

**Town of Milford
Zoning Board of Adjustment
September 19, 2019
Case #2019-22
Spring Creek Sand & Gravel, LLC
Special Exception**

Present: Joan Dargie, Vice Chair
Michael Thornton
Rob Costantino
Tracy Steel
Karin Lagro, Alternate

Lincoln Daley, Director of Community Development
Paul Dargie, Board of Selectmen Representative

Absent: Steve Bonczar, Chair
Wade Scott Campbell, Alternate

Secretary: Peg Ouellette

Spring Creek Sand & Gravel, LLC, for property located at Tax Map 50, Lot 4-4-0, 0 Mile Slip Road, Milford, NH, Special Exception Application pursuant to the Milford Zoning Ordinance, Article V, Section 5.04.2.A.9 to permit the processing of natural resources on the subject property in association with an earth and gravel operation in the Residential "R" district.

Approved March 5, 2020

1 J. Dargie, Vice Chair, opened the meeting and introduced the Board members. She informed all of the
2 procedures of the Board. She read the notice of hearing.

3
4 Brenton Cole, of Granite Engineering came forward along with Jeff Merritt, Dale White of Leighton
5 White, Inc. He said Paul Amato, property owner, was also present.

6
7 B. Cole presented the application by first identifying the three tracts of land owned by applicants, one of
8 which was the subject parcel. He then continued by summarizing the existing gravel operations and
9 proposed project area. The proposed operations would be An existing haul road to the operation leading
10 to Mason Rd. They harvested and processed on site. Looking to expand operation to the next phase of
11 the project. Area is zoned Residential. Therefore, it was allowed to harvest material. But Special
12 Exception required for the processing of material. Processing and harvesting material were kind of one
13 and the same. Stated you could do a ton of processing but sometimes scaling and rock crushing. Looking
14 to continue that. This property was unique because it was huge. Buffers to property and dwellings were
15 500 to 600 ft. Dense vegetation between that and abutters. That was an overview. He offered to go
16 through the criteria.

17
18 J. Dargie said to read the application.

19
20 B. Cole read through the responses to the criteria in the application.

21
22 J. Dargie asked about the hours of operation.

23
24 B. Cole said they were proposing the same hours approved for Dale White about a year ago. 6 a.m. to 7
25 p.m., Monday through Friday. 7 a.m. to 12 p.m. Saturday. With limited crushing hours 7 a.m. to 7 p.m.
26 Monday through Friday. No crushing on Saturday, only on an emergency basis. That was what was
27 being proposed to the Planning Board and allowed to Leighton White a year ago.

28
29 J. Dargie asked if crushing would be limited.

30
31 M. Thornton said they would not have equipment on site until they could excavate enough material to
32 make it worthwhile.

33
34 B. Cole agreed.

35
36 J. Dargie asked how often.

37
38 B. Cole said on an as needed basis.

39
40 Dale White from Leighton White, Inc. came forward. He said going back a little, the agreed on permitted
41 use on the sand pit that was approved a year ago was off Perry Rd. was exactly what was suggested
42 tonight. They want to be able to start in the morning at 6 a.m. to warm the equipment up but agreed not
43 to start processing or crushing until 7 because that was reasonable. But need to get there to warm the
44 equipment up. To be able to load until 7 was not designed of their business model. Usually work 7 a.m.
45 to 4 p.m. That was pit hours. In colder weather they need to run a little later because it was cold and you
46 don't get the production. 7 a.m to 7 p.m. not economically feasible. 7 to 5, and shut down and close up.
47 Overtime factors, but no money in overtime. Biggest is to be able to load in emergency situation to
48 produce. Material will be made available to towns and cities, State in situations in winter where they
49 need to have screened sand available. Should be able to do during business hours but if there was a
50 winter storm and those customers ran out they wanted to be able to take care of customers. The idea of
51 crushing 7 to 7 every day was not feasible and will not happen. Will be renting portable equipment and

1 they make material they need and it goes away. He didn't own crushers. It would be a short stint of
2 crushers on location. In Wilton they bring them in, make material, and then they leave. A lot will be raw
3 material onto the truck and then gone.

