

**CARROLL COUNTY BOARD OF APPEALS**

**IN RE: GREEN ROCK QUARRY APPEAL**

**FINDINGS AND WRITTEN DECISION**

The Board conducted a formal hearing in connection with the above-styled appeal on Thursday, February 11, 2021 at a specially called meeting. A quorum of the Board was present. After hearing evidence and public deliberation, the Board made a decision (4 to 1) to deny Green Rock’s appeal. Pursuant to the provisions of the Carroll County Code Section 13.10, the Board now formalizes findings and written opinion. The evidence admitted as part of the record was stipulated to by the parties.

**ISSUE PRESENTED**

The attorneys for Green Rock L.L.C. (“Green Rock”) and Carroll County stated the issue for decision by the Board as follows:

1. To uphold the decision of Mr. Ben Skipper denying an application for a certificate of zoning compliance and a commercial building permit to Green Rock; or
2. To reverse the decision of Mr. Skipper and grant Green Rock’s applications.

**FINDINGS**

The Board makes the following findings from the hearing, to-wit:

- 1.

The property which is the subject of Green Rock's applications is currently zoned in the agricultural zoning district under Carroll County's Zoning Ordinance. Green Rock made several inquiries with Carroll County beginning in the early part of 2020 regarding the potential for surface mining and removing minerals in an agricultural zone of the County.

2.

The term "quarry" is not defined in the zoning ordinances of Carroll County. The County provided evidence that prior to the enactment of zoning, one quarry and construction aggregate processing facility operated by Vulcan Materials was "grandfathered" in the County. Vulcan Materials' operation was zoned industrial by the Carroll County Board of Commissioners when the County's Zoning Ordinance and map were enacted in the 80s. Subsequent to the enactment of zoning, there are three operations which remove minerals from the land and truck them offsite for sale and/or later processing. These three operations are located in the agricultural zoning district. There is a **material difference** between the mining activity being conducted in the agricultural zoning district and the application for a quarry and construction aggregate processing operation by Green Rock. Pictures were introduced showing this difference and especially the fact that the Vulcan operation actually processed rock and produced other products on site.

3.

Written evidence indicated that Green Rock inquired with County officials regarding what type of mining operations could be accomplished in an agricultural zone. The County Engineer and the Planning Department indicated that a variance would be required in order to conduct quarry operations at the site; rather than simply removing minerals from the site. Although Green Rock presented evidence that it was instructed to provide information for a Development of Regional Impact (DRI) for potential review of the site and objections related to the potential regional impact of this use, there was no written evidence that the County ever provided Green Rock with a certificate of zoning compliance, “zoning compliance letter”, or any other type of formal approval indicating that its proposed activities including a quarry and construction aggregate processing facility were authorized in an agricultural zone.

4.

Throughout the summer and early fall of 2020, Green Rock continued to spend money on testing, site review, design, and related due diligence based upon oral discussions with elected and appointed officials of Carroll County.

5.

On the 10<sup>th</sup> day of November, 2020, Green Rock formally applied for a certificate of zoning compliance and a building permit to place a construction trailer on site. The application was denied and this appeal ensued.

6.

The County had previously defined “vested rights” in its Zoning Ordinance, indicating in Subsection 5.13 of Section 102-5 that those rights begin when an

application for a certificate of zoning compliance is filed with the County along with the required documents and information. An application for a certificate of zoning compliance is included in the County's permit application packages including the application for a building permit.

7.

Green Rock contended in the appeal that it had "vested rights" by relying upon oral statements from Carroll County officials, and the County's written requests for information from Green Rock to accomplish the DRI process. On August 4, 2020, the County clarified its Zoning Ordinance to define "rock quarry"; indicating that it had to be within an industrial zoning district and containing other requirements.

8.

Green Rock claimed that one requirement, a 1,000 foot buffer, rendered the site unusable for quarry operations by Green Rock.

9.

Green Rock ultimately closed on the proposed quarry site property on December 17, 2020 and paid \$1,810,100 for it.

10.

During all of Green Rock's due diligence process, money was spent by Green Rock without filing any formal application for zoning compliance requesting the proper zoning approval from Carroll County.

**DECISION**

After a review of the evidence, and testimony at the hearing, the Board formally DENIES Green Rock's appeal and upholds the decision of the Carroll County Director of Community Development in his written denial of the permit application of Green Rock, L.L.C.

This \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Patricia Whatley  
Carroll County Board of Appeals

ATTEST:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Recording Secretary  
Coweta County Board of Commissioners