

**Town of Goshen
Zoning Board of Adjustment
Minutes of May 23, 2012**

Members Present: Doug O'Clair, Chair; Keith Hall; Ray Porter; Mark Rissala, Mike Chilson, Alternate; Clark Wamsley, Alternate

Chair O'Clair called the meeting to order at 7:05 p.m.

Newport Sand & Gravel Co., Inc.

Chair O'Clair explained that the reason for this hearing is for the Board to determine if the proposed application for a special exception per RSA 155-E is materially different from the application that was previously denied.

Chair O'Clair stated that before the hearing begins, there are two things that need to be addressed. First is the issue of recusion. There are members on the Board this evening, Chair O'Clair and Mark Rissala who signed a petition sponsored by the applicant to expand the commercial district, and Keith Hall is an abutter to the applicant. After obtaining legal opinions, researching and reading, Chair O'Clair concluded that recusion is up to the individual Board member. Any Zoning Board Member may ask for a vote of the Board for a sense as to whether or not the member should sit as a voting member; but it is not binding.

Mr. Hall stated that he also researched the issue, and one of the reasons that a Board member should recuse themselves is if they are an abutter to the applicant. Being an abutter to the property in question, Mr. Hall recused himself for this hearing.

Mr. Rissala stated that he has no conflict under the terms of recusion, so he will remain seated as a voting member.

Mr. Porter pointed out that just because a person signs a petition does not mean that they are in favor of the petition. Some people sign petitions only to give the voters an opportunity to vote on the issue. No positions on the commercial district expansion were publicly stated, petitions are often signed to practice democracy.

Chair O'Clair stated that he signed the petition because he felt that the business zone area is too small in Goshen. That opinion was stated at Planning Board hearings. He stated that he has never been to any of the Zoning Board hearings for Newport Sand & Gravel and has no preconceived opinions regarding the application material; it is all new information to him. Chair O'Clair stated he will remain seated as a voting member.

No request was made from any Board member to vote to recuse.

Chair O'Clair then asked if anyone in the audience disagrees with the recusion decisions and would like to speak. After a period of silence, it was determined that no one wanted to speak.

Chair O'Clair explained the process for the hearing. The Board will listen to a presentation by the applicant which outlines the difference between the old and new applications. There will be a period of public input, the Board members may ask questions at any time, and the Board will vote whether or not to grant a rehearing based on the information provided this evening. He advised the applicant that if they choose, they may take the application to the Planning Board for advice prior to making a formal submittal to the Zoning Board of Adjustment.

Chair O'Clair appointed Mike Chilson to fill Keith Hall's position for this hearing and Clark Wamsley to fill Bob Johnson's position until he arrives at this meeting.

Dick Fraser explained the layout of the proposed application. The proposed excavation is to take place toward the southerly end of Tax Map 203/Lot 2. Sheet 1 of the plan submitted shows the proposed access to the site over Haul Road onto Route 10. The access/egress will be a concrete slab mount; the bridge crossing the river is built above specifications, for approximately 365,000 lbs., which is more than adequate for the proposed project. The total area of excavation is approximately 15 acres, which is approximately 8% of the total acreage of the lot. That leaves 92% of the site for a buffer. Sheet 2 shows the final grading and reclamation plan. Best Management Practices as outlined by the State of NH will be followed, NH Stormwater Manual published by the NH DES will be used to provide guidelines for soil erosion and sediment control measures during the life of this project. The final grade will be a slope of 2:1, and all activity will result in runoff being contained within the project area. There is an existing visual buffer of natural vegetation as screening from Route 10 and the abutters. The site requirements will be discussed at the Planning Board level.

Mr. Fraser stated that this application is vastly different from the previous application in several ways. Access: The old application proposed accessed the site over Lear Hill Road, located to the north of the lot. The new application proposes access from Haul Road to Route 10, for which a driveway permit has been granted from NH DOT for a seasonal commercial sand and gravel excavation. The access will probably be improved to asphalt on concrete to lessen the transition from Haul Road to Route 10. At the point of access/egress, the speed limit on Route 10 is 30 m.p.h. with good site distance. From 2001-2008 NS&G trucked material from excavation sites in Lempster to Newport. There was not one complaint of truck traffic along that route during that time. Based on that experience, a reasonable soul would determine that trucking is less of an issue. The old application proposed four phases of excavation over a total of 65 acres during a span of 15 – 20 years. The new application proposes to excavate a total of approximately 15 acres during a span of 3 – 5 years based on a good economy. Those are significant changes.

Mr. Fraser informed the Board that the State has become stricter with their rules governing dust. Chapter Env-A 1002 Fugitive Dust addresses precautions to prevent, abate and control fugitive dust. NS&G has an EPA certified consultant at their disposal to monitor and assure the company stays in compliance with Env-A 1002. Mr. Fraser explained that where the excavation site is located, there is a natural sound buffer. After 12 years of growth, the vegetation has created a wide belt of tree and shrub buffer visually as well as sound. According to noise standards, the combination of having a vegetative buffer along with the existing burm will reduce the excavation noise emitted from the site by 10 – 15 decibels. There will be no crushing or blasting on site, which will also reduce vibration in the ground.

Chair O'Clair invited any interested members of the public to come forward to the table and view the plans submitted.

Milt Houston commented that if there is a heavy rain storm, such as Hurricane Irene, the erosion could be a big problem considering the slope of the land.

Chair O'Clair stated that the site plan issues will be addressed on a Planning Board level. The purpose of tonight's hearing is for the Zoning Board to determine if the proposed plan is substantially different than the plan that was denied. If so, then a special exception hearing on the proposed plan will be scheduled.

There were no further questions from the public. There were no further questions from the Board.

Mr. Wamsley made a motion to accept the proposed plan as materially different and schedule a formal hearing. Mr. Chilson seconded the motion. All in favor.

The Board and Mr. Carroll discussed a mutually convenient time for a hearing. Several dates are being considered, based on availability of the Town Hall and a quorum. Notice of the hearing date will be announced as soon as possible.

MINUTES

The Board reviewed the Minutes of April 18, 2012. No corrections were made.

Mr. Rissala made a motion to accept the meeting minutes of April 18, 2012 as submitted. Mr. Porter seconded the motion. All in favor.

Mr. Porter made a motion to adjourn. Mr. Rissala seconded the motion. All in favor.
Meeting adjourned at 7:50 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary