

**TOWN OF CEDARBURG
PLAN COMMISSION MEETING MINUTES
January 17, 2018**

Present: David Salvaggio, Dan Wundrock, Anne Lewandowski, Mark Wittenberg, Wayne Pipkorn,
Ralph Luedtke
Excused: Rick Goeckner
Also Present: Tim Rhode, Town Administrator, Eric Ryer, Assistant Administrator/Clerk, Brad Hoeft,
Town Attorney

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman Salvaggio called the regular meeting to order at 7:00 pm. The meeting began with the Pledge of Allegiance.

2. MINUTES OF PREVIOUS MEETING:

a. Approval of December 20, 2017 Plan Commission Meeting Minutes*

Commissioner Wundrock moved and Commissioner Lewandowski seconded a motion to approve the minutes from December 20, 2017. The motion passed unanimously.

3. PUBLIC HEARING

a. Public hearing to take comment on an application by the Dawson Trust for a conditional use permit to operate a quarry on properties with tax keys #030071000000 and #030070600000 [NW & SW ¼ of Section 7, 66.15 acres]

The applicant is proposing quarrying activity that would be an extension of an existing quarry operation (Lannon Stone Quarry in the Town of Jackson), which is a conditional use in the M-3 district.

Don Levy, representing Hans Dawson and Lannon Stone Products, explained they were before the Plan Commission seeking to extend the quarry east of Wausaukee Road into the Town of Cedarburg. He noted in order to do so, Wausaukee Road will need to be vacated, the properties will need to be rezoned, the Town Code will need to be amended to allow for berms with a slope of 1 (rise) to 3 (run) in the M-3 district, conditional use permits will need to be granted to operate the quarry and erect a berm, and they will need to obtain other necessary permitting through Ozaukee County. Attorney Levy provided the history of the quarry, and noted there are letters of support on file from various parties. He noted there is approximately 20 years of stone in the existing permit. He explained their immediate need is space to place the overburden as they expand the quarry in the Town of Jackson; this would result in the creation of berm on lands in the Town of Cedarburg. He explained they listened to concerns neighbors have and would like to address them tonight.

Hans Dawson, an owner operator of Lannon Stone Products, gave a history of the Jackson quarry and highlighted their community philanthropy and sponsorship efforts. They use the stone material primarily for building and roads. He reiterated they are seeking the four approvals of vacation of Wausaukee Road, rezoning of property, Town Code text amendment to allow for berms with a slope of 1 (rise) to 3 (run) in the M-3 district, and conditional use permits to operate the quarry and erect a berm. They are seeking the rezone to be able to expand the quarry in the future. Before that would occur, they would first construct a berm along the property line to store the overburden. The motivation is to protect the resource for future extraction, plan their long-term operations, and build a buffer around the quarrying operation. He noted hauling stone out of the Jackson quarry is more cost effective than hauling from other area quarries since

the trucking distance is shorter. The Jackson quarry is the only quarry in Washington County. He noted quarries have a series of local, state, and national laws that regulate the industry. He explained the Jackson quarry is relatively dry, and that they have a well guarantee program included in the Town of Jackson conditional use permit. He noted the plan would not affect the amount of truck traffic, but would allow for access to the additional stone in the future. He addressed noise and vibration associated with blasting, noting they fall within regulations. They notify neighbors of blasting if they request it. He explained they use a water truck to keep down dust. Their proposed berm would further address dust. He explained the measures they take for water quality monitoring and emissions. He proposed enlarging the southeast portion of the berm to help address noise concerns, and install white-noise machines on the trucks to replace the backup beepers. He noted Town staff had asked them if they would construct the berm in a shortened time period to quicken the construction and reduce the noise faster for surrounding residents. Hans Dawson said they are willing to do that, and would be able to construct the berm in about one year's time. The berm would be built between 7am-5pm only on weekdays. A video demonstrating the white noise equipment was then demonstrated.

