

Town of Wilton, New Hampshire  
Zoning Board of Adjustment  
Approved Minutes

DATE: October 23, 2019  
TIME: 7:30 PM  
PLACE: Wilton-Lyndeborough Coop HS Cafeteria, 57 School Road, Wilton  
PRESENT: Neil Faiman, Chair; Joanna Eckstrom, Vice-chair; Jeff Stone; Paul Levesque; Peter Howd (Alternate); Bob Spear (Alternate); Judith Klinghoffer (Alternate)  
Absent: Andy Hoar  
Staff: Land Use Administrator Michele Decoteau  
Attendees: Deb Abrahams-Dematte, Gail Agans, Sharon Akers, Eileen Anderson, Eileen A. Andrews, Natalie April, Elizabeth Auer, Karen Bailey, Chris Balch, Susan Ballou, Thomas Barnett, Dawn Beam, Jennifer Bennet Silvano Biffis, George Bixby, Patricia M. Bixby, Sharon Blackburn, Laurie Bourgoine, Ronald Brown, Joseph Broyles, Ralph Buschman, Pam Campman, Whitney Carpenter, Jessica Carson, Gail Coffey, Joe Coffey, Shannen Coffey, Elizabeth Collins, Donna Crane, Bill Crouse, Don Dion, Brian Drayton, Tim Dresser, Cheri Falk, Steve Falk, Andrew Finlayson, Dodie Finlayson, William Finlayson, Patricia Folz, Ronald Folz, Lincoln Geiger, Anthony Graham, Glynn Graham, Laura Green, Robert Hadley, Richard Hamilton, Charles Hawthorne, Gail Hoar, Bart Hunter, Sherry Jennings, Guy Johnson, Gene Jonas, Marilyn Jonas, James Jones, Stephen Jones, eQuanimity Joy, Richard Kahn, Bill Keefe, Andrew Kennedy, Patrick Kenney, Sara Kenney, Amy Klein, Linda LaDoucer, Sandy Lafleur, Thomas R. Lafleur, Barbara Mahar, Robin Maloney, Mike McGonagall, Jillian Montmarquet, Bridget Mooney, Malcohm Nixon Lynne Pentler, Merle (Mickey) Pieterse, Gail Proctor, Patricia Quaglia, Tobin Renwick, Heidi Robichaud, Lynne Rocca, Bill Ryan, Cori Ryan, Ashley Saari, Elad Sadeh, Jessie Salisbury, Don Sargent, Helen Sargent, Jon Sargent, Susan Scenna, Susan Schictal, Robin Schoen, Corey Schutzman, Kristin Schwab Sussy Rose Shields, Donald Sienkoewicz, Katja Sienkoewicz, Robert Silva, Shannon Silva, Barbara Sim Robert Sim, John Slater, Anita Smith, Maddy Smith, Monty Smith, Ruth Smith, Amy Snedaker, Tara Sousa, Matt Swindle, Leo Trudeau, Celia Tuttle, Gary Tuttle, Daniel TwoEagles, Aiyana Vergo, Karon Walker, Nancy Wallace, Lisa Wowianko, Mitchell Young, Lorey Zahn, John Zavgren

**1. Call to order by the Chairperson.**

Chairman N. Faiman called the meeting to order at 7:40 pm. N. Faiman stated that M. Decoteau was audio recording the meeting. N. Faiman said the Board may use this meeting for taking testimony and a subsequent meeting for deliberations.

**P. Levesque suggested that the Board do a site visit.**

**J. Eckstrom MOVED to have a meeting Wednesday October 30, 2019 at Town Hall. J. Stone SECONDED. Board will not take further input at that meeting, just deliberate and make a decision. All in favor.**

**2. Minutes of previous meetings**

- a) July 11, 2019
- b) Aug 13, 2019 Site Walk
- c) Aug 13, 2019
- d) Sept 10, 2019

Minutes and all other business were tabled until the next meeting.

### **3. Public hearings continued from previous meetings**

Case #: 07/09/19-1

N. Faiman opened the Public Hearing by reading the public notice:

Quinn Properties, LLC has applied for a variance to section 8.2.6 of the Wilton Zoning Ordinance to allow the construction of an asphalt batch plant and silo on Lot B-10, 50 Quinn Drive, which would be 68 and 72 feet in height respectively, where the ordinance limits structures to a maximum height of 45 feet. (Case #7/9/19-1, continued from Sept 10, 2019).

