

SANFORD PLANNING BOARD MINUTES
MEETING February 6, 2013 – 7:00 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Robert Hardison, Chair
John McAdam, Vice Chair
Richard Bergeron
David Mongeau, Secretary
Lela Harrison
Matthew Treadwell (late w/notice)
Kelly Tarbox

MEMBERS ABSENT: None

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Charles Andreson, P.E., AICP, Town Engineer
Michael Casserly, P.E., Assistant Engineer

STAFF ABSENT: None

I. CALL TO ORDER

Chair Hardison called the meeting to order at 7:00 P.M. Chair Hardison said that Old Business would be heard before public hearings.

II. PUBLIC HEARINGS

These items were heard after Old Business items.

Chair Hardison addressed the audience before discussion of the items. He said that the comments or concerns that were brought up by people at the January meeting are included in the record, and anyone that speaks tonight will also be on the record. Chair Hardison then explained the role and function of the Board – which is to make sure that all applications reviewed by the Board complies with the ordinances and conditions for approval are clearly stated, included on the plan, or added to the written record of action taken by the Board.

Upon stating this, Chair Hardison said the Board cannot change the ordinances. In reference to the following public hearing applications, the ordinances allow mineral extraction (including gravel pits) in the zone the proposals are located in.

- 1. File #20-12-R: Grondin Aggregates, LLC, c/o Shawn Frank, P.E., Sebago Technics, Inc., 75 John Roberts Road, Suite 1A, South Portland, Maine.**

Chair Hardison called for a representative to present the applications.

Larry Grondin, R.J. Grondin & Sons, offered to do a brief overview of the presentation for the new board members. The Board agreed to the presentation with highlighting the changes from the last meeting.

Heather Stolazzi-Ward, Boyle Associates, a wetland scientist and environmental consultant went over the following in her presentation:

- Required permits
- Surveys and assessments that were taken to minimize the impact on protected natural resources

- Showed the size of the proposed extraction area in relation to the size of the parcels
- Road design
- How to avoid the naturally protected resource areas and minimize impact to these areas
- Various access points
- Mitigation areas

Board member McAdam asked who would maintain ownership of the conservation easement and when it will take effect. Ms. Stolazzi-Ward said a local land trust would hold the easement and if and when approval is granted the trust's ownership would be in effect at that point.

Ms. Stolazzi-Ward said there have been numerous site walks and meetings that have taken place since 2006 in order to get the federal and state approvals needed for this project.

Chair Hardison asked if any Board members had questions.

Board member Tarbox asked if the logs and other road materials used to cross the wetlands would be dismantled and removed at the end of the project to prevent permanent access to the pit area. Ms. Stolazzi-Ward said the road can be removed at the projects end and the native soils in these areas would still be there.

Chair Hardison asked if Board members had any other questions; they did not.

Chair Hardison asked if anyone present had any questions relating to Ms. Stolazzi-Ward's presentation.

A gentleman (no name provided) asked if there was anything to prevent the gravel for the road from washing away into the swamps with all the rainstorms that have taken place. Ms. Stolazzi-Ward said that the applicants will be required to use erosion controls systems along the access road, and ditches will be created to catch any runoff from higher grounds.

Rick Jodway, an abutter at 610 Twombly Road doesn't feel the applicant can guarantee that the road will not be washed out. He said that all the recent storms have washed out Twombly Road into this area; he just doesn't see how the applicants can guarantee the gravel road will be kept from washing away.

Larry Grondin replied that this issue would be monitored by his company, and inspections will be performed by the city engineer along with Maine DEP.

Another gentleman asked what the life expectancy, or duration, of the project would be.

Mr. Grondin replied that it is market driven so it can be hard to determine, but if there is high demand in the area it could be open anywhere from ten (10) to twenty (20) years.

Joe Tolpin, an abutter on Great Works Drive, said that it was mentioned that the road is able to be taken down; he wanted to know if the road would be taken down once there is no longer a need for the pit.

