

**Members Present:** Matthew Morton (Chair), Russ Cooke (Vice Chair), John Newick, and Edna Mosher.

**Also Present:** Bernard Pelech, Esq. (GSM), William Creighton (GSM), Jim Collins (Sprague Energy), David Holden (City of Portsmouth), and Tom Morgan (Newington Town Planner).

**Commencement:** Morton commenced the meeting at 7:06 PM. Morgan announced that the Secretary had gotten the meeting date mixed up due to the holiday, and was unable to make it to Newington for the meeting. Morton asked Morgan to take the minutes. Morton announced that board member Frink was also unable to attend the meeting.

**Minutes of January 2, 2002:** Cooke moved to adopt the minutes, Mosher seconded. Morton noted that John Frink had informed him that the minutes should reflect that Frink believed that Sprague had met the hardship criteria. Board members concurred that Frink had, in fact, expressed that view. A vote was called. All voted in favor of adopting the minutes as amended.

**Application of Granite State Minerals (GSM):** Morton observed that less than a full complement of board members was present (four were present instead of the usual five). Morton asked Attorney Pelech whether he would prefer to proceed this evening or to postpone the meeting to a future date. After conferring with his client, Attorney Pelech stated that he wished to proceed this evening.

Attorney Pelech presented the proposal. As was the case in 1996, GSM proposed to truck salt from downtown Portsmouth to GSM's property at 193 Gosling Road. He stated that access to and from the river is blocked by the B&M Railroad. He explained that in the past, the B&M only permitted liquid products to be pumped (underneath the tracks) from the river to the GSM parcel.

Pelech stated that most of the salt would be trucked from the NH State Pier on Portsmouth's Market Street Extension. Trucks would travel via Woodbury Avenue or via the Spaulding Turnpike, whichever route the Town preferred.

Pelech stated that GSM is proposing to transport considerably less than the 5,000 trucks per shipload that Sprague Energy had proposed on January 2. Pelech estimated that the trucks would transport between 1,200 and 3,600 tons of salt per day. He stated that Craig Wheeler, Director of the State Pier, had indicated a willingness to mandate trucking during off-peak hours.

Attorney Pelech then addressed the five criteria for a variance. He stated that there is a hardship because the railroad blocks access to the river, hence an industrial use dependent on ocean-going traffic is not possible. There would be no diminution of property values of abutting properties because the abutters were all heavy industrial in nature. Substantial justice would be done because the salt's application to highways serves a public purpose. The spirit and intent of the ordinance assumes access to deep water, and that is not the case here. The proposal is also in the public interest, as evidenced by GSM's willingness to utilize alternate truck routes.

Mosher pointed out that the number of truck trips would be twice as many as presented because each truck would enter *and* leave the Gosling Road site. Pelech concurred.

Newick asked if this salt would be overflow from GSM's Market Street property. Creighton responded that this variance application is primarily for salt from a PDA facility, and that it would be a short-term operation.

Pelech estimated that the greatest number of trucks necessary to transport salt from any one shipload would be about 3,000. Morton asked if he was referring to salt at the NH State Pier. Pelech replied in the affirmative.

Mosher asked if there is enough room in Portsmouth to store the salt there. Pelech replied yes, but Creighton added that dock space is very valuable and that the PDA wishes to keep the pier available for transitory use for other cargo.

Creighton acknowledged that the proposal would create no new jobs. Pelech stated that GSM is willing to pay an impact fee to offset the cost of repairing and maintaining Gosling Road.

Morgan noted that a Town-sponsored traffic study in 1999 (conducted by professional traffic engineers Edwards & Kelcey) predicted a deteriorating Level of Service at the intersection of Gosling Road & Woodbury Avenue. Pelech responded that the impact of GSM's proposal on that intersection would be negligible.

Mosher asked what other trucks utilize Gosling Road east of Woodbury. Creighton replied that PSNH coal trucks utilize the road.

Mosher asked for clarification on the route trucks would take. Creighton responded that trucks transporting the salt from Portsmouth to Newington would follow routes designated by the Town, but that trucks carrying salt out of Newington could not be controlled in a similar manner.

Morgan asked about the feasibility of transporting salt from Portsmouth to Newington via rail. Pelech indicated that the B&M was a difficult company to negotiate with, and Creighton added that the erection of loading facilities for rail would be prohibitively expensive. Morton then closed the public hearing.

**Deliberations:** Cooke moved to approve the request as advertised. Newick seconded the motion. Mosher stated that her main concern is safety. No matter which route the trucks utilize, they will pass many shoppers, businesses, and low-income housing.

Morton asked Pelech if he would be willing to limit the Gosling Road storage to 120,000 tons. Pelech replied that he viewed such a limitation as reasonable. The board then addressed the five variance criteria:

1) **Diminution of Property Values:** Newick saw no diminution in light of the industrial nature of the abutting properties. Other board members concurred.

2) **Public Interest:** Mosher and Cooke stated that the proposal does not satisfy this criterion. Cooke cited truck-generated noise, air pollution, traffic safety issues, congestion, and wear & tear on local roadways. He stated that those negatives outweigh the benefit to the public which would be the provision of salt for highways. Newick disagreed, stating that he did not view it as a problem.

3) **Hardship:** Morton and Cooke stated that there is a hardship present because of the difficulty of accessing the river. Mosher speculated that the property could be reasonably used for other uses, and that the application as presented would cause more harm than good.

4) **Substantial Justice:** Cooke reiterated the "Public Interest" argument cited above. Mosher concurred.

5) **Spirit & Intent of the Ordinance:** Cooke noted that the proposal called for an industrial use in an industrial area.

**Decision:** Morton called for a vote. Cooke, Newick, and Mosher voted no. The motion failed. The request for a variance was therefore denied.

**Adjournment:** Mosher moved to adjourn. Cooke seconded. All in favor. The meeting adjourned at 8:42 PM.

Respectfully submitted,  
T. Morgan, Acting Sec'y