7:45 PM J. Klinghoffer and P. Howd left the table and joined the audience. N. Faiman introduced members of the Zoning Board of Adjustment to the public. Board members sitting on this case are: Neil Faiman, Joanna Eckstrom, Jeff Stone, Paul Levesque, and Bob Spear. B. Spear will be sitting in for A. Hoar.

N. Faiman framed the discussions on this case as the ZBA is NOT deciding whether the plant is desirable or not desirable. Testimony about whether asphalt plants are toxic or will pollute the water will not affect the outcome of the meeting. But, whether, according to NH law, the ZBA should relax the law in Wilton restricting height in the Industrial Zone will be helpful. The Zoning Board is looking at one question: should the applicant be allowed to build it taller than is allowed in the Industrial Zone. Please remember, this is the first step in process. If the ZBA grants the Variance, then the Applicant will have to go to the Planning Board for a Non-residential Site Plan. After that, there will be other required permits from state and federal entities.

N. Faiman explained the process for a public hearing. First the applicant describes what they want to do, why they need a variance, and why they believe the ZBA should give it to them. After the applicant has elucidated their proposal, questions will be taken to clarify the application. Once the application is complete and questions answered, then public input allowed. The applicant will be given an opportunity to respond then return to public input. Questions should be addressed to the Board.

N. Faiman said, the Board has received two dozen written submissions, and the ZBA has read all of them. Anyone is welcome to expand on what they wrote but, trust the ZBA members have read all the letters and considered them.

R. Kahn asked if the comments handed in are official comments. N. Faiman said they are in the case file and part of the official record.

K. Walker said that at the deliberation session, you usually reopen the hearing to see if anything was missed. She asked, are you planning to do that again here? N. Faiman said that this is not a matter of due process, but to make sure that we don't make blunders. But he said that the board will probably not take that action in that case but it will be decided by the Board.

N. Faiman reminded everyone that this hearing is essentially starting over and this is all new testimony. B. Keefe, applicant's representative, introduced J. Quinn (manager of Quinn Properties, LLC), Dr. Laura Green, Tom Quinn (manager of Quinn Properties LLC). They are proposing to build and operate an asphalt batch plant on lot B-10. It is a 64 acre property that is westerly of the railroad and to the north is

the Lyndeborough town line. The plant will be placed on B-10. It is zoned Industrial and there is a quarry on the property that was started before zoning and a quarry on Granite State concrete, the direct abutter. The Quinns' have submitted the plans for the operation that consist of two structures higher than is allowed in Ordinance Section 8.2.6. The batch plant will be 68 feet high and 32 feet wide. The silo is a 12 foot diameter structure that is 72 feet high, and a covered conveyor belt will connect them. The plans submitted are the same as what was submitted to the Planning Board in 1991 based on a Variance approved by this board in 1988. Access to the property is by Stony Brook Drive serves both quarries, which is also the main entrance to Atlantic Prefab. This is a private way, not a public way. Stony Brook Drive exits to Route 31. Dr. Laura Green is here to answer questions about environmental issues and toxicology if the board wants to go beyond height.

#### Public Interest

B. Keefe said first let's look at would the variance be contrary to public interest. He said this plant will look like the Brox plant on Caldwell drive in Nashua. Fredericks Pastries in Nashua is about 400 feet from the plant. J. Eckstrom asked if B. Keefe knew the height of that plant. B. Keefe said that the Batch plant there is about 68 feet. There is no silo.

B. Keefe continued, this is a batch plant because when you get an order for asphalt, you mix a batch of stone, sand and asphalt binder to make asphalt. The formula will change a little bit depending on the customer's use. A runway may be different asphalt mix than a driveway which is different than a road. B. Keefe said this variance was approved in 1988. The reason he believed there was the 45 ft height requirement was about the highest the fire department ladders would reach at that time. Wilton did not have a ladder truck until 1991. The Fire Department has a letter in the file that says the current ladder truck can go over 100 feet and they said they thought there was adequate water and they saw no fire danger.

B. Keefe said the second question for a variance is – is the Spirit of the Ordinance observed. Lot B-10 is industrial and has been used for a stone and gravel quarry for 45 years. The 45 foot height restriction is specific to the Industrial District. The Industrial District is for locating industry, to give employment and to diversify the tax base.

#### Substantial Justice

B. Keefe said the next question is substantial justice. He said there have been few if any changes in the lot since 1988. There are a few new houses in the area and an aerial photo in 1988 would look quite similar to an aerial photo today. The one thing that has changed since 1988 is that the standard for granting variances has loosened. In 2001 the Simplex decision, took into account a property owners rights to use their property as they see fit.

