

**Town of Mount Desert Planning Board
Regular Meeting Minutes
Meeting Room, Town Hall
5:00 PM, September 30, 2020**

Public Present:

Attorneys for the Applicant Ed Bearor and Katie Foster, Agent for the Applicant Stephen Salsbury, Applicant Paul MacQuinn, Ray Tarasiewicz, Alyssa Tarasiewicz, Pamela Bowie, W. Keith Bowie, Attorney for Somes Sound landowners Matt Manahan, Janet Leston Clifford, Robert G. Clifford, Peter Ayles, Jeff Gammelin, Andy Odeen, Seth Singleton, Lawrence Goldfarb, Gerda Paumgarten, Attorney for the Shencavitz' and the Ayles Daniel Pileggi, Charles Wallace, Elizabeth S. Roberts, Joan ?????, Janet Ellis, David Shields, Ellen Brawley, Kelly O'Neil, Judith Ayles, Celeste Lindsey, Hans Utsch, Julia Merck, CJ Boynton, William Devome, Jamie Blaine, Elaine Lincoln, James Lincoln, Attorney for residents of Hall Quarry Ray Katz, Sidney Roberts Rockefeller, Howard Colter, Francoise Leyman, Carey M. Kish, H. Scott Stevens, Maureen McGuire, Mark Bergeron, Mike Olson Kaleb Payson, Bruce Walton, Steve Lambert

Board Members Present: Chair Bill Hanley, Dave Ashmore, Meredith Randolph, Christie Anastasia, Joanne Eaton, and Tracy Loftus Keller

Ms. Loftus Keller is an alternate, non-voting member.

I. Call to order 5:00 p.m.

Chair Bill Hanley called the Meeting to order at 5:00PM. Meeting Protocol and the effort to abide by the restrictions required due to the Covid-19 pandemic were stated.

II. Quarrying License Application:

Public Hearing:

A. Quarrying License Permit #001-2014

OWNER(S): Harold MacQuinn, Inc.

OPERATOR(S): Fresh Water Stone & Brickwork, Inc.

AGENT(S): Steven Salsbury, Herrick & Salsbury, Inc.

LEGAL REPRESENTATION: Edmond J. Bearor, Rudman Winchell

LOCATION: Off Crane Road, Hall Quarry

TAX MAP: 007 LOT: 075 **ZONE(S):** Residential 1 (R1)

PURPOSE: Quarry License Application – Section 6.2 Performance Standards
for Existing Quarries – J. Noise.

CEO Keene confirmed adequate Public Notice. Abutters were notified.

1 Chair Hanley summarized that the Public Hearing is now closed. The Board is in
2 deliberations regarding Section 6.2.J, Noise. At the March 12, 2020 Meeting, retired
3 sound expert Nicholas Miller made a presentation to the Board. A report from Mr.
4 Tocci, from the firm of Kavanaugh Tocci, was submitted soon after that meeting. Due to
5 the new testimony submitted by Mr. Miller, and Mr. Tocci's report, Public Comment
6 would be allowed, specific to these two new submittals.

7
8 Attorney for the Applicant Ed Bearor summarized that in November of 2019, the
9 Attorney for the Planning Board and the CEO were directed to seek proposals for a
10 sound expert to review the Applicant's submittals regarding noise attenuation. The
11 sound expert would be directed to focus on the conditions the Applicant agreed to
12 abide by in terms of noise reduction efforts. At the March 2020 Meeting, this directive
13 was reiterated. A report from Kavanaugh Tocci was received by the Town on
14 approximately April 2, 2020. The report itself was dated February 20, 2020. The Board
15 confirmed they were in receipt of the report.

16
17 The expert, Mr. Tocci, in response to the Board's request, provided a report. Mr. Tocci
18 reviewed the Applicant's proposed sound attenuation proposal and the Town's
19 Quarrying Licensing Ordinance and concluded that the materials submitted prescribe
20 best practicable means for reducing noise, and therefore meet the standard set by the
21 Quarrying Licensing Ordinance, Section 6.2.J. The Board confirmed there has been no
22 further communication with Mr. Tocci since that time.

23
24 Attorney Bearor felt the report was definitive in its opinion of the Applicant's noise
25 attenuation proposal. He inquired whether the Board had any questions regarding the
26 report.

27
28 The Board had no questions.

29
30 A woman who did not identify herself inquired about a comment in Mr. Tocci's report
31 regarding a wall. Attorney Bearor noted that the wall in question was also mentioned
32 by Mr. Miller in his March 2020 presentation. Mr. Miller stated during his presentation
33 that it appeared Mr. Wallace, the sound expert hired by the Shencavitz' and the Aylens,
34 believed the berm proposed by the Applicant did not break the line of sight. As stated
35 in previous meetings, the line of sight must be broken in order to provide effective noise
36 attenuation between the source of the noise and the receiving body. Mr. Tocci
37 mentions the same issue in his report. Mr. Tocci stated in his report that according to
38 his research using GoogleEarth the berm does appear to break the line of sight for one
39 of the abutting residences; he was not sure the line of sight was broken for the other
40 two abutting residences. Attorney Bearor suggested reviewing Exhibit B in the
41 Applicant's submittals showing the berm. Agent for the Applicant, Steven Salsbury of

1 Herrick and Salsbury, was prepared to explain the heights with an elevation drawing.
2 Attorney Bearor stated that Mr. Salsbury can show that the berm breaks the line of sight
3 for two of the three abutting properties. This is exclusive of the trees on top of the
4 berm.

5
6 Attorney Bearor reminded those in attendance that it has been nearly seven years since
7 the Application was filed. The Board now has in its possession a review provided by a
8 third-party, disinterested expert. That review confirms the noise attenuation plan
9 submitted meets the standards of Section 6.2.J.

10
11 Attorney Bearor reminded the Board that if a permit is issued to the Applicant, the
12 Applicant will abide by all of the items proposed to attenuate sound. If the permit is not
13 approved, then the Applicant will appeal, and there is a chance the court will void the
14 noise standard for vagueness. At that point, and under those circumstances, the
15 Applicant may choose not to do all the things included in the noise attenuation plan.

16
17 Attorney Bearor added that Attorney Manahan, representing landowners across Somes
18 Sound, has filed a letter with the Board stating he feels the standard is enforceable.

19
20 If the permit is approved, the quarry will be inspected at least once a year to ensure
21 compliance with the permit requirements. Additionally, the Planning Board must
22 review the quarry every five years.

23
24 Attorney Bearor stated that the Applicant has provided a viable sound reduction plan.
25 The Board's expert agrees with this assessment.

26
27 Attorney for the Board James Collier requested the Board determine whether they have
28 a quorum and determine that there are no Conflicts of Interest. Chair Hanley confirmed
29 a full Board was in attendance and therefore there was a quorum. No Conflicts of
30 Interest were found among the Board.

