

City says Pike can't mine site of quarry

Westbrook's appeals board deals a setback to the company's expansion.

By ELBERT AULL, *Staff Writer*

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WESTBROOK — The city stripped Pike Industries on Wednesday of its right to mine its quarry on Spring Street, the latest action in the 16-month battle over the gravel company's plans to expand the site.

The Zoning Board of Appeals' decision is sure to face a court challenge as Pike attempts to build a \$5 million asphalt plant at the quarry.

"We had asked one thing of the city of Westbrook – that was that we be treated fairly. This is definitely unfair," said Tony Buxton, an attorney for Pike.

Opponents of the expansion hailed the decision as a major victory.

"We have rules here in the city and they weren't obeyed," said Warren Knight of Westbrook Works, a coalition of businesses and neighbors that includes Idexx Laboratories.

Pike has a quarry at the Five Star Industrial Park on Spring Street and an asphalt plant and quarry on Main Street. It wants to build a plant at its Spring Street quarry and sell its property on Main Street.

Westbrook Works opposes those plans, saying an expansion would stifle growth in the high-tech sector and harm nearby residents' quality of life.

The appeals board's 5-0 decision stemmed from a dispute between Pike and Westbrook Works over whether the gravel company had grandfathered rights to mine the Spring Street quarry and build an asphalt plant there.

Westbrook Works claimed the company and its predecessor at the site, Blue Rock Industries, have mined the quarry illegally for decades. Members sought an opinion from the city on whether they were right. Code Enforcement Officer Richard Gouzie determined in January that Pike could mine the property, but not build an asphalt plant there.

Both sides appealed his decision and the ZBA spent the past four months poring over documents on the matter.

The board ruled Wednesday that Blue Rock never met the conditions placed on its ability to work the site by a zoning appeals board in 1968.

The board also decided it did not have the legal authority to consider Pike's argument that the city's failure to step in when Blue Rock continued to mine the quarry implied acceptance of the activity.

Chairman Philip Brown called the outcome "unsatisfying," despite the unanimous vote. He said the city had "countless opportunities" to look into the issue over the past few decades, but never made the effort.

"This is a personally unsatisfying result," he said in a prepared statement.

Now that the board has taken the company's right to mine the quarry, the city could fine Pike for running its business there. A court will likely decide whether the board's decision is enforced.

Pike sued earlier this year seeking a court order to prevent the city from blocking its expansion plans. The lawsuit was held up while the appeals board weighed the issue.

The Planning Board is also considering a proposal to rezone the Five Star Industrial Park, where the quarry sits, from industrial to manufacturing – another decision that could kill Pike's expansion plans and will likely be settled with the lawsuit.

Buxton said the board should have been allowed to consider that city officials have let Blue Rock and Pike mine the site.

"It really is mind-boggling that you can take away somebody's permit and not consider the fact that you've let them operate for 40 years," he said.

Staff Writer Elbert Aull can be contacted at 791-6325 or at:

eaull@pressherald.com