

PLANNING & ZBA MEETING

MONDAY, JULY 22, 2019

MEMBERS PRESENT: ZBA: JEFF MULLIGAN, CINDY KELLEN, DIANE ATTEA

PLANNING: KATHY COLE, TOM MCGOVERN, CLARA MULLIGAN, KATHY MANNIX

ABSENT: SAM PRICE (ZBA), BOB WESTFALL (ZBA), RANDY KOZLOWSKI (PLANNING), MICHAEL MILES (PLANNING)

OTHERS: CEO BRIAN GLISE, MRB ENGINEER LANCE BRABANT, TOWN ATTORNEY JAMES CAMPBELL

VISITORS: MICHAEL FOGEL, MICHAEL LEWIS, LENA ZEEBUYTH, STEVE TRADER, SCOTT WHEATON, SAM GOWAN, JASON BARLEY, MICHAEL CLARK, DEBRA SALMON, ERIC HUPPERT, KAREN CRATER, WOLFGANG RIETZ, LORRAINE RIETZ, SHARON OYER, DEB NUPP, KARL MITCHELL, DAVID LEFEBER, JANET MANKO, JUDY FALZOI

CLERK: KIM MCDOWELL

ZBA & PLANNING BOARD MOTION TO OPEN THE MEETING WAS MADE BY DIANE, SECONDED BY CLARA.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - ABSENT

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 7-0.

PLANNING BOARD MOTION TO APPROVE THE MINUTES FROM THE MEETING ON JULY 2, 2019 WAS MADE BY KATHY MANNIX, SECONDED BY CLARA.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE

CLARA MULLIGAN - AYE
MICHAEL MILES - ABSENT

CARRIED 4-0.

ZBA BOARD MOTION TO APPROVE THE MINUTES FROM THE MEETING ON JUNE 24, 2019 WAS MADE BY CINDY, SECONDED BY DIANE.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 4-0.

THEW, RONALD & FELICIA/6411 ACORN TRAIL/TAX PARCEL#45.-1-84
-VARIANCE FOR ROAD FRONTAGE

Neither, Mr. Thew nor Mr. O'Donoghue, were present to discuss this application. Kim will send letter to Mr. Thew letting him know his application is on hold until he contacts her directly.

HANSON AGGREGATES NEW YORK LLC/2049 HONEOYE FALLS NO. 6 RD./TAX
PARCEL #26.-1-13-SPECIAL USE PERMIT & SITE PLAN APPLICATION

Before Hanson began their presentation, Jeff stated when comments are made please give your name and address and keep the comments concise. He also stated this is a public hearing and not a question/answer forum tonight and that all comments will pertain to Hanson project we are discussing tonight and any other issues regarding any other projects are off limits.

Jim Campbell stated to the Board members that if they feel the need for legal counsel at any time during this meeting they are allowed to pause the proceedings to meet with him for legal advice or they may meet with him after the meeting is concluded.

Michael Fogel, Attorney for Hanson out of Syracuse, New York, stated that Hanson has applied for a Special Use Permit and Site Plan modification to add approximately 10 acres in Avon to the Honeoye Falls quarry mining operations. NYS DEC has recently approved this modification. The quarry has been in operation since 1959, which predates the Town of Avon Zoning laws. Mr. Fogel gave a description of how mining operations occur and what the stone/gravel is used for that is extracted from the quarry. In August 2013, Hanson applied to modify its mining permit to

add 63.6 acres, 10 of which are in the Town of Avon. As part of the application process, NYS DEC takes a comprehensive review through the requirements of the Mined Land Reclamation Law and became the lead agency under SEQOR granting them primary responsibility over this modification application. This review lasted approximately 5 years where comments and revisions were made and in 2016 NYS DEC stated it was complete and went out to the public for oral and written comments. In September 2018 the finalized permit was issued to Hanson.