Mr. Grondin stated the road removal is a requirement of reclamation by the Army Corps of Engineers as part of the applicant's permit so the road has to be removed.

Bill Noon, former Planning Board member and current State Representative asked what the setback from Picture Pond to the access road was; Mr. Grondin replied that it was 250 feet, which is the shoreland zone setback.

Al Pollard asked if the access road will have traffic going both ways. The applicant replied the road is capable of having traffic going both ways as it is designed to be 24 feet wide.

Rich Dudzisz, an abutter on Twombly Road asked if the town would consider any type of bond requirement to ensure the access road is removed at the end of the project.

Chair Hardison restated that the applicants have received permits from both the Army Corps of Engineers (ACOE) and DEP. He went on to say that the project will be monitored in all aspects by the DEP for the duration of the project, as well as by the city and the ACOE.

Rick Jodway asked if the audience would be able to present anything else, such as a petition, other than just questions or comments at tonight's meeting; Chair Hardison stated there would be time later in the meeting. Mr. Jodway then said his and his neighbor's wells are within 170 feet and 150 feet from the Great Works River and is well within 1,000 feet of the proposed gravel pit and he was pretty sure that there was to be no digging within 1,000 feet of anyone's dug wells. Mr. Grondin said that they have worked closely with the Sanford Water District and Maine DEP regarding levels of distance from wells, whether it was single-family use; multi-family use; or water district use, and the setback distance is being maintained according to DEP standards. Mr. Grondin then summarized the changes made per the water district's request. Discussion took place.

Chair Hardison concluded the environmental overview portion of the project and wanted to move on to the changes made to the project due to comments at the previous meetings.

Larry Grondin summarized the changes:

- Agreement made with the water district and the city regarding annual monitoring
- No screening or crushing on Saturdays will take place
- Noise ordinance will be adhered to
- Granting permission to water district to access the monitoring wells as the district felt needed and allow the district access after the pit operations were complete for a number of years as well for groundwater monitoring

Chair Hardison asked Mike Casserly, assistant engineer if the engineering department was satisfied with the changes made to the project.

Mr. Casserly said the applicants have done a great job incorporating the points that are important to the Planning Board and complying with the city's ordinance requirements. He then said that he was satisfied with what the applicants have produced by tonight's meeting from a technical and engineering standpoint.

Chair Hardison asked if Board members had any questions.

Board member Tarbox asked what guarantees are in place to assure the road will be removed when the pit operations are complete; she wasn't sure if this tied in with the environmental concerns. Member Tarbox asked this question to make sure an abutter's concern is addressed.

Mr. Grondin said that they are working with the city engineers on a proposed \$40,000.00 bond that will protect the city should either applicant default.

Chair Hardison confirmed with the applicant that there is a complete groundwater monitoring plan in place for the well portion, but the question was relative to the roadway. Mr. Grondin stated this was correct and that MDEP wanted additional monitoring along the roadway, especially at the crossings.

Staff member Gulnac said there was a question regarding the length of time of the approval. The approval a Planning Board grants is for a period of five (5) years; any extension of the operation would need to come back to the Planning Board for review.

Staff member Andreson, City Engineer wanted to make it clear that at this point there is no performance bond amount for the removal of the wetland roadway sections. He was unsure if the applicants needed to provide guarantees to the state or federal agencies, but if the Board wanted something in place at the local level the Board would need to let staff know so they can work on a figure with the applicants.

Chair Hardison asked if there were any other questions from the Board; there were not.

Mr. Grondin wanted to address an abutter's concern regarding well separation – the separation that needs to be maintained was 100 feet-200 feet, depending on the type of well (i.e. drilled vs. dug).

Chair Hardison opened the floor to questions or comments on any portion of the project.

Greg Morin, 101 Farview Drive, stated his concern was refueling in the pit. He wanted to know if the Planning Board has discussed the requirement of refueling pads with the applicant and he wanted to know if there is any type of hazmat, environmental waste, and driver training.

