

**Board of Supervisors**

**MINUTES**

**April 11, 2023**

**IN-PERSON - VIRTUAL OPTION AVAILABLE**

**Supervisors Present:** Tony Matzura, Jim Nilsen, Pete Kade, James Hopkins and Bill Ryker.

**Also present:** Scott MacNair, Esq. (Township Solicitor) and Rich Pursell (Township Manager/Public Works Director).

Mr. Matzura, Chair, called the meeting to order at 7 p.m. and opened with the Pledge of Allegiance. A moment of silence was held for Former Springfield Township Police Chief Bell who passed away today.

**PUBLIC COMMENT ON NON-AGENDA ITEMS**

Mr. Frank Hollenbach, Rocky Valley Rd, he wanted to thank the Public Works Department who helped expand the driveway for Passer Community Center. There was an Easter egg hunt there this past weekend.

**CONDITIONAL USE HEARING DECISION**

Solicitor, Scott MacNair, Esq., commenced the continued conditional use hearing. The hearing was held in person at the Springfield Township Building and made available via Zoom. The Board voted to grant conditional use approval for a G-7, Quarry Use for tax map parcel numbers 42-004-075, 42-004-076, 42-004-106 and 42-004-107 conditioned upon compliance with the following conditions:

1. The G-7 Quarry use shall be operated consistent with the conditional use Application materials, and the testimony and exhibits presented in support thereof, as well as the conditions contained herein, with the following conditions applying in any instances of an inconsistency.
2. Applicant shall consolidate the above listed Tax Map Parcels by executing and recording a Deed of Consolidation to be approved by the Township Solicitor that consolidates the previously listed TMP Numbers. Said Deed of Consolidation shall be recorded prior to the commencement of any surface mining activities occurring.
3. Applicant shall enter into a Well Loss Protection Agreement with the Township that addresses both water quality and water quantity issues caused by H&K Group's surface mining activities on the property. The Agreement shall cover those properties located within 1,000 feet of the property limits to ensure appropriate remediation of any water quality and quantity issues caused by H&K and to require a temporary water source until the issue is resolved. Parties shall enter into good faith negotiations concerning the terms of the Well Loss Protection Agreement.
4. Applicant shall comply with the Pennsylvania Mining Act, and all other applicable local, state, and federal laws.
5. Applicant shall comply with the applicable provisions of the Zoning Ordinance that are not preempted by the Mining Act, including but not limited to those which are requirements of future submissions (i.e., zoning permit, renewals) and not yet applicable to the Application.

6. Applicant shall modify the sequence of its operations to commence extraction operations in the northern extraction area first in reverse order of what was proposed in its conditional use Application. Following the termination of quarrying at the northern extraction area which is predicted to last for approximately twenty (20) years, Applicant may commence quarrying at the southern extraction area. This change in the sequence of operations is conditioned upon the following:
  - a. the Applicant being able to relocate existing utility supports related to overhead power lines to facilitate quarry activity in the north extraction area prior to issuance of the State Mining Permit associated with this project.
  - b. the Applicant being permitted to access the entire site and construct berms and remove overburden in the southern extraction area that are located east of the extraction areas.
  - c. The extraction areas being in conformance with the Conditional Use Application Overall Site Plan; and
  - d. The DEP approving this sequence of operations.
7. Applicant shall apply to the Zoning Hearing Board for and obtain a special exception pursuant to Section 509.2.A.3.d to permit the watercourse crossing with the internal access/haul road that connects the south extraction area and the north extraction area as depicted on Exhibit A-2 – Conditional Use Application Overall Site Plan, Sheet 3 of 8, dated March 13, 2020 and last revised on March 5, 2021. Applicant agrees to relocate the internal access/haul road such that it remains at least 100' from the Applicant's lot line that is adjacent to, and runs parallel with, the rail trail. Relocation of the internal access/haul road will result in the need to cross additional wetlands. Therefore, Applicant shall include this additional area of wetlands in Applicant's application for a special exception pursuant to Section 509.2.A.3.d to permit the watercourse crossing. The relocation of the internal access/haul road is contingent upon DEP and or the Army Corp of Engineers approval and approval of the special exception.
8. Applicant shall apply for a Floodplain Permit issued pursuant to Chapter 151 of the Township Code of Ordinances to permit the watercourse crossing with the internal access/haul road. Issuance of the permit shall not be unreasonably withheld, delayed or conditioned.
9. Should the Applicant lease any portions of the Property to a different occupant for any use other than a G-7 Quarry Use, the Applicant shall obtain Land Development approval.
10. Applicant shall comply with the Township's Act 537 Plan concerning its method of sewage disposal for the site, as well as the Township's Ordinances related to on lot sewage disposal operation and maintenance, DEP and BCDH regulations.
11. Applicant shall install a chain link fence with signage around the perimeter of the north and south extraction areas in accordance with Section 404.G.7.a.1.b of the Zoning Ordinance.
12. Applicant shall provide the Township with a copy of pre-blast surveys prior to commencement of initial blasting activities, to the extent Applicant is allowed to conduct such surveys on adjacent properties.
13. Applicant shall allow the Township to inspect any extraction operation at the property. Such inspection or inspections, as the Township may deem necessary, may be conducted on any working day of the year, during regular business hours. Township shall provide Applicant with forty-eight (48) hours advanced notice of any inspections. Mine Safety and