Michael Lewis, Environmental Manager, stated Hanson has about 30-40 quarries throughout the state and his job is to make sure they are following the rules for mining. Mr. Lewis showed on the map displayed where exactly the 10 acres are and where they will be mining. NYS DEC states they have to go in phases for the mining and mining permits get renewed every 5 years. They will be in that area for 5-10 years, Hanson owns or leases the adjoining properties. When stone reserves are exhausted you have to start mining in other areas. This modification will allow them to stay in business, it will not increase production, there will be no new truck traffic, and the business entrance will be the same as it has been. They have estimated there are 17 million tons of stone in this modified area. All their customers are within 20-30 miles from the quarry. The quality of stone is important to stay in business and certain jobs require the high quality of stone that will be mined from the area.

We are required to do a pre-blast survey for residents within 1,500 feet from the new mine boundary to establish a base line. Blasting plans are done by a third party specialist who designs each blast to meet certain requirements and ranges. The entire area will have a berm around the outside that will range from 10-25 feet in height for noise and safety concerns. If the quarry is responsible and proven responsible for anyone's well damage, they are required to supply water to them and fix it.

Jeff Mulligan asked if there were any questions from the Board members.

Tom McGovern asked if they have a written plan/policy if a well goes dry, which Hanson stated it is in the NYS DEC permit. There is no litigation process to get a well fixed, if Hanson doesn't correct/fix the well they risk losing their mining permit. Tom asked what kind of petroleum products are brought in for the asphalt portion of the operation. Mr. Lewis stated that it is a liquid asphalt and they store about 90,000 gallons on site. Tom asked what is the process in place if there was a

spill, which they follow State, Federal, and SPCC plans/regulations. They do have emergency response drills in house without employee's knowledge to make sure they follow the procedures put in place. Hanson also has all the materials and equipment on premises that specialists would bring in for a spill and NYS DEC inspects the tanks regularly.

Kathy Mannix asked if Hanson has replaced/fixed anyone wells in our area. Mr. Lewis stated they have in Avon and in Rush and the Avon resident allowed Hanson to monitor the well. They monitored the well solely for water level.

Jeff Mulligan asked how much water they pump out a day from the quarry. Sam Gowan, Geologist, stated they pump 2,500-3,500 gallons per minute out of quarry and 800 gallons per minute are brought right back into the quarry. These numbers depend on the wet/dry season in a year. There is a divide that separates two ground water basins and they have 5 monitoring wells in that area. Mr. Gowan discussed how wells fluctuate depending on the area and what happens if you dig a well deeper with the water levels.

Clara Mulligan asked if you re-drill a well do you just drill deeper, which they do. She also asked at the level you are mining near the aquifer and are you digging below the aquifer, which they are. Clara asked how you are permitted to do that. Hanson does investigate what the impact will be and if they can mine in the area the aquifer is in.

There was much discussion on how exactly a well works and how the change of seasons affect the water levels in a well.

Jeff said he hadn't read the comment section of the DEIS report and was wondering how many people commented. Hanson stated more comments came from Rush than Avon.

Cindy Kellen asked about the mapping area that was white, which is just an error it should be dark green like the rest of the area. Cindy also asked what the hours of operations currently are, and it depends on the job. Normally business/sales hours are 7:00AM - 3:15PM, blacktop hours are extended for customers. Mining operations are day shifts of 8-12 hours could possibly run 24 hours. Blasting hours are 9:00AM-5:00PM Monday through Friday with no Holidays, no Saturday or Sunday hours.

Kathy Cole asked if they have done this presentation for other Towns, which they have not yet. In other Towns it will be a

Special Use Permit process as well.

MOTION TO OPEN THE PUBLIC HEARING FOR BOTH THE ZBA & PLANNING BOARDS WAS MADE BY CINDY; SECONDED BY DIANE.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - ABSENT

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 7-0.

Jeff stated to please state your name and address before making comments.

The following comments were made:

Mr. Eric Hubbert, 1160 Oak Openings Road, stated he has been a resident for 17 years. He is concerned with the noise level (grinding, explosions 24 hours), heavy truck traffic (10 ton limit on road Hanson breaks this all the time), and well water issues. Mr. Hubbert showed pictures of the quarry, dump trucks, and other businesses on Oak Openings Road to all present. He stated the Board has to go by the Town code and have to police these issues and he is against this expansion of Hanson. He wants the Board to make decisions based on the resident's standpoint as stated in Town code.

