

October 13, 2021
Andrew V. Hoar
578 Isaac Frye Hwy
Wilton NH.

To the Wilton Zoning Board of Adjustment,

This letter is in response to ZBA case 5/11/21-1, Isaac Fry Holdings, LLC.

The first issue that needs to be addressed is to determine if the proposed excavation is either incidental to building a single-family home or a commercial gravel extraction operation. The town, in the deed for this property, provided a guide for this by stating that the planning board must give approval to the removal of more than 500 cubic yards. The 25,000 – 35,000 cubic yard estimate is two orders of magnitude greater than what the Planning Board considered incidental to construction of a single-family home.

The 5,000 cubic yards has already transferred to a separate LLC, which is, by definition, a commercial transaction. Since this is the only property owned the LLC, the remaining gravel has to be sent to another location, not owned by the LLC. This constitutes a commercial transaction as well.

The commercial nature of the gravel operation places the operation under the restrictions of the gravel excavation district ordinance. The property is outside the gravel district, so a variance is required. The spirit of the ordinance is clearly outlined in section 9B.1 of the ordinance. This requested operation clearly violates two of the objectives outlined there.

9B.1 Purpose

The purpose of this district is to provide reasonable and substantial opportunities for the extraction of earth materials **while maintaining a safe, healthy, and harmonious atmosphere for all in the Town of Wilton**. To this end, a large area of the town which is known to contain large deposits of easily extractable gravel, and where many of the lots have been used for gravel excavation in the past, is designated to allow the removal of earth materials.

The designated area permits excavation without significant impact to the public welfare because it is in a rural, sparsely populated part of the town, with convenient access to a state highway. The topography of the area, **substantial buffer requirements**, and the limitation on maximum open excavation areas minimize the detrimental effect of excavations on the visual character of the scenic Souhegan River / Greenville Road valley.

The references to the “safe, healthy, and harmonious atmosphere” is violated on several fronts.

- 1) The purpose of the ordinance mentions safety. There are three concerns on this count. One is for the increased number of children living in the neighborhood. The second is the large number of children that come to Andy’s summer playhouse. The third is the traffic.
 - a. The neighborhood has seen a significant increase in the number of children in the neighborhood. Construction sites are always a magnet for children. The large cliffs and unstable ground present a significant danger to children. Large boulders have fallen into the driveway over the last few months. Should the excavation be allowed to continue, the entire area should be fenced.
 - b. From May to the end of August, there are a large number of children attending Andy’s summer playhouse. There are multiple sessions a day that means two trips in and out during the course of the day for each child. There are also matinees that sometimes take place during week days. This means even greater traffic during the Andy’s season. Not

only do these children play in front of Andy's, they also frequently walk down Isaac Frye to the gas station on 101 for treats. Isaac Frye is quite curvy, with limited sight lines. This increases the hazard to these children.

- c. The intersection of Isaac Frye with Gibbons Hwy is a very dangerous. The increased traffic from the gravel trucks represents a considerable increase in the danger. The trucks used to date are 8 cubic yard trucks. 25,000 to 30,000 yards represents from 3125 to 3750 trucks needed to haul the gravel. Should the excavation take 12 months, assuming 5 days a week and 52 weeks a year, this comes out to from 24 (12 x 2 in and out) to 28 heavy trucks a day. Note that this assumes year-round excavation. The 18 month time frame reduces this to 18 and 21 trucks respectively. These numbers go up dramatically if they abide by the heavy struck restriction placed on out roads during the spring. I have not calculated this as I have not found the exact dates for this restriction.
- 2) Much has been made of the duration of the graveling operation and the reduction of the 8-10 years in the 2006 case. The application does not state a duration for the gravel excavation. The only mentioned in the minutes of the duration of the graveling operation is from J. Eckstom. She stated 12 to 18 months. I will use that estimate for calculations below. Any judgement in favor of the applicant should include a duration. This is a very long period for the neighborhood to be exposed to the noise and extra traffic created by the operation.

This lot is too small to allow for the proper buffers to be maintained for the operation. The ordinance (9B.6.1) states that there should be a 300 ft wooded buffer between the excavation and any lot lines. The setback can be reduced to 25ft with the written permission of the planning board. Given the 50ft frontage for the property, It is impossible for this buffer to be maintained. The excavated area requires a zero-width driveway in order to satisfy this requirement.

One of the requirements for restoration after an excavation is that slopes be returned to a 3:1 slope. The current driveway cut is greater than 20ft in some places. A 20ft cut would require a 60ft wide slope. With a lot width of 50 ft, this is not possible. Regardless of further excavation taking place, a retaining wall, running the length of the 50ft backlot access is required to stabilize the abutter's property.

Comments have been made by the board that the neighborhood is against any development in the area. This is hard to justify since there have been three houses built along Wilson Road since the 2006 case was decided. In fact two of the houses abutting the lot are among these. It is the excessive and prolonged gravel excavation that is objectionable.

It is possible to build on this lot without taking out so much gravel. It is the choices made by the owners that make it necessary. Here are several ways to mitigate the amount of gravel that needs to be extracted. This is not an exhaustive list.

- 1) Moving the location of the house further back on the lot and using material from the house site to decrease the slope of the driveway.
- 2) Instead of having a garage on the same level of the first floor of the house, a garage under design could be used and thereby reduce the slope of the driveway.
- 3) The house site material could also be used over the length of the drive to mitigate the slope over the entire length of the drive.

Please take these issues into consideration while deliberating this case.

Sincerely,

Andrew V. Hoar