

**AGENDA
PLANNING BOARD
SEPTEMBER 9, 2019**

**AGENDA ITEM #3D
CONTINUED APPLICATIONS – PUBLIC HEARINGS**

**TWIN STATE SAND &
GRAVEL CO, INC., C/O
WARREN AMES,
ELM STREET WEST
(Tax Map 116, Lots 2 & 3),
zoned IND-RA & R-3
PB2019-07-EXT**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

PLANNING BOARD

September 9, 2019 Meeting

Staff Memorandum – #PB2019-07-EXT – *continued from 8/12/19*

APPLICATION INFORMATION

Agenda Item: 3.D

Application ID#:
#PB2019-07-EXT

Application Type:
Request for Extension of Site
Plan Approval for an Industrial
Planned Unit Development

Property Location:
Elm Street West, Seminary Hill, &
South Main Street,
West Lebanon

Property Owner/Applicant:
Twin State Sand & Gravel Co.
Inc.

Property Size:
+/-64.7 Ac. (116-2)
+/-26.5 Ac. (116-3)

Zoning District(s):
Industrial Rail Access (IND-RA)

Overlay District:
Wetlands Conservation District

HEARING NOTICE

TWIN STATE SAND & GRAVEL CO. INC., C/O WARREN AMES, ELM STREET WEST (Tax Map 116, Lots 2 & 3), zoned IND-RA: Request for an extension of time in order to obtain building permits for the Iron Horse Industrial Planned Unit Development, originally approved on April 22, 2013 (#PB2011-32-SPR), which consists of the ten (10) Industrial Sector lots within the Iron Horse Planned Business Park. #PB2019-07-EXT

APPLICATION MATERIALS AND OTHER ATTACHMENTS

- ▶ New materials (included with 9/9/19 Staff Memo for #PB2018-06-EXT):
 - Letter from Megan Carrier, Esq., of Sheehan Phinney, to City staff, dated August 20, 2019
 - Application for Waivers
 - Attachment to Application for Waivers
- ▶ Materials included in the 8/12/19 agenda packet, available on-line at: <https://lebanonnh.gov/AgendaCenter/ViewFile/Item/6800?fileID=14353>
- ▶ Materials included in the 6/10/19 agenda packet, available on-line at: <https://lebanonnh.gov/AgendaCenter/ViewFile/Item/6461?fileID=13867>
- ▶ Materials included in the 5/13/19 agenda packet, available on-line at: <https://lebanonnh.gov/AgendaCenter/ViewFile/Item/6317?fileID=13734>

WAIVER REQUEST

Subsequent to the Planning Board's discussion on August 12th, the applicant submitted a request per Section 7.1 ("Waiver of Regulations") of the Site Plan Review Regulations to waive the requirements of Section 4.10.C which restricts subsequent extensions unless the City's legal counsel determines, in essence, that the applicant has obtained constitutionally vested rights to complete the project.

Pursuant to Section 7.1, the Board may grant a waiver from any portion of the regulations if it finds that (A) strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations; or (B) specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

STAFF RECOMMENDATIONS

The Board should consider whether the conditions for a waiver are met here, and if so, whether it is appropriate to waive for some definite period the time limitations that would normally apply for satisfaction of the conditions precedent.

If disposed to granting a waiver, the Board should determine the period of time within which the applicant must complete all conditions precedent or the approval will expire. The Board may also want to consider setting milestones for completion of particular conditions and/or submission of particular documents within that time.

If the Planning Board moves to approve this request, the Planning & Development Department recommends that the Planning Board approve the application with the following conditions:

1. The applicant shall comply with all conditions of the Planning Board's Notice of Action for the Twin State Sand & Gravel Co., Inc., c/o Warren Ames for the development of the Iron Horse Industrial Planned Unit development dated April 22, 2013.
2. Building Permits shall now be obtained for the project in accordance with the revised phasing schedule [*date to be determined by the Planning Board*].
3. The waiver is not granted as an extension under Section 4.10.C of the Subdivision Regulations and no vested rights have been obtained related to this project.

cc: Twin State Sand & Gravel Co. Inc., applicants/property owners (via e-mail)
Rod Finely, P.E., Pathways Consulting, LLC (via e-mail)
Megan Carrier, Esq., Sheehan Phinney (via e-mail)
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