Ms. Karen Crater, 1177 Oak Openings Road, commented on how in 2017 she had to refinish the dry wall her entire house due to the blasting from Hanson which caused deep cracks. She would like more attention paid to the blasting process. She is concerned with the potential problem of her well that is 100 feet deep, as well as the fumes she smells that the berms don't really help with. NYS DEC does nothing for the neighbors.

Ms. Debbie Nupp, 6555 North Avon Road, she is concerned about her water level for her very small farm. How fast will the

water be repaired if there is a problem since they it is needed immediately.

Ms. Judy Falzoi, 1739 Athena Drive, she read the 2016 amended permit from the DEC and it talked about how it would be years for the expansion to take place and now it is only three years later. Application sounds good on paper but is it really. Judy drove down the road and there was so much dust on her car she feels Hanson owes her a carwash. She stated trucks are required to have tarps across the top and have they contacted all the people for free vibration evaluation like stated. Business' do have rights with help from the NYS DEC but neighbors shouldn't have to petition the Board for their rights. She is glad she doesn't live on Oak Openings Road.

Ms. Debra Salmon, 1160 Oak Openings Road, she feels it is exhausting to continue to fight for the quality of life that her and her neighbors deserve.

Ms. Sharon Oyer, 1150 Oak Openings Road, over 34 year resident. She feels the road is not safe, doesn't like turning into driveway if trucks are behind her, she doesn't feel safe even getting the mail from her mailbox. She is concerned about everyone's wells, safety, and property values.

Lance Brabant, MRB Group, asked if Hanson can separate the NYS DEC permit and send it to the Town from your application. The blast plan is regulated by DEC but if there is any additional information, could they please send to the Town as well. Lance also asked that the buffering plans discussed tonight, such as species and location of trees, are not on the site plan that was submitted. He would like more detail on the berm to be provided to the Town. Lance asked if Hanson could send their current hours of operations for each operation they typically follow since that is a requirement for the Special Use application.

Mr. Huppert asked about the dangers of radon escaping and what are the procedures if that happens since he is required to have a monitor in his basement what does Hanson have in place. Hanson said that the NYS DEC didn't identify this as an issue and to the best of their knowledge the danger is more likely to occur in his basement than over 64 acres.

Hanson has listened to all the concerns tonight and they are not uncommon with mining operations. If you have any concerns please call Hanson headquarters, if we don't know your concerns we can't address them. We also give tours to people so they can

see exactly what we do. Hanson stated that the trucks coming in and out of the business are not all Hanson owned. Pickup trucks do drive around the quarry at different times during the day checking on the property and operations. Hanson left some brochures on blasting and stated to please call the plant with any questions.

Mr. Huppert doesn't feel like they are being monitored by the Town as strictly as they should be.

Tom McGovern can attest to the noise late into the night and he has woods and berm and he is farther out on North Avon Road. Tom also asked how this operation fits into our code.

Jeff Mulligan asked if there was a berm on the west side. They are not moving the existing berm and the new one will be 400-500 feet from Works Rd.

Since there were no other comments, Jeff stated the public hearing will be left open for written comments only and the oral comment section will be closed. All written comments need to be received by Kim McDowell no later than August 5, 2019 at noon.

Jeff Mulligan stated both the Boards have listened and understand your concerns. We will do our best for everyone involved.

MOTION TO CLOSE THE PUBLIC HEARING ON ORAL COMMENTS ONLY WAS MADE BY KATHY COLE; SECONDED BY CLARA.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - ABSENT

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 7-0.

Next joint meeting will be held on August 19, 2019 7:00PM at the Town of Avon.

ZBA & PLANNING BOARD MOTION TO CLOSE THE MEETING WAS MADE BY KATHY COLE, SECONDED BY DIANE.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - ABSENT

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 7-0.

MEETING CLOSED.