



Town of Gorham
MAY 22, 2007
PLANNING BOARD MINUTES

LOCATION: Municipal Center Council Chambers
75 South Street, Gorham, Maine

Members Present:

SUSAN ROBIE, CHAIRWOMAN
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW

Members Absent:

Douglas Boyce

Staff Present:

DEBORAH FOSSUM, Dir. of Planning & Zoning
THOMAS POIRIER, Assistant Planner
NATALIE BURNS, Esq., Town Attorney

Staff Absent:

Barbara Skinner, Clerk of the Board

The Chairwoman called the meeting to order at 7:00 and announced the continuation of the May 21, 2007 Agenda item of a discussion of a the Mineral Extraction Site Plan – “Brickyard Quarry” and Asphalt Plant– off Route 237/Mosher Road – by Shaw Brothers Construction, Inc. Town Director of Zoning and Planning Deborah Fossum called the roll, noting that Douglas Boyce was absent.

1. CALL TO ORDER

2. MINERAL EXTRACTION/SITE PLAN – “BRICKYARD QUARRY” AND ASPHALT PLANT – off ROUTE 237/MOSHER ROAD – By SHAW BROTHERS CONSTRUCTION, INC.

Discussion of a proposed quarry operation and hot-mix bituminous asphalt batch plant, on 125.5 acres +/-, on land of S.B. Aggregates, LLC. Zoned Industrial, Map 31/L15.

The Chairwoman announced that the applicant’s engineer would spend the first half hour of the meeting answering the remainder of the Board’s questions not addressed on May 21, at 7:30 public comment period would be opened, with speakers having five minutes each and the public comment period being closed at 9:00, to be followed by Planning Board discussion with the applicant and its engineer, and concluding with a summation from Planning Board members.

Walter Stinson, Sebago Technics, Inc., began responding to the Planning Board’s questions, beginning with No. 19:

19. Request to clarify setback from the highway.

Mr. Stinson said that the Code Enforcement Officer has ruled that the asphalt plant and the quarry are two separate operations requiring two separate applications, and as such as the asphalt plant does not have to meet the same setbacks as does the quarry. Therefore, he said that they have met the minimum 50-foot setback from the highway with the asphalt plant and do meet the industrial setback standards.

20. Request to clarify what equipment on site and off site is included in the air emissions cited.

Mr. Stinson referred to the presentation made by David Dixon on May 21, 2007, and said that he believed Mr. Dixon discussed the equipment used in his calculations.

21. Request to discuss the early operation of the quarry and the noise impacts of the early phase.

Mr. Stinson said that the operations statement stipulates that once construction on the site has begun, the first thing will be to construct the stormwater ponds, which is expected to involve removal of

some rock. The pad will be developed for the asphalt plant and no blasting is expected related to that. The first blast will have to start at the top of the ground, which will be the area closest to the north and west property lines; that first blast will lift some 30 to 40 feet, at which point the blasting and drilling rigs will be operating under the ground surface, which will greatly mitigate the sound from the drills. Mr. Stinson noted that drilling will be done only when there is blasting, and it may take two to three days to prepare a lift for a blast, and time between blasts will be somewhat of a function of demand. He said that drilling is intermittent.

22. What is the impact of quarry on possible new residential expansion and the proposed sewer line extension along Mosher Road?

Mr. Stinson said he is not sure of the intent of the question, particularly as it relates to the sewer line, as the quarry will have no impact on the line, which is out in the road. He said that any impact on new residential expansion is difficult to answer, but if the operation is run according to Town and State ordinances, it will have little impact on new residential expansion. Up until Phase 3 all of the operation will be done behind the first hill, and there will be limited visibility from the road and abutting properties.

23. What is the impact of the quarry on surface water, groundwater and water table levels?

So far as the impact on surface water is concerned, Mr. Stinson said that designed into the property is a state-of-the-art stormwater management system which will control both the quality and quantity of stormwater running off the site, and it will be treated according to best management practices before it is released to the environment. He anticipates that there will be less runoff from the site than there is now, and he is not aware of any flooding in the area. As far as impact on groundwater and water table levels is concerned, during Phase 1 they must stay five feet above the seasonal high ground water and water table levels. He said they have requested a variance from DEP to mine aggregate below the ground water table, which will have to be submitted with an extensive hydrogeology study, which they believe they will not have to do as long as they are above the ground water table. He said that having the study done now is required under the Ordinance for sand and gravel pits, and this is a quarry. He also said this belief is supported by the meeting with the Town's attorney, that the Town could approve this project subject to DEP approval, and DEP approval will not be sought until the applicant submits the hydrogeology study to allow mining under the groundwater table.