B. Keefe continued, using stone products from the plant is a logical extension of the current operation. The stone is onsite already. Gravel and sand make up about 95% of the finished asphalt product. Asphalt is a useful product. The Town is a significant user of the asphalt. The town paved many streets - about 2.75 miles of road this summer. Wilton has about 47 miles of paved road in total. Not included in that 47 miles is Route 31 and Route 101 that are State roads. Most of Route 101 was paved by the State this year. The Quinns think it makes sense to have the product made here since it is used here. The asphalt industry

has gone the way of many industries. There are three main companies in New Hampshire now. These companies use their own quarried materials.

The values of surrounding properties are not diminished

B. Keefe said Lot B-10 is an existing stone quarry. It is 65 acres in size. The Quinns own most of the surrounding properties. B. Keefe showed a photo and a map (Exhibit A). J. Eckstrom asked if you will be able to see the silo or the plant from anywhere off site. B. Keefe said yes from a great distance, but not from Route 31 because much of B-10 is clear but there is a thick vegetative layer. The state highway is about 1500 feet away. Houses can't be seen from the lot. B. Keefe showed a photograph looking out toward the railroad from where the plant will be situated.

B. Keefe said another factor is that this has been industrial uses at B-10 and neighboring Granite State Concrete for 45 years. The Quinns' ownership goes back to 1966. It has gone through a few changes in corporate ownership when J. Quinn's brother died and his son took over part of the partnership. In the past, there was a stone crushing hopper and that is the concrete abutments shown in the photo (attached). He said there is a certain amount of traffic right now and if it is stone or asphalt in the trucks, there won't be a big difference in the number.

No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property

B. Keefe said he and the Quinns believe the reason for the 45 foot height requirement is that the Fire Department ladder trucks at the time didn't go much higher. You can't build a modern asphalt plant less than this height due to the way these plants are designed and how it is manufactured. He said you won't be able to see this from anywhere close to the plant.

B. Keefe continued stating this is variance would not be violating the public purpose of ordinance. This will be on a small part of an industrially zoned property that is surrounded by other industrially zoned properties.

The proposed use is a reasonable one

B. Keefe said the Industrial District is for Industrial purposes. This is a permitted industrial propose. We do not believe this plant will be seen, heard, or otherwise noticeable. This is as isolated a location.

P. Levesque asked if the stone will come from the quarry. If not, how is the sand and asphalt coming into the property? J. Quinn said that this will be stone dust that will come from the quarry. P. Levesque asked, if the only thing that will be brought in is asphalt. J. Quinn said yes, it will be coming by truck. You can't use the rail.

B. Spear asked about RAP, a recycled asphalt product. Is the product going to be 100% virgin or will you need storage of recycled asphalt product. J. Quinn said that all plants will be using some RAP. There is a very small percentage maybe 10% that he expects to use, certainly at the start. B. Spear asked if most of the paving companies will be using RAP and will you be storing any of that. J Quinn said that yes, we will be using some of that. Every plant has to take part of that in as part of that sale. B. Keefe said that the recycling component is important here.

B. Keefe said he wanted the Board to consider that a substantial part of the materials being used in the plant will come from the site, the plant won't be seen by anybody close by, and people are not going to smell this and anyone who goes to Nashua gets to be up close and personal with this type of plant. We think this is not going to diminish anyone's property values.

N. Faiman explained how the next portion of the meeting would work. The public were welcome to ask questions of the applicant to clarify the application. These questions are for clarification only. Public comments would be later.

G. Graham (Abbott Hill Road, Wilton) said the trucks that are would be coming in and out of the property, what about propane and fuels to make the plant hot? B. Keefe said they would need to bring in fuel - heating oil or propane. G. Graham asked if this is brought in daily or big huge storage tanks? B. Keefe said there would storage on site. G. Graham said she has smelled and heard the Amherst Asphalt Plant, not every single time she was nearby, but when it was running. Did the Quinns build it and sell it? J. Quinn said he leased the land to the company who built the plant and they had difficulty paying us so we bought the plant. We sold the plant to Pike Industries and, along with selling the plant, we leased the quarry to Pike. After about 15 years into a 99 year lease, they couldn't make a profit so they got out of the lease. Then after he decided he wasn't going to operate the plant, he sold it to Brox who already had a plant in the area. We are in the situation, in order to operate a quarry you need an asphalt plant or a concrete plant. We need more of a market. G. Graham said, in the description of this application, how do we separate height from asphalt plant? She continued saying Mr. Keefe spent most of his presentation justifying an asphalt plant. How can you separate the plant from the height? G. Graham said Mr. Keefe even said you can't separate them. N. Faiman said the Board will make the determination of relevancy.

