



TOWN OF GRANBY

Kellogg Hall, Room 1

250 State Street

Granby, MA 01033

Telephone: (413) 467-7177 Fax: (413) 467-2080

Town Administrator: Christopher Martin

Granby Select Board: Wayne H. Tack, Sr.,

Mark L. Bail,

Mary A. McDowell

Board Meeting: October 20, 2010 @ 7:00 P.M.

AGENDA:

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

OLD BUSINESS:

1. Stony Hill Sand & Gravel, Inc. - Earth Removal Permit Application

ADJOURNMENT:

REGULAR SESSION
OCTOBER 20, 2010

Members Present: Wayne H. Tack Sr., Mary A. McDowell, Mark L. Bail

Others Present: Christopher Martin, Attorney David Martel, David Desrosiers, Attorney Frank Fitzgerald, Richard Domeracki, Lori Toth, Kim Otis, Pamela Maheu, Audrey Higby, William Loftus-Rooney, Charles Maheu, Susan Bruffee and Attorney Thomas Miranda

Chairman Tack called the meeting to order at 7:00 p.m.

Chairman Tack led the meeting in the pledge of allegiance.

Chairman Tack reopened the hearing for the Stoney Hill Sand and Gravel earth removal permit application.

Chairman Tack introduced the members of the Board and Attorney Martel.

Chairman Tack introduced the following information and guidelines for the meeting:

The Purpose of Tonight's Hearing

1. Public hearings are open meetings conducted by local boards to gather information from the public, and to survey public opinion as part of a local law-making or rule-making process".
2. We are taking evidence on a gravel pit permit application for Trompke Ave. We already know your feelings on increased traffic, noise, pollution, and safety. We know most of the specific concerns of residents that are affected. We are only looking for new evidence. We do not want to a repeat of evidence.

Ground rules

1. Please give your name and address
2. Please address comments to the selectboard, not others in the audience
3. Please make all comments relevant to the application
4. Please refrain from comments of a personal nature
5. Please refrain from hearsay, in other words, evidence from what someone else told you
6. Please do not repeat previous comments
7. Please refrain from unruly behavior
8. Please do not talk while others are talking

During the Hearing

1. The chair will call on people to speak.
2. There will be a very short time for speakers.

Closing the Hearing

1. If the select board begins deliberations tonight, the public has a legal right to watch the proceedings, but the opportunity for comment and input will be over.

Attorney Martel indicated that it might be appropriate at this time to hear from the applicant in response to items the Board had sent out in its September 23rd letter.

Attorney Frank Fitzgerald, representing the petitioner Stony Hill Sand & Gravel Inc., pointed out that they were here under reservation of rights as set out in their letter of October 7th relative to the MGL Chapter 40A Section 9 relating to the time period expiring during which the decision should have been made relative to the permit. They are reserving their rights. I want to make it clear to the Board because they really appreciate the hard work the Board has put into this matter specifically attempting to balance the Town bylaws with the concerns of the neighborhood. They hope as a result of this further dialog we could come to a conclusion relative to the special permit, which would result in a permit with conditions that would be clearly representative of the concerns of the neighborhood and the needs of the Town. Therefore, what would be appropriate he would like to respond to the suggestions made in the September 23rd letter from the Board relative to additional information and then discuss specifically the conditions that were mentioned in the September 2nd minutes of the Board relative to the permit as far as the applicant responds to them.

The letter from the Board of September 23rd specifically referenced the need for a traffic study. That hasn't been a sufficient amount of time to conduct a traffic study at this point of time however I would suggest that the need for such may be mitigated as a result of some of the further conversations we will have tonight with respect to limitation of use, traffic and the like.

Attorney Martel brought up a letter he had received from the Highway Department that was in the nature of a traffic study. Mr. Martin preferred to wait until Mr. Desrosiers made his comments and then we would enter the letter into the record because he addresses two of the issues.