4
5 M. Thornton said screening.

6
7 D. White said screening and you can't crush sand. Want to be able to do both because customers like it.

8
9 J. Dargie said the closest abutter was about 396 ft. away.

10
11 R. Costantino said almost to the existing. Believed the closest to this will be to the very edge of the
12 Planning Board approval. They had required it be farthest away.

13
14 J. Dargie asked how many trucks per day.

15
16 B. Cole said up to 15 per day.

17
18 J. Dargie asked if that was consistently.

19
20 D. White said it was hard to know what market demand will be. In winter not as much construction so no
21 need for material. More need in summer. He took calculated number of yards on site and divided
22 between hours that he was permitted to be there and divided that by the amount of months and days of the
23 month they work. That was where he came up with 15. In summer it will be more some days. Some days
24 there are two or three and other days they have more.

25
26 R. Costantino asked the expected duration.

27
28 B. Cole said right now ten years.

29
30 R. Costantino asked if it was another ten years. Before they were doing it for ten years, and now another
31 ten years?

32
33 B. Cole said yes.

34
35 L. Daley asked him to clarify, they were asking for similar to that operation. Hours of operation and
36 ability to start at 7 a.m. and also ability to go on site and crush.

37
38 D. White said not on Saturday.

39
40 L. Daley said if that pit was already given permission to manage with emergency situations that
41 going forward not like him to operate this in a similar fashion

42
43 D. White said both had similar material but were different. Pit on Perry Road site mostly sand but this
44 had heavy concentration of more coarse sand. This spring they had mud season and customers expected a
45 lot of sand and gravel for roads. For example, New Boston needed a tremendous amount for mud season
46 where they had gravel roads. At Perry Rd. he didn't think they had processed on a Saturday. They had
47 not even loaded on a Saturday.

48
49 L. Daley said he was trying to establish whether conditions that were proposed on this were necessarily a
50 from his comments the conditions may require different material and different situations may require
51 for that situation. He would put a condition on the Special Exception about the hours of operation.

1 Dale White had mentioned about 6 a.m. opening and then 7 a.m. In the past they had received phone calls
2 about work starting outside that time frame.

3
4 M. Thornton said it became a matter of record with him stating it.

5
6 J. Dargie asked if it was actually the red line (on the map).

7
8 B. Cole said the frontage on Mile Slip Rd. was not accessible.

9
10 D. White said exit was 300 ft of it coming off Mile Slip Road was gravel.

11
12 M. Thornton said it was probably a private way.

13
14 D. White said a private way.

15
16 J. Dargie opened the meeting for public comment. None. She closed public comment.

17
18 J. Dargie proceeded to discussion of the criteria for special exception.

19
20 K. Lagro said 7 to 5 seemed reasonable

21
22 There was discussion about hours.

23
24 J. Dargie asked, when L. Daley said the type of situation with trucks warming up at 6 a.m. Any concerns
25 about that?

26
27 L. Daley said not with this operation.

28
29 M. Thornton said the proximity to it was a circle with residences fairly close at 396 ft. You could sleep
30 through the sound of equipment idling. You couldn't with rock crushing. Didn't see any problem unless
31 they stored equipment near to the existing closest residence. That would not make sense.

32
33 J. Dargie said she had a situation where trucks were idling. It vibrated the house and was extremely
34 annoying.

35
36 M. Thornton asked how close.

37
38 J. Dargie said more than 500 ft. It was extremely annoying.

39
40 M. Thornton said it depended on the terrain, etc.

41
42 J. Dargie said she wanted to be sure how close.

43
44 B. Cole said on the plan they measured distance to the very edge of the pit. Pit has extended and drop
45 would be to that. There was dense vegetated buffer between them and the closest house. There was a
46 canopy of trees. Looking at this property, can't think of better location because it was so remote.