24. What pollution would result from spills? How will spills be handled?

Mr. Stinson said that as part of their January application, they submitted a stormwater pollution control plan (SPCC plan). There will be diesel fuel stored on site to operate quarry equipment and fuel oil stored for use in the asphalt plant; both those storage tanks will meet EPA and DEP requirements of double walls, a containment dyke around the diesel fuel tank, and the areas fenced and locked. Any refueling operations will be done on an impervious pad as required by DEP. If there is a spill, people on site are trained to absorb a spill and contain it, anything over 20 gallons has to be reported to the Fire Department, and a cleanup subcontractor would be called for any significant spill.

25. What is the impact of silica dust exposure?

Mr. Stinson noted that considerable time was spent on May 21, 2007 in a discussion about silica dust. He said that research was done today to locate information on silica exposure levels and related studies, and as yet nothing has been found to satisfy what the Board was asking for last night. He said that they will continue to look. They have talked to MSHA and DEP, and both agencies have said they know of no instance where studies have been done at the property line of individual sites. Area wide monitoring has been done on a community-wide basis, but never on an individual site. Exposure limits have been set for workers on site who wear monitors, and MSHA will come in unannounced to check those monitors, and there has never been a violation of exposure standards. He said the Federal Environmental Protection Agency has not established standards for a sand or gravel

or quarry operation, nor have the Maine DEP or the Town of Gorham. The way the industry treats it is through best management practices. Mr. Stinson quoted from the performance standards for quarries put out by the DEP, under dust: “Dust generated by activities at a quarry, including dust associated with traffic to and from a quarry, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions.” He said that the fugitive emissions contain the silica. Quoting further, Mr. Stinson read: “Dust control methods may include calcium chloride, as long as the manufacturer’s labeling guidelines are followed. The Department may not grant a variance from the provisions of this subsection. Visible emissions from the fugitive emission source may not exceed an opacity of 20% for more than five minutes in any one hour period.” He referred to comments on the preceding night that this is self-administered or self policed by the applicant, who he believes to be a reputable company that has been in business for 30 years with a good record. He said that as far as he can determine, there is no full time monitoring of dust and fugitive emissions on a site, not in Maine, not with the Federal EPA, and not with the Town of Gorham.

Ms. Robie thanked Mr. Stinson for looking for the information.

26. What chemicals will be emitted from the plant/and or and what are impacts on human health—silica dust, benzene, formaldehyde?

Mr. Stinson said he believed that this question was answered on the previous evening with Mr. Dixon’s report. He said that these things are emitted from asphalt plants, but they are also emitted from wood stoves, oil furnaces, and the impact of the batching plant is small compared to these sources. He said greater impact on the environment could be controlled by regulating the kind of wood stove allowed in private homes, rather than these kinds of plants which come on line with up-to-date technology regulating their emissions.

27. Question of the acoustic value of pine trees?

Mr. Stinson said this question is covered in Mr. Ambrose’s noise study, and said that a single row of pine trees probably doesn’t have a lot of acoustic dampening value; however, the landscaping has been changed to reflect mass tree planting instead of the single row as originally proposed, and should have do a better job of dampening sound.

28. What has been the impact on property values of similar plants in similar towns

Mr. Stinson noted that, as commented by the Town Attorney in February, this kind of question is better asked of the tax assessor than of the Planning Board, as it is not a standard under which the proposal is reviewed.

29. How will the noise generated affect the quality of life of the residential neighbors.

Mr. Stinson said that if the project meets the standard set by the Town or the State, that standard can be viewed as not being a nuisance to the neighborhood. So this project has gone forward under that presumption, that if they meet the standard, by definition they will not adversely or unreasonably impact the neighborhood. They are working with the Town’s peer reviewer in documenting their noise study, and there will be more correspondence on the subject prior to the public hearing.

30. Will truck traffic be allowed on Queen Street?

Mr. Stinson said they cannot answer that question, but they do not believe that truck traffic will routinely travel Queen Street. He said that the Town controls access to local roads, and they will abide by whatever the rule is for the use of Queen Street.

31. Will there be light pollution from the facility?

He said their site plan shows a series of metal lights on 20-foot poles, down pointing, not close to the property line and they will have shields on them.

32. Are there standards for odors?

Mr. Stinson said there are no standards that they are aware of.

33. There will need to be qualifications negotiated between the Town and the developer with regard to developer's intention to operate the plant 24x7 during peak asphalt producing projects that are currently foreseen but not defined.

