

Enfield Planning Board – Meeting Minutes
DEPT OF PUBLIC WORKS/MICROSOFT TEAMS
PLATFORM
August 10, 2022

PLANNING BOARD MEMBERS PRESENT: David Fracht (Chair), Dan Kiley (Vice-Chair), Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Brad Rich, Jim Bonner (Alternate and Videographer), Whitney Banker (Alternate)

PLANNING BOARD MEMBERS ABSENT: Tim Jennings, Linda Jones, Kurt Gotthardt,

STAFF PRESENT: Rob Taylor- Land Use and Community Development Administrator, Whitney Banker-Recording Secretary

GUESTS:

Microsoft Teams: Alison Findon & Richard Smith, Bill Murray, Bob Benson, Cynthia Twombly, Tod Lloyd, Coreen Macie, Judith Freedman, Louise Rauh, Richard Karash, Tom Shemanske, Caroline Simon

In-Person: Dr. J. H. Theis (Enfield Conservation Commission), Barry Cunningham (34 Spring Valley Dr, Grantham, Abutter), Nicole Schlask (38 Spring Valley Dr, Grantham, Abutter), Chip Haley (32 Hickory Overlook, Enfield, Abutter), Wendy Wormwood (33 Hickory Overlook, Enfield, Abutter), Mary Wormwood (33 Hickory Overlook, Enfield, Abutter), Art Conkey, Cathy White (9 Lark Pl. Enfield, Abutter), Ellen Antell (305 Road Round the Lake, Enfield), J. Antell (305 Road Round the Lake, Enfield). Steve Schneider (55 Evenchance Road, Enfield), Erik Mortensen (8 Lark Place, Enfield), Robert Somes (13 Spring Valley Dr, Grantham), Al & Pat Lambert (75 Whitetail Ridge, Grantham), Rebecca Meyers (19 Loon Drive, Grantham), Susan Terwilliger and Michael M. (63 Whitetail Ridge, Grantham), Shirley Green (69 Algonquin Road, Enfield), Hubert Reynolds (30 Spring Valley Drive, Grantham), Liz Sauchelli (Valley News), Ed Morris (Town Manager), Bernard & Christine Conroy (32 Spring Valley Drive, Grantham), Celie Aufiero (Enfield Zoning Board of Adjustment).

I. CALL MEETING TO ORDER:

Chair Fracht called the meeting to order at 7:01 p.m. and took a “roll call” of members present for attendance.

Chair Fracht asked guests to please sign in on the sign-in sheet if they had not done so. Chair Fracht elevated Mr. Bonner and Mrs. Banker to voting members for tonight.

II. PUBLIC COMMENTS:

Chair Fracht asked if there were any comments on subjects other than the gravel pit hearing to address the board. There were none.

III. SELECTBOARD REPORT: Kate Plumley Stewart

Ms. Stewart said the last Selectboard meeting was very short. They went through the appointment of inspectors of the election. They also reviewed the Planning Board application for Mr. Rich to be a member. Ms. Stewart invited guests to consider a review of open committee memberships and consider applying. There was a body and dash camera grant done by Public Safety that was approved. They tabled the mask policy discussion for an upcoming meeting. They took in a donation to Lakeside Park that was generous.

IV. HEARINGS

P22-07-01, Conkey Enterprises LLC of Canaan NH has applied for a Gravel Pit Permit to reopen a gravel pit located on Bog Road, formerly operated by Green Links Construction Company of New London, NH. The parcel in question is in the "R5" Residential/ - Agricultural Zoning District and is 95 acres (Tax Map1, Lot 10)

Chair Fracht read the case. He explained the procedure for public hearings: the first thing will be Mr. Conkey come up and explain what it is that he wants to do with the tract of land. The board will have an opportunity to ask questions and get as much information from Mr. Conkey as they can. Once the board has finished asking their questions, they will ask any other town boards for questions or comments. After this, the public may ask questions. Chair Fracht said there are a lot of people here tonight, and he asks that they identify themselves by their name and where they live (street, and town). Chair Fracht said that he would like for people to keep their remarks relatively short so that everyone has a chance to make their comments. He said that if three people have made the same comment that they plan to make, he would ask they simply state they agree with the previous comment. He asked for guests to give neighbors the courtesy of speaking once before taking a second turn to speak. Chair Fracht said that after all in-person guests have a chance to speak, those joining virtually will have a chance to do so.

