

EX#313-5



RECEIVED

DEC 19 2024

Land Use Department

TOWN OF LEDYARD
APPLICATION FOR
PLANNING & ZONING COMMISSION REVIEW

Application Number PZ#23-650P Submission Date Official Receipt Date

FEE: 560.00 DATE PAID 5/2/23 RECEIPT # 575046

Applicant/Agent Dioret Gardner, Inc (Please Print Legibly)

Signature: [Signature]

Address: PO Box 335 Ledyard CT 06335 Telephone 860-61-7455

E-Mail Address: DIOR.E.GARDNER@YAHOO.COM

Owner Name (if different): Bel Holding Company LLC

Address of Owner: 1358 Brown Hill Rd Telephone 860-460-0767

Location of Work (Street Address) 1340 Brown Hill Road

Tax Assessor's Map 1340 Block 140 Lot 1340 Zone

Is this property within 500 feet of another municipality? Y N CAM Zone Y N

Existing Use Quarry CAM Exempt Y N

Special Permit Site Plan Review Regulation Change Zone Map Change
CAM Review Other:

Details: EXISTING ROCK QUARRY, APPLICATION IS SIMPLY TO SHOW WHAT IS PROPOSED ON A SITE THAT HAS HAD THIS TYPE OF ACTIVITY SINCE PRIOR TO THE ADOPTION OF ZONING REGULATION

Approved by Date

Denied by Date

2. EXISTING UTILITY LOCATION ARE APPROXIMATE ONLY. ALL UTILITIES MAY NOT BE SHOWN. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO CONTACT "CALL BEFORE YOU DIG" AT 1-800-922-4455 PRIOR TO INITIATION OF ANY WORK. UTILITY SIZE, MATERIAL, AND LOCATION AS PER RESPECTIVE UTILITY AUTHORITY.

3. INLAND WETLANDS ON THIS PLAN AS SHOWN ON PLAN ENTITLED SUBDIVISION PLAN BALDWIN RIDGE INDUSTRIAL PARK PREPARED FOR B & R HOLDING COMPANY, LLC BALDWIN HILL ROAD LEDYARD, CONNECTICUT SCALE: 1"=80' AUGUST 2011 SHEET 2 OF 6 REV "A" DRAINAGE AND CONSERVATION EASEMENT 10-31-11 REV "B" PER TOWN ENGINEER'S COMMENTS 11-28-11 REV "C" CONSERVATION EASEMENT LANGUAGE 2-28-12.

4. THIS PLAN HAS BEEN PREPARED TO ADDRESS SECTION 8.16 OF THE ZONING REGULATIONS. **USE OF THIS PROPERTY IS FOR PROCESSING AND REMOVAL OF ROCK/STONE/GRAVEL/SAND AND OTHER MATERIALS THAT HAS BEEN ONGOING SINCE PRIOR TO ZONING REGULATIONS BEING ENACTED. WHERE STONE IS BEING REMOVED, GRADES EXCEED 20% IN PLACES, WHEN STONE REMOVAL OPERATION IS COMPLETE, SITE WILL HAVE A GRADE OF LESS THAN 2% AND GREATLY INCREASE THE SITES USEFULNESS.**

5. A CONSERVATION EASEMENT EXISTS ON THIS PROPERTY. THIS CONSERVATION EASEMENT AREA SHALL BE PRESERVED LAND IS NOT TO BE DEVELOPED WITH BUILDINGS OR PAVED PARKING/DRIVEWAY AREAS. THIS EASEMENT AREA, WITH APPROPRIATE REGULATORY APPROVAL, MAY BE USED FOR LANDSCAPED AREAS, SEPTIC SYSTEMS, EROSION CONTROL MEASURES, STORMWATER FACILITIES INCLUDING, BUT NOT LIMITED TO, DETENTION BASINS, WATER QUALITY BASINS, PIPING, DRAINAGE STRUCTURES, BIO-RETENTION, LOW IMPACT DEVELOPMENT STORMWATER MEASURES AND ACCESS DRIVES FOR MAINTENANCE OF SAME.