The second item was the culvert issue,. The applicant will be inspecting the culvert on Trompke Avenue in order to make sure vehicles will be able to pass and re-pass without incident and will provide that information to the Board. With respect to the culverts on Batchelor Street and School Street, since these culverts are on public ways, which must be maintained by the Town, pursuant to MGL Chapter 84 s 1, there is no legal requirement nor does the applicant have authority to inspect or certify Town managed property.

The applicant will, prior to the beginning of operations if the permit is approved is willing to provide to the Town evidence that the use of Trompke Avenue itself is safe and capable of handling the traffic that will be involved with its use.

There was a request for a noise study. They have attached some information that they delivered to the Board from Caterpillar Company. The information indicates the noise decibel level at 49.2 feet for the equipment that operates on the site is 75 decibels, which they understand is equivalent to the sound of a dishwasher. With respect to the trucks

exiting and traveling back and forth, they suggest that all of the trucks will be inspected in accordance with Massachusetts regulations specifically section 540 Code of Mass Regulations 405. They contain stringent emission and exhaust standards and each truck will bear certificate indicating that they have passed Sate inspection.

There were two issues relative to the aquifer and floodplain, he will defer those for a minute and go to truck vibrations. There was a request to delve into the issue of the truck vibrations. They supplied to the Board some material that was prepared for the California Department of Transportation entitles Transportation and Construction Induced Vibration Guidance Manual. This document relates to vibration and vibrations are measured by peak particle velocity. There is a table in the information provided to you that in essence summarizing, the table indicates that loaded trucks at 25 feet have a peak particle velocity of .076 which is further pointed out in this study that this has not likely to cause any damage and is not perceptible.

With respect to the aquifer and the floodplain, this evening have provided to the Board a letter prepared by our engineer indicating that none of the operations will be within the 100-year flood boundary and that in addition that assuming the operation is conducted in accordance with what is suggested in the application and the permit there will be no impact on the groundwater.

Responding specifically to the conditions set forth or suggested in the Selectmen's letter of September 2nd, he will go down them quickly.

1. No Saturday operation – is agreeable
2. Hours confined to 7:00 a.m. to 4:00 p.m. Monday through Friday – agreed
3. Trucks advised to travel 5 mph under posted speeds on Batchelor Street - agreed
4. No retail operations - agreed
5. Annual usage - the applicant would request a 70,000 cubic yard yearly limit with a maximum 750 yards per day.
6. No crushing, blasting or other operations - agreed
7. Payment of royalties to the Town of Granby possibly 0.10 per yard - the Applicant would be agreeable to this would suggest his agreement would be based upon the fact that this type of royalty be charged across the board to other earth removal permittees within the Town
8. Right exit out only of gravel pit and Trompke Avenue - agreed
9. Applicant will provide Emergency Hazard Plan - agreed
10. The only dust abatement will be done with water - Agreed
11. The applicant must determine the water table prior to the beginning of the operation – that's covered in the letter from Sherman and Frydryk
12. Applicant performance bond - the Applicant will agree to post a performance bond of \$30,000.00 but would be amenable to suggestions from the Board if they feel this is not sufficient to reclaim the property
13. The applicant statement the safety of the culvert on Trompke Avenue -the Applicant will provide inspection report on the Trompke Avenue culvert
14. Groundwater quality – mentioned in the report submitted today
15. Noise level information – has been discussed
16. Vibration information – has been discussed

17. Open public public meeting upon renewal of permit – obviously within the purview of the Selectboard

He would be happy to answer any questions we may have.

Prior to entering into the question and answer period, Mr. Martin would like to read a letter received from the Highway Superintendent dated today regarding the culverts and traffic on Batchelor and School streets. See attached letter.