Chair Hardison said the Board has not requested to a concrete pad for refueling vehicles, but the operations manual does address the issue.

Mr. Grondin said their drivers are trained in dealing with hazmat materials and there are enough spill kits provided on each truck, as well as protective gear, to absorb 100 gallons of spill. If there is a spill, it has to be dealt with and reported immediately. Discussion took place.

Isabelle Coleman, Sandy Point Road, said that the haul road will create a lot of noise. She stated that there is already a lot of noise in the area due to snowmobiles and ATVs that use the area. She also wanted to know how close the haul road would be to Sandy Point Road.

Mr. Grondin said that the entrance to haul road is 100 feet away from the Sandy Point Road entrance and will run along about 500 feet before veering away. He also said a portion of the road will be paved to address dust control.

Chair Hardison pointed out that the applicants have received a MDOT curb cut permit to be put in this spot.

Rick Jodway presented a petition opposing the gravel pit project to the Planning Board. Chair Hardison accepted the petition as part of the record but reminded everyone that the Board is bound to execute the city's ordinances so he is not sure if a petition to the Planning Board is effective.

Joe Tolpin, Great Works Drive, wanted to know why the applicants were before the Board tonight if all the permits have already been approved; what can the Board grant or not grant that is different than the permits they have already received.

Board member Mongeau said that the Board is trying to find the best part in the gray area of two good things – exporting things for economic growth and the natural environment in the area. Member Mongeau said that just because the Board can't prevent the activity from happening doesn't mean that the Board can't try to lessen the effects of the pit on its

neighbors – citing the extension of pavement 300 feet beyond what is standard for dust abatement.

Mr. Tolpin said it seems like the applicants have gone to great lengths to minimize the damage to the environment and gave good information in their presentation. Discussion took place.

Rick Jodway said a few months ago the abutters were told there was going to be housing put in after the gravel pit was complete. Staff member Gulnac said the future use of the pit has not been any part of this review. Mr. Gulnac said once the reclamation process is finished the land goes back to being vacant land with potential options but no specific use of the pit after reclamation has been predetermined.

Mr. Jodway wanted to know why the city did an expensive watershed study of the area, basically stating that this particular area needs to remain untouched as a result of the study but now the city is reviewing an application that goes against the study making it seem as though the watersheds don't mean anything.

Board member Mongeau, who is familiar with the study, said that the reason the Board knew what to require from the applicant to protect the various species of plants, trees, and animals came from this study so the Board is able to mitigate with the applicant on where to place the pits on the properties in question, as well as how much land to set aside to remain untouched by the proposal.

Board member Mongeau said that the Board is working on setting a precedent for the review of gravel pits in the future. Discussion took place.

Mr. Jodway then asked about the 100-year floodplain. He said that he had difficulty building his house because it was within the limits of the 100-year floodplain.

Chair Hardison deferred to the applicant and their engineers to respond to these questions.

Mr. Jodway asked the Board to not allow any variances; the applicants should be made to keep to the original plan. He said that at the previous meeting the requests, such as a change in slopes and not marking large trees, were not approved.

Mike Casserly, assistant city engineer, replied that the city's ordinance does allow for a 2:1 slope in gravel pits where MDEP requires no more than 2.5:1 sloping. The applicant applied for a variance for the DEP requirement in keeping with the city's ordinance. The applicants have received the variance for MDEP; now it is up to the Board on approving the variance to allow 2:1 slopes.

Mr. Jodway finished by saying that he understands that the Board is keeping with the ordinance by allowing the gravel pits but he doesn't feel the gravel pits are good for the citizens and taxpayers of Sanford.

Richard Meek of Sebago Technic addressed the concern of the 100 year floodplain. Mr. Meek said there are no impacts to the floodplain with the gravel pits and the design of the road was the end result of mitigation for any impacts to the 100 year floodplain.