Mr. Stinson said this is an important issue and sees no restrictions in the Town's industrial zone, they realize that they have to meet the standards set by the Town, and any restriction of operational hours beyond those allowed by the Ordinance has potentially serious impacts to the applicant's ability to conduct business on that land.

Mr. Stinson said they would like a few minutes at the end of the meeting to sum up a few items that go beyond these 33 questions.

PUBLIC COMMENT PERIOD OPENED: During the public comment period, Ms. Robie asked that each speaker give his or her name and address for the record, and that each speaker confine his comments to five minutes. She asked that speakers not cover issues already covered.

Russell Sprague, 184 Libby Ave. With regard to the hydrogeologic study, Mr. Sprague quoted from the Ordinance's section on mineral extraction, "The purpose of this ordinance is to regulate both new and existing sand and gravel and other quarry operations, including the removal, processing and storage of top soil or loam, rocks, sand, gravel and other earth materials (hereinafter 'gravel pit')." He said he believes that the term "gravel pit" is all-encompassing and does apply to this application. Mr. Sprague said that nowhere in the Ordinance is there a provision for an exception to the requirement of a hydrogeologic study, and it is clear that the study is needed at the time of submittal of the application.

Mary Fagerson, 30 Ridgefield Drive but formerly residing at 110 Gateway Commons, now occupied by her daughter and son-in-law. She spoke of driving by a quarry and asphalt plant operation in California and noting that sorting of the aggregate on conveyor belts produced a great amount of dust on a calm day. She said she could taste the dust and expressed concern about a method to control dust at the sorting stage of the operation.

Rudolph Kaserman, 23 Queen Street. Mr. Kaserman said there are 10 families on Queen Street who rely on wells, and said that without the hydrogeologic study, he is not sure that the applicant can guarantee they will have water when excavation goes below the water table.

Jennifer Everett, 184 Libby Ave. Spoke about potential health impact on the surrounding community from silica dust and the asphalt plant emissions. She noted that as explained on May 21, 2007, a properly functioning plant will meet DEP standards, but other than maintenance records, visual inspections by a trained employee and annual DEP inspections to determine if the plant is functioning properly, the community must rely on the integrity of the applicant. She understands that the asphalt plant may be operated by another company and the license travels with the plant, and while the reputation of Shaw Brothers is well known, whoever will be maintaining the plant and insuring best management practices is an unknown. Because there is no significant data on silica dust monitoring, for this reason the quarry should not be permitted because it could possibly pose a health risk to the community. She said that if the quarry is approved, silica dust perimeter monitors should be required to insure the dust level is the same as that for employees on the site. Ms. Robie noted that she would be surprised if it were at the same level as on the site. Ms. Everett said the Town has no standard for review and the applicant has no standard to comply with, and collecting data would be a smart thing to have in order to evaluate possible future health

implications. Ms. Everett said that part of the application should contain specifics as to what the applicant will do, not what the applicant can do, and cited the control of dust blowing after hours.

Theresa Dolan, 309 Mosher Road. She said that her family moved to Gorham from Westbrook in 1996 after living next to the SD Warren Mill for a number of years. She said that the proposal to put a quarry and asphalt plant on Mosher Road is a slap in the face to Gorham, that not one resident purchased a home in anticipation of an asphalt plant or quarry being a neighbor. She said they have horses pastured 500 feet from the proposed quarry site, and asked if they should be sacrificed along with the quality of life they now enjoy. Ms. Dolan said the proposal would not benefit the residents of Gorham, an asphalt plant and quarry is an eyesore and unhealthy. She commented that the children attending a school one mile away would be at risk daily and said she believes that the evidence is not conclusive to say it is safe to live 24 hours a day 7 days a week in a community housing such a project. The only acceptable level is zero. Ms. Dolan also spoke about the threat imposed to her quality of life and that of her neighbors and residents of Gorham, and said that the applicant is the only beneficiary of this project. The applicant has many quarries and pits, but she and her neighbors only have one home.

Debbie Cassidy, 6 Timber Ridge Road, Gateway Commons Subdivision. She said that before moving to Gorham, she researched her proposed neighborhood and saw that the adjacent property as shown on the Town's website on the assessor's map was incorrectly shown as suburban residential. Now she and her family are faced with noise, dust, and pollutants not anticipated when she bought her home. In addition, should this project receive approval, there should be safety provisions required such as fences. She said that instead of industrial noise standards, those for residential areas should be considered.

