

**MINUTES
TOWN OF SEBAGO
PLANNING BOARD MINUTES
7:00 PM
Tuesday, December 14, 2021
TOWN OFFICE BUILDING**

I. Call to Order

Paul White called the meeting to order at 7:00 p.m.

Present: Carolyn Calarese, Jim Jansz, Andrew Plummer, Tina Vanasse, Paul White, Code Enforcement Officer Brandon Woolley, Recorder, Desirae Lyle

Guest Present: Darin Shaw, Pat Shaw, Ben Hartwell – attorney for GS&G, J.P. Connolly - DM Roma Consulting Engineers, Tony & Stephen Vacchiano, Ann Farley, Marjorie Jansz, Wendy & Grosvenor Newcomb, Claudia & Phil Lowe, Kevin & Kelly Hale, Phil Strike, Alan Munroe, Joe Williams, Donelle Allen, Joe & Anne McMahon, Debra Dolan, David Heath, Deborah Howard, Marcia Christensen, Douglas Newton, Robert & Marcella Laliberte, Michele & Walter Bukoveckas, Susan & Michael Farrell, Shannon St. Peter, Mark Roy, Rachel Pickus, Eric Shute, Deb & Chris Ross, Cynthia Hoard, Lori Cohoon, Marc Assante,

II. Correspondence

Multiple letters were received from Town citizens and a letter was received from the Town Attorney regarding Gorham Sand & Gravel, Inc.

III. Open to Public Questions

There were none at this time.

IV. Review of Minutes (November 9, 2021)

Tina Vanasse made a motion to approve the November 9, 2021, meeting minutes as present. Jim Jansz seconded it. Motion carried with all in favor.

Andrew Plummer made a motion to here from New Business Item a. DM Roma Consulting Engineers before hearing Old Business Item a. Gorham Sand & Gravel Inc. Tina Vanasse seconded the motion. Motion carried with all in favor.

(**NOTE:** These minutes reflect the order of the agenda not the order in which the items were discussed.)

V. Old Business

a. Site Plan Review – Gorham Sand & Gravel – Map 2, Lot 9 – Land Lot – Proposed Use is Gravel Quarry

The Board discussed tabling this matter on the advice of the Town Attorney. Ben Hartwell introduced himself as the attorney for Gorham Sand & Gravel Inc (GS&G) and asked to speak before the Board decides to table the matter.

Mr. Hartwell spoke briefly on the moratorium that the Town of Sebago voted on November 23, 2021. Mr. Hartwell feels that the moratorium, by voting to have it retroactive to January 1, 2021, is inactive because a moratorium expires after 180 days. The Selectmen have a meeting this coming Thursday night to extend the moratorium. Mr. Hartwell feels that GS&G has met all the conditions of the Sebago land Use Ordinance, and if the Board feels that they have not the Board needs to list each item that they have not met. Mr. Hartwell noted that the ordinance requires that the Board needs to make a final decision within sixty (60) days of receipt of a complete application. Brandon Woolley noted that at the November meeting the Board and the applicant agreed to continue the application to this meeting. Paul White noted that the Town attorney has recommended that the Board table this application. Jim Jansz also agrees with the Town attorney. Tina Vanasse referenced The Town of Gray vs. Portland Sand & Gravel (this document will be included with the original set of these minutes). Tina noted that the Board had an agreement with GS&G at the November meeting that they (the Board) would upon receipt of certain items would decide at tonight's meeting. Tina feels that the moratorium is contradicting itself.

Andrew Plummer expressed that as members of the Planning Board their job isn't always easy. He attended the Special Town Meeting and saw how many people voted for the moratorium, but the Board still has a job to do, and mentioned again that the Board agreed with GS&G at the November meeting to continue this application to this meeting tonight. Tina Vanasse stated that when someone becomes a Board member, they swear an oath to uphold the ordinances, the State law and statues, and the laws and statutes of the United States government, and all the Board members present are trying to uphold each of those items. Andrew noted that no one has been to the Town Office to review the public information that was submitted by GS&G, and the Board has a job to do.

The Board discussed tabling vs voting on this matter. Jim Jansz offered to attend more than one (1) meeting a month to completely discuss this project and recommended that multiple meeting is needed to review this project in its entirety. Jim mentioned that the application doesn't address the Comprehensive Plan. Tina noted that at the last meeting she had mentioned that the Comprehensive Plan is outdated. Brandon Woolley noted that it is in the November minutes that the Board and the applicant agreed to extend the sixty (60) day period to the December meeting. Brandon asked how the Board can make findings of fact when they haven't made any decisions yet. A sound study has been provided to the Board; a groundwater analysis has been provided as well.