Mr. Grondin addressed Rick Jodway's comment as to why the gravel pits are able to be put in an area with a 100 year floodplain; Mr. Grondin then responded to the question as to why the proposal was before the Board if the applicants have already received all the approvals needed.

Chair Hardison asked if there were further comments.

Paul St. Jean, an abutter on Twombly Road, asked if the Board has given any consideration to the impact on the citizens and taxpayers that live close by. He understands they have received all the permits necessary, but wonders if the applicants have considered the impact of all the homeowners with their proposal. He lives next to the Pepin pit and stated his life has been miserable since the Pepin pit started operations with the increased traffic, tractor trailer traffic, noise, etc. He asked the Board to consider the citizenry in the area and give the taxpayers a break.

George Feeney, 624 Twombly Road, feels the same as Mr. St. Jean. Mr. Feeney said the homeowners along Twombly Road have made improvements to their homes over the years and he doesn't feel the gravel pit will be a good addition to the neighborhood.

Dorothy Whittier, 188 Westview Drive, wanted to know what economic growth will mean to the City of Sanford as it was mentioned earlier in the evening. Member Mongeau said the material will be a commodity exported out of Sanford and it would therefore bring money in. Ms. Whittier wanted to know who 'we' means: will it help individual taxpayers out, will it mean more jobs, etc. Discussion took place.

Ms. Whittier said the generalization of economic growth didn't really answer her question. She wanted to know if the applicants had a business plan and if air quality was looked into for the project.

Chris Genest, Genest Concrete briefly overviewed the history of his family's company and then overviewed the company as a whole to explain how the company benefits the town economically:

- company has expanded this past year (which is rare during this economy)
- investments his company makes for equipment that produce high-end concrete products
- relatively good tax base for the town
- donate to local charities

Mr. Genest said that the mineral extraction business does benefit the town directly economically, as well as other non-mining businesses in the town, even if the benefit is not directly noticed.

Mr. Genest then addressed the air quality issue. He said there are a number of agencies that are monitoring the air quality (i.e. local ordinance, DEP, MSHA [Mining Safety & Health Administration]). Mr. Genest said it clearly states in the project's operations manual how dust will be addressed; he said it is a concern for them as well while operating in the pit along with the surrounding area.

Ms. Whittier doesn't feel Mr. Genest addressed the business plan question very well as it relates to jobs in the community.

Al Pollard, Curtis Lake Drive wanted to know how this property would be mined seeing as there are two companies who each have 10 acres of property (i.e. start mining from different ends of the individual properties and work inward, start from the middle work outward, both start at one end and work towards opposite side, etc.).

Larry Grondin said that the road will be started first and then where the mining will start will depend on where the materials are located on the property and the demand for type of project.

Board member Tarbox said she believes there is a limit on how much open space there is at any one time; Chair Hardison said that is one of the topics that need to be determined by the Board.

Isabelle Coleman said that the abutters were never notified about the road and that is what affects the abutters on Sandy Point Road. Ms. Coleman wants to know how MDOT approved a permit to allow the entrance of the new road only 100 feet away from Sandy Point Road with all the traffic traveling on Route 4. Mr. Grondin replied the road permitting process started in December 2010. A notice was sent out at this time to over 70 abutters in the area and the public hearing (by MDOT) was held in town; approximately a dozen or so attended the meeting. Mr. Grondin continued by saying that the project was initially reviewed in 2007/2008 by the town as a concept plan, and a recent notice for these current meetings went out to abutters so he feels there was plenty of notice for the project. Discussion took place.

Chair Hardison pointed out that the road curb cut is reviewed and approved by MDOT as Country Club Road is a state route (State Route 4). He stated that the public hearing notice mentioned by Mr. Grondin regarding the haul road entrance/exit point was a function of MDOT and not under local review.

Chair Hardison asked if there were any other questions or comments.

