



James Dykema
Grand Rapids Gravel
November 25, 2019

Richard VanderKlok
Georgetown Township Clerk
1515 Baldwin Street
Jenison, Mi 49429

Re: Appeal of Mineral Mining Board Motion #191120-03 to Township Board

Mr. Richard VanderKlok:

On November 20, 2019, The Mineral Mining Board voted to adopt a resolution for Grand Rapids Gravel's (GRG) Mineral Mining License Application 1902. Within that resolution, the board both denied certain conditions requested by GRG and approved conditions that were offered by GRG contingent on being approved for all requests in the application. Grand Rapids Gravel had no intention to offer to forego their mining rights in the future nor be held to a timeline without knowledge of the wells without a license that allowed for material to be imported from Plainfield Township. The mining board wrongfully disregarded the contingency aspect of GRG's application.

Subsection (2) of Sec. 26-84. Enforcement, (e) of the Mineral Mining Application allows applicants to appeal the decision of the review board to the Township Board. This letter is Grand Rapids Gravel's appeal of the review board's decision.

Grand Rapids Gravel's appeal is based on the following:

Condition Number 6

Starting on line six of this condition, "The Board understands that GRG has offered to forego excavation of the area of the wells if not approved by EGLE." The offer by GRG was contingent based on being approved to import material from Plainfield Township. This offer was made to ease the concern of the additional material from outside Georgetown Township 'extending the life of the mining operation'. By denying that request and leaving GRG with the uncertainty of being forced to abandoned 300,000 tons of valuable gravel in Plainfield Township, GRG is unwilling to forego our rights to extract valuable minerals from this site specific to a timeline.

Condition Number 10

The Board states, "The Township Zoning Ordinance does not permit industrial uses in the RR or LDR districts and the Board finds that the proposed importing and processing of 300,000 tons of material from the Boulder Creek Site would constitute an industrial operation that is not permitted in the zoning districts comprising the Site." Nowhere in either the township zoning ordinance or the townships mining



ordinance is the importation and/or processing of sand and gravels materials defined as an industrial operation. In fact, it is indicated elsewhere herein, Georgetown Township has permitted the importation of material for mixing and processing with native material without regulation. Grand Rapids Gravel has been conducting such operations until very recently for more than 60 years. The interpretation now placed upon such activities as an industrial use is unwarranted, arbitrary, and capricious. Mixing of offsite materials to obtain marketable road and pavement mixes is considered to be an acceptable part of sand and gravel mining operations.

Grand Rapids Gravel has come to the following conclusion: By the Board approving the continuation of importing material from the local Cedar Valley site (condition 7), the Board is approving what it claims to be an industrial use of this site. To limit the location from which material is brought for processing is arbitrary and capricious.

Grand Rapids Gravel would again like to point out that this has been a permitted use of importing material to the site for processing both before the Mining Ordinance was adopted and while the Ordinance has been in effect.

At a meeting in 1999, "Moved by Dick Meyers, seconded by Greg Honderd, to permit Grand Rapids Gravel Co./Ottawa County Road Commission, 1405 Taylor, to process broken concrete on site, as shown on the site plans dated July 20, 1999, as long as mineral mining is taking place on the site. When mineral mining is no longer taking place on the site, processing broken concrete will no longer be permitted." The Mineral Mining Ordinance defines Mineral Mining as, "The excavation, removal or processing of sand, gravel, clay..." There is no question that the site in question has always remained a Mineral Mining Site and should continue to be allowed to import material (both broken concrete and gravel) to the site as precedent states.

Condition Number 13 Part One (Traffic)

The condition reads that in a September 3, 2019 memorandum GRG stated that importing 200,000 tons of material would take roughly 3,750 trucks and that by increasing the amount to 300,000 tons it would therefore increase the number of trucks and thus create a safety issue. The condition fails to mention that the memorandum also addresses that for efficiency purposes, GRG would haul in heavy and haul out heavy during this period. Thus, a very high percentage of the 4,000+ truck trips needed would not in fact increase the daily number of trucks on the haul route. The trucks that would have come in empty, would instead enter the site with gravel. This does not add an increased threat of safety or congestion on the route to the site.

