



TOWN OF WOODBURY

Zoning Board of Appeals

281 Main Street South
Woodbury, CT 06798-0369
(203)263-3467 ~ www.woodburyct.org

REGULAR VIRTUAL MEETING MINUTES February 16, 2021 – 7:30 P.M.

MEMBERS PRESENT

Joe Donato
Adam Goldberg
Mike Novak (*arrived 7:33 p.m.*)
Claudette Volage (*arrived 7:39 p.m.*)

ALTERNATES PRESENT

Jane Donn
Vincent Farisello
Deborah Schultz

MEMBERS ABSENT

Bob Ratzenberger

ALSO PRESENT: Maryellen Edwards, Richard Warren, Archie Tracy, and Mike Lanese

REGULAR MEETING

Call to Order – Chairman Donato convened the virtual meeting at 7:31 p.m.

Seating of Members & Alternates/Conflict of Interest – Seated for the meeting were regular members Donato, Goldberg, and Alternates Donn, Farisello and Schultz

PUBLIC HEARING

21-ZBA-2100 / O&G Industries, Inc. / Stiles Road Quarry / Variance Request for Nighttime Operation of Asphalt Plant (Sec. 7.9.10) / Map 032 / Lot 001

Richard Warren of O&G Industries, Inc. was present for the hearing.

Member Novak arrived at 7:33 p.m. and was seated, unseating Member Schultz

Mr. Warren explained that this is an application for a variance for the asphalt plant operations. Certificates of mailing were noted as being submitted. This is to allow the nighttime operations of the plant from Sunday-Saturday morning. This request has been made previously and approved by the Board. This would be for CT DOT projects or private construction projects requiring nighttime paving. (No private construction requests have been made to date). Over the last ten years, the plant has run approximately 1-35 nights per calendar year. The hours of operation are approximately 8-hour shifts, they don't generally run the full hours requested. The plant location is central to the quarry and there is a significant buffer of rock face to the East. O&G agrees to use strobe lights and no back up of truck vehicles. It is a through process to load. They agree to not allow trucks to use engine breaks through the residential areas. Mr. Warren noted that one neighbor called him who wanted to make sure this was a condition of any approval. The hardship was explained to be that they are state mandated contracts and the timing of paving is required by the state. It is not every night; it is dependent on the contracts. Historically they have not had nighttime complaints. Should there be complaints they will be logged and reported to the Land Use Office within three days of the complaint. Mr. Warren stated that this is a new process for him and questioned the reasoning for the yearly expiration date on the variance approvals.

Member Volage arrived at 7:39 p.m.

Member Novak stated they have done this for several years. O&G has the right to operate under certain hours which do not include the nighttime hours. The Board approves the varying of those hours in a very minimalistic way. Member Novak felt strongly that this would be the best that they could do without appropriate controls and measures. He feels if it “isn’t broken why fix it.” The Board’s goal is to maintain the regulations and vary them in a way that is minimalistic and based on hardship. He felt that although O&G has done a good job of following the conditions of approval and kept complaints to a minimum, that opening to private business changes things for him. Alternate Donn questioned the term they were voting on, it was confirmed that the application is for the year, expiring on December 31, 2021.

MOTION:

To approve the application (21-ZBA-2100 / O&G Industries, Inc. / Stiles Road Quarry / Variance Request for Nighttime Operation of Asphalt Plant (Sec. 7.9.10) / Map 032 / Lot 001) consistent and equal to the previous regulations and structures (as seen on the screen) and the applicant is fine with all of the current restrictions.

Made by Member Novak, Seconded by Alternate Farisello
Vote: 5-0-0 in favor

(A copy of the Draft Motion is attached to the end of these minutes for reference.)

It was reminded that the Board needed to close the public hearing.

MOTION:

To close the public hearing (on application 21-ZBA-2100 / O&G Industries, Inc. / Stiles Road Quarry / Variance Request for Nighttime Operation of Asphalt Plant (Sec. 7.9.10) / Map 032 / Lot 001).

