

MEMBERS PRESENT: CINDY KELLEN, BOB WESTFALL, DIANE ATTEA,
JEFF PASSARELL

ABSENT: JEFF MULLIGAN

OTHERS: CEO BRIAN GLISE, JAMES CAMPBELL, TOWN
ATTORNEY

VISITORS: KAREN & RICK CRATER, DEBRA SALMON, ERIC
HUPPERT, JEANNE MORELLI, AMBER CORBIN,
CAROLYN & BOB MCKEE, LISA ARNOLD, TOM
MCGOVERN, DALE TWARDOKUS, STEVE FANTUZZO

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB; SECONDED BY JEFF
PASSARELL.

JEFF MULLIGAN - ABSENT
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 4-0.

OAK OPENINGS LLC/1392 OAK OPENINGS ROAD/TAX PARCEL#26.-1-22.1
- SPECIAL USE PERMIT MODIFICATION

Cindy asked the representatives present to introduce themselves
and begin their presentation.

Dale Twardokus, owner of Rochester Gravel Products which
operates
the Oak Openings Mine and his lawyer, Steve Fantuzzo, will
explain
the application to all.

Steve Fantuzzo, Ashley Champion is out on parental leave
currently, thanked the Board for scheduling a special meeting
for
tonight, since the January meeting was cancelled.

Mr. Fantuzzo explained they are seeking a modification of the
special use permit that was approved on September 17, 2018,
specifically, the conditions regarding truck volume and hours of
operations.

Condition #9 states; The volume of trucks entering and leaving the subject property shall not exceed the volume permitted by the DEC in its Mining Permits dated August 4, 2016 and May 16, 2018. **Mr. Fantuzzo would like this to reference the most recent approved NYS DEC permit dated January 3, 2022 which allows thirty trucks per hour. This number would be during peak operations and not foreseen to be daily per hour. NYS DEC determined this to have a negative impact in the area.**

Condition # 11 states; The hours of operation for the Excavation Operation at the subject property shall be limited to: **Monday – Friday** - No on-site activities will commence before 7:00 a.m. and all on-site activities will stop at 4:00 p.m. (including loading of trucks or hauling operations and/or truck-traffic or product leaving site). All haulage trucks must leave the site by or before 4:00 p.m. **Saturday** - No operations of any kind, **Sunday** - No operations of any

kind, and Federal Holidays - No operations of any kind. Mr. Fantuzzo is requesting that these requirements mirror the NYSDEC hours of operations and

he also stated the other company similar in nature around the corner, does not have these restrictions imposed on them.

Mr. Fantuzzo stated these hours of operation go against your Town

Code Section 130-34-4 which states all operations shall be Conducted only between the hours of 7AM and 6PM except on Sunday's.

This request is for modification to be consistent with both the Town code and with the NYS DEC permit. Oak Openings mine would operate Monday - Friday from 7AM - 6PM and Saturday from 8AM - 2PM

The Holiday's the business would be shutdown are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas day.

Mr. Fantuzzo is requesting to schedule the public hearing tonight to continue with the application process.

Mr. Twardokus wanted everyone to know that this business is a seasonal business with peaks and valleys, one day you may have a lot of truck volume and other days there may be very little. The weather also determines truck traffic, and he does not feel this business will have a consistently high truck volume daily. The reason he is requesting thirty trucks an hour is to stay in compliance with the special use permit; and the traffic study supported sixty truck an hour no impact on the road.

As far as the hours of operations, he does not foresee those hours daily since they do not require their employees to work 11-

hour days. These hours will be for any special scenario that may arise and to always be in compliance with the special use permit.

Mr. Twardokus is aware of a neighboring business that runs on the weekends and having truck traffic would be detrimental to them and he will be conscience of that situation.

Bob Westfall heard Mr. Twardokus state the NYS DEC conducted a traffic study and solicited comments from neighbors and it was determined no negative impact. Bob feels that not to be accurate from the neighbor's standpoint. Mr. Twardokus stated the traffic study was done by a company that Oak Openings hired and supplied to NYS DEC which then evaluated the criteria and issued comments themselves.

Bob Westfall also asked what time of year and day the study was conducted. Mr. Fantuzzo said there have been multiple traffic studies and the NYS DEC have done site studies themselves as well and the road has the compacity for the extra trucks.

Mr. Fantuzzo also stated that Mr. Twardokus has made a substantial investment in the property concerning dust control, de-mudding and plans to add a berm to reduce the noise to the neighbors.

Bob Westfall asked if this was traffic going toward Routes 5&20 as well as traffic going north. Mr. Twardokus said the traffic study was for both directions and they indicated there could be thirty trucks an hour in both directions for a total of sixty trucks an hour. Bob still feels the neighbors would disagree with it but glad they performed the study in both directions.