Chair Fracht said that the hearing is for a gravel pit permit. This is a document issued by the Town of Enfield in conjunction with a state-issued permit. The purpose of the permit is to ensure certain dimensional requirements are adhered to, that there is a reclamation plan in place, and provides the town's assessing department with information they need to tax the gravel that is removed from the pit.

Chair Fracht asked Mr. Conkey to come to explain his plan at this time. Mr. Conkey introduced himself and said that he has owned and operated Conkey Enterprises, LLC for more than 20 years. Chair Fracht asked for Mr. Conkey to address the board vs. the public. Mr. Conkey said his Bog Road pit is one of the three major pits that has supplied the majority of material to the Eastman, Springfield, and Enfield areas for the last 30+ years. He said that he is in the process of slowly closing his current Bog Road pit. He was then able to purchase the Hasting's pit, which had been unused for more than 2 years and had not begun to be reclaimed – which is why he must apply for the permit. Mr. Conkey said that he wishes to re-open the pit that has been in operation for over 25 years. Chair Fracht said town research shows the pit was first opened in the 1960s and asked if Mr. Conkey had any reason to doubt this. Mr. Conkey said that he did not and did believe the pit was from the 1960s (similar to his current pit on Bog Road).

88 Chair Fracht asked for Mr. Taylor to project the map of the property on screen. Mr. Taylor also
89 provided copies of the map to in-person guests. Chair Fracht said that he wished to express to
90 guests, that according to New Hampshire law, RSA 155-E, gravel pits that are in operation prior
91 to August 24, 1979, are grandfathered. This means that they have the right to operate a gravel pit
92 until they extract all the gravel they want to. Chair Fracht said that the Planning Board, as the
93 responsible agency, reviews things like access to the pit area, visual barriers, slopes of the
94 excavation, the height of the water table, setbacks from the pit to the property lines, the duration
95 of the proposed excavation, and the amount of material to be removed every year (a tax issue).
96 He said these are the things that can be discussed tonight. The issue of whether a pit belongs on
97 this property or does not is for a different authority and not the Planning Board. He said that a
98 gravel pit is also a special exception in the R5 district. If someone wanted to open a new gravel
99 pit in this district, they would have to apply to the Zoning Board of Adjustment for a special
100 exception.

101
102 Chair Fracht asked Mr. Conkey to explain what he wishes to do, and Mr. Taylor would point it
103 out with the mouse on the screen. Mr. Conkey said the yellow area is already open. Pink is
104 material that is already stockpiled. Orange represents where he plans to expand the pit to. The
105 yellow is 300' from the nearest water, and the expanded orange area is 100' to the nearest water.
106 The entrance is off Bog Road. The pit is low impact visually from Bog Road (it is down on the
107 property, not right next to the road). Mr. Conkey said a portion of the property is in Grantham,
108 but it is not the part they will use for the pit. Chair Fracht asked about the rest of the land. Mr.
109 Conkey said the rest of the land would be clear-cut and left vacant to grow up. He said that the
110 Eastman Association had contacted him about water rights, but this was currently postponed.

