

Town of Waldoboro, Maine
Planning Board Meeting
August 11, 2022

Roll Call

The Planning Board meeting was called to order at 6:07 p.m. by vice chairman Jeff Erskine. Other Planning Board members present were Barbara Boardman, who attended remotely for the Simon Road gravel pit agenda item, and Johnny Kosnow, Sarah Rich, and new member Brendan McGuirl, in person at the Town Office. A quorum was present throughout. Planning and Development Director Max Johnstone was present in person. Applicant Walter Scott Moody attended remotely for the change of use at 1540 Atlantic Highway to a shellfish buying station. Applicant Shane McGarvey was present in person for review of his plans for a seasonal event center on his mother's property at 122 Atlantic Highway. Darryl Flagg participated in discussion of the Simon Road gravel pit. Some 14 people attended for the Simon Road gravel pit agenda item, including Steven Bailey, Marianne Bailey (remotely), Donna Dow, Karen George, Josan Heard, Richard O. Hoerman, Dorothy B. Hopkins, Bill Izzard, Liza Johnson, David Kristiansen, Patti Kristiansen, Shane McGarvey, Suzanne McGarvey, Fred Merrifield, and Patricia Pendergast. *[Max, can you, or someone at the Town Office, please try to verify the spellings of these names?]*

1. Adjustments to the Agenda - none
2. Citizen Comments unrelated to Tonight's Agenda – none
3. Moody's Seafood, Walter Scott Moody: Approval of Change of Use, 1540 Atlantic Hwy. (Tax Map U9 Lot 15)

The site plan for Moody's Seafood shows a separate entrance-only and exit-only from Route One; four designated on-site parking spaces for tenants; and barrels blocking the former on-site vehicular access from the adjacent Subway property to the east. A lock box will be installed to the right of the overhead door at the shellfish buying station. The DOT entrance permit prohibits closing of any travel lane or shoulder of Atlantic Highway adjacent to the business, and also prohibits access to the property by vehicles towing trailers, including boat trailers. Moody hopes that this latter prohibition can be voided. McGuirl asked whether approval of the change of use can be made conditional upon how the traffic patterns work out over the first few months. Town Planner Johnstone said that MDOT will pull the permit if the new business disrupts Route One traffic seriously.

VOTE: On motion of Rich/Kosnow, Board members voted unanimously to approve granting a permit for a change of use at 1540 Atlantic Highway, for a shellfish buying station, Moody's Seafood.

4. Approval of Minor Event Center, 122 Atlantic Highway, Shane McGarvey (Tax Map R4 Lot 40)

Shane McGarvey was present in person to describe his plans for a minor seasonal event center and small seasonal campground at 122 Atlantic Highway. The existing building formerly housed a high-end kitchen supply business, the Well Tempered Kitchen, run by his mother, Gail Montgomery. It closed some years ago. McGarvey lives on the property. He is a chef, and runs a catering business, Applecroft Catering, based on the property. He plans to host small outdoor weddings in season on the property, and to have 10 campsites for use primarily by the wedding party. The campsites will have pedestrian access only. A new vehicular entrance will be constructed east of the existing entrance, which will be reserved for emergency vehicles. He plans to host events only on weekends, five months a year. He anticipates no more than 12 events per year with over 25 guests. He requests approval of the seasonal event center this summer, so that he can advertise and start taking reservations for 2023.

He was asked about noise, especially from music during events. He said the music will end by 9:30 or 10

p.m. He compared his proposed use to that of Tops'l Farm, an event venue located in a residential area on the west side of Route 32 in Waldoboro. Music there ends by 9:30 - 10 p.m.

An abutter to the west of the Montgomery land asked why the campsites are located so close to the west property line. McGarvey said that he wanted to minimize impacts on Kaler's Pond and the forest around the pond. A Planning Board member suggested moving the proposed campsite locations somewhat more to the east, away from the west property line.

McGarvey said that each firepit in the campground will be equipped with a fire extinguisher. Waldoboro Fire Chief Smeltzer will inspect the fire pits. He has no issue with water access for firefighting. Smeltzer will not require a lockbox, but suggests a padlock on the former main driveway entrance, which will be reserved for emergency vehicles.

McGarvey said that guests will not be permitted to bring alcoholic beverages onto the site. They will purchase these from his catering company. Campground rules will be posted on signs. Swimming is at one's own risk. The campground is intended to be reserved for members of the wedding party, not for other wedding guests or members of the general public who are not involved with the event.

A "mass gathering" is defined as an event involving more than 100 people. McGarvey does not intend to cook for more than 100 people. He is not applying for a mass gathering permit. The Select Board can grant him a liquor license.

Waldoboro's Code Enforcement Officer can approve McGarvey's application for 10 primitive seasonal campsites without a need for Planning Board review and approval, unless the Planning Board chooses to make the campground part of the application for the seasonal event venue, and review both. Planning Board members wished to address only the event center, not the campsites.

VOTE: On motion of Rich, Board members voted unanimously to approve Shane McGarvey's application for a minor seasonal event center at 122 Atlantic Highway.

5. Gravel Pit at 192 Simon Road, Kristiansen (Tax Map R20 Lot 3) - D.B. Flagg & Son Trucking

Planning Board member Barbara Boardman joined the meeting remotely for this agenda item.

Darryl Flagg, president of D.B. Flagg & Son Trucking, has an agreement with property owner David Kristiansen to expand a mineral extraction operation on Kristiansen's 80-acre property at 192 Simon Road. Flagg wants to expand a one-acre gravel pit to no more than five acres over a seven-year period and to extract the gravel for commercial use. The project is in the Rural District, which allows resource extraction upon approval by the Planning Board.