31
32 Agent Steve Salsbury presented an elevation drawing with cross sections showing the
33 vertical difference between the Quarry operation and the abutting houses with the
34 berm in place. Mr. Salsbury pointed out two lines of sight included on the drawing. The
35 line labeled "AA" runs from the floor of the pit to the Coates property. The line of sight
36 at the highest point in the quarry goes over the roof of the Coates residence. This
37 confirms that the berm will break the line of sight. Without the berm, the line of sight
38 from the quarry reaches the roof of the house.

39
40 The line labeled "BB" provides a line of sight to both the Shencavitz and Aylen
41 residences. The line with the berm included passes over the roofs.

1
2 Mr. Salsbury noted that as the quarry moves deeper into the earth, that line of sight will
3 rise higher out of the quarry, making even less of an impact on the abutting neighbors.
4 Mr. Salsbury added that these lines of sight do not take into consideration the trees that
5 will be planted on top of the berm.

6
7 Attorney Collier inquired which of the houses Mr. Salsbury was referring to. Why were
8 these houses chosen to represent line of sight? Mr. Salsbury restated that these were
9 the Coates, Shencavitz, and Aylen residences; the three properties abutting the quarry.

10
11 There were no questions from the Board for Mr. Salsbury.

12
13 Attorney Bearor reminded the Board that tonight's discussion was to be limited to just
14 the Tocci report and the Miller presentation. He stated that he would object to any
15 discussion of other items.

16
17 Attorney for the Shencavitz' and the Aylens, Daniel Pileggi, stated that Mr. Salsbury's
18 presentation is not an accurate representation of sound, and his sound expert, Charlie
19 Wallace, could present evidence to support that. As an example, the exhaust from one
20 of the pieces of equipment is 14 feet above the quarry's ground level and sound
21 emanates from it. This makes Mr. Salsbury's measurements from ground level
22 inaccurate.

23
24 The Tocci report discussed an acoustic wall on top of the berm as providing further
25 sound attenuation benefit. Trees do not provide sound attenuation. The report
26 covered other areas where the Applicant's proposal could be improved to meet best
27 practicable means for sound attenuation. Attorney Pileggi stated that it was not the
28 sound expert's job to develop the best practicable means. Three areas in which sound
29 attenuation could be improved were mentioned in the report, i.e. a top on the proposed
30 U-shaped barrier, the use of a better U-shaped barrier, a higher berm or a wall installed
31 on top of the berm. Each of these things would improve sound attenuation efforts.
32 Attorney Pileggi opined that the proposed improvements suggest that the Applicant has
33 not met the standard, regardless of the fact that Mr. Tocci states they did. Attorney
34 Pileggi would suggest that the Board has seen much more evidence than Mr. Tocci has,
35 including other reports and modeling that Mr. Tocci never saw. Perhaps if Mr. Tocci had
36 seen this additional information, his view would have been different. Attorney Pileggi
37 concluded that the standard has not been met.

38
39 Sound expert for Attorney Pileggi's clients, Charlie Wallace, stated that Mr. Salsbury's
40 submission is an example of geometric line of sight. This is different from an acoustical
41 line of sight. A source of noise or sound at the ground goes out and up and will transmit

1 out in these directions. The exhibit does not represent an acoustical line of sight. Nor
2 does it represent all the directions that emanating sound will affect, including
3 reflections that will occur off the hard surfaces inside the quarry.
4

5 Attorney for Hall Quarry residents Roger Katz opined that the Planning Board's job was
6 simply to decide whether or not the Applicant has put forward an application that
7 meets the standards. It is not the Planning Board's job to design a noise abatement plan
8 that meets the criteria of the Quarrying Licensing Ordinance. The Board is not tasked
9 with devising best practical means. Attorney Katz felt the Applicant could have designed
10 a plan which meets the standard of the Ordinance. The testimony of Mr. Miller, and the
11 report from Mr. Tocci make clear that the Applicant has failed in that. Mr. Tocci and Mr.
12 Miller have shown the Board three fronts on which sound can be reduced; equipment
13 sound control, site sound control (such as the berm), and administrative sound control
14 (such as hours of operation). Mr. Miller stated that while the U-shaped barrier was a
15 good idea, it would be difficult to move and orient the barrier effectively, and the berm
16 proposed is essentially useless. He pointed out that the Hall Quarry neighborhood is
17 quiet, with approximately 35 decibels of ambient noise. Mr. Miller estimated that
18 neighbors standing outside their homes while quarrying was occurring would be unable
19 to have a conversation without difficulty in being heard.
20

21 Attorney Katz summarized that Mr. Miller could not comment on whether the
22 equipment the Applicant was proposing to use would be sufficient to meet the
23 standard. In order to make that determination, Mr. Miller suggested that each piece
24 would have to be compared to other equipment with similar function to compare the
25 levels of sound. The Applicant has provided no evidence to determine whether other
26 equipment on the market could be comparatively quieter. Mr. Miller added that
27 manufacturers can reconfigure equipment for better noise attenuation. There has been
28 no effort made to research this possibility. Mr. Miller stated that research by someone
29 knowledgeable in equipment might show other, better equipment that can be used.
30

31 Regarding the Tocci report, Attorney Katz was not sure Mr. Tocci understood the full
32 situation. His report refers to the Town of Mount Desert Planning Board decision on
33 noise standards and the Application for quarrying license. Attorney Katz wondered if
34 Mr. Tocci was under the impression that he is reviewing a draft created by the Planning
35 Board for purposes of discussion, when it is, in fact, the noise attenuation plan
36 submitted by the Applicant.
37

38 Mr. Tocci notes that sound levels at a receptor location are not reduced until the barrier
39 breaks the line of sight. Attorney Katz stated that the higher the berm is, or the higher
40 an impervious barrier installed on top of the berm is, the more the noise levels are
41 reduced, however Mr. Tocci provides no analysis of that. Per Mr. Salsbury, the berm is

1 high enough to break the line of sight, however it is difficult to tell whether the line of
2 sight is broken for all three abutting homes or not. There has been no discussion of
3 noise attenuation for other homes in the area.
4

5 The question is not whether the barrier may reduce the noise. The question is whether
6 the barrier will reduce noise in the best way. It may be that increasing the height of the
7 berm becomes impractical, however this has not been confirmed. Raising the berm
8 another five feet might reduce noise significantly. There is no proof shown that this
9 berm as designed is the best practical means to reduce noise. Mr. Tocci states in his
10 report that the most effective way to mitigate noise is a berm above the line of sight.
11 The application does not have that.
12

