

Town of Acton, Maine

Planning Board Meeting Minutes

Date: January 5, 2023

Public Hearing:

David Pepin: Mineral Extraction

Members Present:

Chris Whitman (Chairman), Gavin Maloney (Vice-Chairman), Patricia Pearson, John Qua, Bevin Corbin

Also Present:

Jason Sevigny (Acton Code Enforcement Officer), Dave Riley (Land Use Assistant)

Pledge of Allegiance

Approval of Minutes:

John Qua: Motion to approve the Planning Board Minutes from November 3, 2022, November 17, 2022 and December 1, 2022 as written.

Gavin Maloney: Second the Motion. Motion Passed 5 – 0.

John Qua: Motion to approve the minutes as modified from December 15, 2022.

Patricia Pearson: Second the motion. Motion passed: 5 – 0.

New Business:

Public Hearing:

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

Matt Pepin began the public hearing by standing before the Planning Board and public, giving a description of the gravel pit project that he is proposing and how it will be operated. Matt Pepin detailed how the project would be located on a 500-acre piece of property and that 90+ acres of the 500 acres would be donated to the Three Rivers Land Trust for public recreational use. Matt also detailed how the intention of this project is to utilize and remove the material that helps their business. It was stated that they have no intention of subdividing and creating house lots and homes on this property. It was also stated that there would be no hauling on the weekends between Memorial Day and Labor Day. Matt Pepin continued by describing the traffic impact of the project and it was stated that there would be minimal impact on the area.

Matt Pepin continued by highlighting some significant areas on the proposed site plan map. He showed the public where the maintenance building would be located, where the extraction areas are located and where the entrance to the gravel pit would be on the H road in Acton. Matt also described where the processing area would be located and where the crushers would be operated. After detailing areas of operation, Matt Pepin stated that the operation would be bonded through the State of Maine and the Town of Acton so that reclamation would be guaranteed in the event of their company failing or deserting the location.

Following Matt Pepin, the Planning Board opened the meeting to comments and concerns from the public. To begin the Planning Board read two emails from members of the public who were not able to attend the meeting. One email was from Dona Girvan and the other from Joyce Marenghi and Susan Dean. Both emails stated the individual's disapproval of the project.

After the reading of the emails, Dennis Long approached the podium for comment on the Mineral Extraction project and application process. Mr. Long stated his frustration with the length of time the application process has taken. Mr. Long also stated that the Planning Board had placed unreasonable fees on the Pepin's project compared to past applicants. Dennis Long finished by stating his support for the Pepins and all they had done throughout the permitting process.

Next, Nancy Maloney posed questions about reclamation and the impact of noise from the operation to the Planning Board. Nancy first asked

about when reclamation would begin. The Code Enforcement Officer stated that when one area of extraction completes, reclamation begins before the Pepins can begin extraction at another location on the property. Following the extraction question, Nancy Maloney asked about the noise impact on surrounding residents and decibel levels of the crushing procedure. It was stated that studies were provided by the Pepins and that they were to conform to 50 decibels at the boundary lines of the property where mineral extraction is to occur.

David Pepin Stated that on the H Road side of the project map, there would be a 90-foot bank that would significantly limit the noise from the crushing operation from escaping the gravel pit. He also stated that to lessen the impact of noise on the residents of West Shore Drive that there would be no crushing occurring near West Shore Drive. He continued by stating that the State of Maine tests the decibel levels of the gravel pit every year to make sure they are in compliance. Dave Pepin stated that he said 90-foot bank but that it could be 80 feet or shorter, he wasn't sure. Matt Pepin showed the location of where the embankment would be located along the H road. Matt Pepin also stated that they have committed to installing silent backup alarms in their equipment.

Cindy Hart stood and asked the Planning Board how many gravel pits are already existing on the H road and how many trucks are allowed to travel the H road from those pits presently, before taking the Pepin pit into consideration. Cindy stated she is concerned about damage to the H road from consistent dump truck travel. She asked that the Planning Board look

into the amount of taxes that are paid by the gravel pits in relation to home owners in the area. Cindy stated there is a large discrepancy between what homeowners pay in taxes for road upkeep in relation to gravel pits and asked the Planning Board if they can find a way to monetize the project so that the town is not losing money on road repairs.

Steven Delrossi asked where exactly along West Shore Drive the extraction would be occurring and exactly what kind of excavation would be happening in the extraction area. He also asked if there would be blasting of any type occurring.