David Homa, Fort Hill Road. Said he has no bigger issue to add to the discussions of the quality of life, equity issues, environmental impacts, and public health and safety, but instead has a question for the Board as to its feeling on the proposed 24 hour a day operating schedule, when needed during night paving situations, and would the hours be restricted or changed. Even though the plant would not run year round, if you add all the hours up from a 24-hour a day schedule when it does operate, it would in fact run all year long, so all of the impacts need to be considered, not just April to December. He said that the Board has to enforce the Ordinances but the Comprehensive Plan requires that some quality of life in Gorham has to be preserved. Mr. Homa said he does not want this plant to be part of his landscape where he lives. He said he believes this is the wrong development in this place for this town.

Allie Rimkunas, 413 Mosher Road. She recalled drilling to put the gas line under the River, which was 6 weeks of noise and light pollution, 24 hours a day, 7 days a week, and noted that her house is about the same distance to the proposed quarry site as it is to the River. She said that the quarry's proposed life of 50 or so years will be very disturbing, and believes that traffic because of the quarry will be even greater on Mosher Road.

Donna Waterman, lives in the Village. She said that even though she has lived in Gorham for 11 years, if the asphalt plant and quarry are approved, she will give consideration to moving and believes that others will, too.

Chris Landry, Main Street. She and her husband, a teacher at Gorham High School, are hoping to build a house in Gorham and are representative of younger couples looking to settle down to raise a family. The proposed quarry and asphalt plant have made them reconsider their plans to build in Gorham. She said she and her husband have a choice, but there are others who already live in Gorham who will have this imposed on them.

PUBLIC COMMENT PERIOD ENDED.

Ten Minute Stretch Break to 8:10 p.m.

Ms. Robie thanked the public for their comments and asked the Town Planner to summarize the state of the review processes.

Ms. Fossum said that the applicant made a submission on March 29, 2007, and Town staff and outside consultants are in the process of reviewing that submission. The Planning Board has received that submission, and many of the comments last night and tonight are in response to that submission. Ms. Fossum said that issues raised in an April 2, 2007 workshop with the Town Attorney are in the process of being addressed by the applicant in a submission which should be forthcoming shortly. She anticipates that staff will complete its review later this week or possibly early next week to provide to the applicant, but there are some outstanding peer review comments that will probably come in following that. She said there should be at least one more submission from the applicant before the Board sees this item again.

Ms. Robie said she will ask each Planning Board member to summarize issues of concern they feel still remain to be resolved, but before that, there are two items covered in the list of questions tonight that need to be clarified with respect to the Ordinance. One item is the required buffers and setbacks, and the other is the requirement for the hydrogeologic study.

Mr. Shaw appeared at the podium and said their project is in dense woods, 1100 feet from Gateway Commons. He has been in Gorham 50 years and said that the land was zoned Industrial in the 1950s and was occupied by LaChance Brick, which operated 24 hours a day, 7 days a week, and at one point their burners ran for 28 years nonstop, with people in the facility every day, even Christmas. He discussed the oil that LaChance burned, bunker 6, which burned dirty. He said that industry is needed in Gorham, this will be a clean operation, and again talked about the comparison among wood stoves, motorcycles and asphalt plants.

Referring to the hydrogeologic study, Ms. Robie said that there is no exception in the Ordinance to requiring it to be done. Mr. Stinson quoted from the Ordinance section “Operational Requirements for New and Existing Pits,” subsection b), “Excavation shall not extend below an elevation of five (5) feet from the seasonal high water table as established by competent, technical data. A variance from this requirement shall be allowed pursuant to paragraph 490-E, Variance, Performance Standards for Excavation for Borrow, Clay, Topsoil or Silt, 38 M.R.S.A. Sec 490-A-390-M and Article 8, Performance Standards for Quarries, 38 M.R.S.A. Sec 390-W to 490-EE. The request for variance shall consist of a hydro geologic study and supporting documentation required by the Department of Environmental Protection. The variance shall be reviewed and approved by the Department of Environmental Protection. Planning Board approval shall be conditioned on Department of Environment Protection approval. No standing water shall be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the Planning Board.” He said this section applies specifically to quarries, and that is the basis on which they have gone forward with this application.

Ms. Robie referred to Section 4, “Permit Application Requirements,” 10, a) “for new pits of five (5) acres or more, the following additional submissions are required,” for staying five feet above the groundwater level, and asked the Town Attorney to comment.