13 Attorney Katz wondered how high the berm should be. How high should a barrier on
14 top of the berm be? What are the best materials to use in such a barrier in order to
15 ensure it is effective? It is not the Planning Board's job to try to answer these questions.
16 If evidence that the Application meets the standards of the Quarrying Licensing
17 Ordinance has not been supplied than the Board should not accept it.
18

19 With regard to equipment mitigation, Mr. Tocci concludes that the equipment proposed
20 for use by the Applicant will be quieter due to alterations made, but it is unknown by
21 how much noise will be mitigated. There is no discussion regarding whether better
22 equipment is available. It appears there has been no effort to research equipment to
23 determine whether what is being proposed is the best available. It is the Applicant's job
24 to produce this information and they have not done so.
25

26 Attorney Katz read from the March Planning Board Minutes in which Ms. Randolph was
27 reported as saying; *"It is not the Board's role to facilitate making an application*
28 *adequate; only to determine if the Application is adequate or not."*
29

30 Attorney Katz concluded that the Applicant has not met the burden of adequacy. The
31 Applicant has not shown that alternatives to equipment have been reviewed, and more
32 importantly, the berm as designed has been shown by several experts to be inadequate
33 for noise mitigation. A higher berm, or a barrier on top of the berm might help,
34 however information has not been provided regarding how much higher the berm
35 should be, or details of a barrier on top of the berm. The Applicant has not shown that
36 the standards of Section 6.2.J have been met.
37

38 Attorney for residents living across Somes Sound on Sargent Point Drive, Matt Manahan,
39 stated that he had filed a letter with the Board a week earlier. Attorney Manahan
40 reiterated Attorney Bearor's previous statement: if the permit is denied, then the
41 Applicant may not put into place any protective noise standards. Attorney Bearor

1 believes Quarrying Licensing Ordinance Section 6.2.J, Noise, is void for vagueness. If a
2 guideline were applied to that standard, it would not be void for vagueness, as stated by
3 the Maine Supreme Court. It is important for the Board to apply the noise standard in a
4 way that is quantifiable. The Board must apply a guideline that is easy for the
5 community to understand, clear and practicable. In Attorney Manahan's submittals, he
6 included a professional opinion from Asynteck representative Mike Betarian on noise,
7 which stated that a practicable standard is one that has gone through the regulatory
8 process and sets a quantifiable standard. If the Board takes the DEP standard of 50dba
9 at the property boundary and requires the Applicant to meet it, that cannot be
10 considered vague or arbitrary. Additionally, applying a quantifiable standard is the only
11 way to avoid criticism about vagueness. Attorney Manahan's suggestion would be to
12 require the Applicant to meet that quantifiable standard as a guideline, as set forth by
13 the standards stated in Mr. Betarian's letter of opinion. Attorney Manahan added that
14 Mr. Betarian stated that with regard to the reduction of noise the issue cannot be left to
15 the Applicant. A quantifiable standard must be imposed on the Applicant. The easiest,
16 most straightforward way is to use the DEP standards on noise.

17
18 Additionally, Attorney Manahan noted that he had with him someone who has
19 submitted an opinion on the non-noise-related standards of the Quarrying Licensing
20 Ordinance, though he realized it was the Board's preference to address only Noise at
21 this meeting.

22
23 Chair Hanley confirmed that the meeting was to address a very narrow public comment
24 subject, specifically that of the Tocci report and Mr. Miller's March 2020 presentation.

25
26 Hall Quarry resident Pam Bowie noted that Mr. Tocci's report listed the documents he
27 reviewed. Mr. Tocci noted that other documents had been provided to him by Attorney
28 Collier but were not listed as they did not contribute to Mr. Tocci's opinion regarding
29 the compliance of the Quarry operation with regard to noise. Ms. Bowie requested to
30 know what other documents were made available to Mr. Tocci. She asked whether Mr.
31 Tocci had full access to all the resources and opinions gathered that address the issue of
32 noise.

33
34 Ms. Bowie noted that Mr. Tocci did not address two items - issues related to acceptable
35 quarrying sound levels at any property line or receptor location, and compatibility of
36 land uses surrounding Hall Quarry. Later in his report Mr. Tocci refers to the residential
37 use of Hall Quarry when he discusses improving the proposed portable U-shaped barrier
38 by lengthening the sides. He notes it could be beneficial, especially since residents
39 nearly surround the quarry. Mr. Tocci reviewed the sound control measures taken by
40 the Applicant to reduce the noise for the equipment they intend to use. Mr. Tocci
41 reports that where they were noted, the estimated sound reductions are reasonable,

1 based on his experience. However, Mr. Tocci reports he did not have enough
2 information to confirm the estimates presented. Ms. Bowie asked where the data was
3 to allow for a full examination of all equipment to be used in the quarry. Is the
4 Applicant picking and choosing what equipment data is reviewed? A full comprehensive
5 report of all proposed equipment noise levels should be required of the Applicant.
6

7 Ms. Bowie noted that Mr. Tocci's report discusses the earth walls or berms or barriers
8 proposed to reduce the noise from the quarry. Mr. Tocci states a barrier reduces sound
9 levels to the extent that it breaks the line of sight between the source and the
10 receptors. He reports that no information was provided to confirm whether and by how
11 much the lines of sight would be broken by the proposed barrier. Mr. Tocci did research
12 the area using GoogleEarth Pro elevation profiles. He suggested the proposed barrier
13 would break the line of sight between the nearest resident northeast of the quarry, but
14 might not at many of the other residences surrounding the quarry, as these are situated
15 above the quarry and possibly have direct line of sight into the quarry, over the
16 proposed berm. This again suggested the sound expert was not provided with enough
17 information regarding lines of sight for either the abutters, or for other residents in the
18 Macomber Pines subdivision in Hall Quarry.
19

20 Mr. Tocci's report refers to Exhibit B of the submission, showing trees and other
21 plantings on top of the berm. He recognized that foliage creates a good visual screen
22 but provides no reduction in noise and has been shown to reduce noise attenuation by
23 scattering sound down into the barrier's shadow area.
24

25 Mr. Miller's presentation to the Planning Board expresses similar concerns. When asked
26 asked for his opinion on the list of equipment identified by the Applicant, Mr. Miller
27 stated that it was not within his expertise to offer an opinion. Mr. Miller did suggest
28 researching each piece of equipment to determine its function and comparing it to
29 other pieces of equipment with the same function to compare the level of sound
30 produced. Ms. Bowie stated this was a reasonable request for the Applicant, and one
31 that both Mr. Miller and Mr. Tocci suggested.
32

33 Another of Mr. Miller's concerns was the effectiveness of the proposed berm. Mr.
34 Miller opined that an effective barrier must break the line of sight to be considered
35 effective, or the barrier must be close to either the receiver or the source of the sound.
36 Mr. Miller felt the berm, as proposed by the Applicant, was ineffective. He agreed that
37 vegetation on the berm is more visual than noise reducing. A more effective alternative
38 would be to add a wall on top of the berm.
39

40 Mr. Miller noted three places where noise can be affected; at the source, at the
41 receiving end, and along the path the sound travels. Mr. Miller stated that in this

1 situation it is not feasible to control sound at the receiving end. Therefore, the solution
2 must be remedied at the noise source. The Applicant has not modified the berm plan,
3 despite both experts opining that it was inadequate. Ms. Bowie felt this was evidence
4 that the Application is not adequate and does not meet even the most minimal
5 requirements of the Quarrying Licensing Ordinance.

