



# City of Westbrook

DEPARTMENT OF PLANNING, ENGINEERING AND  
CODE ENFORCEMENT

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## WESTBROOK PLANNING BOARD MINUTES TUESDAY, OCTOBER 3<sup>RD</sup>, 2006, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114

Present: Ed Reidman, (Chair), Rene Daniel (Vice-Chair), Greg Blake (Arrived after items #1 & #2), Dennis Isherwood, Anna Wrobel, Corey Fleming

Absent:

Staff: Rick Gouzie, Brooks More

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School. Mr. Reidman informed the audience of the purpose for the public hearing, and asked everyone who would speak to do so at the podium, being certain to speak clearly and provide the Board with their name and address. Mr. Reidman stated that the Board would hear a presentation accept any additional Staff comments, and then receive questions and commentary from the public. Mr. Reidman noted that any questions received by the Board would be answered at the end of the public presentation. Mr. Reidman explained that any action taken at this meeting would be dependant upon time constraints.

### 1. Call to Order

**Public Hearing - Special Exception – T & M Development, LLC, Extractive Industry, Methodist Road – Sebago Technics, on behalf of T&M Enterprises, LLC for the creation of an extractive industry (A.K.A. Quarry) project on a combined 96 acre parcel located at 409 Small Hardy Road. Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13, Zone: Rural.**

**Mike White** explained to the Board the aspects of the Extractive Industry, Methodist Road for the creation of an extractive industry (A.K.A. Quarry) project on a combined 96 acre parcel located at 409 Small Hardy Road. Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13, Zone: Rural.

Staff Comments:

1. The application was found to be complete by the Planning Board on September 19, 2006.
2. This application is being reviewed under the Special Exception standards in Section 204. The operation of the Extractive Industry must also meet the standards in Section 202.6.

**Dan St. Peter**- 34 Incron Lane, Windham

- Paired analysis – reports upon which studies are based on are 20 – 25 yrs. old. OSHA was not in place at the time of the studies. This regulates the back up beepers for large equipment.
- House values – houses are valued differently today.
- Beginning of quarry will make a lot of noise until a depression is created.

Requests –

1. Use quieter back-up alarm
2. Keep crusher in the current quarry

**Ralph Hat** – 12 Willow Drive;

How long will crusher stay in the current Quarry? This will curtail any development along Route 302. Who will want to develop anything with a quarry in the back yard? The noise from the quarry is pushed towards RT 302.

**Ed Reidman** closed the Public Hearing.

**Mike White** said the crusher would remain in the existing quarry for about 3-5 yrs.

**Public Hearing - Village Review – 23 Foster Street - MAD Property Services for the construction of a 1,120 S.F. duplex in back of the existing house located at 23 Foster Street. Tax Map: 33, Lot: 206, Zone: City Center, Overlay Zone: Village Review.**

**Mike Dukette** -16 Newcomb Place explained to the Board the aspects of the construction of a 1,120 S.F. duplex in back of the existing house located at the rear of 23 Foster Street. Tax Map: 33, Lot: 206, Zone: City Center, Overlay Zone: Village Review.

**Staff Comments:**

Staff has met with the Applicant to review the proposed building design. The property owner has been very willing to cooperate on modifications to the original design. Staff's only comment at this time is to recommend that the roof pitch be returned to that originally proposed. The current design was modified in an attempt to match the porch roof pitch to the roof pitch.

*Note:* As with all Village Review applications, the Board is only reviewing the design of the building. The determination on whether or not the proposal meets the standards of the zoning district is made by the Code Enforcement Officer through the building permit application.

**Joyce Hebert** 15 Barker Lane – expressed that the location of this duplex is not a good place to build a duplex.

**Terry Jordan** 31 Foster Street– spoke in opposition due to traffic and parking – 8-10 parking spaces. This duplex will reduce green space in the area. How long will construction go on? How will the drainage be impacted with the fill of property?

**Ed Reidman** asked staff if the Police and Fire Department had reviewed this plan.

**Brooks More** said that the Police and Fire Department had not reviewed this plan.

**Ed Reidman** asked about the length of the construction after the appropriate permits had been filed.

**Richard Gouzie** said he had six months to start the project with no completion restrictions.

#### **Public Hearing Closed**

**Ed Reidman** asked if Eric Dudley would review the drainage on this project.

**Eric Dudley** yes

**Anna Wrobel** asked if there were any standards for the construction of the driveway, to allow emergency vehicle access.

**Richard Gouzie** said no driveway construction standards.

**Corey Fleming** asked how many bedrooms.

**Mike Dukette** said they would have three bedrooms.

#### **Public Hearing - Land Use Ordinances Amendment – Referral from the City Council to remove private ways from the Land Use Ordinances.**

**Brooks More** said several meetings ago the Board voted to recommend that Private Ways be removed from the Land Use Ordinances. Staff has had additional conversations with our legal counsel, and would like to make some additional recommendations on this proposal. The changes will ensure that a property owner on an existing private way will be allowed to construct additional lots on the private way. The proposal continues to recommend that

the construction of new Private Ways be removed as an option for subdivision development.