Mark Krumenacher with GZA GeoEnvironmental Inc. spoke on behalf of Lannon Stone. He specializes in mining operations. He reiterated the depth of regulations set up addressing mining in Wisconsin. He addressed property value concerns, saying that any type of development raises such concerns. He explained he could not find verified studies that show negative impacts on property values, other than to properties directly adjacent to a quarry. He noted in the Chicago area, neighboring development is actually encroaching upon mining operations such that they cannot expand but must mine underground. He addressed water concerns, noting they don't expect to hit groundwater as future operations expand, and that the future expansion will not encroach upon Cedar Creek (as there is a buffer). Lastly, he cited the economic impact report showed the quarry has an impact of \$4.5 million on the local economy.

Nathalie Schmidt of 640 Pleasant Valley Road noted she was told there is enough material in the quarry for 100 years and questioned why it must be expanded at this time. She also noted a former quarry in Town is accepting fill, and suggested Lannon Stone take the overburden to that location. She also felt the truck traffic on Pleasant Valley Road is dangerous, and had concerns regarding hours of operation. She appreciated the notification before they blast, and felt the quarry negatively affected their property value.

Harold Schmidt of 640 Pleasant Valley Road felt the quarrying affected their drinking well. He also noted concerns regarding drain tiles that serve the area. He noted in 2010, Payne and Dolan moved operations to the Jackson quarry, which he believed negatively affected his cattle.

Dawn Barnier of 770 Cresthill Court cited environmental concerns, vibration concerns, noise level concerns, and tar smell.

Robert Barnier of 770 Cresthill Court also had concerns about water pollution and noise.

Mark Ernster of 2285 Granville Road complimented Lannon Stone on their operation, and noted the quarry is not leaving regardless of the decisions made at this meeting.

James Wiechert of 809 Granville Road noted he is an employee of Lannon Stone Products, and they have treated his family well. He noted the new plant has electric motors and is quieter than the old diesel plant.

Greg Denker of 2818 Granville Road noted he is an independent owner operator truck driver and hauls aggregate to area projects from the Jackson quarry, demonstrating that most development in the area uses stone from the Jackson Quarry.

Clint Weninger of 2123 Spring Brook North noted he is a hydrogeologist for Payne and Dolan. He spoke in support of the proposal. Payne and Dolan is an asphalt company that operates at the Jackson Quarry. He noted potential deposits are limited.

Harold Zarling of 1954 Elm Drive spoke in opposition of the proposal. He had concerns regarding blasting and noise. He requested there be a condition, if the applications are approved, that the quarry pay for well repair if area wells are damaged.

Dan Felner of 1028 Larkspur Road noted he is the plant manager for the Payne and Dolan plant at the Jackson quarry. He noted the nearest asphalt plant is 20-25 miles away, adding to the cost of material. He also noted the educational tours that take place at the quarry with school kids.

Bob Dreblow of N44 W5496 Spring Street noted he is the retired Ozaukee County Highway Commissioner. He spoke in support of the application to expand the operation. He cited the use of Jackson quarry aggregate and need for the material, and suggested a conditional use permit issued by the Town would allow the Town to place controls on the operation. He also supported the text amendment allowing the proposed berm.

Mark Belknap of 1771 Granville Road explained he loves the land and can hear the noise from the quarry. He understands they are regulated, and for good reason. He noted the applicant has explained they don't need the material for another twenty years. He asked they come back when they need the stone.

Carol Luedtke of 7877 Kaehlers Mill Road spoke in favor of the application as there is a need for the material.

Dave Eitel of 11303 Cedar Creek Road felt this was a vote for a company, or a vote for the people of the Town of Cedarburg.

Dennis Grzezinski, an Attorney representing ten Town of Cedarburg residents (1845 N. Farwell Ave.), presented the Commission a letter. He cited Town Code and the protections it offers residents. He noted past efforts undertaken by the Town to prevent expansion of the Jackson quarry, and questioned why it would be a good idea to allow the expansion at this time.

Steve Marshall of 12042 Cedar Creek Road presented photographs showing various perspectives of the quarry site. He was not in favor of the berm being built higher or coming closer to his property. He felt quarry expansion would impact the area.

