

Town of Waldoboro, Maine
Planning Board Meeting
January 12, 2023

Roll Call

The Planning Board meeting was called to order at 6:05 p.m. by chairman Brendan McGuirl. Planning Board members Barbara Boardman, Jeff Erskine, Johnny Kosnow, Brendan McGuirl and Mark Stults were present in person at the Town Office; Sarah Rich attended remotely. A quorum was present throughout. Planning and Development Director Max Johnstone was present in person. Darryl Flagg of D.R. Flagg & Sons Co. and Christopher Covell attended in person for the Simon Road gravel pit agenda item. Other audience members included the property owners of 192 Simon Road (David and Patricia Khristiansen), Steven Bailey, Richard and Debra Hoermann, Seth Hall, Samuel Cohen, Elizabeth Walztoni (Lincoln County News), and four unidentified workers of D.R. Flagg & Sons Co.

1. Adjustments to the Agenda - none
2. Citizen Comments – none
3. Site Plan Review, D. R. Flagg & Son Request to Operate Gravel Pit at Khristiansen Property, 192 Simon Road (Tax Map R20 Lot 3)

Darryl Flagg presented his application to resume operation of an existing gravel pit on land of David and Patricia Khristiansen at 192 Simon Road. He has an existing lease agreement with the landowners, who have a single-family home on the 80-acre property. Flagg proposes to extract approximately seven feet of gravel over a two-acre area. A public hearing on the proposed use was held at the August 2022 Planning Board meeting. Town Planner Johnstone has received a petition from eight households on Simon Road and Feyler's Corner Road, asking the Planning Board to deny Flagg's request to operate a gravel pit on the Kristiansen property, on grounds that operating a gravel pit is not an allowed use in the Rural District of Waldoboro. If the Planning Board allows the proposed use, petitioners ask that limits be placed on the scope of extraction, time period of the permit, limits on maximum noise level and hours of operation, a requirement that Flagg be responsible for road maintenance and repairs, safety measures to ensure safety of pedestrian and bicycle traffic, and a non-renewal clause.

Code Enforcement Officer Stan Waltz submitted a memorandum to the Planning Board dated Dec. 28, 2022, giving results of a decibel test for noise levels of Flagg's equipment working in the gravel pit. He found that the excavator registered 67 decibels. The loader did not exceed 60 decibels. The safety beeper registered 70-71 db, but is safety equipment and exempt from limitations on sound levels. Waltz concluded that the noise generated by Flagg's equipment operating in the gravel pit on Simon Road is within the sound limits specified in the Waldoboro Land Use Ordinance.

Darryl Flagg has submitted wetland maps from the Maine Dept. of Environmental Protection. He claims that none of the Khristiansen property is zoned Resource Protection or is within the Shoreland Zone.

See Planner Johnstone's three-page Findings of Fact summary regarding the application to expand a gravel pit at 192 Simon Road, which addresses neighbors' concerns regarding the proposed extraction operation. The property has been used for gravel extraction in the past. Johnstone

believes that gravel extraction is an allowed use. It is listed in the Matrix as a use requiring approval from the Planning Board, in accordance with Article 3 of the Land Use Ordinance. The Planning Board has the power to impose restrictions and conditions, including time period of operation, hours of operation, maximum noise level, and scope of extraction (cubic yards or defined area). The size of the project has been reduced from five acres to two acres. The proposal is to excavate seven feet of gravel over a two-acre area. Approval from the Maine Department of Environmental Protection is not required for gravel pits under five acres.

On motion of Kosnow/McGuirl, Planning Board members voted 6 – 0 that the applicant, Darryl Flagg, has standing.

Planning Board members voted unanimously that all items in Article 3 in Johnstone’s memo “Standards for 192 Simon Road” have been met, with the exception of 3.5.1.12 demand for potable water and sewage, 3.5.1.13 site connection to public sewer, and 3.5.1.14 copy of HHE-200 for the use, which are not applicable, because no new septic system, well, or public sewer connection is contemplated. In 3.5.1.15, estimated truck traffic on site, it was noted that while the average estimate of on-site traffic is eight truckloads per day, this could increase to 12 truckloads per day on some days. In 3.5.2.9 stormwater and erosion control plan, it was noted that no stormwater leaves the gravel pit. There is no net run-off. Johnstone said that he will work with the applicant after tonight’s meeting to add material to the application that addresses stormwater control. In 3.5.2.2, it was noted that while Gartley and Dorsky is listed as the engineer for the project, they have no involvement in this project.