Made by Member Goldberg, Seconded by Alternate Donn
Vote: 5-0-0 in favor

REGULAR MEETING (Continued)

NEW APPLICATIONS

21-ZBA-2101 / Linden 40 LLC (Tracy/Lanese, Members) / 420 Sherman Hill Road / Variance Request to Vary the Regulation Section 4.1.1.4 Allowing Two Dwellings on the Property without the Required Lot Size / Map 004 / Lot 004

Archie Tracy and Mike Lanese were present for the application. Chairman Donato described the location of the property to the Board. Mr. Lanese explained they have owned this property since 2018 and have recently encountered issues in trying to sell it. There is a discrepancy with the Town that what he considers to be a dwelling is a shed, not a dwelling unit. He stated that it is hooked up to a septic system. They put a 3000-gallon septic system in the front of it to take care of that the two stores and another septic system for the house in the back. Mr. Lanese stated they were surprised to find out that the town was not aware that it was a house. It was there, they just cleaned it up. The applicant was told that they do not have enough acreage to have two dwellings. They are before the Board to try and straighten it out. Chairman Donato confirmed that the applicant is looking for a variance to continue the use of the “cottage” as a dwelling. For that to be grandfathered, it would have had to existed before zoning regulations were implemented. It was confirmed that there is a tenant living in this structure currently. Member Novak noted that it is a variance of Section 4.1.1.4 for two dwellings without the required lot size. Alternate Donn asked for clarification on how to determine if something is grandfathered, it was explained that it had to have existed prior to the zoning regulations going into effect. At this time, the Board gets general information to see if they feel the application is complete and then set the public hearing. Mr. Lanese expressed that he was told that everything was grandfathered and that this building has always been a dwelling and couldn’t understand how the town didn’t know it.

Member Novak stated that they are looking to see if an application is complete and clear to discuss. The Board has the right to ask questions during the public hearing. The applicant should take notice that these are some of

the concerns the Board has, there is a use, but how do you know that use has been approved. An unapproved use that's existed without being identified as being a problem doesn't necessarily mean that it's okay.

MOTION:

To accept application 21-ZBA-2101 (*Linden 40 LLC (Tracy/Lanese, Members) / 420 Sherman Hill Road / Variance Request to Vary the Regulation Section 4.1.1.4 Allowing Two Dwellings on the Property without the Required Lot Size / Map 004 / Lot 004*) and schedule (*a public hearing*) for our next regular meeting.

Made by Member Novak, Seconded by Alternate Farisello

Vote: 5-0-0 in favor

The next meeting is scheduled for March 15, 2021 at 7:30 p.m.

PENDING APPLICATIONS

21-ZBA-2100 / O&G Industries, Inc. / Stiles Road Quarry / Variance Request for Nighttime Operation of Asphalt Plant (Sec. 7.9.10) / Map 032 / Lot 001

Chairman Donato noted that he inadvertently went out order from the agenda. This item's public hearing was closed and the motion to approve was already done (*see above*).

CORRESPONDENCE – A 4th Quarter Report from O&G Industries was noted and read.

CONSIDERATION OF MINUTES – 01/19/21

It was clarified that both Alternates Donn and Farisello were present at the meeting.

MOTION:

To accept the minutes (*of the 1/19/21 meeting*) as amended.

Made by Alternate Farisello, Seconded by Alternate Donn

Vote: 5-0-0 in favor

ADJOURNMENT

MOTION:

To adjourn the meeting at 8:09 p.m.

Made by Member Goldberg

Filed Subject to Approval.

Respectfully submitted,

Anne Firlings

Anne Firlings, ZBA Clerk

**DRAFT Motion: Stiles Road Quarry
February 16, 2021**

WHEREAS, the Woodbury Zoning Board of Appeals has received Application 21-ZBA-2100 submitted by O&G Industries, Inc. for a variance of Section 7.9.10B of the Woodbury Zoning Regulations, to extend the normal operating hours of the hot mix asphalt plant, associated truck traffic and use of heavy equipment (front end loaders) from 7:00 p.m. to 6:30 a.m. on property at Stiles Road (Map 032, Lot 001) from the effective date of the variance to December 31, 2021.

