

# Town of Acton Planning Board Meeting

Thursday April 7<sup>th</sup>, 2022 6:00pm

## MEETING MINUTES (Approved 5/19/2022)

**Members Present:** Christopher Whitman, Chairman; Gavin Maloney, Vic-Chairman; Patricia Pearson, Bevin Corbin

**Also Present:** Jason Sevigny, CEO; Ashley Flynn, Matt Pepin, Seth McCoy

**Call to Order:** The Chairman opened the Planning Board Meeting at 6:00 pm.

**Minutes:** Gavin Maloney made a motion to approve the minutes of March 10<sup>th</sup> and March 17<sup>th</sup>. Patricia Pearson second, all in favor, motion-carried. (4-0)

Gavin Maloney made a motion to approve the minutes of March 24<sup>th</sup>  
Patricia Pearson second, all in favor, motion-carried. (3-0) Gavin Maloney

### Old Business

- **David Pepin- Mineral Extraction:** H Road; 220-007 and West Shore Drive 221-003. Application for Mineral Extraction.

Matt Pepin presented Planning Board with updated deeds pertaining to the property. All applicate names all match up. Both properties are under David J Pepin Gravel LLC. The application for the mineral extraction will be falling under site plan review because of the scope of the project as well as staying under conditional use. NorthStar Planning will be a consultant for the project and the Planning Board will need to set an escrow account for the project.

The Planning Board and Matt Pepin discussed holding a site walk. The Board explained what they would like to see while out on the property. Which included a layout of the trails on a map and the areas marked to be marked out with flags to have an idea of the sizes of the buildings, and where the wetland buffers are located.

Patricia Pearson made a motion that the Planning Board hold a site walk for the David J Pepin Gravel LLC's Gravel Pit on April 30<sup>th</sup> 2022 at 10 am. Gavin Maloney second, all in favor- motion carried. (4-0)

**Gavin Maloney made a motion that the Planning Board established a review escrow account the amount of two thousand dollars (\$2000) payable to the Town of Acton. Patricia Pearson second, all favor- motion carried. (4-0)**

### **New Business**

- **Seth McCoy's Trucking & Excavating:** 2491 H Road; 207-001. Application for Conditional Use for storage and process of reclaimed asphalt.

Prior to the start of the review process, the CEO announced that he visited the site located at 2491 H Road before tonight's meeting to ensure that the asphalt that was requested to be removed by the Board was indeed removed. The CEO showed pictures from the site showing the piles were gone.

A packet of information regarding RAP was passed around to the Board. Mr. McCoy explained that he would like to bring in reclaimed asphalt, not RAP. RAP has a much higher dust content. Mr. McCoy continued saying that the asphalt will be in chucks and crushing it to a three-quarter inch not grinding the product.

The Planning Boards' main concern for the reclaiming of asphalt is the chemicals leaching into the aquifer and the aquifer protection district as well as the protection of Moose Pond. Mr. McCoy informed the Planning Board that the process is the same as gravel running through the crusher and that the asphalt is inert fill. He further explained that with the Town's own rules he can reclaim the pit with the asphalt instead of the loam to reclaim and that the state also allows this. Mr. McCoy told the Board that the majority of pits are in aquifer protection districts across the whole state, it's nothing new or special. Mr. McCoy continued to explain that the comp plan made by the town says that the application is CEO review, not a conditional use.

The Board opened to the land use chart in the Zoning Ordinance, G. Mineral extraction industrial under the aquifer protection district it is labeled is C for Conditional Use. Mr. McCoy argued that his application falls under I. uses which are similar to conditional use, under aquifer protection district, it would be an R for CEO review. The Board stated that the zoning for the area which is critical rural is C for conditional use, the aquifer protection district is just an overlay of the other districts and is an overlay of

the districts and not a stand-alone district. The Board also stated that the aquifer protection district doesn't supersede the other districts.

Mr. McCoy states to the Board that since November he has been studying the codes from the town's ordinance and in that research, the town allows inert fill, which the state defines as inert fill. He continues saying that by having the asphalt in the pit, he didn't know he was breaking rules. He stopped bringing it in and then removed it at the Board's request. Mr. McCoy stated that the aquifer protection district has its own set of rules and they contradict themselves, saying that that needs a conditional use and a review by the CEO. The Board informs Mr. McCoy every conditional use is reviewed by the CEO.

Mr. McCoy stated that he believes the Board refuses to entertain the idea of the use of the asphalt in the gravel pit. He told the Board that they are not supposed to have an opinion before you come and meeting, it is against the law. The Board stated that they are trying to address the application. Mr. McCoy complained that the Board keeps bringing up the contamination of the soil. The Board is concerned with the contamination of the water. Mr. McCoy tried to bring up septic tanks and their pollution the Chairman stopped him saying that the Board and he were talking about asphalt, not septic systems. The Board explained to him that septic systems are under residential uses, and he is an industrial use. The Board then stated, that mineral extraction is for the hauling and taking of materials out of the pit. The board thinks messing with and changing the conditional use in favor of the asphalt of Mr. McCoy's gravel pit is not beneficial to the town. Mr. McCoy argued that it was agreed upon to talk about the asphalt conditional use later. The Board agreed and stated that we are discussing it now. The Board stated that they are not prohibiting Mr. McCoy from working on his property in any way. The Board reads out the verbiage of 4.13.4 from the town's ordinance:

*4.13.4 Change of Use of a Structure or Land: The use of a structure may not be changed to another use unless the code enforcement officer, after reviewing a written application, determines that the new one will have no greater adverse impact on the sand and gravel aquifer than the existing use. In determining whether greater adverse impact will occur, the code enforcement officer may require written documentation from*

*the applicant regarding the probable effects on public health and safety, which may include, but not be limited to, a hydro geological survey demonstrating that the sand and gravel aquifer will not be more adversely impacted by the proposed use than by the existing use.*

The Board's conclusion is that this conditional use will have a greater adverse impact on the sand and gravel. Mr. McCoy states that he has proven the facts and the Board must go by the facts provided, that asphalt is an inert fill and can be used as inert fill. The Board argued that it's fine to provide information to the Board, but information from the Virginia Department of transportation may be a good source for themselves, but doesn't pertain to Maine and the information provided stated, "may be suitable and to refer to your local town state". The Board stated to Mr. McCoy what is legal does not mean allowed. **Gavin Maloney made a motion that, we denied the application of the conditional use for the Seth McCoy's storage and process of reclaimed asphalt. Patricia Pearson second, all in favor- motion carried. (4-0)**

**Gavin Maloney made a motion to adjourn. Bevin Corbin second, all in favor- motion carried. (4-0)**