Michael Bukowski, owner of Down Maine Veterinary Clinic asked if there was a danger of the turtles' eggs getting crushed by trucks when creating the gravel pit as the pit will create a habitat in which the turtles like to lay their eggs in. Ms. Stolazzi-Ward said that Mr. Bukowski was correct about the conditions in which the two turtles known to this area like to lay the eggs in; she went on to say that although the developers can't guarantee the turtles won't go in the travel areas – the stormwater preventions (such as silt fencing) will help minimize the chances of this happening and explained why.

Rick Jodway asked the Board if there was anything the interim mayor can do to help the abutters prevent the gravel pit from being approved.

Chair Hardison reiterated what the Board's function is and said that the abutters can address questions or concerns to the city council, mayor, or city manager. He then gave a quick explanation on how to request an ordinance change and the process this takes.

Ms. Whittier asked if there were any studies done on what happens to property values around gravel pits during the extraction process and over time.

Staff member Gulnac said that the impacts on property values are not in the Planning Board purview, property values are done through the assessor's office. The only financial question the Board can ask any applicant is whether or not the applicant has the financial where-with-all to conduct a business and gave a brief explanation as to why this is.

Chair Hardison added that the city is working on improving the enforcement process for mineral extraction activities to ensure compliance with the approved operations manual. He then provided the abutters with information on how to appeal the Planning Board decision.

Gary Laperrier, Mountainview Drive asked what the security would be like to prevent people from getting in the pit. Mr. Grondin replied that there will be a gate approximately 100-150 feet from the Route 4 entrance and would be locked when the pit is closed. The applicants are also in discussions with the city regarding a Knox box for police and fire access if needed.

Joe Tolpin asked if the trucks would be covered when traveling with a load of material. Mr. Grondin said that all Grondin and Genest trucks have covers, they all use the covers, and the

covers are maintained. He went on to say it is Grondin & Sons policy that, if one of their trucks caused damage to another vehicle while traveling, they (Grondin & Sons) pay for the cost of fixing the damage. Mr. Tolpin asked if there was any regulation mandating that trucks have covers. Chair Hardison said it was a state requirement that these trucks are covered. Mr. Genest confirmed that it is a state requirement then explained what Genest Concrete does to assure that their vehicles are safe for other travelers, but can't do much about the debris already on the road.

Chair Hardison asked if there were any other questions, comments, or concerns; there were none.

Chair Hardison closed the public hearing at 8:50 PM.

2. **File #21-12-R: Genest Concrete Works, Inc., c/o Shawn Frank, P.E., Sebago Technics, Inc., 75 John Roberts Road, Suite 1A, South Portland, Maine.**

The public hearing for this item was combined with Public Hearing Item #1: File #20-12-R.

III. NEW BUSINESS

There were no new business items.

IV. OLD BUSINESS

These items were heard before public hearing items.

1. **File #01-13-P: John Korpaczewski, K & S Development Inc., 16 Ratchet Way, Biddeford, Maine.**

Chair Hardison asked if a representative was present at the meeting. He then asked Board members if there was any final discussion or questions regarding the project.

Board member Tarbox said that the engineer's report mentioned that an inspection escrow had not been established and asked if this should be included in the conditions of approval. Mr. Casserly said he added it to his memo because this project came in while he was still on leave and there was no escrow established; he just wanted to inform both the Board and the applicant what he was requesting.

Chair Hardison called for a motion as there were no other discussion items.

Board member Tarbox made a motion that, after hearing the presentation by the applicant and reviewing the information from the staff, the Board confirm the information presented as a Finding of Facts and take action on the request. The Board will accept this finding of facts and find application file #01-13-P for K & S Development, Inc., 16 Ratchet Way Biddeford, Maine requesting minor revisions to an approved minor subdivision (3 lots) with a private way (Kruz Lane) has been prepared in accordance with Chapter 275 Article 5 Minor Subdivision of the Sanford code and the provisions of Title 30-A M.R.S.A. Section 4404 of the State of Maine and subject to the conditions listed below, grant approval:

- a) The applicant will provide two (2) mylars to the Planning Board for signature;
- b) The applicant has 90 days to file the signed mylar with the York County Registry of Deeds. Failure to meet this deadline could result in the approval be declared null and void;

- c) The applicant will provide one (1) copy of the signed mylar containing proof of filing at the York County Registry of Deeds and six (6) paper copies of same to the planning office;
- d) No permits will be issued until all conditions of this approval have been satisfied;
- e) Any inspection fees will be paid.

