

**Dresden Planning Board**  
**P. O. Box 30**  
**Dresden, Maine 04342**  
**Meeting minutes for Monday, December 20, 2021**

**Present** – Jeff Pierce (Chairman), Dan Hanley (Vice Chairman), Peter Elvin, Steve Stone, Dawn Pallis, and Teresa Simpson.

Jay Cummings was absent.

Others present – Richard Condon (Applicant), Michael Dekker, Dave Probert (Lin. Cty. Historical Society), John Matzke, Cameron Ferrante (Atny for Mr. Matzke), Ryan Cote, Don Swift, Debra Swift, Jake Swift, Bob Call, Carolyn Call, Bob Noonan, Mari Connors, (abutting landowners) Allan Moeller (3rd Selectman) and Shari Lilly (recording secretary).

**NOTE:** As per order of the CDC and the Governor, relaxed CoVid-19 guidelines are being applied.

Meeting was opened at 6:30 p.m. by Chairman, Jeff Pierce. The Pledge of Allegiance was recited.

**ITEM #1 - Review minutes of December 06, 2021** - Dan made a motion to approve the minutes as written; Steve seconded and the motion passed by a vote of 5 - 0 with one abstention (Jeff).

**ITEM #2 – Continuation - Richard Condon – Gravel Pit – Ludwig Road – Request for amending of existing Conditional Use Permit – Map R06, Lot 067** – Jeff reminded everyone that, realizing this is a contentious issue, all persons present should be civil and understanding of others.

A request to speak by Cameron Ferrante who is here to represent abutting landowner, John Matzke, was granted by all members of the Planning Board. Mr. Ferrante has prepared a written statement (available at the town office), of which he has submitted a copy to the PB, which presents some different facts and information for the concern of the noise from the proposed crusher. He states that it would be harmful to the health of the neighbors and it doesn't fit in this rural area. He adds that the existing CUP already states that Mr. Condon cannot use a crusher so he is urging this Board to deny any changes. He noted that the Board was planning an unannounced decibel test at a pit in Windsor, of which the information could not be used. With that, Mr. Ferrante offered to answer any questions or discussions. Jeff reported that the site walk did NOT occur, we have guidance from our attorney (copies are available at the town office), and we already have taken all the information and discussions. Mr. Ferrante strongly urges that the Board not approve the request due to the facts he has given. John Matzke, noting that Mr. Condon wasn't supposed to do crushing, asked why he is now being allowed to ask for a change. Jeff replied that he wasn't censored, but was given conditions on his permit. Mr. Ferrante also asked why he can now ask for a change. Why would he need to make a change now. Did his business change. Jeff responded by saying that we hear from all people who put in a request. Anyone with a CUP can come to the town and request a change. Ryan Cote noted that a rock crusher will not operate less than 85 decibels. There are many things that can affect noise levels. People are not supposed to have it run for a long period of time. He adds that it would be a hindrance to the neighbors. Jeff said that our ordinances set the limits. The other pits in town that use crushers also have to meet those limits. Mr. Cote said we can also have a sound meter app put on our cell phones. If they are on their property lines and hold their phones up to take a reading would you accept that? Jeff asked what would set the sound limit? How could we verify it would be coming from that site? Mr. Cote wasn't sure. Jeff added it would be up to the CEO to verify the sound with a meter which the town owns. Mr. Cote then added that the readings can be verified by apps on the phone. Mr. Ferrante noted that in the September or October meeting, the PB had issued a condition that no hauling in of material would take place. Is that still the case. Jeff said yes and that is off the table.

*Steve* said that when he worked at B.I.W. there was a lot of blasting, etc. and they had a technician

come in to do a calibration. Perhaps the phones would be okay, but he would prefer a person who is qualified to do the testing. Mr. Matzke asked if the CEO goes to the site and tests the noise level which ends up being more than the 85 decibels, would Mr. Condon have to stop using the crusher? Jeff said absolutely he would. Mr. Matzke then asked if the CEO knows that. Steve replied that he is quite sure he does. Jeff added that the CEO is the enforcement arm for the PB.

*Teresa* asked Mr. Condon how often he would be crushing. Mr. Condon replied he would only do it when he has enough material in a pile. Teresa then asked him to give hours or days. Mr. Condon said probably no more than 3 - 4 days. It is only a small crusher; like a claw. Teresa asked if he felt he would be running it every day. Mr. Condon replied it is a portable crusher that he would probably only use 2 - 3 (possibly 4) days in a month. Jeff asked that if he had a stockpile of 200-300 yards, how long to crush it? Mr. Condon said less than a day. Jeff then asked him how long it would take to stockpile enough. Mr. Condon replied it would be about 2 - 3 weeks unless he has it in his banking. Jeff asked how much would he have in a pile. Mr. Condon said about 500 yards which he can crush in 2 - 3 hours so it's not like a crusher would be in there all the time. Mr. Ferrante wasn't aware that it would be a portable crusher which would mean that someone would have to notify the CEO when it would be in use. He added that the PB would need to have limitations on the hours and days of use so the CEO would be able to be present when it is in use.