Health Association regulations require that Township personnel when on the Property shall at all times be escorted by Applicant personnel.

14. Applicant shall comply with the hours of operation set forth in the zoning ordinance at the time the Application was filed, with no extraction operation or machinery connected with processing, shipping or crushing between the hours of 10:00 p.m. and 6:00 a.m. During the months of December, January and February, the hours of operation shall be limited to 7:00 a.m. to 5 p.m.
15. The Applicant will provide a surety bond in the amount of adequate restoration costs as part of Applicant's Large Non-Coal Surface Mining Permit.
16. Applicant will be financially responsible for any PennDOT required alterations and intersection upgrades to the intersection of Route 309 and Springfield Street that are specifically related to Applicant's Large Non-Coal Surface Mining operation as a G-7 Quarry use.
17. Applicant shall provide an annual contribution of \$1,500 to Springfield Township to defray the Township's costs associated with the operation, maintenance and repair for the stop lights located at the intersection of Route 309 and Springfield Street.
18. All quarry related traffic shall be restricted to that portion of Springfield Street west of the proposed quarry entrance and east of PA S.R. 309 except for local deliveries.
19. Applicant shall take measures including installation of signage on the Property and providing operational directions to direct truck traffic away from Mine Road and shall direct trucks to use Springfield Street to Route 309 except for local deliveries.
20. Applicant shall provide safety measures along the Upper Bucks Rail Trail at its sole cost and expense, as required by the Pennsylvania Department of Environmental Protection as outlined by the approved Blast Plan under Applicant's Large Non-Coal Surface Mining Permit.
21. Applicant shall maintain the plantings and berms as shown in the Application, and subject to any required revisions by Pennsylvania Department of Environmental Protection under Applicant's large non-coal surface mining permit, at all times to mitigate any impacts of noise and dust associated with its use of the Property.
22. Applicant shall install improvements that will mitigate noise and dust in the areas along the Property boundaries located on the south and west sides of the Property where a berm is not constructed to reduce the effects of noise and dust from the quarry operation. Specifically, the improvements shall be installed adjacent to the southern terminus of the berm parallel to the rail trail and extending parallel to the rail trail to Property 19 and then along the northern property line of Property 19 and along the northwest portion of Property 14 as depicted on Exhibit A-2 – Conditional Use Application Overall Site Plan, Sheet 3 of 8, dated March 13, 2020 and last revised on March 5, 2021, where permitted.
23. All site lighting shall be positioned to direct illumination to the interior of the project site and be equipped with shielding to direct light downward, to meet the requirements of Springfield Township Zoning Ordinance Section 502(3)(C).
24. Applicant shall be responsible for maintenance of Springfield Street from the driveway entrance to its Property west to Route 309 excluding the bridge. Applicant shall post a bond with the Township to cover any such maintenance no less than once every three years. To the extent that any maintenance of the bridge is required, Applicant and