111
112 Chair Fracht asked for board members' questions for the applicant. Secretary Vermeer asked if
113 the smaller pink area is part of the pit. Mr. Conkey said this was a previously stockpiled area,
114 previously taxed on the last owner. Mr. Conkey said the previous owner had three pits on the
115 property. Chair Fracht asked if the other two pits had been closed and reclaimed. Mr. Conkey
116 said none have been reclaimed. Vice-Chair Kiley asked what is the total new area that will be
117 worked on. Mr. Conkey said he believed it was currently 6 acres and they are expanding it to 12
118 acres total. Chair Fracht asked, for the area you will be working in what kind of material will you
119 take out? Mr. Conkey said coarse sand and coarse, small gravel. Chair Fracht asked what kind of
120 slopes exist going into the pit, and what may be envisioned. Mr. Conkey said the pit they will use
121 is about 3:1. Chair Fracht said according to town regulations, slopes that are 1:1 or steeper
122 require fencing for protection, but this pit slope is 3:1 and no fence would be required. Chair
123 Fracht asked Mr. Conkey if he had the water table test pit information. Mr. Conkey said it was
124 about 10' before they hit water. Chair Fracht asked how long it would take to use up the material
125 in these pits. Mr. Conkey said that this one had been opened since the 1960s, so roughly 60 years
126 by now. He said that he also has two other local pits, so this could be open for 50+ years. He said
127 there will not be a high volume of trucks daily hauling. Chair Fracht asked how many yards
128 would be taken annually. Mr. Taylor said they applied for 500 yards. Mr. Conkey said that this
129 pit has coarser sand, like in-between septic beds (not around the house or more widely used). He
130 said he is concentrating much more on his other Bog Road pit and has a Springfield pit of stone
131 products as well. Mr. Conkey said that he would not anticipate a lot coming out of this new pit
132 for many years. Chair Fracht asked if Mr. Conkey could translate the number of yards to
133 truckloads over the course of a year. Mr. Conkey said it is about 15 yards per truckload, so about

33 truckloads for this year's estimate of 500 yards. Mr. Conkey said that there is already a large amount of material there he can haul out, but there has not been a large demand for it. Chair Fracht asked if there are any plans for crushing operations. Mr. Conkey said further down the road, but not immediately. He said that he has a large amount of product in his other Bog Road pit (and in the Springfield pit) for immediate use. He said that his Bog Road pit has 5-10 years of the product he can crush available now. He said that he also hasn't seen much on the new property that would need to be crushed. Chair Fracht asked if, as the pit expands, this could change. Mr. Conkey said yes. Chair Fracht said that he understands in the immediate future there would be no crushing operations. Mr. Conkey said correct. Vice-Chair Kiley asked if he would bring in screening. Mr. Conkey said he would.

Chair Fracht turned over comments to Conservation Commission Chair Dr. Theis. Dr. Theis said the Conservation Commission sent a letter and the Postal Service informed him Mr. Conkey refused receipt of the letter. The Conservation Commission has not been able to access the property to review these. Dr. Theis directed board members to the Natural Resources Inventory to review substantial environmental characteristics of this lot (Map 1, Lot 10) that are at risk of damage. Dr. Theis said Mr. Conkey has also already removed a large amount of timber, which he assumes is for opening the gravel pit. He also said that he would like to call attention to a prohibited mining area (on pages 2-5 of the Natural Resources Inventory). Dr. Theis said that the Conservation Commission would ask the Planning Board to suggest they be allowed to go on the property to review these items.

Mr. Conkey said that there is no beaver dam down there. He said that there had been a clogged culvert, which was cleaned out. He said that as far as allowing people on the property, he has two rules. Rule 1, if you post your property stay off mine. Rule 2, if somebody has had a problem with their neighbor, he does not want to have problems with his property. Mr. Conkey said he understood there had been issues with another Bog Road property and a neighbor of Dr. Theis, and he did not want to have this same type of issue.

Chair Fracht opened comments to guests. He reminded to have them directed to him as chair, and he will ask Mr. Conkey to respond. He reminded guests to introduce themselves.

Mr. Barry Cunningham (24 Spring Valley Drive, Grantham/Eastman) who is an abutter asked to speak and have the survey map projected. Mr. Cunningham thanked the board for hearing guests. He said that he is requesting the board deny the application. He said as Dr. Theis had pointed out, the property sits on/near an aquifer. He said the area (orange on the map) being proposed is on the aquifer. He directed board members to page 2 of his handout, and a map he got from the State of New Hampshire Alteration of Terrain Division (AoT). He said the whole line to the right of the map is Bog Road, and in the middle of the gravel pit area is the aquifer. He directed board members to Page 3, a provision of 155-E. He said if this is on top of the aquifer, according to the AoT director, this would be figured out in a permit to the state (required but had not been applied for yet) as this is more than 100,000 square feet. Mr. Cunningham said there is some question on what is needed/not needed under the statute for being grandfathered in. He said the fact that it had been a pit since the 1960s is totally irrelevant because of the dormancy. Mr. Cunningham said the last time a Report of Excavation Material was recognized by the Town of Enfield was in March 2016. This dormancy was 6 years. Mr. Cunningham said the application is required