David Pepin stated there would be no blasting occurring and that there would be a 30-foot hole with a 20-foot berm above it to limit noise from leaving the extraction area. David Pepin then stated that his business pays a large fuel tax when filling each truck, which he stated helps pay for road repairs.

Joyce Bakshi asked about the number of trucks into and out of the proposed gravel pit. The Code Enforcement Officer stated that the Pepin pit would be allowed 50 trucks per day, which would be 100 trips (a trip would include entering the pit from one destination and leaving the pit to go to another destination or leaving the pit to go to a destination and then returning to the pit). Joyce also asked how far from West Shore Drive the berm the Pepins were describing would be placed.

Matt Pepin stated that their company owned four trucks and that during a typical day, the trucks they own would only be able to make about

20 trips to and from the proposed gravel pit. Matt then stated that they are asking for 50 trucks to be allowed to travel to and from the gravel pit in the event they are able to take on a job closer to Acton where they would be able to access the pit more easily. Matt also stated the operation would begin by clearing the land and removing the loam in order to start the construction of the berms. The loam would be kept onsite in order to reclaim the pit as the extraction process progresses across the property. Matt Pepin then stated that as the pit is reclaimed the extraction areas would not be filled in but be left as depressions in the earth that are revegetated. He stated that the depressions are internally drained.

Bernard Broder stated that the accusations that the Planning Board had been slow in the process of approving the mineral extraction application were “bologna” and he found those statements to be disrespectful and offensive. Bernard continued by stating that he believes the insurance certificate for this project is issued to the town of Newfield instead of the town of Acton. Also, that the insured entities on the insurance certificate, may not align appropriately with the applicants for the permit. Bernard asked the Planning Board and Acton residents to do the research in relation to gravel pits owned by the Pepins in Sanford and what potential violations, issues or complaints may have been encountered in Sanford. Bernard asked questions to the Planning Board around the neutrality of the road studies completed around this project. He stated the studies should be performed by professionals working on behalf of the town instead of working on behalf of the applicant. Bernard then asked the Planning Board if the road study may not have taken into account current

truck traffic on H road along with the proposed traffic for the Pepins. Mr. Broder then made statements about whether or not the pools located on the site were considered significant vernal pools or not and that it is important to safe guard these areas for different species which inhabit these pools.

Isaac Pepin states that his family has been more than willing to work with the town to have their project be approved. He stated that they have been following the laws, doing everything legally and the Pepins want the town to benefit from this project as well. Isaac continued by stating that all the extra precautions and berms have been an attempt to work with the Town of Acton so that all parties' needs are being met.

Matt Pepin explained the current hours of operation are from 6:00am to 5:00pm, with no excavation being allowed between 6:00am and 7:00am. Matt Pepin also stated operating times for the servicing and maintenance of equipment, operating of screeners and operating of the crushers. After discussing operating times, Matt then stated that the facts around the research into the vernal pools indicates that the Pepins are not doing anything outside the parameters of what is allowed.

Bernard Broder stated that he was not making claims that the Pepins were intending to breach any vernal pools, simply that he was addressing the language around vernal pools.

Will Langley stated concerns around the entrance to the gravel pit and the possibility of having a blind corner when exiting the pit. Will

expressed his concerns about the entrance and traffic and stated to the Pepins that he would be willing to help in whatever way he could to make it safe for individuals travelling the H road.

Dan Hebert stated support for the process for application through the Planning Board and that the conditions that he has seen put on the Pepin's application seem good. He stated concerns for noise transmission and traffic. Mr. Hebert asked about noise traveling a long distance across the lakes and stated that the H road is simply not wide enough for the amount of truck traffic presented by this project. Mr. Hebert stated that there has been a lot of thought that has gone into this process but would be interested to see what the Planning Board finalizes on, and what could be done to make the situation better.

Dexter Lazenby stated that at this time he counts that there is approximately one truck per minute that travels past his house between 5:30am and 5:00pm. He also stated that he has no issue with the Pepins project but is looking for some sort of solution to the engine breaks that are utilized in the large trucks and the noise and vibrations that accompany them. Mr. Lazenby asked the Planning Board that his concerns be addressed.

Victoria Erickson asked questions about future maintenance costs that will be placed on the town and road commissioner. She stated these costs may become exorbitant in the future. Victoria then asked the Planning Board to look into future projects and what the impact will be for the town and the individuals who are being impacted the most.

David Pepin stated to the Planning Board that there should not be any “Jake” breaks allowed on the H road. Mr. Pepin also stated that Seth McCoy has the most impact on the H road and that with the way his pit is progressing, Mr. McCoy may only have 5 more years of excavation left before he leaves the area. David Pepin then stated his agreement with the concerns around the impact of engine breaks on the H road and wishes to have those concerns addressed.