Board member McAdam seconded the motion.

A vote was taken and the motion passed 7-0.

2. File #22-12-P: Daniel Bergeron & Maurice Bergeron, c/o John Hutchins, Corner Post Land Surveying, Inc., Springvale, Maine.

Chair Hardison asked if there were any questions for the applicant's agent, John Hutchins.

Chair Hardison called for a motion as there were no other discussion items.

Board member Tarbox made a motion that the Planning Board find that application File #22-12-P: Daniel Bergeron & Maurice Bergeron,, c/o John Hutchins requesting approval to construct a private way, yet to be named, off Grammar Road has been prepared according to the guidelines in Section 280-85 of the City of Sanford Zoning Ordinance and subject to the conditions listed below grant approval:

- a) The plan must be filed at the York County Registry of Deeds within thirty (30) days of the date the plan is signed.
- b) The applicant reviews any proposed name for the proposed private way with the CEO under the E-911 guidelines.
- c) The applicant has paid any and all review fees.
- d) The applicant shall schedule a pre-construction meeting with the city engineer prior to the issuance of a building permit. At that time the city engineer shall determine if any performance guarantee is required and the amount of the review escrow.
- e) The applicant is required to provide the CEO with certification by a professional engineer that the road has been constructed in accordance with the approved plan.

Board member McAdam seconded the motion.

A vote was taken and the motion passed 7-0.

V. APPROVAL OF MINUTES – September 5, 2012 and September 19, 2012

September 5, 2012

There were changes that needed to be done to the minutes so there was no action taken at this time.

September 19, 2012

Board member Mongeau made a motion to approve the minutes as written.

Board member McAdam seconded the motion.

A vote was taken and the motion passed 7-0.

VI. PLANNING DIRECTOR'S REPORT

The Planning Director's report for tonight's meeting will be added to the February 20, 2013 meeting.

VII. ADJOURN

The meeting adjourned at 8:38 PM to go into work session.

*Board members Kelly Tarbox and Richard Bergeron were sworn in before the meeting started.

Attachment to February 6, 2013 Minutes

*Finding of Facts for Public Hearing Item #1
File #20-12-R: Grondin Aggregates, LLC*

There was no action taken on this item

*Finding of Facts for Public Hearing Item #2
File #21-12-R: Genest Concrete Works, Inc.*

There was no action taken on this item

*Finding of Facts for Old Business Item #1
File #01-13-P: Kruz Lane Amendment*

- The applicant did meet with the Planning Director in a pre-application meeting as required.
- As a result of that meeting and subsequent discussions it was determined that any changes to a plan which has been signed by the Planning Board must be reviewed and approved by the Planning Board.
- The Planning Director has waived many of the submission requirements including review by the Site Plan Review Committee; however an application has been submitted, fees paid and abutter's notified.

*Finding of Facts for Public Hearing Item #2
File #22-12-P: Daniel Bergeron/Maurice Bergeron Private Way*

- The applicant has provided proof of ownership and has standing to submit the application.
- The application has been prepared in conformance to the City of Sanford's requirements
- The application includes an opinion from Randall Dunton, P.E., P.T.O.E. of Gorrill-Palmer Engineers that the location of the private way entrance off Grammar Road meets both the Maine DOT and Town (City) sight distance standards.
- The application does not include the subdivision of the base property.
- The construction and maintenance of the private way will be the responsibility of the applicant/owner.