

Town Of **SPRINGFIELD**



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MEETING MINUTES

Wednesday, June 5, 2019, 7:30 P.M.
Special Town Board Meeting
Springfield Town Hall

1. CALL TO ORDER, ROLL CALL & PLEDGE OF ALLEGIANCE

Chair Jim Pulvermacher called the meeting to order at 7:30 p.m.

Roll call shows Chair Pulvermacher and Supervisors Dave Laufenberg, Bill Statz, Art Meinholz, and Dan Dresen present.

Also among those present were Town Attorney Mark Hazelbaker, Clerk-Treasurer Dianah Fayas, Corey Ferris, Dave Ripp, Tim Geoghegan, Eric McLeod, Gary Acker, Patrick Kelly, Dan Kremer, Curt and Jackie Wealti, Michelle Phillips, Sam Landes, Tom and Gregory Terhorst, Brian Miller, Marsha VanDomelen, Phil Shultz, Sarah and Ryan Kotila, Jackie Crabb, Jennie Casavant, Jody Frantz, Julie Penosky, Dan Roth, Chris Roth, Dawn and Tom Eberhardt, Ed and Terri Anderson, Greg and Mary Rees, Janet Legare, Vivek Balasubramaniam, Alicia Meyer, Beth Fisher, Jody Steele, Leonard Ayres, Molly Schlichting, Ann Davey, Jason Helt, Ann Richards, Keith Horstman, Vickey and Phill Thill, Pam and Fred Katz, Daryl and Diane Logan, Holly Walker, Patti and Jim Baird, Julie Loeffler, Julie Bowes, Darin Ripp, and Doreen Jackson.

Pledge of Allegiance was recited.

2. CONFIRMATION OF COMPLIANCE WITH OPEN MEETINGS LAW

The Clerk confirmed that the agenda was posted at town hall and on the Town website. Meeting is being recorded.

3. CHAIRPERSON'S REPORT

Tonight's meeting is a Special Town Board meeting to look at a decision the Town Board made on Dec. 18, 2018 regarding Meinholz Quarry LLC's quarry operated by Yahara Materials; this is not a public hearing but public comment will be accepted.

4. DISCUSSION OF YAHARA MATERIALS' MEINHOLZ QUARRY, WHICH MAY INCLUDE ACTION ON THE TOWN BOARD'S DEC. 18, 2018 MOTION.

Chairman Pulvermacher would like to have representatives from Yahara Materials address the points below that were raised in Mr. Lane's June 3rd memo one by one:

1. The quarry actually started on the Zeigler property, not the Meinholz property.
2. Conditional Use Permit #349 was issued in 1983 to extend the Zeigler Quarry onto the Meinholz property for mineral extraction which made the quarry a conforming land use.
3. The abandoned quarry area that was register for the Meinholz property in the NE ¼ of the SW ¼ of Section 26 is actually ½ mile from any of the excavation being performed presently. The proposed registered portion in the SE ¼ of the SW ¼ of Section 26 was denied by the County in 1969.
4. Meinholz sold a significant portion of his land to another person in 1990.

5. The SW ¼ of the NE ¼ was sold to an entity and a residential subdivision was proposed for the property; then subsequently purchased by a mineral extraction operator.
6. The N ½ of the SW ¼ of Section 26 was rezoned for other land use purposes

Tim Geoghegan with Yahara Materials provided a history of the quarry site. Town Attorney Mark Hazelbaker explained non-conforming status in general and how it pertains to non-mineral extraction and quarry sites in Dane County specifically. Attorney Hazelbaker explained the motion and action only acknowledged the facts as they appeared at the time and was superfluous, as the Town's agreement to the non-conforming status of the site doesn't matter under State zoning law.

#1. The quarry actually started on the Zeigler property, not the Meinholz property

Mr. Geoghegan indicated that initially the entrance to the quarry from Highway 12 was through the Zeigler property and that Dane County Planning and Development confirmed in 2002 and again in 2015 that the Zeigler and Meinholz parcels referenced were included in the non-conforming boundary. Yahara's legal counsel explained rights of use continue with sale of property and that a transfer of ownership doesn't change zoning. Attorney Larry Konopacki, speaking on behalf of a number of Town residents agreed with that assessment, but pointed out that the two parcels are not inside the 2002 and 2015 non-conforming boundaries as they were not in common ownership with the original non-conforming quarry in 2002 and 2015 when the determinations were made. Regaining non-conforming rights using the diminishing assets rule, after the property has been sold and repurchased raises a significant legal question. Mr. McCloud responded that this issue is raised by Mr. Lane as a question to the non-conformity of the whole quarry site which is not the three parcels at issue in the December 18, 2018 motion. He continued by explaining that a portion of the acreage referred to in the December 18, 2018 motion was included in the 1969 registration as a non-mineral extraction site and ownership changes since that time does not affect its non-conforming status.