47
48 T. Steel said you can hear everything at 6 a.m.

49
50 K. Lagro said also in winter when a lot of vegetation was gone, sound carried
51

1 M. Thornton said with deciduous trees when the leaves fall.

2
3 D. White said where they have been on Perry Rd. he had no calls and no one complained. They were
4 blamed for starting prior to and they could prove from the time sheets they had not started. In this case on
5 Perry Rd. they were down below the sand operation. There was very little vegetation to where the houses
6 were and they had not had one complaint. Re the layout of the pit, there was a forest map that was above
7 where they will be working. There was vegetation and leaves; and yes, leaves will leave in the fall. But
8 you will not have, in the many years they have been in business you can have thirty trucks lined up.
9 Might have 4 to 5 trucks loading and then leaving. Not sitting and idling for a long time. Prevailing wind
10 doesn't carry noise back to the residences. It carries it away. That didn't mean you couldn't get a
11 westerly wind. Trucks, with new regulations, are not the old trucks. Relatively quiet. Some as quiet as a
12 car. He monitors their people and customers. They recognized the fact they were in a residential area, in
13 theory. They had a history with no complaints. They recognized that people lived there and wanted to be
14 a good neighbor. But it was fair to ask to run a business and provide for 40 families. Hard start will not
15 be at 6 a.m. Typically run will be 7 to 4.

16
17 T. Steel asked about development over the next years.

18
19 D. White said the land along Mile Slip rear already developed with house lots. Didn't think anything
20 added. You were down below that road.

21
22 K. Lagro said she heard it all the time. 7 to 5 seemed reasonable but 6 to 7 didn't. Could they put a
23 condition on it?

24
25 J. Dargie said legally 7?

26
27 K. Lagro said certainly for the processing.

28
29 J. Dargie said she thought they put a condition last time. They will make a condition,

30
31 M. Thornton was not sure it might be appropriate that if additionally the fact that eventual number of
32 complaints re 6 a.m. start up and idling time that would become an enforcement issue and maybe
33 mandating moving the start up to 7. That should be based on a requirement from the surrounding people
34 who were saying this was not acceptable.

35
36 T. Steel said it was early.

37
38 R. Costantino didn't know if they needed a condition.

39
40 J. Dargie said without putting a condition on it, even though they state they need to put a condition.

41
42 L. Daley said his recommendation was if there were a number of complaints about the idling in the
43 morning.

44
45 M. Thornton called it generically if there was an objection to the sound coming off the work area between
46 6 and 7 they be required to address that.

47
48 L. Daley the challenge was when would the town enforce it? After one complaint? After ten complaints?

49
50 M. Thornton said in two parts. Number of complaints from different individuals. Taking a number, say 5
51 different individuals at different times. If it had five complaints in one morning with one piece of

1 equipment throwing off noise they need to know and address it. If it worked as an ongoing agreement he
2 believed it would be addressed as injury occurred.

3
4 J. Dargie said if trucks were there at 6 a.m. and they called, how would they know it occurred at 6?

5
6 M. Thornton said almost everyone had a cell phone with a time stamp on it. Could record it.

7
8 J. Dargie said she was okay with that given the layout of the property. Would be okay with just warming
9 up the trucks. They had discussion with the Perry Rd. one.

10
11 L. Daley asked, during the two phases of this project was there an opportunity to locate idling equipment
12 within a certain staging area away from the closest properties?

13
14 D. White said he heard that 7 a.m. was early. He didn't think he started at 7 a.m. in his life. Business
15 wanted to start early because of short season. He couldn't express enough that the noise, he knew that if
16 you heard the truck in town it was reverberating off pavement and buildings. In this case it was so
17 remote. They were not looking at huge excavation. Heard they were saying 7 a.m. that was when they
18 did start. Cannot take a \$400,000 piece of equipment and start it up and go to work.