Carolyn Calarese noted that it is her third meeting, and she has reviewed all the information and she believes that the Board needs to decide tonight whether its yes or no.

Paul White stated that he doesn't believe that it is this Board's concern to determine if the moratorium is valid or not. Brandon clarified that even if the Board votes to approve this application the moratorium can still stop GS&G from moving forward.

Paul White made a motion to table this matter. Mr. Hartwell asked that it be noted that he objects to this motion. Jim Jansz seconded the motion. Motion failed with two (2) in favor and three (3) against.

The question was raised if Tina Vanasse should recuse herself from this vote since she is on the School Committee. Tina explained that she recused herself from the School Committee vote and refused to sign any petitions regarding this project, because she was aware of her duties as a Planning Board member.

(NOTE: Some members of the public left currently and throughout the remainder of the meeting.)

Paul White asked about the updates to the map, showing the road and the separate ten (10) acre sections that will eventually be developed. Darin Shaw began reviewing the information that the Board asked for at the November 9, 2021 Planning Board meeting. A parking area has been set aside for equipment. Mr. Shaw reiterated that they would have to reclaim to ninety (90%) percent the open ten (10) acres prior to opening the next ten (10) acres. The berms and area where the water will pool is on the plans. Mr. Shaw estimated that it will take twenty (20) years before they will be ready to open the second ten (10) acres. Mr. Shaw submitted a letter from Cumberland County Tax Assessor who spoke to the Town assessor John E. O'Donnell and Associates regarding the real estate values.

Carolyn Calarese asked what might happen to the other pits and quarries in the area. Mr. Shaw doesn't believe that any of the other pits or quarries owned by competitors would become more active because they open a new quarry. Tina Vanasse confirmed that 7:45 a.m. to 8:30 a.m. and 2:45 pm. to 3:30 p.m. are the drop off/pick up times at Sebago Elementary School. Mr. Shaw agreed that no trucks will travel Route 114 at those times. There is an expected average of twenty (20) truck trips a day. Blasting will be going through DEP.

Mr. Shaw asked that it be noted that the only posted land will be the quarry site, the remaining land will be open to public use.

Jim Jansz drew the Board attention to the voting matrix, noting that the ordinances in Sections 4, 5 and 7 need to be reviewed. The Board reviewed each section. Under Section 4 the quarry falls under Resource Extraction and Rural Uses and Commercial Uses. Jim Jansz drew the Boards attention to Section 5 (A) (14) *INDUSTRIAL*

PERFORMANCE STANDARDS The following provisions shall apply to all permitted industrial uses: a. Danger – No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored manufactured, processed or assembled except in accordance with State and Federal codes and regulations. b. Vibration – With the exception necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates. c. Wastes – No offensive wastes shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake or swamp. Industrial waste water may be discharged to municipal sewers, if applicable, only and in such quantities and quality as to be compatible with existing municipal facilities. d. Noise – Offensive noise shall not be transmitted beyond lot lines so as to cause disturbance to neighboring residential properties.

Mr. Shaw clarified that the sound leaving the lot is what DEP requires be monitored, the sound on the lot can be any decibel. Andrew Plummer shared videos of the equipment at another of GS&G's sites. Jim asked how the applicant met the ordinance requirement for noise and vibrations. Paul White noted that a noise study has been submitted. Jim would like a study done for the noise at abutting property lines. Mr. Shaw noted that the Board asked for a noise study to be done up to eight hundred (800) feet to the lot line, they weren't asked to measure the noise to each abutting dwelling. Jim noted that the burden is on the applicant to comply with the ordinances. The applicant has provided a study and if they are found to be not in compliance DEP will site them and they could be shut down.

The Board took a small recess at 9:16 p.m. and then started discussing hiring an independent consultant to address the noise concerns.

Paul White made a motion to request an independent peer review be conducted to address the concern of noise levels and vibrations at abutting property lines. Jim Jansz seconded the motion. Darin Shaw asked that it be noted that he will not accept the Board tabling this application again. Motion failed with two (2) in favor, two (2) opposed and one (1) abstention.

The Board reviewed each item in Land Use Ordinance Section 7 (H) Criteria and Standards. Paul White noted that he will be abstaining on many if not all the items in deference to the advice from the Town attorney. (NOTE: The Site Plan Review Voting Matrix that the Board uses will be included with the file for this application.)