- Township will enter into good faith discussions with regard to maintenance to be performed and responsibilities for performance and costs associated therewith.
25. No municipal bio-solids or Hatgro shall be utilized on the project site.
  26. All vehicles carrying aggregate onto a public road shall be covered to prevent spillage of rock onto the road.
  27. Applicant shall be required to obtain an annual renewal permit in accordance with the applicable non-preempted provisions of Section 404(G)(7) of the Zoning Ordinance. The following will be forwarded to the Township and considered as part of annual renewals:
    - a. All pre-blast surveys and blasting complaints, whether formally submitted to the Commonwealth of Pennsylvania Department of Environmental Protection ("DEP") or informally reported to Applicant. These records shall be kept on file with the Township. Electronic submission is acceptable.
    - b. All dust, noise and groundwater/surface water test results and dust, noise and groundwater/surface water complaints, whether formally submitted to DEP or informally reported to Applicant. These records shall be maintained on file with the Township. Electronic submission is acceptable.
    - c. Records of each blast shall be digitally provided to the Township as soon as available to Applicant, along with seismographic readings taken at the time of each blast.
    - d. Updated traffic projections, in the form of traffic counts, will be submitted no less than once every three years.
  28. If the abandoned pits are to be filled, to the extent possible, they shall be filled only with clean earth, stone and concrete, that being consistent with the Pennsylvania Department of Environmental Protection definition of reclamation fill.
  29. Applicant shall post a Surety Bond with the Commonwealth of Pennsylvania or DEP and provide a copy of the Bond to the Township prior to issuance of the Large Non-Coal Surface Mining Permit aimed at covering the cost of reclamation activities.
  30. Applicant shall make an annual voluntary contribution to Springfield Township during the years of active surface mining and reclamation by the Applicant at the Property for the Township to utilize for fire and emergency medical services due to the increased demand on such services as a result of the new quarry use.
  31. Applicant shall assign a project manager to this project who will receive, and address complaints of Township residents and others associated with quarry operations. Applicant shall supply a telephone number and other contact information for the project manager which may be made available to the public for purposes stated herein.
  32. Applicant shall place a permanent seismograph in the owned location nearest to the existing pipelines on the southern end of the project site, regardless of whether the pipeline constitutes the closest non-owned structure. Applicant shall provide data obtained from the seismograph to the Township engineer on a semi annual basis.
  33. The Applicant shall limit its production of crushed materials processed through the crushing plant to 3,500 tons per day. The Applicant shall limit its overall outside sales of materials obtained from the site to 500,000 tons per year. Should the Applicant need to exceed this limit, Applicant shall obtain approval from the Township.
  34. Applicant will perform widening of the northeast corner of Route 309 and Springfield Street as indicated in the drawing prepared by Wynn Associates, Inc., entitled "Quarry

Vehicle Turning Study" dated November 23, 2021 (Hearing Exhibit T-5) subject to the following conditions:

- a. Subject to and provided that the Pennsylvania Department of Transportation ("PennDOT") issues the appropriate Highway Occupancy Permit ("HOP"). If PennDOT does not issue an appropriate HOP permit, then there is no obligation to perform any widening.
- b. All work to be performed within the existing right-of-way on eastern side of northbound Route 309 from Springfield Street extending no more than 50 feet along the existing right-of-way and the existing right-of-way on the northern side of westbound Springfield Street between the bridge abutment closest to Route 309 and Route 309.
- c. If permitted by PennDOT, Applicant will relocate the existing traffic light mast arm and support if required, but will not perform any work on or connected with the Springfield Street bridge.