Jeff Kaczmarek of 1977 Elm Drive noted several comments regarded economic impacts of the quarry, and the quarry is not about to run out of stone as it will be here for years to come. He felt the expansion was not necessary at this time. He felt an expansion would affect the groundwater. He also noted that in the future, we will know more about quarry related matters and advances in technology that will provide greater insight into the effects of quarries.

Julie Mett of 1815 Covered Bridge Road noted seven generations of her family have lived in Ozaukee County. She noted the shaking of their home during blasting, and that they can hear the noise generated at the quarry. She also didn't like the idea of the berm affecting the conservancy portion of the property.

Jim Kerlin of 11645 Hidden Valley Drive noted the quarry owner is seeking to protect the rock resource for future generations. He noted things have changed since the quarry first opened. He noted the applicant explained water quantity problems associated with the quarry would be remedied by the quarry, but he questioned what would happen if there are water quality problems. He noted there are radon concerns in the area in both the air and groundwater. He noted the noise created by the equipment at the plant. He asked why they are not discussing building a berm around the existing pit.

Aaron Mett of 1815 Covered Bridge Road cited environmental concerns along Cedar Creek, including a discharge pipe he found which kept portions of the creek open during freezing temperatures. He was not sure where the warm water was originating. He wanted to know if the source of the warm water had been studied.

Bob Montgomery of 11407 Cedar Creek Road said he moved to Cedarburg because of the natural beauty. He asked the Commission to prevent the expansion into Ozaukee County.

Justin Kapusta of 1856 Haymarket Road noted he is what people are referring to as the next generation of worker at the quarry. He works at the Jackson quarry and is assisting in the construction of the berm and reclamation/planting of the berm.

Ed Toebes of 1818 Granville Road asked what assurances there are that conditions don't worsen in the future. He cited concerns regarding groundwater.

Ed Kison of 10017 Flagstone Drive noted they own the agricultural property adjacent to the land seeking rezoning, and plan on keeping it agricultural moving forward. He noted there is a lot of truck traffic on CTH NN, but feels it is generally safe. He felt the quarry was a good source of material at a reasonable price.

Mary Budiac of 1977 Elm Drive moved to the Town for the peaceful atmosphere. She noted the quarry has expanded over time as they have purchased surrounding properties. She noted the Dawsons have told people there is enough stone in the existing quarry to last for generations. She noted they have experienced dust issues as the quarry has grown, and neighbors have made known concerns regarding their wells. She also noted blasting, noise, and truck traffic concerns.

Pat Eitel of 11303 Cedar Creek Road noted they have lived in the Town for 37 years. She explained in recent years, they noticed increased quarry activity, and saw no reason for the quarry to expand into the Town at this time.

William Knoten of W226 N5926 Lynwood Drive noted he works for Lannon Stone Products. He noted he lives adjacent to the Sussex quarry about 700 feet from the pit. He noted they erected a berm about two years ago at the Sussex quarry about 30 feet in height, and he felt it has helped with the dust and noise. He noted the Jackson quarry is a dry quarry not producing much groundwater flow out of the wall. He noted water reports submitted annually to the WDNR show compliance, and that if there are water quantity problems, Lannon Stone will remedy the situation at no cost to the homeowner.

Jennifer Thomsen of 11422 Hidden Valley Drive appreciated they would replace the backup alarms on Lannon Stone Products trucks, but questioned if contractors would also replace all of their backup alarms. She also cited property value concerns, and that although homes were constructed after the quarry opened, they did so knowing there would be a buffer between the homes and the quarry.

John Pendergast of 10303 Ann Marie Drive noted he has lived in the Town for 35 years for the rural tranquility. He asked the Plan Commission to reject the proposal. He also noted his family lived on Susan Lane in the Town of Cedarburg for about 15 years, adjacent to a former quarry. He explained the air and noise pollution issues caused by the quarry, and noted the difficulties of enforcing regulations on a quarry. He had noise and dust concerns if the quarry were allowed to expand.

