that are not open.
5. In the legend, add an item for the faint orange line that surrounds the area that was brought to grade in 2006.
6. Delineate the "pile of materials" on both plan sheets and the "stockpile area" on Plan Sheet 1.

Issues with Narrative Responses

Sections III.3.B – Attachments to Excavation Plan

1. Item III.3.B.2 – Provide an estimate of volume material to be removed annually and over the life of the project. Explain the way this estimate is made. For example test pit data and elevations might be used to estimate the material over the life of the project. Economic information and historical data might be used to estimate the amount of material to be removed annually.
2. Item III.3.B. 9 – Indicate that the company will continue to use discretionary backup beepers and will maintain a litter-free site.

Sections III.3.C and III.3.D – Reclamation Plan and Attachments to Reclamation Plan

1. Item III.3.C.10 – Using test pit data, provide a written assurance that after final grading, the new restored surface will be at least 12 inches above the seasonal high water table.
2. Item III.3.D.2 – Provide an anticipated maximum time within which all reclamation shall be complete.
3. Overall Reclamation Plan – Make the reclamation plan as specific to the Davis site as possible. For example, indicate how steep slopes (over 25%) will be revegetated to achieve native species growth. To this end, contact the National Resource Conservation Service to request a visit for site evaluation that will be scheduled to involve the company and the Planning Board.