The conditions will become part of the written decision issued by the Board of Supervisors. The Applicant granted an extension of time for the issuance of the Board's written decision until May 15, 2023.

#### **PUBLIC COMMENT**

Mr. Pete Jones, Salem Road, asked about the written decision and appeal process. Solicitor MacNair said the thirty-day appeal process starts after the issuance of the written decision.

Frank Hollenbach, 600 Rocky Valley Road, had a question about the number 7 condition, he asked about the setback being 100 feet. Solicitor MacNair said he will not discuss reasoning but would re-state the condition. It was then clarified the berm is related to the 100 ft.

Addison Fliszar, Salem Road, questioned if they can guarantee that her home, her neighbor's home, and pets will be protected from the Quarry. Solicitor MacNair said the supervisors thoughtfully considered the law and imposed conditions related to health, safety, and welfare and to ensure everything is safe for the operation.

Karen Chadwick, 6309 Rt 412, questioned the truck traffic and local deliveries language, what does that entail. Solicitor MacNair said reading the full decision may be needed to understand better. Solicitor MacNair advised that language is common in these types of hearings. Ms. Chadwick said she has attended many meetings on person and on-line. She thanked the Board for all their hard work. Acknowledges they live in the township and glad they gave it a lot of thought.

Alex Bomstein, Clean Air Counsel, stated he doesn't know the reason behind this approval. He stated he was surprised it was unanimous among the supervisors. He stated he doesn't know what advice the Supervisors had been given, but this is not a lawful decision. If they were advised it needed to be done, they were not advised correctly. Mr. Bomstein stated there has been a lot of testimony over the years and seeing the community stand up for their rights was great to see but unfortunately that those rights have been violated today. He appreciated the community's involvement in this process.

Ms. Chadwich said by thanking the Supervisors she wanted to clarify she doesn't agree with the decision but thanks them.

Frank Hollenbach, asked about the path forward and what happens next in the process. Solicitor MacNair stated the written decision is due and issued then a 30-day appeal period from issuance. The Applicant needs a Pennsylvania State mining permit yet and there are lots of logistics still.

Pete Jones, Salem Road, questioned if appealed, can you appeal a portion of the decision. Solicitor MacNair said without giving legal advice that is an option.

Arianne Elinich, Rt 412, stated she is disappointed in the Board's decision this evening and concerned about long-term implications. She doesn't think the conditions will adequately protect the health and welfare of the community. She appreciated the supervisor's time but cannot concur with the decision.

#### **OTHER BOARD COMMENTS**

Mr. Matzura read a prepared statement. He stated it has been a several year process and thousands of manpower hours have been put into this conditional use hearing process. Mr. Matzura thanked everyone in the community for their participation and input. The Springfield Township Planning Commission reviewed and critiqued the application along with the Township Engineer. He said the Board considered the concerns of the residents, easements, right of ways and setbacks including impacts to residents and businesses. The Township is allowed to put conditions on the use for health, safety, and well-being of the residents.

Mr. Ryker appreciated the community's involvement in the 2+ years of this process.

Mr. Kade said it was a tough decision.

Mr. Hopkins stated it was a difficult situation to work within restraints the Commonwealth offers and the laws. He said they depend on legal advice and guidance they have been given.

Mr. Nilsen said he was the first supervisor to see the packet and said it was a long 3 years with lots of discussions and hearings. He reiterated it was a difficult decision. He has concerns just as others do. He stated we will continue to work together to see it all the way through.

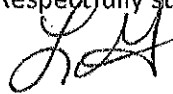
Mr. Matura mentioned his statement earlier. He stated we all care about each other in the community. He said they wanted a good outcome for everyone.

#### **ADJOURNMENT**

Motion by Mr. Kade, seconded by Mr. Nilsen, and unanimously carried to adjourn the meeting at 7:30 p.m.

An executive session was held after the public meeting to discuss litigation. Prior executive session held before this meeting to discuss conditions for conditional use application.

Respectfully submitted,



Lisa Gerhart  
Secretary