Ms. Burns agreed that that provision of the Ordinance does apply to any pit, and as has previously been discussed, in the Town of Gorham the definition of a pit is perhaps quite a bit broader than under State law, as it does include both sand and gravel pits and quarries as well, which under State law are subject to different regulations. She said this is a separate requirement from the variance provision, which does rely

upon State law, but it does not anywhere state that if one receives a variance one is exempted from the requirement of the hydrogeological study set forth in subsection 10 a). As a result, Ms. Burns said that in her opinion, the applicant is required to perform the hydrogeologic study despite the fact that the applicant intends to seek the variance. She said that the provision Mr. Stinson referred to applies to both the variance provisions for sand and gravel pits and separately to the performance standards for quarries, but that has no bearing on the requirement for the submission of the hydrogeologic study. Mr. Stinson asked if Ms. Burns agrees that under that paragraph, the study shows only the depth of groundwater throughout the site. She said she would agree that it would show the depth of groundwater throughout the site, but it also has to establish that the operation will not cause any pollution of groundwater and/or surface water and additional research has to accompany the depth of the groundwater.

Ms. Robie said that the second item to be clarified involves what buffer distances and setbacks apply and where for the asphalt plant on this site. She asked the Town Attorney to clarify this point. Ms. Burns replied that this question came up early in the process, and replied that the setbacks are the same for both the asphalt and the quarry, and it should be noted that setbacks relate to *buildings* and not to *uses*. For the quarry, she said there are additional buffering standards that have to be applied as well, which are have a different purpose and a greater requirement than the setbacks. Because this is proposed as a single site development, Ms. Burns said that the buffers for the quarry are required around the perimeter of the entire site. If it were two separate lots, obviously that would not be the case. The setbacks that will apply to the quarry apply to the buildings, but in addition to that there are the buffering requirements that have to be met, modifications for which can be requested of the Planning Board under the Ordinance. Setbacks for the structures on the asphalt plant do have to be met from the boundaries of the properties as well, 50 feet from the front of the property, 30 feet from the rear or side boundaries of the property. If a building is taller than that it has to be 50% of the building or outside stored material height. Setbacks can only be reduced by variance, different from the buffers which the Board can modify if the conditions in the Ordinance are met.

Ms. Robie asked what the required buffer distance is along the public road. Ms. Burns replied that those requirements are set forth in the Ordinance under “Operational Requirements for New and Existing Pits,” subsection a), and the general standard is 100 foot buffer strip from all public rights of way, and 200 feet from other boundaries of the property. Waiver can be granted in certain circumstances from the 200 foot requirement, including a reduction where all adjacent property owners within the area of reduced buffer agree to a lesser distance which can be as low as a 10 foot buffer, and an agreement by the abutting property owner would have to be recorded that it is acceptable to undertake that reduction. In addition, there is a possibility of reducing a 200-foot buffer to 100 feet when the applicant can demonstrate that the noise at the excavation site will not exceed certain levels as set forth in the Ordinance. Ms. Robie said that the applicant has to provide a plan to control dust, and the applicant has to provide a satisfactory plan to visually screen the mining operation from adjacent properties on the other side of that reduced buffer.

Ms. Burns confirmed to Ms. Robie that the buffer distance along the public road is 100 feet. Ms. Burns answered a query from Ms. Robie that the normal applicable buffer between LaChance Brick and the asphalt site would be 200 feet, but if there is an agreement between the property owners, that will be reduced by the Planning Board. Ms. Burns said that the setbacks of 50 feet in the front and 30 along the sides and 30 in the rear are always in play for structures, and that can only be reduced if there is a variance granted by the Board of Appeals for that purpose. The height of the silos is 60 feet, so it would be 50% of that height, or still 30 feet. In response to a query from Mr. Parker, Ms. Burns asked if he was inquiring about the asphalt plant site being made into a separate lot or is asking how it works around the asphalt plant if it is all one lot. Ms. Burns said they have to go around the perimeter of the lot upon which the pit is located; if that includes that asphalt plant, then it goes around whatever the lot is defined as in the application. Ms. Robie noted that that the only unknown would be the setback around LaChance Brick were the applicant to seek a variance.

Mr. Stinson said there are two parcels, the parcel where the asphalt plant is located is a separate deed from the parcel where the quarrying operation would be carried out. Ms. Robie commented that this was new; Mr. Stinson replied that the deeds had been submitted. Ms. Fossum said that the plan does not show a dividing line and treats it as one lot. Ms. Burns asked if the owners were the same for the two lots. Mr. Shaw said he believed the Town said the application would be treated as two separate items. Ms. Burns replied that was for purposes of the applications because it is two separate uses, but in Gorham you can have two separate uses on the same lot, and the Town typically treats properties under the same ownership as being one lot, despite the fact that they may have come into that owner by separate deeds. Mr. Shaw said they do not want to have a 200-foot buffer strip in an industrial zone between another industrial use.

