

**Town of Mount Desert Planning Board  
Workshop Meeting Minutes  
Meeting Room, Town Hall  
6:00 PM, April 18, 2019**

**Public Present:**

Attorney for the Planning Board Eileen McGlinchey Fahey, Janet Ellis, Representative of Fresh Water Stone Jeff Gammelin, Janet Leston Clifford, Maureen McGuire, Jan Coates, H. Scott Stevens, Attorney for the Shencavitz' and Aylen's Daniel Pileggi, Laurie Shencavitz, Gerald Shencavitz, Owner of Harold MacQuinn Inc. Paul MacQuinn, Attorneys for the Applicant Ed Bearor and Katie Foster, Elizabeth S. Roberts, Kelly O'Neil, Chris Rawls

**Board Members Present:**

Chairman Bill Hanley, Joanne Eaton, Tracy Loftus Keller, Meredith Randolph, Christie Anastasia, and David Ashmore were present.

**I. Planning Board Site Visit – 4:00pm, at Harold MacQuinn, Inc. Quarry property off Crane Road, Tax Map 007, Lot 075**

**II. Call Meeting to Order 6:00pm**

Chairman Bill Hanley called the meeting to order at 6:00 pm. Board Members present were noted.

This was Continuation of the April 4, 2019 Planning Board Workshop and therefore, no public notice or letters to Abutters were required.

**III. Other**

**Workshop: Re: Harold MacQuinn, Inc./Fresh Water Stone & Brickwork, Inc. Quarry License Application.**

Chairman Hanley asked if there were any opening statements from the attorneys or the public. There were no statements from either attorney.

The Site Visit at 4:00pm was discussed. Its intent was to orient the newest Board members who had not been there before.

Ms. Eaton reported on the site visit. She noted there were a number of pictures of the quarry the new Board Members had already seen. She had envisioned the site as larger than it was. She noted the depth left to quarry was quite deep. Ms. Anastasia added that the directions of the abutters in relation to the quarry were oriented. From the quarry one house could be seen. Ms. Anastasia agreed it was smaller than she had estimated from the pictures. Ms. Keller also noted the volume of rock left to be quarried. Property lines and the types of equipment were discussed at the site visit.

1 Attorney Bearor apologized for his part in a disagreement with a member of the press that  
2 occurred at the site visit.

3  
4 Chairman Hanley asked for comments from the public. Hall Quarry resident Janet Leston  
5 Clifford reported that according to the Freedom of Access Act from the Maine Municipal  
6 Association's Manual for Local Planning Boards and Legal Perspective, the public has the  
7 right to take notes, take film, or otherwise make record of a meeting without first seeking  
8 permission as long as it is done in a non-disruptive manner. A site visit on private property,  
9 if attended by a majority of Board Members, is to be considered a public meeting, and the  
10 same rules apply.

11  
12 Abutter Gerald Shencavitz voiced surprise that Board Members considered the operation  
13 area small. He noted earlier pictures of the area show a much smaller operation. He was  
14 pleased to hear the Board Members understood how much granite might be left and how  
15 much more work is proposed before the water table is reached. The amount of work affects  
16 the amount of noise and other disruptions faced by the Hall Quarry residents. Mr.  
17 Shencavitz pointed out that a quarry over one acre is required to follow the DEP regulations.  
18 A quarry under one acre is subject only to the municipal quarry ordinance.

19  
20 Hall Quarry resident Kelly O'Neil pointed out that the Applicant was clear on where they  
21 wanted to quarry to, but vague on where the quarrying began. She felt the lack of clarity  
22 was important to note.

23  
24 Chairman Hanley noted that he requested a copy of the site plan of the quarry as existing,  
25 and a site plan of the quarry as proposed. The site plans were shared with Board Members  
26 in pdf format.

27  
28 New Board Members affirmed they were feeling confident about moving forward on the  
29 Application process. It was agreed that a date should be set for the beginning of the review  
30 of the Noise criteria.