Terry Skebba of 10326 Lawndale Drive noted he was a former Town of Cedarburg Plan Commission and Board member. He noted at this time, the Town has no control over the quarry, and if the Town were to issue a conditional use permit it would have a chance to address concerns. He asked the Commission to consider approving the application.

Andrew Scheutz of 12033 Pleasant Valley Road noted he has had one well replaced, which was not paid for by Lannon Stone products. He noted vibration concerns, and asked they keep the quarry confined to Washington County. He noted construction of the berm would create a dirt wall around a good portion of his property.

Todd Halvorsen of 1735 Horns Corners Road questioned why the permit needs to be considered at this time as opposed to waiting into the future. He suggested a letter of credit or surety bond to provide some security if permits are issued.

David Daniels of 11940 Cedar Creek Road compared the quarry location and its proximity to a populated area to locating a landfill in a populated area just to save on trucking costs.

Kevin Kennedy of 800 Horns Corners Road spoke in support of the quarry. He asked if the current quarry was not expanded, where would a new quarry need to be located. He noted there is a need for the product, that the stone is cheap, but the hauling is what costs a lot of money.

David Gottardo of 10331 Woodcreek Drive noted the Town approved the Comprehensive Land Use plan in 2008, which provides a plan for compatible uses. He noted some goals of the plan are to protect agricultural land and environmental areas. If those ideas are changed, the land use plan must be updated.

Kristin Padberg of 1599 Summit Drive noted her family recently moved to the Town, and supported maintaining the Town values and keeping the quarry in Jackson and not allow it to expand into Cedarburg. She also had concerns about groundwater and potential costs to homeowners to prove the quarry responsible should issues arise.

Jack Henke of 10635 Foxcroft Drive spoke in support of the application.

Lisa Pendergast of 10303 Ann Marie Drive noted they have lived in the Town for 35 years. She noted the Town fought the quarry expansion several years ago all the way to the State Supreme Court, and asked what has changed since that time.

Patrice Herbst of 2027 Washington Avenue noted they have seen eagles in the area recently, and questioned what the Town would do to help protect the birds. She felt it important to note what decisions have been made by the Town in the past to make it what it is today, and what decisions should be made moving forward.

Attorney Hoefl then clarified that there are two items under the public hearing category tonight, items 4a and 4b. The Commission could take comment under item 4b at this time, in case persons in attendance had additional input regarding item 4b.

Jeff Kaczmariski of 1977 Elm Drive was not in favor of the berm. He noted they are seeking a slope of 3 to 1, while their own report explains a slope of 4 to 1 is appropriate, and Town ordinances establish a 6 to 1 slope for all other properties. He asked they consider the berm be completed in a 5 month time period, no construction during June-August, trees be planted no more than one year after completion, trees that die should be replaced annually, and the bottom of the berm should be at least 100 feet from adjacent property lines.

With no additional comment from the public, Commissioner Pipkorn moved to close the public hearings. Commissioner Wundrock seconded, and the motion passed unanimously.

- b. Public hearing to take comment on an application by the Dawson Trust for a conditional use permit to construct a 23 foot tall berm on properties with tax keys #030071000000 and #030070600000 [NW & SW ¼ of Section 7, 66.15 acres]**

This item was addressed under item 4a.

4. OLD BUSINESS

- a. Discussion and possible recommendation on an Ordinance to rezone 43.55 acres of land with tax key # 030070600000 from A-2 Prime Agricultural to M-3 Quarrying District, and rezone 22.60 acres of land with tax key # 030071000000 from A-1 Agricultural and C-1 Conservancy to M-3 Quarrying District [Petitioner: Dawson Trust, NW & SW ¼ Sec. 7]***

The applicant is seeking to rezone portions of two properties the Dawson Trust owns. They are seeking to rezone 43.55 acres (of the total 45.55 acre parcel) with tax key #03-007-06-000.00 located south of Pleasant Valley Road from A-2 to M-3, while leaving a depth of 208.80' of property adjacent to Pleasant Valley Road unchanged at A-2. They are also seeking to rezone 22.60 acres of property on the south parcel (25.6 acres total) abutting Cedar Creek from A-1 and C-1 to M-3 Quarrying; they would leave a buffer of 125' unchanged at A-1 and C-1.