In Article 7 Performance Standards, Planning Board members did not agree that no noise from machinery will exceed the 55 d/b/a limit at the property lines. Johnstone will ask Code Enforcement Officer Waltz to clarify his measurements. On motion of McGuirl/Boardman, Planning Board members voted unanimously to table approval of Article 7 Performance Standards, pending further information about noise at property lines.

Article 8: Planning Board members voted unanimously to table Article 8 until items 8.1 stormwater management and 8.2 erosion control have been addressed. Chair McGuirl stated that he believes the stormwater and erosion control plans, as submitted, do not meet the Dep standards as required by the Land Use Ordinance. In 8.10 River, Streams, Brooks and Wetlands, there are no wetlands on the subject property.

Article 9: On motion of McGuirl/Stults, Planning Board members voted unanimously to accept Article 9, noting that 9.1 Traffic Impact Analysis is not applicable.

Article 10.8 Excavation/Borrow Pits: Steve Bailey, a resident on Simon Road, said that people living near the gravel pit want conditions to be placed on the permit because they are concerned about adverse effects of its operation; however, appreciates the site visit from Darryl Flagg and the reduced scope that does address most of the concerns. Steve is concerned about noise, and the effects of having many trucks full of stone accelerating and decelerating as they go past his house. McGuirl noted that no restoration plan approved by the Knox/ Lincoln County Soil Conservation service was included in the application, as required by 10.8.2.3. Darryl Flagg produced this document during the meeting and will include it in the resubmission. Vote: On motion of Stults/Boardman, Planning Board members voted unanimously to accept Article 10.8 without conditions.

Town Planner Johnstone summarized that he will discuss erosion control and stormwater management with the applicant, Darryl Flagg, after the meeting. Kosnow said he is sympathetic to the concerns expressed by abutters and neighbors to the project. Christopher Covel, the certified geologist/ soil scientist for this project, said that the site is not a place that lends itself to being a long-term gravel pit and would be impossible to extract beyond what Flagg is proposing. Flagg said there is not that much gravel on the site; it is not going to be a long-term gravel pit operation; in future it will become David Khristiansen's lawn. Mark Stults suggested having the stormwater and erosion control addressed by the Code Enforcement Officer as a Condition of Approval. Johnstone said that was an option the Planning Board has used in the past. Seth Hall, an audience member, noted that he used this practice while he was on the Planning Board.

VOTE: On motion of Stults/Boardman, Planning Board members voted 4 - 1 - 1, with McGuirl opposing and Rich abstaining, to approve granting a permit for gravel and sand removal at 192 Simon Road, conditional upon a finding by the Code Enforcement Officer that the project will meet the noise, stormwater, and erosion control standards in the Waldoboro Land Use Ordinance. Rich said that she was abstaining because she has not seen all the documentation that was handed out during the meeting. Johnstone will have the paperwork ready for signature at the next Planning Board meeting.

Members of the audience, except for Elizabeth Walztoni and Seth Hall, left the meeting at the conclusion of this agenda item.

4. Approval of Minutes of November 10, 2022 Planning Board Meeting

Planning Board members voted unanimously to accept the minutes of the November 10, 2022 Planning Board meeting as amended to correct the spelling of Mark Stults's surname in the first and third lines of the second paragraph under 3. Pre-application, Single-Family Residence, Johnson, on p. 1.

5. Old Business: Land Use Ordinance Revision - deferred to January 26 Planning Board Meeting

Due to the lateness of the hour, on motion of Rich/Stults, Planning Board members voted unanimously to defer discussion of revisions to the Land Use Ordinance until the January 26 Planning Board meeting. The deadline for LUO revisions is April 4. Johnstone will put a notice in the Lincoln County News and send a letter to residents of School Street and Philbrook Lane who will be affected by traffic. Johnstone will also invite reporters from Lincoln County News and the Courier Gazette to attend the meeting.

6. Comments from Planning Board Members - none

Adjournment: The meeting was adjourned at 8:04 p.m.

Next regularly-scheduled Planning Board meeting: Thursday, Jan. 26, 6:00 p.m.

Respectfully submitted,

Susan S. R. Alexander
Recording Secretary