Mr. Stinson asked what can occur in the buffer strip, no quarrying? Ms. Burns said yes, that was the case, and Ms. Robie added that unless the Board reduced it. Mr. Shaw asked if this were a 10,000 acre piece of land, with a 40 acre quarry on it, would the entire 10,000 piece would have a buffer zone around it that couldn't be used. Ms. Robie confirmed that statement, noting it would apply unless it was reduced, and that is true for all pits.

Ms. Robie confirmed what the Town Attorney had said during the April meeting: because there are two separate uses on a single lot, the buffer requirements that are more stringent apply: 100 feet along the public right-of-way, and 200 feet around the rest of the perimeter. Mr. Shaw said they might want to make the parcel two separate lots. Ms. Burns said she would put something in writing and get it to the Town Planner by the end of the week so that everyone can see it and understand it, and could also address the question of how things would apply if the two lots are split. Mr. Hughes said he would like to see a diagram showing where the buffers are, how far the asphalt plant is set back from the road, and where the asphalt plant is in relation to the 100-foot buffer. Ms. Robie agreed and commented to Mr. Stelmack's question that that is not shown on the plans, as the applicant used the setbacks for the Industrial Zone in the area of the asphalt plant. Mr. Fickett asked what the request for a 50-foot setback reduction is for; Ms. Robie said they asked for a 50-foot reduction in the buffer.

Ms. Robie, Mr. Hughes, and Mr. Parker discussed with Mr. Stinson the potential pros and cons of splitting the lot into two separate lots and the setback and buffer requirements for the Industrial Zone. Ms. Fossum said the applicant does not have to meet the buffering requirements under the Chapter covering the Industrial District because those standards apply to lots which were rezoned after 1998, and this was already an existing Industrial Zone. Ms. Fossum said, however, that there are other buffering requirements under site plan review in Chapter II and under the general Performance Standards in Chapter II. Ms. Fossum read from the Ordinance, Standard S, Buffering: "The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained." Also, in Chapter II, I., Buffer Areas, there are 7 different standards listed. These however do not state a specific distance. Ms. Burns confirmed that proposed berms can be in the setback areas; however, there can be no parking in the setbacks. Mr. Stinson asked if the stormwater ponds can be in the setbacks. Mr. Parker suggested that this issue should be workshopped with the Planning staff and not dealt with any more tonight.

Ms. Robie said that for future review, the quarry and the asphalt plant should be separated for clarity. Mr. Stinson reminded the Board that there is some interaction between the two and how they are reviewed by the traffic engineers, for example. Ms. Robie noted that they have to be reviewed under different standards: the quarry has to be reviewed under the special exception criteria, they both have to be reviewed under all of the performance standards, the quarry under certain selected site review standards, while the asphalt plant is reviewed under all site review standards.

Ms. Robie referred to a statement made during the May 21 meeting about the difference between Shaw's H Pit and this proposed pit where Mr. Shaw said there were more homes around the H Pit, noting that while that may be true, her point is that the H Pit is located in the Rural District, where mining is a permitted use. This proposed pit is in an Industrial parcel where it is also a permitted use, but it is surrounded on three sides by Suburban Residential land which imposes different requirements at the boundaries than are required at the H Pit. She said that the H Pit was a fairly well established pit when regulations came into being. Mr. Shaw said there was a pit on this site to mine the clay for the bricks and had a DEP license.

Ms. Robie asked Planning Board members to comment on the areas where they have issues.

Mr. Fickett said he has a problem with the findings of the noise consultant, requesting that those be put in language more understandable in a layman's terms.

Mr. Hughes referred to noise abatement in the Code, quoting from page 128: "Noise may be equal but not exceed during any consecutive 8-hour period an average of 75 decibels at 600 cps measured at any boundary line." Continuing, Mr. Hughes read: "...a noise may not exceed 100 decibels at 600 cps when measured at the source." Mr. Hughes asked for clarification of Mr. Ambrose's statement of measured 50 feet from the source as compared to the Code's "...at the source." Mr. Hughes asked about a fence around the quarry for a safety standard.

Mr. Stinson said fences can be cut and the Shaws create a berm around the lip of the quarry from the overburden that is quarried which is more effective. Mr. Hughes stressed again that safety needs to be considered.

Mr. Zelmanow spoke about the traffic study, particularly to giving some consideration to expanding the shoulder for cars to move around trucks waiting to turn left. He said he would like to see the lot boundaries of the different ownerships clarified, as well as specific plans in place to control dust by sweeping, paving, and watering.