Commissioner Wundrock asked where the truck noise is primarily generated. Hans Dawson of Lannon Stone Products noted their primary noise from the trucks is that coming from the equipment on top of the berm, which they can control. The customer trucks that operate down in the quarry would be more difficult to control. Hans noted they would control their equipment and that of their dedicated contractors.

Commissioner Lewandowski asked if Mr. Dawson could clarify how many years' worth of stone is left in the current quarry, as they have heard a range of numbers from 20-200 years. Hans Dawson noted they have about 40-50 million tons in reserve, and they sell about 700,000 tons per year. They are proposing taking the overburden from the existing Jackson quarry area and creating the new berm as proposed. In the future, the overburden on the Town of Cedarburg parcel would then be placed in the quarry pit after terminal depth has been met.

Commissioner Wundrock noted there is a significant area of the Jackson quarry within the Town of Jackson limits yet to be quarried. Hans Dawson explained they are hoping to mine in steps to avoid a large vertical face on the berm. He noted the depth of the current pit has another 200 feet to go.

Commissioner Lewandowski asked if they knew the depth of the water table in relation to the terminal depth of the quarry. Hans Dawson noted most area wells are 100+ feet in depth, and when they run their pumps they can create a zone of influence that may affect water depths. She asked if the overburden could be placed somewhere else, referring to a former quarry off of

CTH I. Hans Dawson noted that particular site is accepting construction fill. He noted it would be infeasible for them to truck all their overburden material there due to the high trucking cost in addition to the tipping fee they charge at the former quarry.

Commissioner Pipkorn asked if they need a place for dirt at this time, but don't plan on expanding the mining operation for many years. Hans Dawson noted that is correct, but they are also looking to protect the resource, as until it is permitted for extraction, it is not a resource for anyone.

Following discussion, Commissioner Wundrock made a motion to recommend the Town Board approve an ordinance to rezone 43.55 acres of land with tax key # 030070600000 from A-2 Prime Agricultural to M-3 Quarrying District, and rezone 22.60 acres of land with tax key # 030071000000 from A-1 Agricultural and C-1 Conservancy to M-3 Quarrying District. Commissioner Pipkorn seconded, and the motion tied on a 3-3 vote, with Commissioners Salvaggio, Lewandowski and Wundrock voting nay, and Commissioners Luedtke, Pipkorn and Wittenberg vote aye. No formal recommendation was made.

Administrator Rhode recommended that since there was no motion made on the rezoning, that no action be taken on the other applications. He noted the Town Board will take final action on the rezone application at its upcoming February 7th meeting.

- b. Discussion and possible recommendation on an Ordinance to amend Chapter 320-24 of the Town Code to require berms in the M-3 district be constructed via a conditional use permit and that such berm slope shall not exceed one foot vertical to three feet horizontal [Petitioner: Dawson Trust]***
No action was taken on this item.

5. NEW BUSINESS

- a. Discussion and possible recommendation on an application by the Dawson Trust for a conditional use permit to operate a quarry on properties with tax keys #0300710000000 and #030070600000 [NW & SW ¼ of Section 7, 66.15 acres]***
No action was taken on this item.
- b. Discussion and possible recommendation on an application by the Dawson Trust for a conditional use permit to construct a 23 foot tall berm on properties with tax keys #0300710000000 and #030070600000 [NW & SW ¼ of Section 7, 66.15 acres]***
No action was taken on this item.

6. ADJOURNMENT

Commissioner Wundrock moved to adjourn the meeting. Commissioner Pipkorn seconded, the motion carried unanimously and the meeting was adjourned at 9:40p.m.

Respectfully Submitted,

Eric Ryer
Assistant Administrator/Clerk