*Peter* asked about concerns regarding the road as that had been mentioned at a previous meeting. He also questioned about the stockpiling and that there was to be talking between Mr. Condon and Jake Swift on these issues (the amount of stockpiling and the road). Jake Swift said they talked a little about them, but came to no conclusions. Jeff noted that one of our road commissioners is here tonight to address some of these questions.

*Allan* Moeller (3rd Selectman & one of the town road commissioners) said Mr. Condon has done everything he was asked. He does have the signs requested for posting which the Selectmen are supposed to put up. Plan a speed limit of 25 which he feels confident will be followed. Other than that, he has complied with everything that was required of him. He added that the Swifts have done the work on the rest of the road as the town doesn't maintain it and hasn't been asked to do that. *Jake* Swift said he doesn't have an issue with the crusher, but he would like to have the town take over the maintenance of the road up to the pit. His issue that he and a couple of others chipped in and did all the work on the rest of the road and doesn't think it would be fair to have damage done to the road that he has put a considerable amount of money into. Jeff reminded everyone that Mr. Condon, as agreed to previously, is responsible for any damage to the road. However, Mr. Moeller said that is hard to enforce as it is a public road. The town would need to make the road suitable for traffic. Jake said it would not be a burden to individuals, it would come from taxpayer money, which is what that is for. Dave Probert asked if Mr. Condon is allowed to haul material in. Jeff replied Mr. Condon cannot bring material in, only what is in his pit. Mr. Probert added that it was his understanding that a dirt road has to be of certain specifications in order to be taken for maintenance by the town and would have to be paved. Mr. Moeller responded that in this instance, it wouldn't apply as it is already a dirt road. It would behoove the town to take it up to that area. He added that he would have to present this issue to the other selectmen. It would be about another 700' and the town would need an easement from the owner (Mr. Condon) to have a turnaround. *Debra* Swift noted that the sides of the road were supposed to have turnouts. What he did for those were not done properly and not of good quality. Mr. Moeller said that could be addressed. Jeff asked Mr. Condon if he would take care of the road up to Jake Swift's property and also allow the town to put in a turnaround. Mr. Condon said he would be willing to give an easement and do the work from his driveway to Jake's. He has a letter stating that, if he is approved for the crusher, any damage done by his trucks, he will make sure to maintain the road according to the specifications and approval of Jake Swift. If not approved, he will hang on to the letter.

*Steve* said along with that, he would have to provide a turnaround for trucks or other vehicles. Mr. Condon said he would do that at his pit entrance. Steve then asked Mr. Moeller if that would be large enough to which Mr. Moeller replied that it would.

*Jake* Swift asked if the PB would be voting on this tonight or wait until the Select Board has gotten approval to take over the road. Jeff said the Board will probably make their decision tonight. Allan

Moeller suggested the Board should decide on the crusher issue before the road issue goes to the Select Board. Jeff agreed and asked if we need more information before we make our decision.

*Dan* mentioned that we've been to the pit and he questions how much Mr. Condon will be able to get out of it if it hauls hard. He feels it could be done in a couple of years. Mr. Condon replied that, as he doesn't work the pit all the time, it could be even longer than that. Dan then asked how much he thinks he could get out of it as it doesn't appear there is a lot of tailings. The reply was it depends. *Peter* suggest limiting the hours of crushing as he feels it is a valid point to wait until Mr. Condon has a significant amount of tailings for crushing in order to make it less disruptive to the neighbors. In asking Jake Swift about the discussion on this at a previous meeting, Jake said he had suggested having it limited to 1000 yds. before he could begin crushing which would limit the amount of time the crushing is being operated. Plus it wouldn't be practical to fire up a crusher for lesser amounts.

*Teresa* added that, objectively, it is only feasible to do it for a limited amount.

*Mr. Matzke* asked where he would get the tailings from. Jeff told him they would come from his pit. It is the material left from when he screens the rocks for the size he needs. Whatever is left will be stockpiled. Nothing will be brought in.