6
7 Hall Quarry resident Janet Leston Clifford stated that Mr. Tocci's report was dated
8 February 10, 2020. The Planning Board did not hire Mr. Tocci until March 12, 2020. The
9 Planning Board provided lengthy instruction regarding what the report should include at
10 the March 12, 2020 meeting. If the report was written February 10, 2020, the
11 instructions given on March 12, 2020 could not have been addressed.

12
13 Instructions at the March 12, 2020 meeting include

- 14 - Reviewing the record. It is unknown whether Mr. Tocci reviewed the record.
- 15 - Discussing controls and related matters with others who have been involved in
- 16 providing sound controls and recommendations. It is unknown whether other
- 17 sound experts were consulted.
- 18 - Consulting specifics on geography and topography of the site.
- 19 - Information regarding alternatives for sound mitigation were requested.
- 20 - A piece by piece assessment of the Applicant's equipment list was requested.
- 21 - A point by point review of the Applicant's November 15, 2019 memorandum outline
- 22 and his view on whether each point conforms to the Quarrying Licensing Ordinance
- 23 standard.
- 24 - An assessment of each practicable step listed to limit noise was requested.
- 25 - An analysis of sound levels at the property line was requested.
- 26 - An analysis of sound mitigation strategies at the receptor locations was requested.
- 27 - A list of other controls that might be considered was requested.

28 Ms. Leston Clifford asserted that none of these points of instruction were included in
29 the report. The report was written before the Planning Board compiled their request.

30
31 Mr. Tocci states in his report that he has drawn a conclusion. A conclusion must include
32 supporting data and information. This report does not include supporting data and
33 information. Mr. Tocci reported that he was not provided with information on the
34 geography or topography of the site. Mr. Tocci stated that no information had been
35 provided to him confirming whether and by how much the lines of sight would be
36 broken. Mr. Tocci did not consult others involved in the sound control measures thus
37 far recommended. He did not consult the entire record, as the lack of geography and
38 topography confirms. Mr. Tocci states he used only some of the documents provided by
39 Attorney Collier. Mr. Tocci stated he did not have enough information to confirm the
40 Applicant's information included in the equipment lists. Mr. Tocci stated he was not
41 provided enough information to confirm estimated sound reductions. He did not

1 perform analysis on each step listed in the November 15, 2019 memorandum. He did
2 not suggest other controls that might be employed. He did not include any other noise
3 control methods not commonly used. Mr. Tocci did not specify his analysis was
4 consistent with the operation "for this small quarry of one acre in a residential
5 neighborhood." Ms. Leston Clifford asserted the report does not provide a conclusion,
6 in that it does not include data.

7
8 Hall Quarry resident Elizabeth Roberts acknowledged the Planning Board's
9 responsibility. She reviewed the Quarrying Licensing Ordinance, and also the most
10 recent Quarrying Licensing Application's section on Noise, dated June 14, 2014, with
11 revisions made through September 28, 2016. A memorandum was received in
12 November 2019. It is not clear whether that memorandum is considered part of the
13 Application.

14
15 Ms. Roberts was in attendance at the March 12, 2020 Planning Board Meeting where
16 new information was presented about noise attenuation. Retired noise expert Mr.
17 Miller was in attendance and provided his advice. He described the roll a berm plays in
18 sound mitigation. It was noted at that time that to be effective for sound mitigation, a
19 berm must break the line of sight between the source of noise and the receptor of the
20 noise. Mr. Miller stated that vegetation on top of the berm has no acoustic benefit. Mr.
21 Miller stated that based on information in the November 15, 2019 memorandum, the
22 proposed berm would be ineffective in mitigating noise from quarrying activity.

23
24 At the March 12, 2020 meeting, the Planning Board agreed to hire an independent
25 sound expert. This expert was expected to help the Planning Board assess whether the
26 Applicant has met the requirements of Section 6.2.J of the Quarrying Licensing
27 Ordinance. That expert was also supposed to determine whether bringing electricity to
28 the quarry would allow different equipment to be used that would provide better sound
29 mitigation. There has been no report so far regarding the addition of electricity. In
30 reading Mr. Tocci's February 10, 2020 report, it appears Mr. Tocci received the
31 November 15, 2019 memorandum. His report stated the sound levels at the receptor
32 points will not be reduced until a barrier breaks the line of sight. Mr. Tocci stated in his
33 report that *"no information has been provided to confirm whether and by how much*
34 *lines of sight would be broken by the proposed barrier."* Ms. Roberts concluded that
35 both Mr. Tocci and Mr. Miller have concurred with sound expert Mr. Reuter, the only
36 sound expert mentioned in the Application that the line of sight must be broken
37 between source of noise and receptor of noise to successfully mitigate sound.

38
39 The Application as presented does not include a barrier or earthen berm of adequate
40 size required to break the line of sight. The berm will not provide adequate sound

1 mitigation. The Application, as it currently exists, does not meet the requirements of
2 Section 6.2.J of the Quarrying Licensing Ordinance.

3
4 Hall Quarry resident Robert Clifford read a letter on behalf of Hall Quarry residents
5 Steven and Joanna Krasinski, who could not be in attendance. The letter was submitted
6 to the Planning Board and made a part of the record.

7
8 Additionally, Mr. Clifford made his own comments with regard to Mr. Miller's March 12,
9 2020 presentation to the Planning Board. Mr. Miller joined all the previous sound
10 experts in advising the Planning Board that sound mitigation will not occur without
11 breaking the line of sight between the sound source and the receiving end of the sound.
12 Mr. Miller noted the Hall Quarry neighborhood, including Acadia National Park and
13 Somes Sound, is normally quiet – approximately 35 decibels in ambient noise level. Mr.
14 Miller stated that noise mitigation must be measurable, observed, enforced, and
15 physically feasible. Mr. Miller used the example of highway sound barrier walls to
16 illustrate a Best Practicable Mean of reducing noise. Barrier walls are a normal way of
17 reducing noise for those living near highways across the country. Mr. Clifford reminded
18 the Board that the Applicant has had years to design a plan, and to employ proven ways
19 to reduce noise to meet Quarrying Licensing Ordinance standard 6.2.J. The Applicant
20 simply has not done it.