180 because the dormancy was longer than 2 years, and he thinks that this brings with the “waterfall
181 of the statute” – the first being that the property is on top of the aquifer. He said that he cites the
182 specific language and talks about the grandfather clause issue. He said that there is also a
183 supreme court decision that requires a new application be considered, and there is precedent for
184 intent. He said that the intent was not to close the pit, the previous owner passed away. However,
185 the pit was not used for some time before that happened. Mr. Cunningham said that the other
186 issue is that the application does not have a reclamation plan, so it is incomplete. Mr.
187 Cunningham also said that an issue is there are no state permits. He said it is practical that there
188 would not be permits applied for until it gets past the Planning Board, however, there has been
189 no discussion about the need to go to the state – which is needed. Chair Fracht asked for board
190 member questions for Mr. Cunningham. Mr. Cunningham said that one final thing he wishes to
191 state is he gets the idea that the pit has been in operation for years and years and years, however
192 as of where we are today this is a new pit under the statute, not a grandfathering issue. Chair
193 Fracht asked Mr. Cunningham what town document he had with reported activity in 2016, and if
194 the board could have a copy. Mr. Cunningham provided a copy to Chair Fracht. Mr.
195 Cunningham said in the 2016 year, Mr. Hastings had said the used area for excavation was about
196 2 acres, and about 4500 yards of material were pulled from it. He said that he went back to
197 records from 2012, and they all were about like this (he said that these were relatively small
198 numbers he believes). Chair Fracht said, in the beginning, he said the town permit was issued in
199 conjunction with the state permit. He said Mr. Conkey has to come to the Planning Board first,
200 but they will condition approval of his permit with approval of the state permit. The Planning
201 Board is aware the state permit is required, and any approval is contingent on this.

202
203 Mr. Steve Schneider (55 Evenchance Road, Enfield NH representing Eastman Community
204 Association as General Manager and CEO). He said he has a letter he will share with the board,
205 detailing a number of concerns with the application submitted. He said that the survey being
206 shared with the board, community, and public this evening is new. He said this has not been
207 available publicly until very recently, so many of the questions he has to include concerns based
208 on the original materials submitted. Mr. Schneider said he would share the letter, with about 15
209 points including the topography plan, test-pit data, and other information not originally shared.
210 He said these are important to determine the intensity of use, proximity to abutters, etc. He said
211 he thinks the updated survey map will answer many questions, but there will still be some. He
212 said that one concern is that the reclamation plan was not part of the application, and it needs to
213 be. Chair Fracht said the board agrees. Mr. Schneider said they respectfully request the town
214 require Mr. Conkey to submit a reclamation plan as part of this application, with no approvals
215 until they have fully reviewed it. Mr. Schneider shared a few other points. He said that the
216 proximity of the pit and the equipment used (truck traffic) is a concern for them. He said they
217 would ask that no trucks use Eastman infrastructure unless they have a purpose to be in Eastman,
218 and they ask that the board make this a condition of any approval. He said they also ask that this
219 not become a contractor’s yard or storage yard for equipment. He said that, as Mr. Cunningham
220 said, this sits directly on top of an aquifer, and it is extremely important that this be preserved.
221 He said that storing outside materials and equipment is a legitimate concern. Equipment used to
222 extract materials is the only equipment used/stored there. Mr. Schneider said they would request
223 that the board limit hours of operation if the pit is approved to limit the potential impact on
224 residents (M-F only). He said that he thinks those that live on the south side of the property are
225 rural, and it is a pristine area – any impact from noise will be a concern for them. He said that