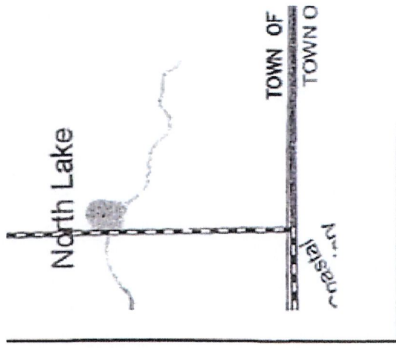
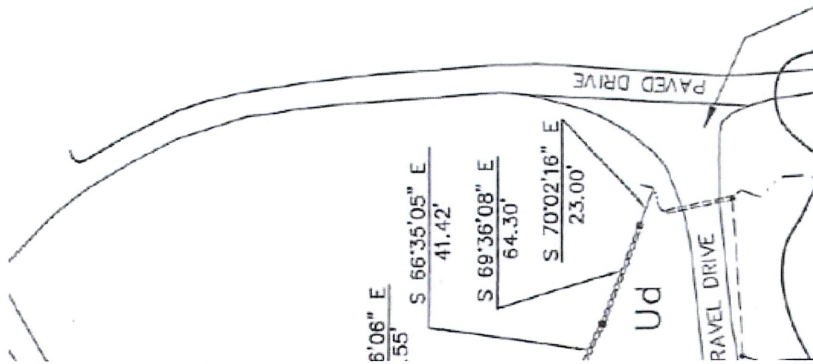
6. ON SITE SOIL TYPES ARE (ADRIAN) CdD (CANTON), GrD (CHARLTON), CcB (CANTON), Ub (UDORTHMENTS-PITS), Ud (UDORTHMENTS-URBAN) AND Wd (WALPOLE).

7. THIS LOT DOES NOT INCLUDE LAND AREAS WITHIN THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S 100-YEAR FLOOD HAZARD AREA.

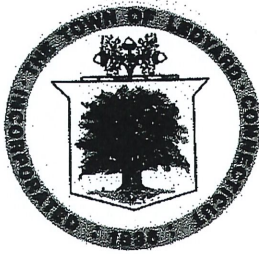
8. NO IMPACTS FROM THIS PROPOSAL ON EXISTING/POTENTIAL SURFACE AND GROUND DRINKING WATER SUPPLIES.

9. NO CHEMICALS/POTENTIAL CONTAMINANTS WILL BE PRODUCED OR STORED ON SITE.

10. PLAN OF OPERATION:



PZ# 23-6SUP
EXHIBIT #9



TOWN OF LEDYARD
Department of Land Use and Planning
Juliet Hodge, Director
741 Colonel Ledyard Highway, Ledyard, CT 06339
Telephone: (860) 464-3215
Email: planner@ledyardct.org

MEMORANDUM FOR THE RECORD

June 8, 2023 PZC Meeting

Property Address: 1340 Baldwin Hill Rd, Gales Ferry, CT
Application: #PZ23-6SUP – Special Permit Approval - Excavation
Applicant/Owner: B&R Holding Company, LLC
Lot Size: 20.6 acres (896,900)
Lot Frontage: Approx. 280ft on Baldwin Hill – but access is not off frontage
Zoning District: CIP
Public Water/Sewer: N/A
Wetlands/Watercourses: Occur on the site.
Flood Hazard Zone: No.
CAM Zone: No.
Public Water Supply Watershed: No.
Proposed Public Improvements: No.
Legal: #PZ23-06 SUP Submitted to Land Use Office on 5/02/23. Received by PZC on 5/11/23.
Public Hearing to open 6/08/23.

EXISTING CONDITIONS and HISTORY:

- The Property is currently being used for the removal of rock, stone, gravel, sand and other material. The owner has contracted with a company to provide aggregate to support the off-shore wind project in New London. Applicants state that the use has been ongoing since prior to the adoption of Zoning Regulations in 1963.
- There is no direct access to the property from the frontage. Access appears to be provided from the gravel roads that originate on the abutting parcel to the north – 1348 Baldwin Hill – which is owned by Terra Firma Inc. not B&R Holding Co. as well as an additional access point off of the gravel road that runs alongside several parcels. Though not in common ownership, both parcels appear to be associated with the excavation activity.
- More than half the site is involved in the current operation. Recent activity has included blasting of the ledge which drew complaints from neighboring properties and prompted a review of the file to determine whether the use was actually permitted.
- A review of the file provided some insight into what the historic use has been, what approvals were given and what limitations were in place. There is some evidence of a material processing operation since the 60's, but this involved the processing of materials brought from off-site. There have never been approvals for "excavation" or a quarry on the property. The only "approval" for activity on the subject parcel was for the processing and re-sale of materials brought from off-site.
- A court document mentions the use of **1352 and 1354R** (separate from 1322 (now 1340)) as "a sand and gravel bank" – not 1322.

- The court documents also mention **long periods of no activity** on the "Vivirito" property which is the subject property in this application. Aerial photos of the parcel also demonstrate little activity until 2010 or so.
- A 1997 Appraisal of the property described the property as "**vacant land – limited gravel and stone crushing operation**" consistent with the off-site material processing use described.
- In 2011, Chris McLaughlin of B&R Holding Company requested a letter from the Zoning Official at the time confirming that their "gravel operation" on 1322 Baldwin Hill was a grandfathered use. (Note: A portion of what was 1322 Baldwin is now 1340 Baldwin Hill Rd.) **In a letter dated 4/2/2011, Mr. McLaughlin describes the operation on 1340 Baldwin as "receiving rock, gravel, and topsoil and recycling these items into useful products."**

The Zoning Official brought the matter to the Zoning Commission in 2011 and they voted to approve Chris McLaughlin's request to "**process topsoil, gravel, dead sand, and concrete from off-site sources**" at the site located at 1322 (now 1340) Baldwin Hill Rd. The minutes from that meeting confirm that a gravel operation existed prior to 1963 and that the "manufacture of gravel from the parcel" was a lawful pre-existing use of the property. It was represented to the Commission that **prior to 1963**, the activity was "**the acceptance of raw material from off-site**" which was then processed into gravel and removed from the site. There would be no filling on the property – that is all material would be removed after it was processed. This particular activity was never formally abandoned and is therefore grandfathered.