Mr. Parker said he is concerned about traffic on and off the site and its effect on Route 237, favors some means of getting around vehicles that are stopped and would like to question traffic study experts to see if more of an acceleration lane is justified for departing trucks. He said that the intersection at Route 25 and 237 is a high accident zone, and the statement in the traffic study says that when the intersection becomes a lighted intersection that the accident threat will go away. However, until it is actually signalized, Mr. Parker would like to see that intersection addressed as a high accident zone by the traffic study. Mr. Stinson replied to Mr. Parker that he does not know who will operate the portable asphalt plant. Mr. Parker asked if 400 tons per hour is the expectation for the ultimate production of the asphalt plant; Mr. Stinson replied that the site has been designed on 400 tons per hour. Mr. Parker said if the permanent plant is envisioned to be larger, then that is the number we should be looking at in terms of traffic. Mr. Shaw said hitting 400 tons per hour 5 days out of the season would be great, but that probably won't happen, and the portable plant will probably be more of a 200 ton per hour plant.

Mr. Stelmack asked, regarding health concerns of the abutters, if the applicant would consider doing some perimeter air monitoring during the first year to illustrate that the perception of health issues is not real. He asked if the applicant would be amenable to preparing a proposal. Mr. Stelmack said he believes the burden should be on the applicant to place the monitors, perhaps using the wind rose diagram to pick some of the areas where the wind would carry perceived pollutants from the site. Mr. Stinson said no one has standards for silica dust. Mr. Stelmack said this is something that could be done to counteract some of the public's concerns. Ms. Stinson said they would take it under advisement. Mr. Stelmack asked if

the Town's health officer could become involved. Ms. Burns said this is not something that falls within the health officer's duties at this time. Mr. Stelmack also expressed concern with the 24 by 7 operational proposal.

Ms. Robie complimented the applicant on his landscape proposal, saying that the current proposal will make an excellent buffer both visually and with sound. She said she personally would like to see the front berm a little higher, that it is a little low to screen appropriately for the Mosher property across the street. She noted that she had learned that licenses are placed on the equipment, rather than the site or the operation, but the information raised another concern about a silo full of hot asphalt, part of the feed for the plant. Mr. Stinson said it is pre-heated oil for the burner, bituminous mix in the silos. Mr. Shaw explained that all three silos would be filled with bituminous mix, then there would be an asphalt tank which has pipes with hot oil which go around it like a coil on a hot water heater to keep it hot. Ms. Robie confirmed with Mr. Shaw that the asphalt tank is a vertical tank, and Mr. Shaw said he did not believe the tank is vented to the atmosphere. Ms. Robie said she learned from David Dixon and the Salisbury Report that emissions from hot asphalt can contain hydrogen sulfide. Mr. Shaw said that the Salisbury Report deals with a facility that provided asphalt to 3 or 4 states that got their asphalt from one unloading facility, the asphalt came in cold and the railroad cars were heated, which resulted in the emissions noted in the Report. On the contrary, Mr. Shaw said their plant would get asphalt that is already hot and all they would do is maintain the heat. Ms. Robie asked what kind of truck brings the asphalt in; Mr. Shaw replied that it is like an oil truck, which will probably hold three tractor-trailer loads of asphalt. The asphalt is pumped from the tractor-trailer into the tank.

Ms. Robie asked if more information will be provided on lighting. Mr. Stinson said that a photometric plan will be provided.

Ms. Robie said that there is a requirement in the Ordinance that if there is a stricter ordinance that can be applied, it will be that standard rather than a lesser one. She said this is true of the Town's noise standard, and noted that the State standard is more stringent than the Town's in terms of decibels at the perimeter but it does not mention source noise. She said her understanding is that the applicant will meet the State's standards at the perimeter. Mr. Stinson confirmed that understanding. Ms. Robie said that the burner could be heard at the F.R. Carroll plant during the Board's site walk, and asked if the burner will be audible to someone parked 600 feet away from it, as was true at the Carroll plant. Mr. Shaw said he would like the Board to go to the Carroll plant again, as they have just this week started their new asphalt plant, which is much quieter than the old one. Mr. Shaw said he agreed with Mr. Fickett about getting the noise information in English, especially about the "point source." He said they are using the State's standards, and the reason for going back 50 feet is to be able to deduct it from the source. But, if he were doing a point source on his loader, he would go to the bucket and someone else might go to the hydraulic pump. Ms. Robie asked if back calculating is done, doubling it for every 6 feet. Mr. Fickett confirmed with Mr. Shaw that they don't just take the measurement at the quietest part of the machine, they do it all around the machine.