226 they would also ask the board if they approve the pit, to limit crushing to 1 day a week if needed
227 in the future. He said that, as Dr. Theis alluded to, this property is located within a State of New
228 Hampshire identified wildlife corridor. He said they would ask to have the Enfield Conservation
229 Commission review and comment on potential wildlife impacts in this corridor. Mr. Schneider
230 said they have concerns about the impact of the excavation. The previous removal of 4500 yards
231 is much higher than Mr. Conkey's estimated 500 yards. Mr. Schneider said they ask that the
232 board be more specific in requiring Mr. Conkey detail what years 2, 3, and forward would have
233 for removed material. Mr. Schneider said it has also been common practice for local police
234 departments to use gravel pits for firearm training. He said they ask that this not be an approved
235 use, it is very close to residential homes and is a common hiking area for residents. He said they
236 would ask that the Planning Board not allow any firearm training to occur there. He said that the
237 aquifer is important, and they believe it is Mr. Conkey's responsibility to show that his activity
238 will not impact the aquifer. He said they ask that the board require Mr. Conkey to show this. The
239 aquifer is a main water source for the community. He said in closing they ask that the board
240 address these inadequacies in the application so that a full assessment can be done. He said they
241 ask that they require the applicant to fulfill a complete application. Mr. Conkey said that he did
242 not believe this pit, or his other Bog Road pit had ever been used this way. Mr. Conkey said
243 Eastman roads would be a nightmare for the trucks, and they will avoid it at all costs. Mr.
244 Schneider said that they would like the conditions of no firearms use and no trucks in Eastman if
245 Mr. Conkey agrees. Mr. Conkey said he would not plan to have hours of operation issues. He
246 would not mind having a condition on operating hours. Ms. Stewart said she did not believe they
247 should be in the habit of limiting businesses in town. Chair Fracht said that Mr. Schneider had
248 mentioned the lack of data on reclamation. Mr. Conkey said that he thought he had included an
249 item about reclaiming the area as a pond (much like his current pit on Bog Road). This way, any
250 sediment draining drains into the pond and does not leave the site. Mr. Schneider said there was
251 a comment on the plan, but not a plan. Chair Fracht said they would want something more
252 detailed. He said that the old Crate pit's new owner, Nicole Sipe, had put together a very nice
253 plan to reclaim that property. He said that Mr. Taylor could provide a copy to Mr. Conkey. He
254 said that something along these lines would be more informative to the board and neighbors in
255 the Eastman community. He asked Mr. Conkey to put this together and provide it as part of the
256 application. Chair Fracht said that regarding what will be done to protect the aquifer, and said he
257 believed there was data regarding test pits. Mr. Conkey said that it was about 10' at the lowest
258 level. Ms. Stewart asked Mr. Taylor to point out the test pit information within the application to
259 Mr. Schneider. Chair Fracht asked where the data came from. Mr. Conkey said they dug a hole
260 with their excavator and measured down. Mr. Schneider said he appreciates that towns want to
261 be amenable to those making applications, and the requirements can be onerous. He said that
262 doesn't mean this should be adequate for the Planning Board to review. He said he feels this is
263 on the loose side for the Planning Board to make a decision. Dr. Theis said this is why the
264 Conservation Commission recommends a geological survey to evaluate the depth and extent of
265 the aquifer on that land. He said they feel estimations are not enough to protect the aquifer, that
266 provides Eastman and drains into the creek that runs to George Pond, which drains into the Knox
267 River that runs into Mascoma Lake. Contamination can be an extensive aspect over the years to
268 water quality over the years. Ms. Stewart asked Chair Fracht if there is any legal requirement
269 that says the property owner cannot do the measurement. Chair Fracht and Mr. Taylor said they
270 did not know. Vice-Chair Kiley said he believed this would be part of the state permit, which is a
271 condition that the board would have. Chair Fracht said the state will either say yes this is

approved and will not impact the aquifer, or they will say no and not issue a permit, which means the town's permit would not proceed to approval. If the state approves, the town's permit would proceed to approval and be issued. Mr. Schneider said they ask that the board postpone/continue the hearing until they get more information on the test pit.

Shirley Green, (69 Algonquin Road, Enfield) said she is here as a Conservation Commission member and a board member for the Eastman Charitable Foundation. She said she agrees with and supports the concerns of Mr. Schneider and Dr. Theis.