**Ralph Hat** – 12 Willow Drive - Private Way Owner - Can he put in an application for construction at a later time?

**Public Hearing Closed**

**Brooks More** – said that an application can be completed and constructed at a later date.

**Anna Wrobel** – Question on law many lots per private way

**Brooks More** – This depends on the zoning district

**Ed Reidman** – Would projects that require sub-division be allowed on private ways?

**Brooks More** – Yes

**Continuing Business**

**2. Special Exception – T & M Development, LLC, Extractive Industry, Methodist Road – Sebago Technics, on behalf of T&M Enterprises, LLC for the creation of an extractive industry (A.K.A. Quarry) project on a combined 96 acre parcel located at 409 Small Hardy Road. Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13, Zone: Rural.**

**Ed Reidman** – Noted that Mike White stated his goal to work with Mr. St. Peter on the noise issues. This item should be entered into the record per condition number 1.

**Greg Blake** moved the Special Exception application for T&M Development, LLC on Tax Map: 20, Lot: 10 and Tax Map: 17, Lots: 12 & 13 is to be **approved with conditions**:

- A. Certain Requirements Met. That the use requested meets the dimension, parking, loading, and sign requirements of this Ordinance. Otherwise, the applicant must also request an appropriate variance.
- The use meets the dimension, parking, loading and sign requirements of this Ordinance.

B. Value. That the use requested will not significantly devalue abutting property or property across public or private way. In making its determination, the Board shall take into consideration the type of structure proposed, the topography of the area, the market value of the surrounding real estate, the availability of utilities, traffic conditions, and other relevant factors.

- The City Assessor finds that the appraisal, which was conducted in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP), is well supported with market analysis. The appraisal supports the conclusion that the Special Exception standards, as they relate to value, have been met.

C. Effects of Land Use. That the use granted will:

(1) Maintain safe and healthful conditions,

- The project has been engineered to mitigate noise and stormwater impacts. Based upon site visits and first-hand viewing of the blasting operation procedures, the existing quarry has been found to maintain safe and healthful conditions.

(2) Not cause water pollution, erosion, or sedimentation

- The project must be approved by the Maine Department of Environmental protection in regards to its pollution, erosion and sedimentation impacts.

(3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,

- Brian Lewis, Fishery Specialist, of the Maine Department of Inland Fisheries and Wildlife (IF&W) communicated in a letter dated August 31, 2005 that, "there are no known threatened/endangered fish species or habitat in the vicinity of the proposed project." However, IF&W did note the location of Milliken Brook and requested a 100 ft. setback from this resource.
- Scott Lindsay, Asst. Regional Wildlife Biologist, of the Maine Department of IF&W communicated in a letter dated September 1, 2005 that there are no known significant habitats or rare/endangered wildlife species at or adjacent to the property.

(4) Conserve shared tree cover and visual, as well as actual, access to water bodies,

- The plans show that shared tree cover will be retained on the northwest side of the property. It appears that the extent of grading will remove trees to the southwest property line.
- Trees will be planted along the paved access road where it travels along the Countryside Estates residential subdivision.

- The project will not have any impacts on visual or physical access to water bodies.
- (5) Not burden on-site septic or off-site waste disposal,
- The project is not installing an on-site septic system.
- (6) Not burden existing public ways.
- The applicant has stated that vehicles traveling to and from the site will be directed to Methodist Road. Methodist Road is able to handle the existing quarry traffic. Since this quarry will replace the existing quarry, Methodist Road will not be burdened by the relocation of quarry operations.
- D. Performance Standards. That the use granted is compatible with adjacent land uses and that it meets the following performance standards:
- (1) Landscape Environment and Enhancement. The landscape must be preserved in its natural state insofar as practicable. It must be designed so as to stabilize the slopes and buffer the site, where necessary,
- The applicant has incorporated berms into the project to buffer the project from abutting land uses. These berms are designed to provide visual and noise mitigation. In particular, the berm at the quarry site is intended to mitigate noise from the crushing operation.
- (2) Surface Water Drainage. Surface water drainage must not have an adverse effect on surrounding properties, downstream water quality, soil stability, or the storm drainage system,
- The MDEP will review the surface water drainage system.
- (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
- The existing quarry does not cause unreasonable water, air or soil pollution. The proposed site will include paved roads to reduce dust emissions.
  - The applicant has shown that the project is not situated on a mapped aquifer.
- (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
- The MDEP will review the erosion control and storm water management plans.
- (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
- Toni Bingel Pied, GIS Specialist/Assistant Ecologist, of the Maine Department of Conservation, communicated in a letter dated August 24, 2005 that, "According to the information currently in our Biological and Conservation

Data System files, there are no rare botanical features documented specifically within the project area.”