M. Jonas (Wilton) asked if the Quinns ever consider petitioning the town to change the ordinance. N. Faiman said that this is not a relevant question for a height variance. M. Jonas asked what kinds of fire trucks are used to put out fires at an asphalt plant. B. Keefe said the Fire Department sent a letter stating they were confident that they could put out a fire on the site.

R. Smith (Wilton) asked for clarification on the "use here what is produced here" statement. Does this mean that the Quinn Brothers will have a captive market and the town will buy its asphalt here. Will the Quinn brothers have preferential treatment in bidding? The ZBA members responded that this is beyond their scope and they had no idea what the town would do for asphalt purchasing. R. Smith asked if the Quinns will want to add additional plants on this property? B. Keefe said that at this time no. He continued and explained that asphalt plants by their nature need to be small and local.

M. Young (Stagecoach Road, Wilton) asked if the Brox plant is it an active plant and a good comparison to the output of the proposed plant. B. Keefe said it is similar but this is a question better answered by J. Quinn. J. Quinn said it is bigger than what is proposed. M. Young asked if that plant is making as much asphalt as the proposed plant. J. Quinn said that is bigger and they are doing more.

J. Slader (Cram Hill Road, Lyndeborough) said his house is less than 1000 feet from the plant. He is directly in sight line, especially when there are no leaves, with the plant and 75 feet high is going to interfere with his view.

A. Vergo (Hearthstone, Wilton), she is an environmental bio major. She said the height of an asphalt plant has been shown to correlate with the dispersal of gasses. The taller the stack, the farther it is dispersed. What would be coming off of this plant? Do we have any idea of how height affect that? B. Keefe said if the Board wants to entertain the idea, Dr. Green can answer it. A. Vergo asked if the silo was necessary for Batch manufacturing? B. Keefe said if you are making a big load, you will need to store it and the materials. A. Vergo said if silos are for storage are they necessary. She also asked if they have any idea what route trucks will be taking? She added that she knew this didn't have to do height, but how necessary are all the parts of this plant and following that, how much do we need to extend the Ordinance. J. Quinn said that one way to explain this is how trucks have grown in size. We could put up a plant that is a lot lower, but it is about efficiency. All about the efficiency. A. Vergo asked if the route of trucks was through Wilton.

S. Akers (Lyndeborough) asked a question about the map. She indicated the 1,500 foot and the 1,000 foot radii and asked what is the significance of the measurements? If we were to continue, would we going into Lyndeborough? B. Keefe said the circles are just to show how far things are from the plant. The 1500 feet radius goes just over the line in Lyndeborough. This just shows the Quinns' property in Wilton.

P. Howd (Wilton Conservation Commission) asked if they were aware of commercial mix towers shorter than 45 feet? P. Howd handed out a printout showing batch plants with towers with 12 meters tall. J. Quinn said that he looked into Aztec but it is on the drawing board and not manufactured yet. There were none in the US. P. Howd asked if they have investigated the other height restrictions in other districts. J. Quinn said they had done some research into this and some districts didn't have a restriction. N. Faiman said this is not relevant to clarifying the application.

C. Schutsman (Richfield Way, Wilton) asked how does the applicant plan to conform to performance standards? How would the applicant meet the standard to not have odor detected at the property line. N. Faiman said we are making the presumption that this is a permitted use.

S. Jones (Dale Street, Wilton) said the Fire Chief said that they would not have trouble fighting a fire. Have we considered if the Lyndeborough Fire Department could fight a fire here since it is closer to the proposed plant. B. Keefe said Wilton has a ladder truck, in the unlikely event of a fire, we would use that. We didn't ask Lyndeborough.

B. Silva (Barrett Hill Road, Wilton) asked what will the elevation of the top of the tower is. We sit topographically above the plant and would be looking right at it. Is it 680 feet roughly. B. Keefe said the base of the plant would be at about 550 feet. About 70 feet above this. Keep in mind these are not large - 12 feet in diameter. If you are 0.7 of a mile, this won't have a high visual impact.

R. Kahn (Barrett Hill Road, Wilton) asked if public opinion matters? N. Faiman said the test for finding for a variance is to look at the facts, apply the law, and come to a decision. The facts people bring to the table, but if the Boards' vote is swung by the tears, they are not doing their job.