Wendy Wormwood (33 Hickory Overlook, Enfield) said she abuts the proposed pit directly. She said they never received the letter; it went to the previous owner who gave it to them – but the town should have the right address as they always get their tax bill. She said she knows several other abutters never got their notices. She said there is also a Christie Wong that received an abutter notice for the other Crate pit property, but never one for this. Ms. Wormwood said abutters who did not receive letters should have them sent. She said that she also reinforced Mr. Schneider's comments. Chair Fracht said, as he understands, the town has several databases for property owners. There is one for tax purposes, and another tied into the town's GIS system – which is the one used to generate the abutter list. He said that unfortunately the GIS database is only updated once per year, which he thinks might be part of the problem. Mr. Taylor said he also sent one to the address on file in the tax database, and it was returned undeliverable. Several other abutters said they never received one. Mr. Taylor asked for their names.

Chair Fracht said he recognizes that the notification problem exists as well. Ms. Stewart asked Mr. Schneider if Eastman communicated with property owners, yes or no. Mr. Schneider said they did. Ms. Wormwood said she feels that she wants abutters to know they may attend.

Mr. Hubert Reynolds (abutter) asked if the map can be put on the screen. Mr. Reynolds said he is in lot 90 and 89 (30 Spring Valley Drive, Grantham). Mr. Reynolds explained where his property is, and asked Mr. Conkey if he could provide a buffer to where the excavation would end. Mr. Conkey said the permit would only be for the yellow and orange areas. Ms. Stewart explained the key colors to show where the pit vs. vegetation is – vegetation backs onto Mr. Reynolds's property. Chair Fracht said Mr. Taylor, Land Use Administrator, makes annual inspections of gravel pits to ensure all terms are complied with. Part of this inspection is to determine whether the excavation takes place where the permit says it will. Chair Fracht said if Mr. Conkey goes beyond the orange area he defined, the town would say he is in violation of the permit and take appropriate action.

Chair Fracht asked for further comments.

Mr. Cunningham said, in light of everything discussed, he would request the hearing be postponed until there is a complete application, and that the Conservation Commission review the property as asked. Chair Fracht said this is something the board will discuss when they deliberate.

Chair Fracht asked for comments from those on Microsoft Teams.

Mr. Tod Lloyd introduced himself, he lives in Eastman in Grantham. He said that his question relates to a comment from Mr. Cunningham earlier – if the pit was last used in 2016, this is no longer a grandfathered application but a new application. He asked does the board plan to make a determination on this. If it is a new application, then the requirement is a special exception handled by the ZBA, not the Planning Board. This seems to be fairly important. Chair Fracht said given these comments, determining if it is a continuing operation or a new one, it is something the board will discuss as part of the deliberative process (after the public hearing is closed).

Chair Fracht asked for any further questions or comments from the audience or board members. Mr. Schneider asked if he could have a copy of the survey that was projected and circulated tonight. Chair Fracht said he may take one.

There were no further comments.

Chair Fracht closed the public hearing and called a short recess before the board began to deliberate.

Chair Fracht called the meeting back to session for board deliberation.

Chair Fracht said that they first need to decide if it is grandfathered or was the pit abandoned. Mr. Taylor said as the Land Use Administrator, he made this decision. He said that there is a Supreme Court precedent of two things that need to be done to abandon a use: 1 – stop using it as you were using it and 2 – intentionally put it to a different use. Mr. Taylor used the example where there was a marina near the bridge, and someone bought it and changed the use to a single-family home. A future owner then wanted to convert it to a marina again, and the town did not allow this because the use had been changed. Mr. Taylor said there was another case of the Inn at the Shaker Museum where the space was not put to any other use for several years, and it was reinstated as an Inn as it was never changed to any other use. Mr. Taylor said that the Supreme Court case he believed involved a mobile home that was removed, and the town did not allow mobile homes in that location. A future owner wished to put back a mobile home, and the town said no as the use had been changed when the mobile home was removed. The Supreme Court sided with the town on that decision, the use had changed.

Mr. Taylor said this was his ruling, that it would be grandfathered. Mr. Cunningham said that he thinks Mr. Taylor is misinterpreting the court case. Mr. Taylor said no, he said the same situation was true for the Enfield Shaker Museum. It was used as an Inn, they stopped using the inn for many, many years. Then, they asked to reopen the inn and no other use was had so the town allowed it.