#2. Conditional Use Permit #349 was issued in 1983 to extend the Zeigler Quarry onto the Meinholz property for mineral extraction which made the quarry a conforming land use

Mr. Geoghegan stated that obtaining a CUP does not relinquish non-conforming status.

#3. The abandoned quarry area that was register for the Meinholz property in the NE ¼ of the SW ¼ of Section 26 is actually ½ mile from any of the excavation being performed presently. The proposed registered portion in the SE ¼ of the SW ¼ of Section 26 was denied by the County in 1969.

Attorney McCloud didn't comment on current excavation being performed and explained the balance of the property has already been designated non-conforming by the County. Attorney Konopacki agreed that non-conforming status does cover all contiguously owned property, but indicated that in 1969, Dane County didn't register the whole site if the site was larger than 40 acres. He further argued that the provision for losing non-conformity status after a year of non-use only applies to sites that were registered, which is a legal issue that needs to be addressed to determine the non-conformity of the entire parcel.

4. Meinholz sold a significant portion of his land to another person in 1990.

Mr. Geoghegan stated the land was sold to Yahara Materials, with the Meinholz family retaining the 40 acres in question until it was purchased by Yahara approximately a year and a half ago.

5. The SW ¼ of the NE ¼ was sold to an entity and a residential subdivision was proposed for the property; then subsequently purchased by a mineral extraction operator.

There was a speculative proposal to develop homes that had problems with permitting.

6. The N ½ of the SW ¼ of Section 26 was rezoned for other land use purposes

Mr. Geoghegan reiterated that a rezone does not change non-conforming status.

Motion by Sup. Dresen, seconded by Sup. Meinholz to ask the Town's zoning administrator to make a formal ruling as to whether the additional 40 acres that we voted on, on December 18th, is or is not a non-conforming mineral extraction site. Motion carried, 5-0.

Motion by Chairman Pulvermacher, seconded by Sup. Dresen that we'll inform Dane County that we are sending the information provided from the County with our comments to our zoning administrator to make a determination on the non-conforming status on the Meinholz' 40 acre parcel that was just purchased. Motion carried, 5-0.

5. DISCUSSION OF TOWN'S POSITION ON THE YAHARA MATERIALS' NR 135 RECLAMATION PLAN AND FUTURE OPERATIONS.

Mr. Geoghegan indicated the NR135 amendment application changes approximately 39 acres. Yahara Materials does not intend to mine into the slope towards Greenbriar Road and intends to keep an approximate 100' buffer of trees along the north and west side of the field area. The quarry is currently receiving dirt and soil for reclamation of previously mined areas. It was noted again that non-conforming sites are controlled by the State. Blast testing, regulation and notification were discussed with residents who were informed that the testing and regulation of the blasts are regulated by the State of Wisconsin. Mr. Geoghegan did not offer guarantees, but stated Yahara Materials does not intend to blast up to the setbacks they are legally allowed to, they typically stay back approximately 200' from property lines.

Attendees asked about the environmental impacts on and the monitoring and testing of well water as well as the quality and makeup of the fill dirt used for reclamation. Mr. Geoghegan stated the soil and material are monitored and tested extensively on a daily basis, with suppliers required to provide certifications verifying compliance with all DNR regulations on fill dirt transport and relocation.

Residents asked the Town Board to wherever possible, set a higher standard on regulations and controls pertaining to the operation of the quarry, and City of Middleton Common Councilmember Luke Fuszard shared some of the City's Plan Commission comments that will be provided to the County for reclamation plan consideration.

The open footprint of the quarry is approximately 17-20 acres at any one time, with the expectation of never exceeding 25 open acres at any one time; mining typically goes deeper rather than wider. When asked about a potential time frame for expansion in to the new 40 acres, Mr. Geoghegan hypothesized that it could stretch over 25 years and that it wouldn't be markedly bigger overnight. Mr. Geoghegan estimated that approximately half of the newly acquired 40 acres would be mined and would take a minimum of 10 years to do so, commenting that 20 acres at 100' deep is a lot of rock. To ensure reclamation plans are followed through with, operators are required to be bonded on a per open acre basis.

6. ADJOURN

Motion by Sup. Statz, seconded by Sup. Meinholz to adjourn the meeting at 9:39 p.m. Motion carried, 5-0.