31  
32 Attorney Dan Pileggi pointed out that the issue of Setbacks and Buffering has not been  
33 discussed. There is a twenty-five-foot dispute between the parties regarding buffers and  
34 setbacks. He suggested that a decision on Setbacks and Buffering should be made prior to  
35 the discussion regarding noise. The quarry's proximity to the abutters must be decided first,  
36 as it may affect where testing is conducted for sound. The Board agreed that it might be  
37 wise to address the issue of Setbacks and Buffering first.

38  
39 Attorney Bearor had no objection to addressing Setbacks and Buffering first.

40  
41 Discussion of scheduling ensued.

42  
43 Attorney Bearor felt there was no way to appropriately submit materials in a timely manner  
44 before the April 24, 2019 regular meeting.

Chairman Hanley felt it would be best to hold the first review hearing in June. Ms. Randolph felt meetings for the quarry should be special meetings devoted to the issue. Chairman Hanley agreed.

Mr. Ashmore suggested the special meetings be held the same week as the regular Planning Board meetings. This would allow weeks off for the Planning Board, and Board members are likely to already be present those weeks.

In the absence of the CEO, there was no access to the Meeting Room calendar. It was noted that meetings have been held in space other than the Meeting Room.

It was agreed that the next meeting will occur in June. It was agreed to set special meeting dates dedicated solely to the quarry.

It was noted there are some weeks where nothing comes through and a regular meeting is cancelled. However, this does not happen till two weeks prior to the meeting. Trying to hold a meeting dedicated to the quarry on a date like that makes public notice and meeting preparation difficult.

The two-week submission deadline was mentioned. Chairman Hanley suggested that an early June meeting would allow for time to continue the meeting to a date certain, if necessary.

Attorneys Bearor and Pileggi agreed that they would make all submissions two weeks prior, giving those reviewing the submittals a week in which to review and make their response. He felt there should be no problem submitting for an early June meeting.

Ms. Randolph inquired whether two weeks must occur between two meetings in case of an overlap in submittals. Attorney Bearor felt that between the two discussions of buffering and noise, he would require at least two weeks' notice for submittal purposes. It was agreed that most likely a continuation of a meeting on the same topic would not necessarily require new submittals. The Board agreed aspects of the process may have to be flexible.

Attorney Bearor suggested pinpointing a date certain for the next meeting, and a venue could be found if the regular meeting space was not available. The Board agreed.

It was agreed that June 5<sup>th</sup> was the date to schedule for, using the Town Meeting space, and another venue to be found should the meeting space be in use. The date was later amended to either June 4<sup>th</sup> or June 5<sup>th</sup>, depending on Ms. Eaton's availability.

A July meeting, for the purposes of discussing noise, was then discussed. July 2, 2019 was the target date for the meeting to discuss noise. July 17, 2019 was an alternative date if July 2, 2019 was not available.

1  
2 It was agreed to get those dates to the Town Office for scheduling the following day.

3  
4 Attorney McGlinchey Fahey reiterated that in looking into the question, she found the Board  
5 does have the ability to vote on setting structures for the process, such as submittal  
6 deadlines. She suggested doing so if the Board agreed it was a good idea.

7  
8 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO REQUIRE ALL SUBMITTALS OF  
9 QUARRY HEARING MATERIALS TO BE RECEIVED BY THE TOWN NO LESS THAN TWO WEEKS  
10 PRIOR TO THE MEETING DATE, AND REBUTTALS TO THE SUBMITTALS TO BE RECEIVED BY  
11 THE TOWN NO LESS THAN ONE WEEK AFTER THE MATERIALS SUBMITTAL DEADLINE.  
12 MOTION APPROVED 5-0.

13  
14 Ms. Eaton reported she had her affidavit signed and notarized. Chairman Hanley noted Ms.  
15 Anastasia and Ms. Keller should get theirs in.

16  
17 Hall Quarry Resident Elizabeth Roberts inquired about the submission deadlines. It was  
18 reiterated that all original submissions should be received by the Town Offices two weeks  
19 prior to the meeting date. Any rebuttals to those original submissions should be received by  
20 the Town Office seven days prior to the meeting date. This way everyone is aware when all  
21 materials are submitted, and everyone has the same time frame in which to respond. After  
22 some discussion, it was agreed that a rebuttal to a rebuttal would have to be discussed at  
23 the meeting itself. Ms. Randolph wondered how a member of the public who has not been  
24 participating would know. Chairman Hanley noted this discussion and vote would become  
25 part of the record.