- A letter from the Maine Historic Preservation Commission dated August, 3, 2006, states that based on the information presented the project will not have an effect on historic properties.
- (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
- The applicant has submitted a noise study conducted by SE Ambrose & Associates. The study was conducted by a certified noise specialist.
  - The noise study found that the project will comply with the noise standards established by the MDEP (55 dba) for operations at a “protected location.”
- (7) Special Features. Exposed storage areas, machinery installation, service and loading areas, and similar facilities must be set back, screened, or buffered so as to minimize any possible adverse effect on the surrounding uses,
- The applicant has incorporated berms and vegetation to screen the operation from surrounding uses.
- (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
- Safe sight distance exists at the driveway entrance on Methodist Road.
- (9) Parking and Circulation. The layout of vehicular and pedestrian traffic patterns must provide for safe interior circulation, separation of pedestrian and vehicular traffic, and storage of plowed snow,
- The quarry site is operated by employees of the owner. The activity in the existing quarry involves heavy machinery and vehicles. Safety procedures for employees are dictated by the quarry owner. Thus, provisions for public vehicular and pedestrian traffic are not applicable in this project.
- (10) Public Services. The development must not impose an unreasonable burden on the water supply and sewage disposal systems, fire or police services, public ways, schools, recreational facilities, and other public services or facilities.
- The existing quarry operation does not impose unreasonable burdens on municipal services or utility providers.

## CONDITIONS

- 1 Approval is dependant upon, and limited to, the proposals and plans contained in the application dated June 27, 2006, as amended September 14, 2006, and supporting documents and oral

representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board.

**Rene Daniel – 2<sup>nd</sup>**

**The vote was unanimous in favor – 6-0**

**3. Village Review – 23 Foster Street - MAD Property Services for the construction of a 1,120 S.F. duplex in back of the existing house located at 23 Foster Street. Tax Map: 33, Lot: 206, Zone: City Center, Overlay Zone: Village Review.**

**Mike Dukette** updated the Planning Board with construction of a 1,120 S.F. duplex in back of the existing house located at 23 Foster Street. Tax Map: 33, Lot: 206, Zone: City Center, Overlay Zone: Village Review. The Duplex will be clad with vinyl siding and would have the landscaping improved.

**Ed Reidman** – Mr. Dukette's oral representations should be made part of the record.

**Anna Wrobel** moved the Village Review application for the 23 Foster Street on Tax Map 33, Lot 206 is to be **approved with conditions:**

(1) Scale of the Building. The scale of the building depends on its overall size, it's mass in relationship to the open space around it, and the size of its doors, windows, porches and balconies. The scale of a building must be compatible with its site and neighborhood.

- The proposed building is in scale with the surrounding buildings in the neighborhood. The applicant has added shutters and window mullions to the original design.

(2) Height. Change in the building height can have a negative impact on how a street appears. While maintaining a particular height is not required, changes in height must be visually compatible with the streetscape and the neighborhood.

- The height of the proposed building is similar to that of the existing buildings in the neighborhood.

(3) Rhythm of Front Facades. In reviewing any facade, the pattern of doors, windows and wall surface, their height and width, should be visually compatible with the neighboring structures.

- The front façade is typical of a New England style colonial home. The windows have a symmetrical layout and the addition of window mullions and shutters help to blend in with historical architecture in the area.

(4) Relationship of Facade Shapes and Materials. The relationship of facade shapes and materials should be considered in relation to the surrounding neighborhood. In particular, the rhythm of shapes, pitch, and orientation to the street on which the structure fronts should be maintained.

- The façade shapes and materials are consistent with the surrounding neighborhood.

#### CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated July 5, 2006, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board.

**2<sup>nd</sup> by Ed Reidman**

**The vote was unanimous in favor 6-0**

#### **4. Land Use Ordinances Amendment – Referral from the City Council to remove private ways from the Land Use Ordinances.**

Several meetings ago the Board voted to recommend that Private Ways be removed from the Land Use Ordinances. Staff has had additional conversations with our legal counsel, and would like to make some additional recommendations on this proposal. The changes will ensure that a property owner on an existing private way will be allowed to construct additional lots on the private way. The proposal continues to recommend that the construction of new Private Ways be removed as an option for subdivision development. I have enclosed extra copies of the proposed ordinance language for your convenience.

**Rene Daniel moved to recommend to the City Council the approval of Land use Ordinance the Amendment of “Removal of Private Ways”**

**2<sup>nd</sup> by Corey Fleming**

**The vote was unanimous in favor 6-0**

**5. Adjourn**

*Respectfully submitted by Linda Gain PECE Secretary*

*MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE ENGINEERING, PLANNING AND CODE ENFORCEMENT DEPARTMENT. THANK YOU*