19
20 T. Steel said they were doing construction on Savage Rd. last year. They drove too fast. The house
21 shook. Neighbors in residence were not upset by it but wanted to make sure they were okay with it.

22
23 B. Cole said this was an existing operation. Not something new.

24
25 M. Thornton said if there were concerned abutters who had assembled evidence over the last ten years,
26 they would probably be there tonight.

27
28 J. Dargie aid they have crushing going on right now in other places?

29
30 B. Cole said right now. Historically, yes. But the last ten years there have been smaller operations.

31
32 L. Daley said this was the first step in this project. One with the Terrain Bureau and with the Planning
33 Board. Re questions being raised, if the Board wanted to go to the Planning Board with concerns about
34 elements of this, he would encourage them to do so.

35
36 J. Dargie asked for a motion for a condition.

37
38 R. Costantino didn't think it was necessary.

39
40 M. Thornton said it would be a fallback to allowing enforcement action. But based on history he didn't
41 forecast that personally unless they added something new.

42
43 J. Dargie said she would like to propose one just so it was stated if anybody wanted to change it. 6 to 5 in
44 morning and 7 to 12 on Saturday. There had been some restrictions on other projects and they were
45 working seven days a week.

46
47 T. Steel said they would be starting at 6 to warm everything up.

48
49 J. Dargie said, what Dale said.

1 M. Thornton said they were accepting his on the record statement that they would start no earlier than 6
2 a.m. to warm up equipment and no sooner than 7.

3
4 J. Dargie said 6 a.m. to 7 p.m. . 6 a.m. to be warming up the equipment and 7 a.m. to 12 p.m. on
5 Saturday.

6
7 T. Steel made a motion for 6 to 7 weekdays.

8
9 M. Thornton said he was assuming it would be 6 a.m. to start up.

10
11 D. White said 7

12
13 M. Thornton said 7 a.m. start on Saturday and would be 8 to 12 on Saturday.

14
15 D. White said no processing on Saturday. Just to bring what load on Saturday and that would be under
16 emergency conditions if needed.

17
18 J. Dargie said T. Steel made a motion.

19
20 M. Thornton seconded it. All in favor.

21
22 R. Costantino read the criteria for Special Exception.

23
24 **1. Was the proposed use similar to those permitted in the District?**

25
26 R. Costantino said the proposed use was permitted in Residence R.

27
28 J. Dargie said it was an existing operation.

29
30 **2. Was the specific site an appropriate location for the proposed use?**

31
32 R. Costantino said it was an extension of what they had been doing.

33
34 T. Steel agreed.

35
36 **3. Would the use as developed not adversely affect the adjacent area?**

37
38 R. Costantino said there were buffers. If it was an extension of what was there, there were
39 buffers. It was not on a main road.

40
41 **4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

42
43 R, Costantino said they were on private property and had been doing it with no incidents for ten
44 years.

45
46 **5. Adequate appropriate facilities will be provided for the proper operation of the proposed**
47 **use.**

48
49 R. Costantino said they were just continuing what they had been doing.

50
51 J. Dargie asked if there were any other comments. None presented.

1 J. Dargie moved on to vote on the Special Exception:
2

3 **VOTE: On Special Exception:**
4

5 **1. Is the Special Exception allowed by the ordinance?**
6

7 T. Steel – yes
8

9 K. Lagro – yes
10

11 R. Costantino – yes
12

13 M. Thornton – yes
14

15 J. Dargie – yes
16

17 **2. Are all the specified conditions present under which the Special Exception may be granted?**
18 **(including the condition)**
19

20 M. Thornton – yes
21

22 R. Costantino – yes
23

24 K. Lagro – yes
25

26 T. Steel – yes
27

28 J. Dargie – yes
29

30 J. Dargie said the application had been approved, with a condition. She reminded applicants of the thirty-
31 day appeal period.