Condition Number 13 Part Two (PFAS)

The condition states, "The Board finds no that no proof has been presented regarding the final extent of the PFAS contamination in Plainfield Township, nor are there any assurances that materials extracted site from the Boulder Creek Site, which are proposed to be brought onto the Site for processing, are not or will not be contaminated, or pose any of the health or public safety risks associated with PFAS."



The Board has been provided with lab results conducted by an FTC&H geologist with over thirty years of experience. The Board has been provided with letters from two different EGLE experts in regards to PFAS at the Boulder Creek site. All communication and results show zero detection of PFAS or reason to believe there is any contamination at the site. The Board should find this information as assuring as any other gravel that could potentially be mined within Georgetown Township and should not allow it to be a determining factor in a decision. GRG has provided the only serious data for arriving at a conclusion in this matter. Accordingly, denial on the stated basis is unsupported, and again is arbitrary and capricious.

Condition Numbers 15, 16, and 17

As noted previously, GRG's proposed Restrictive Covenant was contingent upon the importation of material from Boulder Creek. Without the approval of that condition, the Board should understand GRG rescinds the proposed timeline for a hard date of when all material would be excavated on the site.

Condition Number 19

Condition 20 notes that the Board finds GRG's reclamation schedule acceptable and reasonable (condition 19). Condition 19 subsection d. indent iii. States, "Remove concrete under the processing plant and crush said concrete onsite in lieu of hauling all broken material offsite."

In the acceptance of GRG's reclamation plan, the Board has once again allowed an interpreted industrial use on the property of crushing broken concrete. This acceptance should be noted and used to show an exception to the zoning ordinance.

Condition Number 20

Grand Rapids Gravel has had the operation at the site in question for the entire existence of The Mineral Mining Ordinance. At no point during the last 19 years, has Grand Rapids Gravel been required per Section 26-81 to post a performance guarantee. GRG made an offer to post a \$50,000 bond with the hope to show the Board the commitment that GRG has to finishing the operation and reclaiming the site to standard.

However, Grand Rapids Gravel does not find the Board's acceptance of staff's recommendation of a \$200,000 performance guarantee reasonable. No other mining operation in Georgetown Township, specifically adjoining properties have ever had to post a performance guarantee. GRG does not believe they have acted in bad faith with the proposed end use of the Bend in the River Project and should not be held to a much higher standard than any other compatible operation in the project area.

Conditions 21 and 22

These conditions are improper and inappropriate for the reasons that GRG is not required to construct the park. GRG is only required to leave the land as required by subsection II. C. of The Bend Area Park Site document, where it is noted that, "The direct result of mining is the potential for creating a distinct and uniquely attractive landscape."



Condition Numbers 25 and 26

The condition reads that the Board finds, as a condition of approval, crushing shall not be permitted at the Site. The reasoning provided was because it is an industrial operation and not permitted in the zoning districts of the site. However, as mentioned previously, GRG had been approved in multiple licenses to import broken concrete and crush the concrete onsite while mining operations were ongoing.

Conclusion

Grand Rapids Gravel has always worked in good faith with Georgetown Township and the Ottawa County Parks Department, and we look forward to a meeting with The Township Board to address our concerns surrounding this matter.

As outlined above, Grand Rapids Gravel appeals from the arbitrary and unreasonable conditions imposed by the mining board's resolution. The conditions are not data driven, disregard the working history of the site, disregard the fact that GRG has operated the site for 60+ years without violation or complaint, and disregard the fact that crushing and importation operations have been conducted on the site for 40+ years. We request that The Township Board approve the mining license based upon the conditions and operating factors proposed by GRG and overturn the decision of the mining board.

James Dykema
Grand Rapids Gravel