1. *BUFFERS, SCREENING, LANDSCAPING, NATURAL FEATURES* – Adequate provision has been made with regard to buffers, screening, landscaping, and the preservation and enhancement of significant natural features.

Tina Vanasse made a motion that what has been presented is acceptable. Andrew Plummer seconded the motion. Motion carried with four (4) in favor and one (1) abstention.

- 2. BURDEN ON MUNICIPAL SERVICES** – *Adequate provision has been made to avoid any undue burden on municipal services.*

Tina Vanasse made a motion that what has been presented is acceptable. Carolyn Calarese seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 3. CONGESTION, UNSAFE CONDITIONS** – *Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development.*

Tina Vanasse made a motion that what has been presented is acceptable. Andrew Plummer seconded motion. Motion carried with three (3) in favor, one (1) against and one (1) abstention.

- 4. GROUNDWATER PROTECTION** – *The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2000) gallons per day or greater shall demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.*

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with three (3) in favor, one (1) against and one (1) abstention.

- 5. HAZARDS/NUISANCES** – *Adequate provision has been made to avoid any hazard to travel on public or private ways, or any glare or other nuisance to the use of adjoining public or private property.*

Tina Vanasse made a motion that this requirement has been met. Andrew Plummer seconded motion. The motion failed with all opposed.

- 6. IMPACT ON NEIGHBORING PROPERTIES** – *Adequate provision has been made to prevent any undue adverse effect upon adjacent or nearby properties.*

Tina Vanasse made a motion that what has been presented is acceptable. Carolyn Calarese seconded motion. Motion carried with three (3) in favor and two (2) opposed.

- 7. OFF-STREET PARKING AND LOADING** – *Adequate provision has been made for off street parking and loading.*

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 8. OPEN SPACE**

- a. *Common open space areas shall be contiguous, where possible.*
- b. *Common open spaces as shown on any approved development plan shall contain a notation that common open space areas shall not be further developed for any other use.*
- c. *When reviewing the location and type of open space designated in an application, the Planning Board shall require:*
 1. *Individual lots, buildings, streets, and parking areas shall be designed and situated:*
 - a. *to minimize alterations of the natural site*
 - b. *to avoid the adverse effects of shadows, noise and traffic on the residents of the site*
 - c. *to relate to surrounding properties and to improve the view from and of buildings*
 2. *Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.*
 3. *Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).*
 4. *Open space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the site.*

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 9. *OUTDOOR DISPLAY/STORAGE*** – *Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.*

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 10. *PROPER OPERATION OF PROPOSED USE*** – *Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements.*

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 11. PUBLIC HEALTH, SAFETY, WELFARE** – Adequate provision has been made to prevent any significant adverse effect upon the public health, safety, or general welfare of the neighborhood or community.

Tina Vanasse made a motion that what has been presented is acceptable. Carolyn Calarese seconded motion. Motion carried with three (3) in favor and two (2) abstentions.

- 12. SCENIC AREAS/NATURAL BEAUTY** – Adequate provision has been made, including, but not limited to modification of the proposed design of the site, timing of construction, and limiting the extent of filling or excavation, to protect to the maximum extent possible, the scenic or natural beauty of the area including scenic areas designated in the Comprehensive Plan, aesthetics, historic sites, archaeological resources, rare and irreplaceable natural areas, wildlife habitats including deer wintering areas identified in the Comprehensive Plan, existing uses, air quality, water quality, or other natural resources within the town or in neighboring towns.

Tina Vanasse made a motion that what has been presented is acceptable. Andrew Plummer seconded motion. Motion carried with three (3) in favor, one (1) opposed and one (1) abstention.

- 13. SHORELAND VEGETATION/VISUAL ACCESS** – Whenever a project is situated, in whole or in part, within two hundred fifty feet (250'), horizontal distance, of the normal high-water line of any great pond or river, or within two hundred fifty feet (250') horizontal distance, of the upland edge of a freshwater wetland, or within seventy five feet (75'), horizontal distance, of the normal high-water line of a stream, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities, and actual points of public access to waters.

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 14. SOILS** – That the proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems, and/or any other adverse effects of inadequate drainage.

Tina Vanasse made a motion that this requirement has been met. Andrew Plummer seconded motion. Motion carried with four (4) in favor and one (1) abstention.

- 15. SPECIAL FEATURES** – Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being

incongruous with the existing or contemplated environment and the surrounding properties.