Attorney Martel asked the Board if they had any questions of Attorney Fitzgerald prior to going into the public comment portion of the hearing. The Board indicated they did not. Attorney Martel asked Attorney Fitzgerald if their environmental person was familiar with the requirements that were in the Conservation Commission letters to the Board dated July 22 and September 9 concerning drilling monitoring wells and ongoing monitoring wells at the location and if they were willing to along with those suggestions and the same with respect to the Planning Board letter on September 20. You would need to go to get a special permit because part of the site is within the Section 4 overlay district. According to the Planning Board, your application shows part of the proposed operation is in Zone A3, which is the aquifer overlay district. Mr. Martin stated that it is a 100-year floodplain issue per the Flood Insurance maps for the area. The letter was shown to Attorney Fitzgerald who stated that they would address this with Planning Board. Mr. Martin stated that per the Zoning bylaws Section 4 paragraph 4.06, a special permit was required by the Zoning Board of Appeals. Attorney Fitzgerald stated that if the permit was approved, it would state subject to compliance with other requirements of the Town.

Attorney Martel asked if they would be using 25-yard trucks. Chairman Tack asked for clarification if there was a change in the trucks to be used. Mr. Tack asked if they would reduce the number of trucks by using trailers instead of tri-axles. Attorney Fitzgerald stated there would be a little of each with the 25-yard trucks being used to cut back on the number of trucks.

Chairman Tack opened the floor to public comment.

Richard Domeracki, 428 Batchelor Street, asked if this was a continuation of the public hearing. Attorney Martel stated that it is a continuation of the public hearing. What Attorney Fitzgerald has indicated is that he has started the process whereby he is asserting a claim that the Town did not take final action 90 days of the completion of the first public hearing. He has advised the Board that due to their promptness with which they reopened the hearing and went forward with subsequent hearings, that Mr. Fitzgerald claim does not have merit. Attorney Fitzgerald is simply making the point that they have that claim out there, which they will be pursue if they need to, but in the mean time he is co-operating with the Board in providing evidence at this public hearing. Mr. Domeracki then asked about the appeal period come into play here. Do we have to do something prior to the appeal period ends? Attorney Martel responded that he needs to file a complaint in the Superior Court Land Court Housing court prior to October 27. Attorney Martel will do what is necessary to protect the Town's interest.

Attorney Miranda of Cooley Shrair, representing a number of abutters on Batchelor Street asked if the applicant is willing to sign something with the Selectboard stating that he agrees to extend the time for the Selectboard to make its decision and to withdraw his claim of constructive grant of the special permit. Attorney Miranda also addressed Attorney Fitzgerald's statement when he started his presentation that the applicant was appearing here with reservation of rights with the intent to pursue its rights to a special permit under the terms under which it was applied for without any conditions but if its not satisfied with the conditions imposed by this Board. If he is correct and does have a constructive grant then irrespective of what is done with the Board is nullity as far as any conditions being imposed on this operation. He asked the Board to clarify with the applicant if he is willing to sign such a statement agreeing to the extension of this Board's opportunity to have a continued hearing and decision-making and to withdraw his request for constructive grant. Attorney Fitzgerald stated they were here reserving their rights. The Town is disagreeing with their position. They continue to reserve their rights.

Attorney Miranda next addressed the bond amount and suggested the Board consider the bond include potential damage to the culverts inspected by the Town.

Attorney Miranda addressed the issue of no crushing he also asked that no other separation of material (i.e. screening) be allowed on the property.

Attorney Miranda also addressed the other items addressed in the Planning Board letter.

Attorney Miranda asked the Board consider the adequacy of Trompke Avenue and Batchelor streets for this type of transportation with the number and size of the vehicles proposed.

Lori Toth, Trompke Avenue, asked about the culvert inspection. Attorney Fitzgerald stated the inspection will occur prior to the operation.

Chairman Tack asked if Superintendent Desrosiers inspected the Trompke Avenue culvert. Mr. Martin stated that just as the applicant did not choose to inspect the Batchelor and School culverts as it was outside of their jurisdiction, Mr. Desrosiers did not inspect the Trompke Avenue culvert as it is a private way and not within the jurisdiction of the Town.