Night time operations of the asphalt plant shall be limited to supplying asphalt under the following paving scenarios only: (1) to Connecticut Department of Transportation (ConnDOT) or other public projects when specifications for the job, for all practical purposes, require the paving work to be done at night, e.g. taking into consideration set up times to close/re-open travel lanes; and (2) any large scale commercial or industrial paving job that may necessitate “off hour” work, e.g. resurfacing of a parking lot shopping center or place of employment (where there is no active shift). Nighttime operations may occur from Sunday night through Friday night. There shall be no Saturday night operations. Sunday night starts at 7:00 p.m. and ends Monday Morning at 6:30 a.m.

WHEREAS, the Board conducted a public hearing on February 16, 2021; and

WHEREAS, the Board has carefully considered the information submitted and received at the public hearing;

WHEREAS, the Board finds that conditions affecting the subject property, specifically contracts with the State of Connecticut requiring production of asphalt for road construction projects at night, would result in exceptional difficulty or unusual hardship for the proposed activity, which activity is otherwise permitted in the zoning district; and

WHEREAS, the Board finds that the requested variance of the Woodbury Zoning Regulations, as conditioned below, will be in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare, and property values; and

WHEREAS, the Board finds that such hardship is not based on financial considerations alone or hardship created by a willful act of the property owner;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby grants a variance of Section 7.9.10B of the Woodbury Zoning Regulations, to extend the normal operating hours of the hot mix asphalt plant, associated truck traffic and use of heavy equipment (front end loaders) from 7:00 p.m. to 6:30 a.m. on property at Stiles Road (Map 032, Lot 001) from the effective date of the variance to December 31, 2021. Night time operations of the asphalt plant shall be limited to supplying asphalt under the following paving scenarios only: (1) to Connecticut Department of Transportation (ConnDOT) or other public projects when specifications for the job, for all practical purposes, require the paving work to be done at night, e.g. taking into consideration set up times to close/re-open travel lanes; and (2) any large scale commercial or industrial paving job that may necessitate “off hour” work, e.g. resurfacing of a parking lot shopping center or place of employment (where there is no active shift). Nighttime operations may occur from Sunday night through Friday night. There shall be no Saturday night operations. Sunday night starts at 7:00 p.m. and ends Monday Morning at 6:30 a.m. This variance is subject to the following conditions:

1. This variance applies only to the activities described in the application and supporting materials as required by conditions of contracts with the Connecticut Department of Transportation or other public projects when specifications for the job, for all practical purposes, require that paving work be done at night and any large scale commercial or industrial paving job that may necessitate “off hour” work (when there is no other active shift).
2. This variance applies to nighttime activities from Sunday night through Friday night.

3. A Land Record Information Form, containing the text of this Variance Approval and signed by the Zoning Enforcement Officer, shall be filed by the applicant on the Town of Woodbury Land Records prior to the commencement of any activity authorized by this variance.
4. All loaders will use a strobe light as backup alarm instead of an audible alarm during the hours of 7:00PM to 6:30 AM
5. All drivers shall be instructed to avoid the use of engine or “jake” brakes when entering or leaving the premises and when approaching all traffic signals.
6. Nighttime operation of the hot mix asphalt plant shall consist of paving work awarded either directly to O&G as the general contractor or where O&G will provide the materials to the contractor awarded the job. Copies of the contract provisions outlining nighttime paving of projects shall be provided when available. With the exception of number 7 below, documentation shall be submitted quarterly for each job summarizing the total number of nights/dates that the asphalt plant was in operation and the number of loads per night. For monitoring purposes and upon request, weight tickets will be provided to the Zoning Enforcement Officer for review of each night operation.
7. O&G shall designate one individual to respond to any complaints received as a result of nighttime operations. Said individual shall keep a complaint log which will include the name and address of the individual filing the complaint, the date and time, the nature of the complaint and any follow-up response by O&G or others to address the issue(s) raised. This complaint log shall be updated and submitted to the Land Use Office within three business days following each complaint.
8. The use of on-site lighting shall be so directed as to eliminate or reduce glare on adjacent parcels to the greatest extent practicable.
9. This variance shall expire on December 31, 2021.

RECEIVED & FILED
IN WOODBURY, CT

This 18th day of Feb 2021
at 10:45 o'clock A M
Judith A. Cook
Town Clerk