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June 15, 2015

Town of Lamoine  
Att : Selectboard  
606 Douglas Highway  
Lamoine, ME 04605

Re : Gravel ordinance

Dear Board Members,

I have reviewed draft 8, the draft 8 notes prepared by Stu on June 1, 2015 and the minutes to your June 8, 2015 meeting. It so appears to my clients and I that you are not considering any changes to the setback provisions from a property line regarding the existing gravel pits.

This issue is probably one of the most important issues to my clients, if not the most important issue. My clients urge you to return to the setback language that existed prior to the changes made in 2013 and place the issue to the voters without further delay. This is one issue where my clients and I feel the use of their lands were unjustly taken and time is running out before they have to take legal actions to protect their rights and interests.

Stu's memo read : *Section 8A – No changes are proposed to the setback provisions. It should be noted that the current gravel ordinance defaults to a 100-foot minimum setback, but provides for a 50-foot setback, though the applicant has to go through some hoops to do so. One of them is that a Site Plan Review permit has previously been granted, and all the currently permitted pits had received such a permit, to the best of my knowledge.*

The hoops that my clients have to go thru to regain the use of their property are, and I quote the current ordinance:

- 1) The parcel or part thereof on which the gravel pit is located had been granted a Site Plan Review Permit for a gravel pit;
- 2) The owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting parcel;
- 3) Excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration)

- 4) The area within the buffer strip anticipated to be excavated during the life of the permit must be specified in the application and will be considered as part of the pit; and
- 5) Reclamation of the area designated in (4) above must be completed prior to the expiration of the permit.

The biggest obstacle in the current ordinance is receiving permission from the abutting property owner. Previous to 2013, if the abutting property owner had granted permission, the pit owner could dig within 10 feet of the property line. Now you say we can dig to within 50 feet with written permission. We have to stay 100 feet away otherwise.

**To summarize, the current setback language applied to existing pits is unfair and will be viewed by our attorney as a regulatory taking if we have to turn to the court for a decision on this matter. I urge you to put to the voters language consistent with the ordinance prior to 2013 giving a 50 foot setback to the property line without permission and a 10 foot setback with permission.**

We have conceded to many of the changes made to your ordinances over the years, but this issue stands out.

Regards,



Stephen R. Salsbury  
Owners agent

/s  
Pc. Edmund Bearor, Esq.  
Owners