Kim Otis, 117 Batchelor Street, asked about the Board's decision regarding additional studies and wanted to know if they should have been independent studies and if the applicant was qualified to perform the inspection. Chairman Tack responded a qualified individual would inspect the culvert.

Pamela Maheu, 326 Batchelor Street, asked Mr. Desrosiers if he could determine how may trucks go over Batchelor Street and questioned how can a determination be made without an actual count. Mr. Desrosier stated he used the data that was collected as part of a Pioneer Valley Planning Commission study. Mr. Desrosiers indicated that he was treating this road just as other roads. The number given is just an estimated number and is the best he can do without scheduling an actual count.

Audrey Higby, 82 Batchelor Street, asked about the process question and the absence of a written agreement. Can they just ignore any conditions imposed by the Board? Attorney

Martel stated that if the conditions are agreeable by the applicant then the claim ends. Attorney Martel suggests to the Board they put a condition in the special permit that if they are acceptable to the applicant they will not go forward with their appeal.

Richard Domeracki felt not answered Ms. Higby's question that they are not bound by any condition if the public hearing has been closed. Attorney Martel responded that if they were successful in their claim then there would be no conditions attached to the special permit.

Kim Otis asked for a consensus from the Board that they will file an appeal. Attorney Martel has been instructed to file the appeal.

William Loftus-Rooney, 317 Batchelor Street, asked about the upgrade of Trompke Avenue issue. Mary McDowell stated that the Board does have a letter from Attorney Martel regarding the issue and the Board is operating under the guidance of legal counsel regarding the covenant that was indicated. Attorney Martel stated that the road would have to be upgraded to Town standards. If the Trompke Avenue residents refused to upgrade the road then the Planning Board would have to compel the road be upgraded to subdivision standards.

Mr. Rooney then asked about enforcement of the yardage being removed. Attorney Martel indicated there would probably be some monitoring language if the special permit were granted. Chairman Tack went over various ways of monitoring the amount being removed.

Attorney Miranda suggested that is the permit is granted then the upgrade be done prior to the start of operations.

Charles Maheu, 326 Batchelor Street, wanted to discuss traffic impact study. Is the Board still instructing them to do it? Chairman Tack stated that it would be part of the Board deliberations. Mr. Maheu had safety concerns and the width of Batchelor Street and Trompke Avenue. Attorney Martel stated that the Board has jurisdiction over the earth removal permit and that the applicant has indicated that there will be an independent study conducted for Trompke Avenue. Attorney Fitzgerald stated that the percentage increase in minimal and the expense of a traffic study would not be appropriate in this instance. Ms. Higby asked how the traffic study would be part of the deliberations. Mr. Bail stated it would be part of the deliberations. Attorney Miranda commented that the hearing would have to remain open until the traffic study was received. Attorney Martel disagreed with Attorney Miranda's statement.

Susan Bruffee, 310 Batchelor Street, had questions regarding the discussions tonight and wanted to verify some of the items discussed. The first was the annual amount to be removed and the daily amount. The Board stated that they have agreed to 70,000 cubic yards per year. As to the 750 yards per day, how many trucks would that mean on a daily basis. Chairman Tack went through his method of calculating the number of trucks per day. Attorney Martel stated that the 750-yard daily limit would be 30 loads per day. Ms. Bruffee wanted to know if Stony Hill would be using a structural engineer and Ms. Bruffee wanted to know if Mr. Desrosiers was a structural engineer. Mr. Desrosiers stated he was a registered professional engineer in the state of Massachusetts. Mr.

Desrosiers stated that his inspection is the same that is done for all culverts in Town. Mr. Desrosiers stated that there is no calculation that can be done without tearing up the culvert. Based on the current traffic and visual inspection, the culverts are safe. If they weren't then he would be out there closing the road. Regarding the emergency vehicles crossing the Trompke Avenue, the Board did not have the answer and the Fire Chief was not present to answer.

Ms. Bruffee then had a question regarding the ingress and egress road going through the overlay district and the Planning Board letter. Attorney Martel stated that the applicant indicated they would get the necessary permits as required by the Town bylaws.