Many Simon Road neighbors attended to express concerns about noise, dust, increased truck traffic on this narrow (17' wide) side road, and safety for schoolchildren and walkers who use the road. (Someone thought 90% of neighbors were present.) There is a weight limit on trucks using the road. There were several suggestions about limiting the hours of operation during the day.

Kristiansen said that he has owned the land for 40 years. He cares about the neighborhood. Trees were cut on his property in 2008. He is doing the current project to level the ground surface, after which he will plant trees. A silt fence has been installed for erosion control.

Flagg estimates that a maximum of 10 trucks a day will haul gravel from the site. No blasting is involved. The trucks are 8' wide. He said there is room enough on Simon Road for two vehicles to pass one another.

Steve Bailey said there is no indication that Kristiansen has the financial capability to restore the ground from which the gravel is being taken, to prevent or minimize erosion and runoff. Bailey is concerned about

ambient noise from the project. He asked that an ambient noise study be done before the operation starts, and for a maximum decibel limit to be set on noise from the project.

Other speakers asked that the Town should require Kristiansen to provide proof of liability insurance. A pre-development study of the road condition should be done, with Kristiansen required to provide a surety bond or performance bond so that if he goes out of business, there is money for road repairs to address damage caused by the gravel trucks. A \$1 million liability policy should be required. The Town of Waldoboro should be a named insured.

Fred Merrifield said that he has lived on Simon Road for 30 years. Dave Kristiansen has been a good neighbor. His intentions are good. Merrifield has concerns about hours of operation and frequency of vehicles. He asked how long Kristiansen plans to operate. He was told four years. It is not a commercial gravel pit. The gravel will be used only for David Flagg's business needs. Kristiansen has the right to remove gravel from his land, and the right to hire Flagg to do the hauling.

It was suggested that the contract between the landowner and the hauler should be re-written to include Kristiansen's stated objectives of restoring and re-grading the land surface on his property. The duration of the gravel hauling operation should be stated as five years or less. Times of truck operation should be specified: e.g., 9 a.m. to noon. The contract should specify who is responsible for repairs and maintenance of Simon Road.

Planner Johnstone said that the Town cannot control the content of an agreement between a landowner and a contractor. He conceded that it would be good to add a time frame to the contract. It would be good to do a survey of road condition now, before Flagg starts hauling gravel from the Kristiansen property. Johnstone has consulted Public Works Director John Daigle about weight limits. A contractor who is responsible for damaging a road is responsible for paying for repairs.

Boardman asked about the existing dormant gravel pit on the Kristiansen property. Is it grandfathered? Johnstone said that the local Land Use Ordinance addressed gravel pits in 1987. In that year, if a landowner had a gravel pit on his land that was not in current use, the owner was asked to come to the Town Office and execute paperwork to have the gravel pit grandfathered. Apparently this was not done for the Kristiansen gravel pit. Erskine suggested checking with Maine Municipal Association to see whether the Town did the right thing in the 1990's regarding the gravel pit, and what effect, if any, this has on the current situation.

Erskine listed information needed about the gravel pit project. This includes: defining the location and size of the gravel pit, and showing the location of on-site features from the Beginning with Habitat maps, including the winter deer yard and the riparian zone. Kristiansen said he does not think any of his property is considered a wetland. Erskine said that the Planning Board should treat the application as a new gravel pit. The application should include information about hours of operation, traffic, anticipated number of truck trips per day, and pedestrian safety on Simon Road. Will the gravel pit operate all year, or only seasonally? Should a performance bond be required? Erskine called for documentation of the current condition of Simon Road and culverts, including photographs of any pre-existing conditions. Have members of the Public Works Department do a site walk of Simon Road. If the road is damaged, Public Works will have to repair it. There was discussion of the time duration of the project: three years? five? seven? Kristiansen suggested three years, with an option to extend the time if necessary. A man asked about proof of financial capability. Should a performance bond be required?

The gravel operation should fall within the ambient noise limits in the Waldoboro Land Use Ordinance. Measure the noise generated during filling the dump truck with gravel. Compare this to ambient noise when there is no such activity. Any noise more than five decibels louder than normal ambient noise should be deemed excessive.

Johnstone suggested that Kristiansen prepare an updated site plan for review at the next Planning Board meeting. The site plan should include information about wildlife, location of wetlands, hours of operation, and anticipated number of truck trips per day. Johnstone will consult Public Works Director John Daigle.

Johnstone summarized the proposed conditions on Kristiansen's quarry operation.

1. Provide a revised accurate site plan showing the location and dimensions of the gravel pit.
2. Have Public Works Director Daigle survey the current condition of Simon Road and its culverts, as a baseline, so as to be able to compare with the condition of the road and culverts after gravel has been hauled.
3. Have the Code Enforcement Officer measure the ambient noise level before quarrying and during quarrying.
4. Create a five-year gravel extraction agreement, subject to possible extension.
5. There is to be no blasting.

Rich suggested a limitation that no more than one acre of the quarry be open and active at any given time.

Motion to table: At 8:45 p.m. Board members voted unanimously to table the Simonton Road gravel pit agenda item.

6. Minutes of July 28, 2022 - review postponed

Board members did not vote on the July 28 minutes, due to the lateness of the hour.

7. Comments from Planning Board Members – none

Adjournment: The meeting was adjourned at 8:50 p.m.

Next regularly-scheduled Planning Board meeting: Thursday, Sept. 8, 6:00 p.m.

Respectfully submitted,

Susan S. R. Alexander
Recording Secretary