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

16. TRAFFIC MOVEMENT – *Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of, and within the proposed project. The Board shall consider traffic movement both on-site and off-site in making its determination under this criterion.*

Andrew Plummer made a motion that this requirement has been met. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

17. UTILITIES

- a. All utilities included in the site plan shall be reviewed as to their adequacy, safety and impact on surrounding properties. Storm drainage, sanitary waste disposal, solid waste collection and disposal, water supply, electricity and telephone services shall be reviewed.*
- b. The following criteria shall be followed:*
 - 1. Emphasis shall be placed on the protection of floodplains; reservation of stream corridors; establishment of drainage right-of-ways and the adequacy of the existing system; the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage; provide for treatment of effluent and maintain an adequate supply of potable water at sufficient pressure.*
 - 2. Whenever feasible, utility lines shall be installed underground.*
 - 3. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.*

Tina Vanasse made a motion that this requirement has been met. Andrew Plummer seconded motion. Motion carried with four (4) in favor and one (1) abstention.

18. WASTE DISPOSAL – *The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.*

- a. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.*
- b. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.*

Carolyn Calarese made a motion that this requirement has been met. Andrew Plummer seconded motion. Motion carried with four (4) in favor and one (1) abstention.

19. Other – Paul White asked the Board to consider the independent peer review to address the noise levels and vibrations at abutting property lines. It was noted that the applicant will need to meet DEP requirements to remain in operation.

Tina Vanasse made a motion to approve the condition that an independent study be done to address the noise levels and vibrations at abutting property lines, not at the residence. Andrew Plummer seconded motion. Motion carried with all in favor.

Desirae Lyle confirmed that all fees have been paid to date.

Brandon Woolley asked that the Board request a reclamation bond of \$500,000.00. This was discussed and Mr. Shaw agreed that this amount is acceptable.

Paul White made a motion to require a reclamation bond of \$500,000.00 as a condition of approval. Andrew Plummer seconded motion. Motion carried with all in favor.

Tina Vanasse made a motion that the application is in conformance with the Comprehensive Plan. Andrew Plummer seconded motion. Motion carried with three (3) in favor, one (1) opposed and one (1) abstention.

Andrew Plummer made a motion to revisit LUO Section 7 (H) (5) Hazards/Nuisances. Tina Vanasse seconded motion. Motion carried with all in favor.

Andrew Plummer made a motion to accept that the requirement has been met for LUO Section 7 (H) (5) Hazards/Nuisances. Tina Vanasse seconded motion. Motion carried with four (4) in favor and one (1) abstention.

Andrew Plummer made a motion to approve the project with two conditions: 1. That an independent peer review occurs to address the noise levels and vibrations at abutting property lines and 2. A reclamation bond of \$500,000.00 be secured. Tina Vanasse seconded the motion. Motion carried with three (3) in favor, one (1) opposed and one (1) abstention.

The Board signed the Decision Form for this project, an original copy will be included with the file for this project.

b. CEO Updates

None

c. Goal Setting Items

None

VI. New Business

a. Pre-Application Meeting – DM ROMA Consulting Engineers – Map 9, Lot 18 – Land Lot – Proposed Commercial Self Storage Buildings

Mr. Connolly, representing Tony Vacchiano, presented his plan for five (5) storage buildings. Mr. Vacchiano is breaking out the 5.17 acres from his lot (1129 Sebago Road). Mr. Connolly is proposing five (5) buildings, three (3) of the buildings will be 40' by 170' and two (2) will be 30' by 170'. They will be clearing more trees than necessary in anticipation of more storage area for outdoor storage as well (i.e., boats, vehicles etc.). A DEP (Department of Environmental Protection) permit will be needed. Mr. Vacchiano believes that the three (3) 40' by 170' buildings will have 132 units, approximately 42-46 units per building. At this time, they are not planning to have a fence around the units, but each unit will have a lock and they may put up access gates at the beginning of the property. Mr. Connolly expressed that they are willing to work with the Board and would like any input that they can give.

Carolyn Calarese asked about lighting. Mr. Connolly answered that there is no real plan for site lighting except for the wall packs. Tina Vanasse asked about drainage. Mr. Connolly explained that the area is designed with the future outdoor storage impervious area included. There will be a buffer of trees between the buildings and Route 114. There is no intent to have an onsite office, and Mr. Vacchiano lives next door.

Paul White thanked the applicant for presenting their application and suggested working with the CEO to submit a complete application for the next meeting if they so choose.

VII. Adjournment

Andrew Plummer made a motion to adjourn at 10:28 p.m. Tina Vanasse seconded it. Motion carried with all in favor.

Respectfully Submitted,



Desirae Lyle
Administrative Assistant/Deputy Clerk
Approved at the February 8, 2022 Meeting