21
22 Otter Creek resident Mike Olson stated he was knowledgeable about sound berms. He
23 lives near a gun range that affects an area spanning from Seal Harbor to Otter Cliffs. Mr.
24 Olson stated that berms do not work with regard to sound mitigation.

25
26 Attorney Bearor objected to the testimony; it was not directly related to Mr. Miller's or
27 Mr. Tocci's reports.

28
29 Hall Quarry resident Fran Leyman stated that she and her husband, Carey Kish wished to
30 be on the record stating that the Quarrying Licensing Ordinance standards in Section
31 6.2.J have not been met by the Application. All sound mitigation reports received have
32 concurred on the most basic scientific principles with regard to sound mitigation. As
33 previously stated, sound mitigation must break the line of sight between the sound
34 source and the receiver to be effective. The line of sight must be broken for the
35 abutters, and also for other residences in the neighborhood. Both Mr. Miller and Mr.
36 Tocci stated they did not receive elevation data or geographic data in order to
37 determine whether the line of sight would be broken. Both Mr. Miller and Mr. Tocci
38 stated that trees planted on top of the berm would only mitigate visual impact and not
39 noise. The berm has not been proven to break the line of sight or provide an effective
40 sound mitigation barrier, and therefore the Applicant has not proven that their
41 proposed measures will meet the burden of employing the best practicable means for

1 sound mitigation as required by the Quarrying Licensing Ordinance. The Planning Board
2 must vote that the Applicant has not met the requirements of Section 6.2.J. And as
3 Attorney Bearor has insisted that the record is closed, the Planning Board must deny the
4 Application.

5
6 Hall Quarry resident Ray Tarasiewicz stated he had just moved to the Hall Quarry area.
7 He inquired about other properties adjacent to the Quarry. He hoped that all Hall
8 Quarry properties were being considered with regard to effective sound mitigation.

9
10 Attorney Bearor objected; the testimony was not directly related to Mr. Miller's or Mr.
11 Tocce's report.

12
13 Attorney Bearor stated that the berm is just one feature of the proposed noise
14 mitigation efforts. Both Mr. Tocci and Mr. Miller know the berm is just one aspect. Mr.
15 Tocci who was hired by the Town has stated that the best practicable means of noise
16 mitigation standards have been met; not just with the berm, but with the other noise
17 mitigation techniques proposed. Mr. Tocci was in possession of the November 15, 2019
18 memorandum listing the proposed noise mitigation efforts. This list included the
19 equipment list based on testimony from Freshwater Stone employee Andy Odeen.
20 Attorney Bearor recalled that Mr. Miller, who had access to all the Application
21 information, merely stated that he believed Mr. Wallace stated the line of sight was not
22 broken. He did not agree or disagree with this statement. Mr. Tocci's report states that
23 the line of sight is broken. Mr. Salsbury's submitted drawing and statement shows that
24 the line of sight is broken.

25
26 Attorney Bearor noted that in addition to the proposed berm, a three-sided barrier has
27 been proposed that Mr. Tocci found to be adequate. Attorney Bearor felt it important
28 to assess the situation based on the Planning Board's understanding of past discussions
29 and reports submitted, and not the opinions of those providing testimony.

30
31 Attorney Bearor stated that Attorney Manahan suggested that the Applicant was
32 making a threat that if the quarry were approved through an appeal, then some of the
33 noise mitigation efforts proposed would not necessarily be applied. Attorney Bearor
34 stated he has been clear in his intention. He reiterated that the Applicant is offering to
35 limit operation to 65 days per year, refraining from operation in July and August, and
36 operating at certain hours. Based on these points, Mr. Tocci concluded that the
37 Applicant is meeting the Standard of Section 6.2.J. Attorney Bearor hoped this would be
38 taken into consideration by the Board as they deliberate.

39
40 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO TAKE A FIVE-MINUTE
41 RECESS.

1 MOTION APPROVED 5-0.

2
3 A five-minute recess ensued.

4
5 Chair Hanley felt it was time for Planning Board deliberation. He checked one last time
6 for public comment relative to the Miller presentation and the Tocci report.

7
8 There was no further public comment.

9
10 Public Comment on the Miller presentation and the Tocci report was closed. The
11 Planning Board entered into deliberation on Section 6.2.J of the Quarrying Licensing
12 Ordinance.

13
14 Attorney Collier opined that there were two ways to proceed. The Board can hold
15 discussion and then create a Motion. Or, the Board can create a Motion followed by
16 discussion of the Motion.

17
18 Chair Hanley read Section 6.2.J of the Quarrying Licensing Ordinance.

19
20 *"The best practicable means of reducing noise shall be employed which*
21 *may including (sic) the use of sound reduction equipment, acoustic*
22 *enclosures or sheds, limiting on-site speeds to no more than 10 mph, or*
23 *other best industry practices for noise attenuation, to the extent*
24 *permitted by state and federal laws and regulations."*

25
26 Chair Hanley mentioned the oft referred to November 15, 2019 memorandum in which
27 the Applicant summarized for the Board the different elements of their approach to
28 noise mitigation efforts. He felt it might be a good point of reference for the Board's
29 consideration. Regarding the Tocci report, Chair Hanley felt it was a good report and
30 made good points yet was vague in some areas.

31
32 Chair Hanley noted that Mr. Miller agreed the berm would not be entirely effective.
33 Perhaps it would be more effective with a non-permeable element topping it. It
34 appeared the plantings would not be effective for noise mitigation.

35
36 Attorney Collier advised to keep deliberation simple and to determine if the Applicant
37 has met the standard. He noted that the Quarrying Licensing Ordinance requires the
38 best practicable means to be used and offers examples of how that might be
39 accomplished. The Board must determine whether the best practicable means have
40 been proposed. Attorney Collier had no advice for the Board on how that might be
41 accomplished.

1
2 Attorney Collier stated that with regard to the legal question, he focused on three cases
3 which address ambiguous standards. The gist of the cases was that the ordinance must
4 be such that a developer or citizen coming before the Board for an Application has an
5 idea of what it is they are being asked to do. An ordinance that does not provide this
6 can be deemed void for vagueness. The Board's job is to assume the Ordinance is valid.
7 Attorney Collier stated that if the Town wanted standards, then they would have been
8 included in the ordinance. Standards such as a decibel level are not in the ordinance
9 and Attorney Collier felt setting standards would be the wrong approach legally.
10 Attorney Collier felt it was worthwhile to think about each standard in relation to the
11 Purpose stated in the beginning of the Quarrying Licensing Ordinance. Attorney Collier
12 felt the Purpose was to protect the welfare of the residents. A balance must be found
13 between the use the Applicant has applied for and has the legal right to do, with the
14 surrounding neighborhood.