Mr. Fickett asked Mr. Shaw if he could find out from F.R. Carroll how many days they operate 24 by 7. Mr. Shaw replied that there isn't a lot of night work in Limerick, Maine, saying that most asphalt plants start up at about 3:00 a.m. filling their silos, but he doesn't believe they would work more than 5 or 6 nights in 2007. However, in 2052, Mr. Shaw said it would be all demand, and there will be more night paving in Maine in the future. Mr. Stelmack asked how far away they would travel to supply asphalt from this facility today; Mr. Shaw said perhaps a 15-mile radius, Cumberland County and York County, and does not anticipate it will ever grow much beyond that. He said they are also in the process of buying another asphalt plant in Scarborough and work further away geographically would be handed off to another plant.

Ms. Robie referred to Question 21, “Request to discuss the early operation of the quarry and the noise impacts of the early phase,” and said she was interested as well in understanding the construction schedule, the hours of operation for construction, the blasting involved in the construction and that as part of their application that information needs to be provided.

Douglas Boyce, Vice Chairman, arrived at the meeting.

Mr. Parker asked about the reclamation plan and inquired what acreage will be opened when the pit is in operation. Mr. Stinson replied that 15 acres, as required by the Ordinance. Mr. Parker asked where the overburden will go and if it would be used in the reclamation. Mr. Shaw said that this will be mostly water at the end, with industrial park around it, and stump grindings will be used for temporary reclamation. Mr. Shaw said he does not believe that the Ordinance intends 3:1 slopes for quarries, that the two quarries approved in Gorham today do not have 3:1 slopes, and they would go to the Town Council instead of the Appeals Board to get the Ordinance changed to what it is intended to be, which is a typical benched quarry. Mr. Shaw said the overburden will be put back against the tree line to provide an additional buffer, and in this instance there will be 50 feet where they can’t drill or blast but they can clear, so they can pile overburden there. Mr. Shaw also said that a lot of the overburden will be used to build the berm and some may have to be hauled off.

Mr. Parker asked if the stormwater treatment, particularly off the asphalt pad, is all filtration through gravel; Mr. Stinson confirmed that and said it would have to be maintained along the way. Mr. Parker asked if gravel filtration is primarily for sediment rather than for chemicals such as petroleum products on the pad; Mr. Stinson concurred, but said a spill on site would be dealt with by the SPCC plan. Mr. Parker referred to the comments from Mr. Hayward, an abutter, in which Mr. Hayward recommended a separation system, and said he would be interested in Mr. Stinson’s comments on that recommendation, especially if the pad will not be reviewed by EPA or DEP.

Ms. Robie asked Mr. Shaw to expand about his comment relating to the 50-foot buffer that they could clear. Mr. Shaw said he thinks they are allowed to go to a 200-foot buffer on a sand and gravel buffer, but can only blast to 150 feet. Ms. Robie asked if Mr. Shaw is assuming that he will be granted a buffer waiver; Mr. Shaw replied that the Ordinance says the Board will grant a buffer if the applicant demonstrates the three criteria on page 106, Section (4), (a), (b) and (c) are met. Mr. Zelmanow noted that there needs to be a finding by the Planning Board that the applicant does demonstrate (a), (b) and (c).

Mr. Shaw asked if it made sense to go ahead with the asphalt plant or should they wait until the hydrogeologic study is done. Ms. Fossum said that the applicant needs to develop the site plan for the asphalt plant and decide whether he can proceed independently. Mr. Shaw asked if there will have to be peer review for the hydrogeologic study as well. Ms. Fossum said she will check with one of the consultants currently being used to see if that can be folded into his work. Mr. Stinson asked if it would make sense to proceed with the plant. Ms. Burns noted that that decision is up to the applicant. Ms. Robie said they have to address combined stormwater needs and combined traffic issues. Mr. Shaw said they will get the hydrogeologic study done as soon as possible. Ms. Robie said the Planning Board is committed to holding meetings that are not part of their regular schedule of meetings in order to accommodate the long meetings required by this application, so as not to inconvenience other applicants scheduled on the same agenda. Mr. Shaw said he doesn’t think the Planning Board is the problem, it is getting the paperwork. Ms. Robie said it is a complicated application.

Mr. Stelmack clarified with Ms. Robie that future meetings with regard to this application will be dedicated to this agenda item only. Ms. Robie said that will be the case as long as it would be unfair to anyone else on the agenda with this application. Mr. Shaw thanked the Board for the time it has put into the application.

Ms. Burns said that if members of the Board want to visit the Carroll plant, it should be set up as a joint sitewalk, rather than individuals going on their own.

3. ADJOURNMENT

Michael Parker MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 7 ayes.

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2007