S. Coffey (Stage Coach Road, Wilton) said that she was looking at the variance criteria and she has heard several times people wanting to say how their property values changed, but they were shut down. N. Faiman said the Board will encourage the public to share their ideas shortly, but this is the time for clarification of the proposal.

N. Wallace (Hearthstone, Wilton) said she is very concerned about the visual impact of the height. What would be helpful to her would be to see what the height looks like in the real space and with a site demonstration would be helpful. Can some sort of demonstration be set up so we can see it? To actually see what that might look like in our trees. The Board agreed that is a very reasonable idea.

T. Dresser (Hearthstone, Wilton) asked if there was any more recent plans than the late 1980s plan that was posted. B. Keefe said no. T. Dresser asked if the equipment shown on that plan is available from the same vendors. J. Quinn said regardless of the manufacturer, they are all pretty much standard. T. Dresser said he was looking for more detailed information about where they will be sited and he wants more information, and more recent information. He is nervous about old information being used to make decisions. J. Quinn said if you go to the one in Amherst, it will give you a pretty good idea of the proposed plant. T. Dresser said he was concerned about the specific information and the age of the information. J. Quinn said whether it is new or old, what we are asking for is 68 feet. He doesn't understand how the age of the plans are affects the decision. N. Faiman said they haven't changed anything about the proposal. T. Dresser said he wants to see significantly more information and more recent information. How true will this be when the info is 30 years old?

L. Rocca (Country Way, Wilton) asked if the comments from the Fire Department said they ready to take care of a fire. Do we have the skills? B. Keefe said that the letter from the Fire Department is part of the case file. He said we take them at their word. The area around where the plants will be is cleared from brush and the base is mostly stone dust.

R. Kahn asked if the applicant and ZBA members had ever considered that if there is a height restriction, that we didn't need a fire truck that is 100 feet? This is not 1990 anymore and he was sure that many people have looked the research, can we move on to the public comments. N. Faiman said that the Board will move to public comments when everyone who wanted to ask a clarifying question had done so.

S. Jennings (Hearthstone, Wilton) asked if there a possible aquifer that Wilton may want to use in that area. Where is that on the map? B. Keefe said where the plant is going to be build that is over the aquifer. S. Jennings asked if the constructions plans affect the aquifer. B. Keefe said as far as he knows the answer is no.

A. Snedaker (Hold Road, Wilton) asked why was 45 feet established in the first place? What is the spirit? N. Faiman said there is no definitive answer, but there multiple hypotheses. The Fire Department is one.

Visual impacts might be another. Some have suggested this was a back door way of limiting the size of Industrial use. There is no definitive document to his knowledge.

S. Jones (Wilton) asked how many tons of asphalt can a 72-foot silo hold? J. Quinn said 400 tons. S. Jones asked if there could be two smaller batch plants. Could the same capacity be achieved with two smaller plants? What structurally makes the batch plant need to be 68 feet tall? J. Quinn said everything has to drop down in to a truck so it has to be directly overhead. S. Jones said is there no mechanical way to make them shorter? J. Quinn said no that is what the manufacturers say.

J. Coffey (Stagecoach Road, Wilton) had questions about studies about the movement from toxic fumes from the higher the plant. The higher the silo the greater dispersal. He is concerned about the gasses and fumes, and we have not had any actual real studies been done to give scientific studies and not assurances. He wants to hear about local conditions, weather patterns, topography and specific to this location.

W. Carpenter (Hearthstone, Wilton) asked if the variance requested included all the needed height for the emissions. B. Keefe said I think that is correct. W. Carpenter asked if we know that height in this location or will they ask for the smoke stack be raised to meet other requirements? B. Keefe said if we needed to have a taller stack, then we'd have to come back for another variance.

C. Balch (Center Road, Wilton) asked if we could go to public comment? N. Faiman said the Boards wants to give everyone a chance for clarifying questions.

R. Hadley asked if the silo they are asking for is 74 feet. Is that the top of the silo or does that count the safety rails? B. Keefe said no that is just silo. R. Hadley said then you are asking for an additional 4 feet and he said at this height do you need lighting? B. Keefe said no this not tall enough for aircraft lighting. R. Hadley said that by NH law, this has to be lit 24 hours per day. B. Keefe said they not aware of this but we can light this if need be. R. Hadley said he used to work for Granite State, by emsha rule it has to be lit 24 hours per day for trespassers. The Amherst is not a silo plant, they are a batch plant. The silo at 78 feet will need to be lit. J. Quinn said whatever we have to do, we will put in the lighting. The total height is 72 feet.