15
16 Chair Hanley felt a comment from the March 12, 2020 meeting worth repeating: *"...the*
17 *question is not how to make the application better but whether the application uses the*
18 *best practicable means..."*

19
20 Ms. Eaton acted on a previous suggestion that the Board make a list of the proposed
21 sound attenuation measures and dividing them into the three categories Mr. Tocci
22 refers to in his report. Ms. Eaton in her review of the question did that. She noted the
23 list is impressive. She felt that when focus is on just one item, such as discussion tonight
24 about the berm, it's easy to forget the extent of the efforts proposed.

25
26 Ms. Eaton presented her list to the Board as broken out in the noted categories:

27
28 Administrative Controls -

- 29 - The quarry has offered to refrain from operation in July and August.
30 - Operation will be April through June and September through December.
31 - Quarrying will be limited to 65 days per year, Monday through Friday. Quarrying will
32 not occur on Saturdays, although the Quarrying Licensing Ordinance allows for it.
33 - There will be only limited operation of loading only on Saturdays as necessary, 8am
34 to noon.
35 - Quarrying is limited to cutting, drilling, and hauling blocks; there will be no
36 production loading or hauling of riprap or crushed material.
37 - Materials hauled away will be loaded in flatbed trailers. Boom trucks using dunnage
38 will be used to protect the pieces of stone.
39 - Cleanup of small stone material using a loader will be limited to two hours per week.
40 - No blasting will be involved.
41 - Operation will be 7am to 4pm, but no drilling will occur before 8am.

Equipment –

- A large list of equipment was presented, and the Applicant stated it was the quietest equipment they could find.
- Removal of the tonal backup alarms and replacing them with white noise alarms.
- Loaders will all have rubber tires.
- Blasting mats will be used for ground cover to reduce excavator noise.
- Restricting vehicle speed to 10 miles per hour.
- Dump trucks will not empty their loads so as to allow the tailgate to slam.
- No simultaneous use of equipment.
- Updated mufflers on the equipment.
- Research and deployment of new equipment would continue in an effort to reduce noise further in the future.

Site/Sound Controls:

- Use of the portable three-sided barrier.
- Use of the berm.

Noise Mitigation:

- Line drilling will use a silencer.
- Hand drilling will be used when able.

Additionally, rerouting quarry traffic to the Southwest Harbor access to Hall Quarry was discussed.

Ms. Eaton reiterated that this was a lengthy list and should make quite a difference in sound.

Mr. Ashmore noted his concern regarding the berm and the barrier and the fact that they focus in only one direction. Sound travels in 360 degrees. He did not feel these efforts will mitigate sound in 360 degrees. Mr. Ashmore felt 360-degree sound mitigation was possible. The Quarrying Licensing Ordinance notes that sheds can be used to mitigate sound, but sheds have not been discussed as an option. A shed, fully enclosing the source of the noise, would affect sound in 360 degrees.

Ms. Anastasia liked the list Ms. Eaton compiled. Ms. Anastasia recalled discussion regarding sheds or a structure that would fully enclose the sound source. She recalled it had been deemed unsafe to have an operator in a fully enclosed structure, should any machinery malfunction. Chair Hanley agreed that he recalled safety being discussed in regard to fully enclosed operating machinery. Additionally, there would be OSHA requirements.

1 Ms. Anastasia pointed out the Purpose noted in the Quarrying Licensing Ordinance. It
2 discusses the Ordinance putting into law minimal removal and reclamation standards
3 and then discusses respecting the rights of pre-existing operations and protecting the
4 public health, safety and general welfare to minimize the adverse impact of active
5 quarrying to the Town. Ms. Anastasia felt the word “minimize” suggests not removing
6 quarrying altogether but trying to strike a balance between both the quarry and the
7 public. She felt the Purpose should not be forgotten.

8
9 Ms. Randolph felt that the job of the Planning Board is to protect the Town. There is an
10 Ordinance and a Code designed to allow people to live in Town with a relative sense of
11 predictability regarding both their property and noise, and that things will not
12 dramatically change. Noise in this instance is a major aspect of this application. The
13 Board has been asked to focus on specific points. Ms. Randolph felt the Board has been
14 prevented from getting a sense of the overall sound this operation will produce. She is
15 not convinced the overall sound resulting from the quarrying activity will not be
16 damaging to the Town and the residents of Hall Quarry. Ms. Randolph suspected the
17 Board has been diverted onto specific points instead of focusing on the fact that the
18 resulting overall amount of noise will be potentially damaging. A variety of sound
19 experts have made statements such as the berm will not be effective. The Board has
20 provided the Applicant many opportunities to present effective sound mitigation. The
21 list summarized by Ms. Eaton was provided only after a number of meetings. This does
22 not leave Ms. Randolph with a great sense of trust that there aren’t details that have
23 not been addressed because focus was redirected away from them. Ms. Randolph was
24 not confident best practicable means have been taken to protect the neighbors from
25 the sound of the quarry. She felt the quarry had no right to cross property lines and
26 inflict their noise on their neighbors, and it is still unknown how much noise will result
27 from the activity.

28
29 Chair Hanley agreed many valid points have been made. The Board needs to look at the
30 issue in both a micro- and macro-perspective. The Board is tasked with determining
31 whether the Applicant is doing the best they can do relative to Section 6.2.J. The micro-
32 perspective are issues such as whether the berm should have a non-permeable wall on
33 top of it, or should the barrier be taller and have a top on it. Perhaps these things
34 should be added. Chair Hanley cautioned the Board on getting into the specifics of
35 prescribing the means the Applicant must employ. The list Ms. Eaton provided is
36 extensive. Some of these proposed mitigation techniques will be effective and some
37 will not. Some techniques are somewhere in between. With regard to the macro-
38 perspective, one must refer to the Purpose as noted in the Quarrying Licensing
39 Ordinance. If the Board can get beyond Section 6.2.J, the Purpose should be considered
40 during final deliberation.