Ms. Bruffee then asked about the bond. Attorney responded the bond, under the bylaw, is a sum sufficient to comply with the conditions in the permit. The bond is not an insurance policy to cover any eventuality. Chairman Tack stated that as the trucks have paid all of their permit fees to the State that comes back through the Chapter 90 money that the Town uses to maintain its roads. He did not think that the Town could close a public road to a vehicle that has paid these fees.

Pamela Maheu questioned the proposed dollar amount of the bond. She felt it was a low amount. The Board stated they would be considering the dollar amount during deliberations and that her concern was noted.

Richard Domeracki asked for clarification on the limiting the amount to 40,000 cubic yards originally and now the figure is 70,000 cubic yards. Mr. Bail stated that the 70,000 is the amount mentioned by the applicant but the Board has not agreed to that amount but will consider the annual amount as part of their deliberations.

Kim Otis spoke of the safety with the trucks using the road and their size when they encounter other large vehicles on the same road going in the opposite direction. Chairman Tack spoke of his experience with this issue and how there has not been any issue.

Ms. Bruffee encouraged the Board to review all of the data and information that has been presented regarding this application and to take everything into consideration in their deliberations.

Ms. McDowell stated that this gravel permit issue has created tensions between the Board, the applicant and the citizens of Granby. Tensions have never prevented her from making decisions based on the information available. During this process, she has heard many comments that have not been pretty. She stated that the Board has listened to the citizens, the applicant and each other and our legal counsel as well as other legal counsel. She personally feels she has enough information to make an informed decision. A decision she feels will take in the interests of Granby and do the right thing.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted to close the public input portion of the hearing.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted to take a five minute recess.

Chairman Tack reconvened the meeting.

Attorney Martel suggested the Board enter the facts regarding the application. Mr. Martin indicated that he went back into the application to see if they met all of the conditions as set forth in the earth removal bylaw Section 5.81 subsection 2.

Mr. Bail read the facts regarding the application as follows:

5.81 (2) Per Project Report dated May 19, 2010 prepared by Donald J. Frydryk, Land Surveying and Engineering 3 Converse Street, Suite 203 Palmer, MA 01069

- a. Name and address of legal owner of land in question:

James W. Trompke, et. Al
113 Maximillian Drive
Granby, MA 01033

- b. Name and address of petitioner, if different:

Stony Hill Sand & Gravel Inc.
295 Pasco Road
Springfield, MA 01151

- c. Names and addresses of all owners of property within two hundred feet (200 ft.) of the land:

Abutters List prepared by Town of Granby Assessors Office dated 2/22/2010

- d. An accurate description of the land from which the earth material is to be removed:

Quitclaim Deed Dated 08/17/2007 recorded in Bk: 09238 Pg: 51 prepared by Bohnet & Romani, P.A. 16 King Street Palmer, MA 01069

- e. A full statement as to the purposes of the earth removal:

An excess cut of approximately 323,800 cu. yd. of material will be removed from the site for commercial sale including asphalt, concrete and structural landfill uses.

- f. A plan in three (3) copies prepared by a registered engineer or land surveyor showing lot lines, tract boundaries, adjacent streets and roads, the original topography by five foot contours and the proposed final contours after the completion at five foot intervals:

Current contours and proposed final contours are shown on Stony Hill Sand & Gravel, Inc. Earth Removal Plan Trompke Avenue Granby, MA dated June 25, 2010 prepared by Sherman & Frydryk Land Surveying and Engineering 3

Converse Street Suite 203 Palmer, MA 01069 and Stony Hill Sand & Gravel, Inc. Earth Removal Plan Trompke Avenue Granby, MA dated May 19, 2010 prepared by Sherman & Frydryk Land Surveying and Engineering 3 Converse Street Suite 203 Palmer, MA 01069.