*Mr. Ferrante*, in noting that a road bond had been mentioned, asked if it is applied each year. Jeff replied that it is not. That is not something that is required by any others and we treat everyone fairly. Mr. Ferrante then asked if the crusher could or would be placed within 150' of the abutters. Jeff said that the pit cannot be operated within 150' of the abutting property. Allan Moeller then gave examples of the pit owners in Dresden who use crushers. He also mentioned that it depends on where the crusher is located in a pit and what the surroundings are that affect the noise level. He feels, as a town official, he would like the PB to do the meter reading first. The Town of Dresden has a certified meter at the office. Jeff asked him where it would be done. Allan said that is up to the PB, but others suggested to do it 'at the source'.

*Steve*, in explaining that he is very familiar with gravel pits as he grew up near one, and that he has looked over all the paperwork from the beginning of the pit in 2016, said he understands about the noise that comes from them. It can depend on how the crusher is located. He would like to have a meter reading done at the site. He feels that's the only way to find out for sure what the pitch frequency and energy levels would be. He would like to have the CEO position the meter at a 4' level to make sure the noise is compliant with the 60 DBA limit. He doesn't want to make a judgement call on something we don't have all the facts on. Dawn was in agreement with his assessment. Teresa asked if there are any other studies done for DBA in pits around here that we could use as a comparison. Jeff said those others are in different areas and different sizes, so they would not be compatible. The only way to do a sound study is to put the crusher where he plans to use it, then take the pit walls, trees, etc. into consideration.

*Mr. Matzke* asked how we would know it's coming from his pit. Jeff said we would see him do the process. Allan Moeller mentioned that a former CEO, Rick Lang, did a test at Glenn Jacob's pit which required Glenn to put in berms and he could only crush during certain hours. However, once it was lower in the pit, it changed the sound level. Mr. Condon added that Glenn's crusher had an older engine on it which was much louder, but the newer ones are less noisy.

*Jake Swift* asked if Mr. Condon has to be 150' from the property lines, is it correct that he can't use the hole that is there. Jeff replied that he is not allowed to use that. He added that we also have to take our ordinances into consideration.

Jeff made the following motion:

Minimum stockpile of material to be 500 yds.

Crusher to be used in the lowest part of the pit or a berm will need to be built before any substantial crushing can be done.

CEO & Road Commissioner(s) to take a meter reading on an optimal day that is agreeable with all parties.

If his crusher doesn't meet standards, his CUP would be withdrawn.

Hours of operation would be from 8 a.m. - 6 p.m. (M-F).

Road to be fixed from Jake Swift's to the Condon pit.

Grant an easement to the town for a turnaround accessible by trucks, busses & other vehicles

Teresa seconded.

Dan asked if the Board could use Mr. Condon's letter as liability for the road and easement. Allan Moeller stated that he highly recommends, as a Selectman, that this Board not approve something when a study has not been done and no public notice of when it will be done has been given. He doesn't want the PB to do this as it would be making Mr. Condon do work with the possibility of the crusher not passing. With that, Jeff asked Mr. Condon if he would be amicable to bring his portable crusher into his pit to do a couple of loads on a day when the CEO & road commissioner(s) can be present. Mr. Condon is in agreement, but he is not agreeable on putting a berm on the downhill side. This test will need to be done in the Spring. With that, Jeff retracted his previous motion and Teresa retracted her seconding of the motion. This project will be tabled until the Spring when the crusher will be brought into the pit so the CEO & Road Commissioner(s) can do their meter testing and report back to the Planning Board the results of the test.

Mr. Condon requested a letter of approval to bring the crusher into his pit in the Spring. Jeff told him we will send a letter to him giving permission for the crusher to be brought in the Spring for sound testing after the roads are no longer posted. At that test, the CEO & Road Commissioner(s) will be present. They will write a letter of their findings to send back to this Board which will be read at our regular meeting.

Mr. Ferrante has requested notification of when the test will be done and he would like the opportunity to respond to the test and the meeting. Jeff noted that the CEO and Road Commissioner(s) will be our arbitrators and no one from this Board will be present at the testing. Notice of the test will be provided, but attendees must stay at the property lines.

**ITEM #3 - Old Business - a.) Dresden Land Use Ordinances - Mobile Home Ordinance -**

The final draft of the ordinance addition was approved by all members. Peter motioned to accept it as presented; Teresa seconded. The motion passed by a show of hands from all those present and voting. This will be sent to the Select Board. Steve mentioned there will also need to be changes to the licenses, such as setting a renewal date, as this new ordinance addition requires that. Jeff mentioned there are other parts of our ordinances that need to be address. Many of which will come back to the PB.

**ITEM #4 - New Business – None.**

**ITEM #5 – Other Business – None.**

**ITEM #6 - Adjournment –** Jeff motioned; Dan seconded. So voted at 8:00 p.m.

Respectfully submitted,  
Shari Lilly (Recording Secretary)