J. Slader said there are four people in the room with elevations of 75 feet and we will be looking at the plant and the lighting. J. Quinn said no one will see it. We will see it. J. Quinn said that the height is such that he didn't see how they could see the plant.

D. Finlayson (Heald Road, Wilton) asked if this application presumes that you can ask to break any law that we've had for a long time. N. Faiman said the way a variance works is that this is an escape valve. The state law provides a framework for the how this works. D. Finlayson asked if we have a height of 45 feet allowed and the five criteria needed for a variance, how can you possibly talk about this variance? What is it allowing? Is it allowing a building exactly? Is it exactly like the building in Amherst? It is a little like the building in Amherst? It is very imprecise. One of the most egregious of this is B. Keefe's assertion about the fire trucks and yet he is unable to find anything. Yet there is lots of information in plans and minutes from that time. This process is confusing. Not sure if you are giving a variance to the



whole property. What if the Quinns sell this property? None of this is clear. And yet you are asking for clarity from the towns people.

M. Smith (Lyndeborough) asked how the height of the towers affect the dispersion of particles and in what direction are the pollutants and particles blown?

A. Finlayson (Wilton) asked if the expert was being paid by the applicant? N. Faiman said she was hired by the applicant. We know that every expert has some point of view. Someone who studies a topic has some knowledge. A. Finlayson asked if this expert had expertise in air transmissal?

A. Vergo reiterated her questions for the expert. *How is the height going to affect dispersal patterns? What chemicals are we going to deal with? How you actually fight a fire in an asphalt plant.*

A. Kennedy (Wilton) said that the Board consistently cut people off who wanted to talk about something other than height. Why is a toxicology expert talking about something other than height? N. Faiman said a questioner asked about the change in the height and how it affects environmental issues. A. Kennedy asked J. Quinn if this variance was about making more profit. Is that the primary reason for the variance?

Dr. Green said there is a concept for all sources of emissions called GEP, Good Engineering Practice Height that is a fixed ratio to the width of the building. If the stack is too short, it will be like an inversion, emissions form a wake and the emissions could rain down. The fundamental reason this has to be 68 feet is directly a result of GEP - to avoid downwash and have proper dispersion. This has nothing to do with toxicology. Someone mentioned a shorter plant that would be a terrible idea. It would be dangerous.

A Vergo said she was asking about toxicology and asked what is dispersing and where is it going? Things come off the conveyor belt. The height alone could warrant an environmental impact study - if we are building this at the proper height for good dispersal, we don't know how this is affecting our air.

Dr. Green said it is very well known, what is emitted from hot mix asphalt plants. The EPA extensively studied two plants in 2001 (one in CA, one in MA), with many published studies and we use this to scale down. The fundamental emissions are dependent on the fuel used. The major determinant that determines the characteristics of the emission is the fuel that is burned to heat the rock. The emissions from a hot asphalt mix plant is similar to other types of plants due to the type of fuel. If and when this variance is granted, she assumes she said she expects Mr. Quinn will put forth a detailed plan before the Planning Board and at that time there will be details such as precisely what the configuration of the plant is going to be, what the fuel is going to be, what the hours of operation will be and at that time, one runs a dispersion model - they are done at the property line and going out - if air quality standards are violated at any point, it is a nonstarter. J. Quinn said they will have to site it somewhere else or make less. There are a lot of details and it is a process and it is frustrating that this isn't all done at once. But it is a process.

A. Vergo said she appreciated Dr. Green's answers. The height has a pivotal role in air pollution. We need a much more detailed look at the fuel and plans that are 30 years old and numbers in their twenties. A much more detailed look is entirely necessary when looking at height.

N. Faiman opened the meeting to general comments. He reminded the attendees that things directly relevant to the height variance will be considered.

T. Dresser (Hearthstone) said was concerned about the lack of a site study that would include topography and the height of the stack and that is relative to the size. How is the air going to flow around that? I am uncomfortable looking at old plans and trusting they're accurate.

J. Slater asked if it is possible to get a yay or nay. N. Faiman said no, the Board is not making a decision. J. Slader said he meant that if the public people are in favor of this or not.

C. Balch (Center Road) said he was a science teacher for years and taught chemistry and physics. He wanted to talk about the essential character of the neighborhood. Within the 2 miles of the plant, the EPA sets that as the toxic zone and within that zone are Goss Park and two schools, over 200 residential homes. The neighborhood as it exists fits the master plan vision and an asphalt plant does not. He cited a study about health. He cited statistics about health concerns of people living close to asphalt plants. Wilton's neighborhoods and the changes since 1988. We are more environmentally conscious. We know more about pollution. NH didn't have the highest rate of pediatric cancer. Do we need another industry that contributes to this? Urges the board to not approve.