41
42 With regard to the Tocci report, and Mr. Salsbury’s presentation regarding line of sight,
43 sound is three dimensional. Chair Hanley understands the intent of Mr. Salsbury’s
44 diagram and techniques of attenuating sound, but relative to Mr. Ashmore’s

1 statements, he felt the Applicant could do more globally on site to minimize sound.
2 Sound mitigation efforts seem to be directional and neither the berm nor the barrier
3 address all directions. Chair Hanley wondered how far the Board should go in
4 prescribing this kind of mitigation.
5

6 Attorney Collier advised that the Board should read each section and also read it with an
7 eye to what it is trying to accomplish as a whole. The Purpose section of the Quarrying
8 Licensing Ordinance helps with that. Has the Purpose been met? Allow the Purpose to
9 infuse the considerations of each section.
10

11 Mr. Ashmore felt a problem with the portable barrier was that it stopped noise in one
12 direction, but the noise stopped would be reflected and amplified in another direction.
13 In many cases this will be pointed toward Acadia Mountain. Mr. Ashmore felt the
14 neighborhood in its entirety was not being adequately considered.
15

16 Chair Hanley asked Applicant Paul MacQuinn whether it was reasonable to put a
17 permeable barrier completely around the quarry. Mr. MacQuinn stated it was not. On
18 the southern end of the quarry, from the floor of the quarry to the berm, there would
19 have to be a forty-foot wall in place to match the northern end of the quarry and to
20 break the line of sight.
21

22 Chair Hanley inquired why the berm was not planned to be extended further around the
23 perimeter. Mr. MacQuinn stated most of the complaints were coming from the
24 northern and eastern ends of the quarry. He stated there have been no complaints
25 from the Southern or western ends. Audience members disagreed.
26

27 Chair Hanley requested Mr. MacQuinn's thoughts on global noise control, as opposed to
28 spot-control. Attorney Collier advised the Chair to focus more on specific questions. A
29 specific question might be more useful than a broad opinion. Additionally, a broader
30 question might require opening discussion up for public comment.
31

32 Mr. Ashmore asked Mr. Macquinn whether the air compressor was the loudest
33 equipment onsite, after the drills. Mr. MacQuinn noted the air compressor was new
34 and significantly quieter than earlier models.
35

36 Chair Hanley inquired of Attorney Bearor and specific to the list Ms. Eaton outlined
37 earlier how the items Ms. Eaton listed relate to the November 15, 2019 memorandum
38 presented to the Board. Attorney Bearor guessed that Ms. Eaton must have had the
39 November 15, 2019 memorandum at hand when she drafted her list. Ms. Eaton may
40 not have covered each and every item on the memorandum list, however each and
41 every item on the memorandum list has been proposed as a condition to be set. If the
42 Application is granted approval, the Applicant is willing to conform to each item on the
43 November 15, 2019 memorandum as a condition for approval. Chair Hanley felt the
44 listed items could perhaps be used as a reference point for the Board as they begin

1 deliberations over specific points of Section 6.2.J.

2
3 Attorney Collier suggested the Board had three options at this stage:

- 4 - Finding the Standard has been met
5 - Finding the Standard has not been met
6 - Finding the Standard will be met with conditions
7

8 Attorney Collier suggested the Board make a Motion to the effect of one of the three
9 options, followed by discussion and a vote. In order to get to the specific points, a
10 Motion must be made, with specific points being the body of either the Motion's
11 Findings of Fact, or the Conditions set within the Motion.
12

13 Ms. Eaton felt that the standards as stated in section 6.2.J are vague. The list Ms. Eaton
14 compiled was more specific. Ms. Eaton felt that with the definition provided in the
15 Ordinance it would be difficult to deem the Applicant has not met the standards. Ms.
16 Eaton noted the list she compiled comprises conditions discussed at other times, such as
17 hours of operation, that will affect noise.
18

19 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, THE FINDINGS OF FACT SHOW
20 THAT THE STANDARDS OF SECTION 6.2.J, NOISE, HAVE BEEN MET.
21

22 Chair Hanley wondered if the Motion required more quantifying.
23

24 Ms. Anastasia stated that even if the Board determines the standard has been met, and
25 the best practicable means are employed, the noise in the quarry can still be deemed
26 too loud. Conditions can be set, and perhaps conditions such as a review of the
27 situation occurs more often than annually. The fact is that no one knows what this
28 operation, with conditions set, will look like on the ground and running. Perhaps setting
29 as a condition more frequent review.
30

31 Chair Hanley asked what specifically will transpire during an annual review of the
32 quarry. CEO Keene explained that an annual review would consist of her visiting the
33 site, using a checklist to review and ensure all of the conditions set by the Board are
34 being met. Additionally, she will ensure the Applicant is staying within the footprint as
35 stated in the Application.
36

37 Chair Hanley noted conditions may be set that are pertinent to addressing some of the
38 broader, macro-issues.
39

40 Ms. Randolph felt the conversation was returning once again to additional suggestions
41 such as a wall on the berm, or a cap on the barrier. She felt it was another example of
42 the Board's suggesting further ways to improve what has been proposed as best
43 practicable means. Ms. Randolph reiterated that it is not the job of the Board to design
44 noise attenuation. Holes in the noise attenuation plan have been left open. Ms.

1 Randolph questioned whether what is proposed is adequate. Discussion seems to
2 indicate that it is not. If the Board does not feel what has been proposed is adequate,
3 then what has been proposed does not meet the standard.

4
5 Attorney Collier wondered if it would be appropriate to ask for a Motion Amendment
6 that adds to the original Motion *"given the conditions that the Applicant has already put*
7 *forth."* His memory was that Attorney Bearor presented a list of measures the Applicant
8 would be willing to take. Chair Hanley stated that the November 15, 2019
9 memorandum presented by the Applicant provides a detailed outlay of conditions the
10 Applicant was willing to meet.

11
12 Ms. Eaton was amenable to including Attorney Collier's suggested statement in her
13 Motion.

14
15 The revised Motion reads:

16 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, THE FINDING OF FACT SHOWS
17 THAT THE STANDARDS FOR SECTION 6.2.J HAVE BEEN MET, GIVEN THE CONDITIONS
18 THAT THE APPLICANT HAS ALREADY PUT FORTH, AS OUTLINED IN THEIR NOVEMBER 15,
19 2019 MEMORANDUM.

20
21 Attorney Collier advised the Board that there must be a Motion to Move the
22 Amendment.

23
24 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, THE AMENDMENT.

25
26 Mr. Ashmore asked if voting in the affirmative on the Motion's Amendment means that
27 the Board is agreeing with everything included in the November 15, 2019
28 memorandum. Attorney Collier stated a Motion to Move the Amendment only agrees
29 to amend the original Motion.

30
31 Chair Hanley clarified that if the Motion to move the Amendment passes, then the
32 Board must move to Approve the original Motion, and approving that Motion means the
33 Board is accepting what the Applicant is proposing to do as stated in the November 15,
34 2019 memorandum. Attorney Collier agreed that this was what would occur; however,
35 it does not prohibit the Board from making further changes or set additional conditions.

36
37 The Board voiced confusion over the need to approve an amendment to the proposed
38 Motion.

39
40 Chair Hanley felt being as specific as possible is always important for the Board with
41 regard to a Motion. Referring to the memorandum within the Motion provides
42 specificity and provides details regarding how the standards will be met. Such an
43 inclusion in the Motion will provide something quantifiable to a Section that is not
44 quantified.