- g. Within ten days after receipt of the application for the special permit for the removal of earth material, the Board shall transmit a copy to the Planning Board, Conservation Commission and the Building Inspector, together with a copy of the plan which shall be required. The above mentioned boards may, at their discretion, investigate the matter and report their recommendations to the Board of Selectmen:

The Board did submit a copy of the application to the Planning Board, Conservation Commission and Building Inspector. The Board received three letters from the Planning Board (one dated June 29, 2010 and two dated September 20, 2010). The Board received a letter from the Conservation Commission dated July 22, 2010 and WPA Form 4B – Order of Resource Area Delineation dated 05/11/2010. The Board also received an additional letter from the Conservation Commission dated September 9, 2010.

- h. A Public hearing will be held by the Board. The public hearing may be held prior to receipt of the recommendation from the above three boards, but no decision shall be made by the Board until after the receipt of such recommendation from the above three Boards or until the lapse of thirty (30) days from the date of filing of the application with the Board:

The Board conducted a hearing on June 29, 2010 and August 30, 2010. At the hearing held on June 29, 2010, Attorney Brian O'Toole, representing Gary S. & Lori J. Toth, presented a subdivision plan dated 07/27/88 and filed July 29, 1988 in PB 155 Pg 54 with a notation “* Any development beyond existing 10 lots requires that the road (Trompke Ave) be upgraded to the Town of Granby’s subdivision standards, said costs to be borne by the residents of Trompke Avenue NOT the Town of Granby.” The Board requested special counsel David J. Martel to render an opinion regarding this plan. In a letter dated September 13, 2010, Attorney Martel rendered an opinion “While the Planning Board may have considered that the future development would be in the form of an extension of the ‘residential subdivision’, the covenant is not limited to that type of development. Instead the covenant uses the term ‘any development beyond existing 10 lots’. It is therefore my opinion that the proposed ‘gravel permit’ would in fact trigger the upgrade of Trompke Avenue.”

Attorney Martel wanted the record to show that additional hearings were held on September 7th and October 20th. Mr. Martin indicated that he only mentioned the two dates as they were the hearings that were publicly advertised and that the other dates Attorney Martel mentioned were a continuation of the August 30th publicly posted hearing. Attorney Martel suggested that the record read the Board conducted a public advertised public hearing on June 29 and August 30 2010, which was continued to September 7, 2010 and to also October 20, 2010.

Attorney Martel suggested the Board adopt the references, the conditions in the project report and incorporate them into the decision except to the extent that the specific conditions the Board attach were inconsistent with these. For example, the hours of operation are proposed to be Saturday. That is not what one of the conditions is going to be.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the Board find that, based on all the evidence, the proposed earth removal site is located in a residential area which would be impacted by noise, dust, vibrations and traffic from operations at the site and that the primary access to the site is over Batchelor Street and Trompke Avenue which have limited width and ability to accept significant increases in truck traffic.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the Board find that, based on all the evidence, the excavation at the earth removal site potentially could have an impact on the water table and wetlands in the general area.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the Board find that it is appropriate to impose reasonable conditions on an earth removal permit in order to address concerns referred to in the previous findings.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the Board find that the Granby Planning Board and Conservation Commission have proposed reasonable requirements which should be incorporated into the terms of a special permit.

Attorney Martel stated that this is in reference to the points made in the checklist under “g” where we referenced the input from the two boards. Attorney Martel suggested adding “proposed reasonable requirements as contained in the correspondence identified in section g of the facts.

Mr. Bail amended motion to read, “the Board found that the Granby Planning Board and Conservation Commission have proposed reasonable requirements which were identified in Section (g) of the Facts recited above and which should be incorporated in the terms of a special permit.” Seconded by Ms. McDowell. Unanimously voted by the Board.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the Board find based on the foregoing findings, the Select Board unanimously voted that the following conditions should be applicable to any earth removal permit issued to the Applicant:

Ms. McDowell suggested that if the order of the conditions were important she would like to start the conditions with the Trompke Avenue upgrade. Mr. Martin stated that Attorney Martel’s list of conditions reflect the Board’s September 2nd meeting. Mr. Martin, in putting conditions down for Board consideration, he put what was contained in the Planning Board letters, the recommendations of the Conservation Commission in their letters and he recommended that the Board include those as conditions for the issuance of the permit. Ms. McDowell stated This condition is required in accordance with the notated subdivision plan dated 07/28/88 and filed July 29, 1988 PB 155 Pg 54

and the opinion rendered by special counsel David Martel that the gravel permit would trigger the Trompke Avenue upgrade. Chairman Tack asked if this condition is challengeable. Attorney Martel stated that if the Board imposes a condition that is unacceptable to the petitioner, the petitioner can appeal from it.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted prior to commencement of earth removal operations Trompke Avenue must be upgraded to the Town of Granby's subdivision standards and cost of the upgrade borne by the Applicant.

This is to be condition number one.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted the Applicant shall drill five geotechnical test borings per the method described in ASTM D-1586 at the locations indicated upon the ANRAD/ORAD plan presented and approved by the Granby Conservation Commission dated 05/11/10. The Granby Conservation Commission shall determine the required test boring locations. The borings shall be sampled and logged for blow counts on five-foot intervals using a 24" long split-spoon sampler. The borings shall extend to a depth at least seven feet below the water table as encountered during drilling. The soil samples shall be retained and made available for inspection by the Town.

This is to be condition number two.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted the Applicant shall then, in the above described test boring holes, install five, two inch diameter PVC monitoring wells per ASTM D-5092 (i.e. *MADEP Standard References for Monitoring Wells*), each equipped with a ten foot long slotted screen such that seven feet of the screen is below the encountered water table. The bottom of the PVC screen shall terminate in a small, closed sediment sump. The elevation of the top of the PVC monitoring wells shall be established by a professional land surveyor tied to a permanent and recoverable benchmark on-site. The elevation shall be reported relative to the NGVD of 1983. Such benchmark shall be readily available to the Selectboard, Conservation Commission or Board of Health upon reasonable notice. The wellhead shall be secured with a grout seal, steel pipe stand up post and terminated with a locking security cap.

This is to be condition number three.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted the Applicant shall sample from each of the five monitoring wells, on a three-month basis, for the following: EPA Method 8015 TPH/DRO and EPA Method 8260. The Granby Board of Health and Conservation Commission shall be notified seven days in advance as to the date and time of each proposed sampling event. Sampling shall be conducted as per standard protocol and practice as established in *MADEP Standard References for Monitoring Wells* and samples shall be analyzed by a MADEP approved laboratory. Analytical results shall be transmitted to the Town within thirty days of each sampling event.

This is to be condition number four.

Regarding the overlay district regulations, Mr. Martin stated he originally included this as a condition. In looking at the proposed pit location, the actual operations are not being conducted in the floodplain district even though the actual parcel does partially lie in it. Attorney Martel suggested the applicant should comply with this bylaw to the extent it is applicable.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted the Applicant shall comply with requirements in the Granby Zoning Bylaw Section IV – Overlay District Regulations Paragraph 4.0 Floodplain District Sub-paragraph 4.06 uses by Special Permit, to the extent applicable.

This is to be condition number five.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the hours of operation are limited to 7:00 a.m. to 4:00 p.m. only, Monday through Friday only, excluding holidays.

This is to be condition number six.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted trucks traveling to or from the earth removal site must travel at a speed not to exceed five miles per hour below otherwise applicable speeds on Batchelor Street and all trucks exiting the site via Trompke Avenue are to take a right turn only on Batchelor Street.

This is to be condition number seven.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted no retail sales are to be made from the earth removal site.

This is to be condition number eight.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted a minimum fifty-foot buffer zone of undisturbed land is to be maintained along the lot lines of the earth removal site.

This is to be condition number nine.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted a minimum twenty-five foot buffer zone of undisturbed land is to be maintained between the earth removal site and the street line.