- **This is the important part...**

- The chairman also acknowledged that the part of the gravel operation that involved the **processing of material "from the site" was also a legally existing, non-conforming use, and as such could continue, but not be expanded.** The current proposal clearly represents an expansion of this particular use!
- There were conditions about the use of the rock crusher as well. Manufacturing was and is a use that is allowed in the CIP Zone, but the activity must occur indoors. In this case, the Chairman felt that any outdoor "manufacturing" of gravel i.e. activity involving the use of the crusher etc. would be considered non-conforming. He then stated that any increase in outdoor activity including more frequent truck trips or rock crushing and processing of material from OFF-SITE sources into gravel did not constitute an "intensification" of use (though I assume he meant "expansion" as intensification of a non-conforming use is generally permitted and exactly what the chairman described). There was no discussion about the processing of on-site material or quarrying by the Commission as that was not the permission being sought.
- Despite all the various documents, there is some question as to what activity was occurring where and did it involve quarrying as far back as the early 60's. The only mention of Quarrying was on a 2007 Real Estate Contract. No other documents or photos support the prior continuous quarry use on precisely the subject parcel since 1963. This activity on the 1340 Baldwin Hill parcel did not appear to start until around 2010– well after the adoption of zoning. The only approved blasting on file was in conjunction with the site preparation for the Self-storage facility on the adjacent property.

PROPOSAL: Excavation including the processing and removal of materials found on-site. Proposal is not clear on the total amount of rock to be blasted and processed. Hours of operation proposed



TOWN OF LEDYARD

Planning and Zoning Commission

741 Colonel Ledyard Highway

Ledyard, CT 06339-1551

PH: 860-464-3215

Email: planner@ledvardct.org

VIA CERTIFIED MAIL: 7017 1450 0002 0797 1674

September 18, 2023

Peter Gardner
Dieter and Gardner
1641 Route 12, PO Box 335
Gales Ferry, CT 06335

RE: Application PZ#23-6SUP of Dieter and Gardner, Inc, 1641 Route 12, Gales Ferry, CT 06335, for a special use permit at 1340 Baldwin Hill Road, Gales Ferry, CT 06335, **for continued processing of earth materials and removal of ledge material.**

Dear Applicant:

At the Planning and Zoning Meeting on September 14, 2023, the PZC **APPROVED** your above-referenced application with the following conditions.

1. Prior to the expiration of the permit, or prior to the issuance of any renewal, the applicant shall provide a "Closure Plan" prepared and approved by a licensed professional engineer that includes details of final grading and planting of the site to prevent erosion at the conclusion of operations in accordance with the State of Connecticut "Guidelines for Soil and Erosion and Sedimentation Control" as amended. The P&Z Commission, or its authorized representative may require a bond until said area is stabilized.
2. The operation shall not result in conditions that could be characterized as unsightly such as open pits, rubble, or other indications of completed digging operations which would have a deteriorating influence on nearby property values, or which would impair the reasonable reuse and development of the lot for purposes permitted under the Regulations for the CIP Zone.
3. Blasting shall not be conducted prior to 11:00 AM or after 4:00 PM and efforts to limit the size of blasting "shots" shall be made as is practicable.
4. Screening, sifting, washing, crushing, or other forms of processing shall only be conducted upon the premises between the hours of 7:30 AM and 5:30 PM, Monday through Friday, and Saturdays 9:00 AM and 5:30 PM. There shall be no operational activities on Sundays and the following holidays: Christmas, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day.

5. Measures shall be taken to minimize nuisance from noise, dust, vibration, and flying debris; all trucks shall be covered for off-site transport.
6. Per Section 8.16(F): Before a permit is granted to an applicant starting an operation regulated by Special Permit under this Section, the applicant shall post a bond to the Town of Ledyard in an amount and form approved by the Commission to guarantee that the premises shall be excavated, graded and landscaped in conformance with the approved Plan of Operation.

Any person aggrieved by any decision of a board may take an appeal to the superior court for the judicial district in which the municipality is located per Section 8-8 of the Connecticut General Statutes. The appeal shall be within fifteen days from the date the notice of the decision was published as required by the general statutes.

Notice of this approval will be published in The Day on September 19, 2023, and this will commence a 15-day appeal period.

If you have any questions regarding this application, please do not hesitate to contact me at Town Hall, (860) 464-3216.

For the Commission,

Makenna Perry
Land Use Assistant