Brian Glise stated if the truck traffic is going to increase, he feels it should go both ways that one direction should not take the whole burden.

Cindy Kellen stated with the current hours and twelve trucks an hour there that is 108 trucks a day, with the new hours and thirty trucks an hour that would be 330 trucks a day. Brian Glise stated if you look at other studies you will see that 890 pass through the Village of Avon's Main Street a day.

Brian Glise also questioned how we control the number of trucks per hour, the two violations that we did have were the number of trucks and Oak Openings said they cannot control when trucks come to the mine. Mr. Twardokus is confident they will not exceed thirty trucks an hour.

Bob Westfall asked if there was a truck scheduler that could control the number of trucks an hour. Mr. Twardokus stated that the mine owns two trucks all the other trucks are customer trucks, sometimes they call ahead but other times they just show up.

Cindy asked if you are allowed thirty trucks an hour and twenty-five trucks show up at one time, will they be lined up on the road. Mr. Twardokus stated they can line the pit and the pit is able to have 120-150 trucks on the grounds.

Cindy Kellen asked if anything else changed, she saw something about bringing in materials and the size of the pit. Mr. Twardokus stated the material that is brought in is topsoil, concrete, and asphalt, they screen it and resell it, we do not accept construction/building materials.

Mr. Fantuzzo stated they did not specifically request the mine expansion since there is no condition in the special use permit and the expansion was approved in the NYS DEC permit. Mr. Twardokus stated the area that can be mined will increase, but the active mining area will not increase. As far as the berm is concerned, some neighbors mentioned that a berm would help with noise control and the view and they agreed to do it even though they are not required to do so.

Cindy asked Brian Glise about the violations that have been justified for Oak Openings. Brian stated we had two violations that went to court for exceeding truck traffic per hour but there have been a lot of complaints. Jim Campbell stated in both instances they were issued an appearance ticket based on the violations Brian found and Oak Openings admitted to the violations and paid the fines, there was not a finding of guilt through a trial process but by admission.

Jeff Passarell questioned how they would determine the material that is brought in is not contaminated. Mr. Twardokus stated there is a document the company who is bringing in signs stating the material is not contaminated, where it is coming from, quantity and then we inspect it to make sure it is not contaminated. There is no actual test done.

Diane Attea asked about wells being tested, Brian Glise stated they have been tested. Mr. Twardokus stated they have put in a monitoring well and have it tested. The reports are submitted to NYS DEC each year. Mr. Fantuzzo stated since there has been no issue with the testing, it will remain as is.

Cindy asked if Mr. Twardokus would consider limiting the number of truck traffic between 4-6PM to zero and only allow your equipment to work in the pit. Mr. Twardokus would be leery of doing that just in case there was a time when a truck pulled in close to 4:00PM and pulled out after 4:00PM; that would be considered a violation of the special use permit. Mr. Twardokus would consider a much lower number during 4-6PM.

Cindy Kellen asked if he would be willing to reduce the truck limits on a Saturday. Mr. Twardokus stated that the other business has no limitations on truck traffic or hours imposed on them, but he would be open to the possibility.

Bob Westfall stated in all fairness what other municipalities do, we do not follow since we have our own code. Mr. Fantuzzo stated the references are from this municipality and this Board which he is referring to Hanson Aggregates.

Mr. Fantuzzo also stated the traffic study was completed in June during peak season for this business.

Cindy Kellen stated that the public has interest in this application and are more than welcome to send any comments to Kim and she will forward to the members, or you can comment at the public hearing on this matter.

James Campbell stated the next step is to schedule the public hearing and Cindy stated there was a suggestion to have it on another night, other than February 21, 2022. James Campbell stated

yes there is a lot of items on the meeting on the 21st and it may be beneficial to hold it a different night. Cindy Kellen stated February 16, 2022 and James Campbell will not be in Town that night.

Bob Westfall asked if there would be any other board for the public

hearing and James Campbell stated it is just the ZBA Board. Bob asked if we plan for February 16, 2022 will there be enough time to publish it and James Campbell stated it will be.

MOTION TO HOLD THE PUBLIC HEARING ON FEBRUARY 16, 2022 WAS MADE BY

BOB; SECONDED BY JEFF PASSARELL.

JEFF MULLIGAN - ABSENT
CINDY KELLEN - AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 4-0.

MOTION TO CLOSE THE MEETING WAS MADE BY JEFF PASSARELL; SECONDED BY BOB.

JEFF MULLIGAN - ABSENT
CINDY KELLEN - AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 4-0.

MEETING CLOSED.