This is to be condition number ten.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted no crushing, blasting or other similar operations, except screening, are to take place at the earth removal site.

This is to be condition number eleven.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted any dust abatement measures at the earth removal site or along Trompke Avenue shall be undertaken with water only.

This is to be condition number twelve.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted prior to commencing operations, the Applicant is to provide an emergency hazard plan, reasonably satisfactory to the Select Board, indicating how the Applicant would respond to emergencies at the site, such as fires, personal injuries or release of hazardous materials.

This is to be condition number thirteen.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted equipment operating at the earth removal site and trucks traveling to and from the site shall at all times operate in a manner which complies with noise levels permitted by applicable Massachusetts laws and regulations and in a manner which does not cause excessive vibrations to residents in the vicinity of the earth removal site, including residents on Batchelor Street.

This is to be condition number fourteen.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted the special permit shall incorporate by reference the terms and conditions set forth in the document submitted by the Applicant and included in the record of the hearing captioned "Project Report – Proposed Earth Removal – Trompke Avenue" dated May 19, 2010, specifically those items listed under "Earth Removal Operations" and lettered (a) through (o), except that the conditions set forth above shall prevail to the extent of any inconsistencies with the document previously referred to.

This is to be condition number fifteen

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted that the Board find, based on all the evidence, the issuance of an earth removal permit as requested by the Applicant is a matter of considerable public concern on matters of health and safety, particularly on the part of the residents living on Batchelor Street and Trompke Avenue.

This is condition number sixteen.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted that the Board find based on the previous finding, at the time that the earth removal permit is eligible for an annual renewal, the Select Board shall conduct a public hearing at which interested parties could present evidence as to whether the earth removal permit should be renewed.

This is condition number seventeen.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted that the Board find that there is only one road for entry and egress to and from the site and that if this road becomes impassable due to pit operations, then there is a public health and safety issue as police, fire and EMS vehicles would not be able to reach the residences along Trompke Avenue and that the Town should have security to address these conditions.

This is condition number eighteen.

The amount of the bond is determined as follows: \$100,000 for possible culvert replacement, \$30,000 for compliance with loaming and seeding and \$45,000 as a cushion as the current costs are estimates based on current prices.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted in keeping with the previous finding and in keeping with Section 5.83(2) of the earth removal bylaw, prior to commencing operations at the earth removal site the Applicant provide a bond, in a form reasonably satisfactory to the Select Board, in the amount of \$175,000 to provide security to address possible public health and safety issues on Trompke Avenue and to insure compliance on the part of the Applicant with the conditions imposed in connection with the issuance of the earth removal permit.

This is condition number nineteen.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted the total amount of yardage of material to be removed from the site is not to exceed 40,000 cubic yards in any calendar year (pro-rated for any partial year) and on any given day is not to exceed 750 cubic yards and that the Applicant provide the Board of Selectmen on bi-monthly basis with information reasonably adequate to monitor compliance with this condition.

This is condition number twenty.

On a motion by Ms. McDowell and seconded by Mr. Bail, it was unanimously voted prior to commencing operations the Applicant is to provide a report from a qualified engineer with respect to the ability of Batchelor Street to permit trucks such as those being proposed by the Applicant to safely pass each other as well as to pass other vehicles traveling on Batchelor Street.

This is to be condition number twenty-one.

The Board reviewed each of the conditions imposed by them regarding this permit.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted that an earth removal special permit shall be issued to Stony Hill Sand and Gravel, Inc. pursuant to Section 5.8 of the Town of Granby Zoning Bylaw at the site described in the application filed with the Board of Selectmen and on the terms and conditions set forth in the previous votes and that the special permit expire on June 30, 2011 and that the special

permit be drafted to include the foregoing terms, executed by the Board of Selectmen and filed with the Town Clerk.

On a motion by Mr. Bail and seconded by Ms. McDowell, it was unanimously voted to adjourn the meeting at 10:30 p.m.

Respectfully submitted,

Christopher Martin
Town Administrator