G. Graham (Abbot Hill Road, Wilton) said she looked at the ZBA handbook and the Land Use Laws to learn about this. She understands the five criteria for granting a variance. They were reiterated in 2009. She will address the spirit of the ordinance. There isn't any specific information about height. In 1981 Milford Cabinet Journal, it is clearly stated that the town was going to rewrite all the zoning regulations in town. What they articulated is what moved them connecting them to spirit of the ordinance. She quoted from the article. The height ordinances isn't specifically mentioned but while much has changed, this part has not changed. The Regional Master Plan speaks the need to balance rural character, sense of community balanced with economic opportunities. She quoted from various master plans and how they all want to preserve the rural character and how they wanted to restrict certain industries. This is absolutely contrary to the height restriction and the whole land use document and master plan. Clearly there was intent to restrict certain uses. This is contrary to the whole Master Plan and Land Use documents.

M. Jonas said she wanted to speak to hardship criteria. The applicant has to show their property is substantially different than others in the in the zone and it has to be unduly burdened. She looked at soil types with NRCS and Granite state's proper has the same soil type and slope. Looking at aerial photos it is indistinguishable from neighboring properties. Since they've been using the property for a nonconforming use for many years.

S. Akers (chair of Conservation Commission in Lyndeborough) read the letter from the Town Administrator and Select Board. The letter is part of the file.

R. Brown (Isaac Frye, Wilton) wanted to point out lines of sight. The lowest point on the map is the route 31 but this is also where the land drains into stony brook. When the leaves are down he can see in to the Quinn property. Occasionally he gets a misdirected package and goes to his neighbors and they are higher

in elevation, they look down on the Quinn property. He walks his dog in this area and there is a vast swath of land that will have sight lines. When there is blasting going on, there isn't any buffer. Because we have a valley, as Dr. Green mentioned, there is an inversion cycle and it is obvious with the diesel trucks in the area. Route 31 only handles a portion of the traffic, the private drive is where the truck drivers leave the property, they go on Isaac Frye, which is very narrow. Traffic may be more numerous if there is an asphalt plant. There is a lot that goes into the flat map - there is topography, pollutants, and traffic. All this will impact property values, both the Quinns' and the neighbors.

L. Geiger (Temple Conservation Commission) said they sent a letter but Monandnock region starts in Wilton and it is important to keep this in a peaceful community setting as it is today. As other towns build up, we need to keep as clean as possible for recreation. We would be able to see it at night if there is a light on. If we had a serious incident of fire, we have concerns and that needs a close look. If there is burning asphalt, would foam be needed? We know that a large portion of Merrimack was contaminated from foam. This would be a serious mistake to have an asphalt plant in close proximity to

M. Brown (Hearthstone) said as a truck driver, he feels that we are not prepared for the traffic. Large trucks will be tearing up the roads.

S. Coffey (Wilton) said unfortunately we thought we had more time and would not have purchased her house if there was an asphalt plant in the town. There will be people wanting to move to Wilton, if they hear that there is an approved Asphalt plant in Wilton. This will cause property value decline.

P. Howd (Wilton Conservation Commission) said there are batch plants available that meet the height restrictions and therefore this would not restrict them using their property. The Con Com letter went through a lengthy analysis of the hardship section. To sum up, financial advantage is not the same as financial hardship. Wanting a silo and a 68 batch plant because it provides economic advantage is different than economic hardship. The Conservation Commission is strongly against this.

R. Folz (Stiles Farm, Wilton) asked three questions of the Board.

1. What is the benefit to the town?
2. What is the benefit to the citizens?
3. If there is no answer, please think on that in your deliberation.

S. Shipple (East Road, Temple) said this was already approved at 48 feet. She asked for clarification.

A. Finlayson (Heald Road, Wilton) wants to thank the board for all the time they put in to protect the town. It is not just the members of the Board today but the boards in the past who came up this law. We should not be defending this. The 45 foot law protects the town. Things have stayed pretty similar and we want to keep it that way. How can you say that after the plant is built we will figure out what the pollutants are, it is a crucial part of deciding about the height.

R. Kahn said he looked at the height restriction like the speed bump subtly that remind us to not speed. The 45 high restriction is the same thing, it subtly reminds us to keep our rural character. It is interesting

that the expert is telling us about how we will be protected from the nastiness coming out of this plant. He urged the ZBA to enforce the law.