Chair Fracht asked Mr. Taylor when he made the ruling was he aware of the report for the 2015/2016 tax year. Mr. Taylor said he was aware it had not been an active gravel pit for at least 3 years. He said the previous owner, Mr. Hastings did not abandon the use, he passed away. Chair Fracht asked if Mr. Hastings not using the pit for several years before he passed away equaled an intent to abandon it and change its use. Mr. Taylor said no. He said he spoke with a

previous Land Use Administrator for Enfield, as well as used his background and review of court cases and came up with this as a grandfathered use situation.

Chair Fracht asked Mr. Cunningham to explain why he thinks this is a misinterpretation of the statute. Mr. Cunningham said the statute is very clear it is either/or – it is categorical. He said once the two years happened, it is no longer valid and there is demonstration that it has not been an operating pit since 2016. The property went dormant at that time. Inactivity is dormancy. Mr. Taylor said this is why Mr. Conkey was required to come for a permit.

Ms. Stewart asked if we were in the deliberation point with the board as there is ongoing public dialogue. Chair Fracht said they are in the board deliberation. He said when he heard that Mr. Cunningham thought the statute was misinterpreted, he asked for more information about that. Mr. Cunningham said it is a contradiction of the statute, 155-E. Mr. Conkey said does anyone know when Mr. Hastings was last working? He asked was this the last intent to excavate filed. Mr. Taylor said according to assessing records, this was the last intent to excavate.

Mr. Taylor said to summarize, is zoning going to allow it? Mr. Taylor said he ruled they would because of the grandfather issue. The second question is will planning allow it? Mr. Taylor said the requirement is the new permit because it had not been used for more than 2 years. Chair Fracht asked for Vice-Chair Kiley's opinion. Vice-Chair Kiley said he agrees with Mr. Taylor who did the research and work. Mr. Taylor also said that Enfield regulations stipulate if you intend to abandon a use, you have to reclaim it within 12 months. Secretary Vermeer and Mr. Rich agreed it would be grandfathered. Ms. Stewart and Ms. Banker agreed it would be grandfathered. Mr. Bonner agreed it would be grandfathered. Vice-Chair Kiley said, if Mr. Conkey doesn't take sand out for two years does this mean he has abandoned it? Chair Fracht said he did not think so, it could just mean there is no demand for sand.

The board agreed to a consensus that the project is grandfathered. Chair Fracht said decisions of the board can be appealed to the ZBA within 30 days of a decision on the application. If their decision is not agreed with, it can be kicked back to the Planning Board or can go to court. Mr. Rich asked when conditions would come into play. Vice Chair Kiley said this would be at a continuation of the hearing. Vice-Chair Kiley asked Mr. Taylor if they can do a continuation because it has not been 65 days, and Mr. Taylor said yes. Ms. Stewart said that there is a noise ordinance already, so regarding limiting hours – was there a prior condition? Were Eastman residents asking for these conditions? Chair Fracht said he would guess no, as the pit was in operation prior to Eastman being established and prior to zoning. Ms. Stewart asked, Mr. Conkey, does not have to give permission for others to enter the property, correct, he can post it? Mr. Conkey said he did post it. It is a logging operation, and they don't want anyone on the property to get hurt, etc. Ms. Stewart said they cannot prevent a property owner from using firearms. Vice-Chair Kiley said correct, in New Hampshire, you cannot regulate this. Mr. Schneider said they were asking only about police training. Vice Chair Kiley said this did not matter. Ms. Stewart said another question was about allowing Conservation Commission representatives to enter. She said Mr. Conkey already made the decision not to allow them. Chair Fracht said correct, Mr. Conkey chooses who is allowed on the property. Ms. Stewart said that Eastman already prohibits trucks, so the board does not need to address this. Ms. Stewart said that equipment storage is another thing she does not think they can regulate. Vice Chair Kiley

said Mr. Schneider was asking for it not to be a contractor yard. He said this was not a permit for a contractor yard, it was a permit for a gravel pit.

Mr. Bonner said he thought it would be responsible to see what the impact on the aquifer would be. Vice Chair Kiley said this would be done by the state, the state permit would look at the aquifer and do test holes to make this decision.