26  
27 Ms. Leston Clifford inquired about Minutes. She noted there were no Planning Board  
28 Minutes for 2019 on the Town's website. There would be no way for the public to know  
29 about the submittal deadlines without those Minutes posted.

30  
31 Chairman Hanley stated the Town needs to be get the Minutes online as soon as they're  
32 approved.

33  
34 It was clarified that all Minutes of all 2019 Minutes have been drafted and submitted for  
35 approval by the Planning Board. All Minutes submitted to the Planning Board have been  
36 approved, except for the last meeting. *(a later review of the Minutes record shows that the*  
37 *Minutes of March 27, 2019 and April 4, 2019 have been submitted to the Board, but not yet*  
38 *approved.)* Once Minutes are approved, the Town is notified, and a final draft submitted  
39 for posting to the Town website. The Minutes should then be posted to the website by  
40 Town Office personnel.

41  
42 Ms. Keller asked about the expert witnesses. If buffering is approved at the June meeting,  
43 would the next meeting covering noise have an expert in attendance, or will that occur at a  
44 later date?

1  
2 Attorney Bearor noted that the noise presentation will be prepared while the discussion on  
3 buffering is held. It was unclear at this time whether a noise expert will be necessary. If  
4 more is deemed necessary at the July meeting, then the Applicants will work on it.

5  
6 Attorney Pileggi felt the Town would benefit from an expert on noise. He reminded the  
7 Board that after hearing the testimony of two noise experts they felt strongly that hearing  
8 from a third would be beneficial. The new configuration of noise reduction plans has not  
9 been shared yet. He felt the Board should be considering hearing from an expert.

10  
11 Ms. Eaton asked about who hires an independent noise expert.

12  
13 Attorney Bearor reported there have been changes to the equipment since the last  
14 meetings, and there is an addition of noise dampening material that will be presented. He  
15 would ask the Board to hear the presentation first before deciding on whether an expert is  
16 necessary.

17  
18 Ms. Leston Clifford asked whether members of the public will also be given a chance to  
19 make presentations on noise. Chairman Hanley affirmed that the public would be allowed  
20 to submit. It was agreed the public would be under the same submission time constraints  
21 previously voted on by the Board.

22  
23 Paying a third-party expert was discussed. Attorney McGlinchey Fahey noted that if a third-  
24 party expert was deemed required the Board can ask the Applicant to pay for it.

25  
26 Hall Quarry resident Maureen Maguire asked about the Board's experience of the noise  
27 from the perspective of those living in Hall Quarry. Is it an option to have the Board  
28 Members come to the residences to experience the sound? In addition to quarrying  
29 machinery, there is the added sound of trucks and other machinery, and sound carries.

30  
31 Attorney McGlinchey Fahey was not sure how to facilitate such a request. It could certainly  
32 be looked into if the Board so chose. The question of whether it is in the context of expert  
33 opinion was discussed. This would be a subjective judgement.

34  
35 Ms. O'Neil noted sound is only one aspect. Frequency, duration, and unpredictability of the  
36 quarry noise, and the sounds of nature that can't be heard due to the quarry noise are also  
37 problematic.

38  
39 The newest Board Members were lauded by the other Members of the Board by their  
40 enormous effort to bring themselves up to date on the issue.

41  
42 Ms. Anastasia asked if there was clarity on whether a member of the press can be at a  
43 Planning Board site visit. She felt this issue could come up again. Chairman Hanley noted

1                   that in the past members of the press have been at site visits and taken photos. Chairman  
2                   Hanley asked for a legal opinion on the issue.

3

4           **IV.     Adjournment**

5                   MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, TO ADJOURN THE MEETING.  
6                   MOTION APPROVED 5-0.

7

8                   The meeting was adjourned at 7:00 PM.