B. Keefe said he appreciated all the comments. He reminded everyone that they drove here on asphalt. We think there are certain benefits of it and we have certain property rights to use our property and capitalism, better or worse, makes the world go round.

G. Agans (Hawthorn Drive, Wilton) is concerned about how high the dispersal is compared to the height of the cliff and if it is high enough not to have an inversion. The height is not just in ratio to the width but the topography has an impact. What is the elevation of the cliff and the elevation of the stack?

L. Rocca said she lives close enough that when they blast, the dirt comes to her house. No matter how tall the stack is, it will come to her house. She is not affected by the dust as much as she will be the dispersal of material. Traffic is of concern. The track is in rough in shape. This is going to add to traffic. You are going to have some impact. If a gravel truck tips over, you get a loader, if asphalt tips over, what happens. Is this worth it to Mr. Quinn and his family. They have owned the property and have been good to Wilton. It is this worth it?

G. Graham said she lives on Abbott Hill, but wants to mention the children who swim at Goss Park and this variance is just for height but it implies everything else.

J. Coffee (Wilton) said there is new technology for scrubbers that since this is burning hydrocarbons. It is something we should look at and if everyone else has the hardship of property values and health. This should be considered.

L. Geiger said he noticed the night time paving and if we have a big paving project like we did in Nashua, this won't be pleasant sleeping. I think that is a serious consequence. Nighttime nuisance.

S. Coffey said she is concerned about the application and rail transportation and how it is economically viable because of rail transportation. But in the meeting they have said that this is going to be just trucking and how the rail is not viable. J. Quinn said he has no control over the rail line. He said that we can run 150 trips per day per acre according to the law. S. Coffey the most numbers of the pollutants are released when it loaded and transported.

M. Jonas said J. Quinn assures us that he would never run more than 150 trips but this variance runs with the property and we have no idea what a new owner would do.

A Vergo said the trucks don't go through downtown, but they do go right by the school.

D. Finlayson asked is the variance only allowed if the building of the plant is according to the plan submitted. N. Faiman said usually have he language we use restricts the building to what was submitted. The variance would be for a particular asphalt plant built to a particular plan. D. Finlayson said she wants to be sure she understands that is only allowed to build the specifications shown in those drawing. Why is

the whole issue of this variance being granted, why is this continually brought up by the applicant as if this was relevant today?

A. Finlayson asked the Board about what happens if this is granted. Would it encourage other LLCs to move into the area? N. Faiman said variance are determined by the particular conditions of the particular case. They don't sent precedents.

K. Walker (Wilton) said you don't get the right to build the plant that is on those plans. An applicant has to go through the Site Review and Planning Board process. The performance standards have to be met. N. Faiman, said thank you for reminding everyone of that. As was stated at the start of the meeting, this is the beginning of the process. If the Quinns get relief from the Zoning Board, they still need to go through the Planning Board, they still need to get Building permits. There are many other processes that take place between today and plant that is fully built.

N. Faiman asked the board if they wanted a site walk or a balloon test. B. Spear requested a balloon test and leave it there for one week allow to people to get visual record of the impact. Ms. Rocca asked if a computer based program could put a building on the photo. N. Faiman said the photo recreation may not be as easy as we think.

The Board discussed the logistics of a balloon test. J. Quinn asked if this would solve anything. The Board asked the Quinns to determine if this was possible. The Quinns requested that people take photos. Put up the balloons on Thursday November 7 through Monday November 11, 2019.

It was requested to have lighting on the balloon test but that was not going to be practical. The test is not going to be scientific, but just to help people determine if they will see the plan.

**B. Spear MOVED to continue hearing to Nov 12, 2019, at 7:30 PM at a location to be determined and continue hearing only if balloon test happens. All in favor.**

J. Klinghoffer said she was concerned that the Board is not going to take public comment between deliberations by reopening the hearing. She doesn't see the rationale to deviate from the process here. It strikes her as unnecessarily troublesome. N. Faiman agreed that it looks like this case would be treated differently. The Board discussed this. This meeting format is not a statutory requirement but a habit.

- 7) **Other new business**
  - a) Budget for 2020
  - b) Calendar

8) **Communications and miscellaneous**

9) **Adjournment**

**B. Spear MOVED to Adjourn at 11:32PM. P. Levesque SECONDED. All in Favor.**

Respectfully submitted by Michele Decoteau, Land Use Administrator

Approved on 12.17.19

# Quinn Properties LLC