Chair Fracht asked Mr. Conkey how long it would take him to put together a detailed reclamation plan. Ms. Stewart said that Mr. Taylor can help with this, too. Mr. Conkey said he also has one from his other Bog Road pit. Vice Chair Kiley asked if the first meeting of September could be done. Chair Fracht said they would continue to September 14, and if Mr. Conkey is not ready for that date, they can reopen the hearing and then continue it. Vice-Chair Kiley said if it will be continued, they will post it on the Enfield Website. A continuance will not be another letter to abutters. He said public members should check the Enfield website. Ms. Stewart asked if it is postponed again can Mr. Taylor send it to Mr. Schneider.

Secretary Vermeer MOVED to continue the hearing to the September 14, 2022, Planning Board meeting at 7 pm.

Seconded by Vice-Chair Kiley

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Brad Rich, Jim Bonner (Alternate and Videographer), Whitney Banker (alternate) **all voting Yea.**

None voted Nay.

None Abstained.

*** The Vote on the MOTION was approved (7-0).**

Chair Fracht said the hearing is continued until the meeting at 7 pm on September 14.

Chair Fracht called a short recess for board members at this time.

V. CONCEPTUALS

None.

VI REVIEW MEETING MINUTES: July 13, 2022, & July 27, 2022

A. July 13, 2022

Vice-Chair Kiley MOVED to approve the July 13, 2022, Minutes presented in the August 10, 2022, agenda packet as presented and amended.

Seconded by Secretary Vermeer

Amendments:

Line 114/115 – check Mr. Gotthardt’s quoted item, should be non-residential floor space.

Line 189 – “he” to Mr. Yager, “them” to ZBA.

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Jim Bonner (Alternate and Videographer) **all voting Yea.**

None voted Nay.

Brad Rich, Whitney Banker (alternate) **Abstained.**

** The Vote on the MOTION was approved (5-0-2).*

B. July 27, 2022

Secretary Vermeer MOVED to approve the July 27, 2022, Minutes presented in the August 10, 2022, agenda packet as presented and amended.

Seconded by Vice-Chair Kiley

Amendments:

Line 83 – lath plaster

Line 41- Library to Liberty

Line 150 – expects to specs

Line 163 – now to how

Line 174 – clarify “H20 rated” – is correct, add dash.

Line 176 and throughout – “ballards” “bollards”

Line 227 – “dry” to “try”

Line 322 – “lumbar” to “lumber” (several)

Line 332 – “for the” to “as a”

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Phil Vermeer (Secretary), Jim Bonner (Alternate and Videographer) **all voting Yea.**

None voted Nay.

Brad Rich, Kate Plumley Stewart, Whitney Banker (alternate) **Abstained.**

** The Vote on the MOTION was approved (4-0-3).*

VII. UPDATE ON MASTER PLANNING TASK FORCE WORK: David Fracht

Co-Chair Fracht said there was a meeting between himself, Co-Chair Smith, Mr. Taylor, and consultant Ms. Saxton. Ms. Saxton provided an up-to-date view of where she is, including a timetable matrix. There are still problems with photographs to go in the economic development section.

Co-Chair Fracht said that due to a full calendar, Co-Chair Smith is not available to help move the project along until after the primary vote. Co-Chair Fracht and Mr. Taylor are going to see if they can get the task force together between now and the middle of December. There are mixed ideas on if this is possible.

VIII. OLD BUSINESS:

None.

IX. NEW BUSINESS:

Mr. Taylor said there will be an application for the next meeting for a boundary line adjustment. Mr. Scott Sanborn is doing it. It is the Mirski property on Algonquin Road, going from 3 to 2 lots.

X. NEXT MEETING: August 24, 2022

XI. ADJOURNMENT:

A MOTION was made by Vice Chair Kiley to adjourn the meeting at 8:55 p.m.

The MOTION was seconded by Mr. Rich.

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Brad Rich, Jim Bonner (Alternate and Videographer), Whitney Banker (Alternate) **all voting Yea.**

None voted Nay.

None Abstained.

** The Vote on the MOTION was approved (7-0).*

Respectfully submitted,

Whitney Banker

Recording Secretary