1
2 After some discussion, MS. EATON WITHDREW HER MOTION AND HER MOTION TO
3 AMEND. MS. ANASTASIA WITHDREW HER SECOND OF THE MOTION AND HER SECOND
4 OF THE MOTION TO AMEND.

5
6 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, THAT THE STANDARDS FOR
7 SECTION 6.2.J HAVE BEEN MET, GIVEN THE CONDITIONS THAT THE APPLICANT HAS PUT
8 FORTH IN THEIR MEMORANDUM OF NOVEMBER 15, 2019.

9
10 There was no further discussion.

11
12 VOTE:

13 JOANNE EATON: AYE

14 DAVE ASHMORE: NAY

15 CHAIR BILL HANLEY: AYE

16 CHRISTIE ANASTASIA: AYE

17 MEREDITH RANDOLPH: NAY

18 MOTION APPROVED 3-2 (ASHMORE AND RANDOLPH OPPOSED)

19
20 Attorney Collier stated that the Board can vote separately in a Findings of Fact. The
21 Board can direct Counsel, the CEO, the Applicant, or the Board secretary to create
22 Findings of Fact, and then argue through each one. The Findings of Fact will be factual
23 items such as the stated height of the berm, or the list of equipment included. At that
24 time, the Board can consider conditions pertinent to the Findings.

25
26 Chair Hanley felt that the extensive discussion of Section 6.2.J covered much of what
27 Attorney Collier is suggesting. The Board is to the point of approving or denying the
28 Permit and setting conditions as deemed necessary.

29
30 Attorney Collier suggested setting Findings of Fact just on Section 6.2.J at a later date as
31 time is growing late.

32
33 Chair Hanley summarized that the Board just worked through Section 6.2.J. He
34 wondered if each individual element really needed to be re-addressed. Approval or
35 Denial of the Application is the next item to consider. Attorney Collier agreed this could
36 be done, and he suggested including a thorough review of all the Findings made so far.
37 He reiterated that findings are often written up for the Board's review.

38
39 Members of the audience argued that a final review and conclusion is not on the
40 Agenda and therefore, cannot be considered at this meeting. Attorney Collier argued
41 that the matter is on the Agenda, and therefore Approval or Denial of the matter can be
42 voted on.

43
44 Chair Hanley noted the time and the fact that this is a critical crossroad. The Board

1 would be not able to compile a Motion on a Decision on the Application before the end
2 of meeting's ending deadline.

3
4 Discussion of the logistics of another meeting ensued.

5
6 Chair Hanley felt the practicality of a public meeting in light of the Covid-19 pandemic is
7 difficult. The challenge is how to hold an important review at an important juncture in
8 the process while allowing all interested to be an active part in the process and able to
9 attend. Meeting via Zoom is a challenge for a number of those wishing to attend. A
10 number of those participating do not feel comfortable trying to hold a meeting inside.
11 The outdoor tent venue and microphone system for this meeting was expensive to the
12 Town and difficult to pull together, logistically speaking.

13
14 In context of final review and decision of the Application the Board needed to think
15 about whether having the meeting online could be possible.

16
17 Ms. Eaton felt that when the next steps were addressed, the Application in its entirety
18 will have to be fully reviewed. She felt it would be helpful if the Board were allowed to
19 review the entire Application in relation to the Ordinance. Chair Hanley agreed it will
20 call for lengthy review and discussion.

21
22 Ms. Eaton felt it was important to be given the time to go back and put it all in context.
23 Chair Hanley agreed. Chair Hanley asked if the Board would be comfortable doing such
24 a review online.

25
26 Ms. Randolph inquired if this review would involve discussion among the Board only,
27 and with no further input from any of the interested parties? She felt as long as it was
28 just Board discussion, it would be fine to do so online.

29
30 Other Board members were comfortable with holding the discussion online.

31
32 Attorney Collier suggested that if the meeting were done via Zoom, the hand-raising
33 function could be used on points of order for technical matters only. The problem might
34 be whether the Hall Quarry residents would have a fair opportunity to engage in the
35 online meeting. All interested parties must be able to see the meeting.

36
37 Hall Quarry residents asserted there would be people interested in viewing the meeting
38 but would be unable to do so due to technical challenges.

39
40 Ms. Anastasia noted that there is a toll-free number to use to call into a Zoom meeting,
41 if internet video capability is problematic. She inquired whether phoning in would be
42 sufficient. Attorney Collier did not know. He stated there were guidelines available that
43 should be reviewed.

44

1 It was suggested perhaps an area could be set up to view the meeting in a small group,
2 via Zoom.

3
4 Ms. Leston Clifford asked whether members of the public or their attorneys will be
5 allowed to raise their hand and make comment during this final discussion.

6
7 Chair Hanley clarified the Board was trying to gauge the feeling of the public that may
8 have challenges accessing the hearing online.

9
10 Ms. Leston Clifford stated that Hall Quarry has internet issues. Not every resident of
11 Hall Quarry is currently at the meeting. She did not feel the Board would get a clear
12 consensus of the neighborhood's feeling at this meeting. She asserted that many Hall
13 Quarry residents are not capable of accessing the internet to stream video.

14
15 Chair Hanley felt an appropriate accommodation might be to offer an appropriate
16 access location for anyone facing internet challenges.

17
18 A resident complained about being unable to have the most important meeting of the
19 process as a group. He requested attendees be accommodated indoors.

20
21 Chair Hanley assured those in attendance that the Town has been diligent in trying to
22 provide accommodations while covering the full spectrum of safety guidelines. There
23 are challenges to each possibility.

24
25 Attorney Collier suggested the Board decide what to do with regard to a future meeting.

26
27 Chair Hanley did not feel the meeting could be continued to a date certain. A date
28 would have to be determined by polling. The Board concurred. Ms. Anastasia noted
29 work was required to figure out the mechanics and logistics of the next meeting.

30
31 Attorney Bearor suggested those in Hall Quarry with difficulty accessing the internet
32 come to the Town Hall to view the proceedings via Zoom there. Chair Hanley agreed a
33 key point would be in providing access to those without access.

34
35 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO TABLE THE MEETING
36 UNTIL THE NEXT DATE CAN BE DETERMINED.

37 VOTE:

38 JOANNE EATON: AYE

39 DAVE ASHMORE: AYE

40 CHRISTIE ANASTASIA: AYE

41 MEREDITH RANDOLPH: AYE

42 CHAIR BILL HANLEY: AYE

43 MOTION APPROVED 5-0.

44

- 1 **IV. Other**
- 2 There was no Other Business.
- 3
- 4 **V. Adjournment**
- 5 The Meeting adjourned at 8:00PM.
- 6
- 7