Carl Davis asked if all the pits in the area shut down truck traffic on Saturdays and Sundays. The Code Enforcement Officer stated that the Pepins worked with the Planning Board in regards to Saturday and Sunday traffic being halted and that it’s not a condition that was specifically requested by the Planning Board. The Code officer also stated that shutting down truck traffic on Saturdays and Sundays is not something that is universal for all the pits in the area but was a condition offered by the Pepins. The Code Officer then stated that at this time the current Planning Board is trying to establish set guidelines for conditions placed on projects that come before them, so that in the future there is uniformity amongst conditions set for different applicants.

Dexter Lazenby stated his comments from earlier around truck traffic and noise, reiterating his concerns.

Mark Rautenberg stated the need for gravel pits however, he states that no one dreams of moving to a quiet community in hopes that someone builds a gravel pit next to them. Mark then stated that there is currently a 100-foot vegetative buffer on the proposed site plan between the gravel pit

and West Shore Drive but at an informal West Shore Drive meeting the buffer was verbally requested to be 150 feet and was agreed to by the gravel pit owner. Mr. Rautenberg stated that this 150-foot buffer has not been held up by the pit owner and asked that the pit owner increase the buffer to the previously agreed upon 150 feet. Mark Rautenberg then summarized his list of items he had concerns over, of which he stated the majority had already been addressed by other members of the community and the Planning Board.

David Pepin stated to members of the town in the audience, that they should get together with his son Matt Pepin to write a list of criteria that could put in the conditions for the project to make sure everyone was comfortable with the way the pit would be operated. David Pepin also stated that before the project goes before the Planning Board again, the residents of West Shore Drive and Matt Pepin come up with a plan that would be mutually beneficial for all the parties involved.

Matt Pepin stated agreement with his father's comments and that he would be very interested in meeting with residents of West Shore Drive in order to make changes to the proposed operation of the gravel pit, along with determining appropriate locations where the crushers and screens could be operated.

Jeremy Smith asked the Planning Board about the buffer that was set on either side of the stream on the site plan. The Code Enforcement Officer stated that the buffer on either side of the stream was 100-feet, which was a condition recommended by the State of Maine.

Steven Delrossi asked if there would ever be any access from West Shore Drive to the gravel pit. Mr. Delrossi stated that he did not want vehicles traveling past his residence to the extraction areas. David Pepin stated that there would never be any vehicle travel from West Shore Drive to the gravel pit.

Planning Board Chairman, Chris Whitman, closed the public hearing.

Matt Pepin was asked to remain at the meeting after the public hearing to address some questions from the Planning Board. The Planning Board asked about the 150-foot buffer between the gravel pit and West Shore Drive that was promised to West Shore Drive residents. Matt Pepin stated that he did not agree with that request and that he feels a 100-foot buffer was reasonable. Planning Board member John Qua followed the question of buffer distance by asking that Matt address the other concerns around crusher location and operating hours of different machines and to document those changes on the site plans. Matt Pepin agreed to Mr. Qua's request and stated he would try to have the changes completed for the February Planning Board meeting. The Planning board and Matt Pepin had discussions about operating times, Matt agreed to changing the operating hours of the crushers to 9:00am across the board no matter where they are located in the gravel pit.

The Planning Board asked Matt Pepin to update the Insurance Certificate that was provided to the Planning Board to have it issued to the Town of Acton. Following the request for an updated Insurance Certificate, the Planning Board discussed the Stantec report to the State of Maine

about significant vernal pools. The Code Enforcement Officer was able to locate and provide an email with attachments of the updated reports from Stantec to the Planning Board for their further review. The Planning Board requested Matt Pepin to provide them with a reclamation plan for the non-extraction areas of the gravel pit and note the locations where trees will be planted, as well as a storm water permit and plan for the maintenance garage and processing areas.

The Planning Board discussed addressing public concerns around the traffic study in relation to current truck traffic on the H road. The traffic study that was conducted for the Pepin gravel pit did not take into account current truck traffic. It only involved the truck traffic proposed by the Pepin project. Because of the amount of concern raised by residents at the public hearing earlier in the evening, the Planning Board determined they are obligated to look into the traffic study in greater detail with current truck traffic taken into account.

John Qua – Motion to adjourn the Planning Board meeting.

Patricia Pearson – Second the motion. Motion Passed 5-0.

Old Business:

Pending Projects: