

Enfield Planning Board – Meeting Minutes
DEPT OF PUBLIC WORKS/MICROSOFT TEAMS
PLATFORM
September 14, 2022

PLANNING BOARD MEMBERS PRESENT: David Fracht (Chair), Dan Kiley (Vice-Chair), Linda Jones, Kate Plumley Stewart (Selectboard Representative, via Microsoft Teams), Phil Vermeer (Secretary), Tim Jennings, Brad Rich, Kurt Gotthardt (Alternate), Jim Bonner (Alternate and Videographer), Whitney Banker (Alternate)

PLANNING BOARD MEMBERS ABSENT:

STAFF PRESENT: Rob Taylor- Land Use and Community Development Administrator, Whitney Banker-Recording Secretary, Ed Morris – Town Manager (via Microsoft Teams)

GUESTS:

In-Person: Drew Hitchcock (180 US Route 4), Shannon Hitchcock (180 US Route 4), Dr. Jerold Theis (Enfield Conservation Commission), Cathy White (9 Lark Place, Eastman, Enfield), Mary Wormwood (33 Hickory Overlook, Eastman), Barry and Sarah Cunningham (34 Spring Valley, Eastman, Grantham), Tom Hanna (BCM Environment and Land Law), Bob Phelps (White Tail Ridge, Eastman, Grantham), Sharon Phelps (White Tail Ridge, Eastman, Grantham), Susan Terwilliger (63 Whitetail Ridge, Eastman, Grantham), Michael Mulcahy (63 Whitetail Ridge, Eastman, Grantham), Wendy Wormwood (33 Hickory Overlook, Eastman, Enfield), Christopher Haley 33 Hickory Overlook, Eastman, Enfield), Craig Sanborn (146 George Hill Road, Enfield), Steve Schneider (55 Evenchance Road)

Microsoft Teams: Alison Findon, B & T Stearns, Terry Large, Liz Sauchelli (Valley News), Thomas Shemanske, James Antell, Stephen Rauh, Stephen Cohen

I. CALL MEETING TO ORDER:

Chair Fracht called the meeting to order at 7:00 p.m. and took a “roll call” of members present for attendance.

II. PUBLIC COMMENTS:

III. SELECTBOARD REPORT: Kate Plumley Stewart

Ms. Stewart said that she did not attend the recent Selectboard meeting. Draft minutes and the recorded video will both be available online.

The upcoming meeting next Monday, September 19 has four scheduled public hearings and several additional topics of interest. Ms. Stewart invited community members to attend.

IV. HEARINGS

A. Continued- 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 continued case. Chair Fracht said that he imagines that most audience members (in-person and virtually) may be here for this hearing. He summarized what was accomplished at the previous meeting, on August 24, 2022. Chair Fracht said that he would also discuss a recent letter received by attorneys Amy Manzelli and Thomas Hanna of BCM Environmental & Land Law, PLLC. Chair Fracht said that after this he would allow public comments.

Mr. Taylor asked for guests joining virtually to mute themselves at this time.

Chair Fracht explained that a gravel permit has three different tracks:

1 – Zoning (governed by the town zoning ordinances). Chair Fracht said that this pit is in the R5 district (residential/agricultural) which says that a gravel pit is allowed by special exception. A special exception can be granted by the Zoning Board of Adjustment. The applicant would need to apply for the special exception and have a hearing by the ZBA.

2 – Where this case is currently – Excavation Permit. Chair Fracht said that an excavation permit is something done by the town under general directions of RSA 155E. There are essentially two types of permits and standards under this RSA. One is called the express standards – both operational and reclamation are for operations that have been grandfathered. The minimum standards are for new operations or gravel pit operations that have let their previously obtained permits expire. One criteria for expiration is not taking a commercially viable amount of gravel or material out of the ground for any period of 2 consecutive years.

3 – State administered Alteration of Terrain permit. Chair Fracht said that generally speaking an applicant would get their Zoning track completed first, get the town Excavation Permit second, and would then go to the state to apply for the Alteration of Terrain permit.

Chair Fracht said of the three tracks, the town would be concerned with two of them. The ZBA track and the Planning Board track have two different and separate definitions of what constitutes abandonment. He said that Mr. Taylor determined from a zoning perspective that this is not an abandoned use. This determination was made prior to the first meeting on this application. This determination was re-affirmed during both the July meeting and during the previous hearing meeting in August. Chair Fracht said that from the zoning point of view, the application remains grandfathered. Chair Fracht recognized that Mr. Hanna’s letter disagreed with this and cited the zoning ordinance. Chair Fracht said that this ordinance states that abandonment for one year would mean the status is lost. This is correct; however, we do not know that abandonment was the intent. Chair Fracht said that we know that there was not required paperwork filed for a period of about 6 years, but that does not indicate from a zoning perspective that the pit was abandoned. There are many arguments that could be put forth;

86 however, the zoning administrator (Mr. Taylor) made his decision several months ago, and it was
87 re-affirmed over a month ago. There was an appeal period of 30 days. Today is about day 35 and
88 no one has appealed the administrator's decision. Chair Fracht said that the board will continue
89 to treat this as a grandfathered operation from a zoning perspective. Chair Fracht said that there
90 is the possibility that the outcome of this hearing can be repealed (a request for re-hearing) which
91 would be an appropriate time to challenge Mr. Taylor's decision on the zoning status. Chair
92 Fracht said he did not know how the ZBA would view the grandfathered status, and whether they
93 would grant a special exception or not. He said that because the pit has been there for a long time
94 with not a lot of questions or objections to it, they may be inclined to grant a special exception.

95
96 Chair Fracht said that because of the lapse in paperwork, the grandfathered status is lost from the
97 Planning Board perspective. This means that the application will be subject to the higher
98 standards, which were discussed at the previous meeting.

99 Mr. Hanna asked if he could pass out copies of his office's letter to the board. Mr. Hanna and
100 Mr. Taylor both passed out copies to guests (board members had copies already).

101
102 Chair Fracht addressed, from Mr. Hannah's letter, that the gravel pit could be a Development of
103 Regional Impact. He said that the board had not considered this during the previous hearing,
104 however, this would be for the ZBA and not the Planning Board. Chair Fracht asked for
105 confirmation of how Mr. Hanna was interpreting this. Mr. Hannah said that the concern was that
106 the traffic (trucks for the operation) would span through multiple towns. Chair Fracht said that
107 there was a discussion at the previous hearing about this, and that the traffic was particularly
108 low. Mr. Hanna said that the larger issue is the aquifer in that location.

109
110 Ms. Stewart asked who was talking and asked if they could announce their names each time.
111 Chair Fracht said that the person speaking was Tom Hanna, an attorney representing several of
112 the abutters. Chair Fracht asked guests to identify themselves before speaking so guests
113 attending virtually know who they are.

114
115 Mr. Jennings said that he felt the board should allow Mr. Conkey to respond if he wishes to.
116 Chair Fracht said there are several points he would like to cover first, and then would open it up
117 to the board. After that, Mr. Conkey and any guests who wish to could comment on it.

118
119 Chair Fracht said that Development of Regional Impact is a zoning issue. The board can discuss
120 this and decide if they consider it to be a Development of Regional Impact or not. If it is decided
121 to be, they would need to stop the hearing and notify the abutting towns and the regional
122 planning commission before proceeding further. If the board decides that it is not, a 30-day clock
123 starts, and an appeal could be lodged with the ZBA.

124
125 Chair Fracht said that he hoped this had clarified and not muddied the waters of the complex
126 situation with three tracks, two of which the town is responsible for.

127
128 Chair Fracht asked for questions or comments from board members.

129
130 Mr. Vermeer asked has Enfield's legal counsel reviewed this. Mr. Taylor said town counsel had
131 discussed this with him. Town Counsel that the board is on solid footing with regard to the

grandfathering. He said that town counsel asked for the board to discuss the Development of Regional Impact at tonight's meeting and make a determination. He had provided a guide to explain this for the board's consideration. Mr. Taylor said if the board feels this is a Development of Regional Impact, it will involve those surrounding towns as Chair Fracht had mentioned. Mr. Vermeer, Mr. Rich, and Mr. Jennings agreed the aquifer is the most important part of this determination. Chair Fracht said he felt this was a legitimate concern of abutters. Chair Fracht said that in Mr. Hanna's letter he had noted a number of residents with wells served by this aquifer. Mr. Conkey asked if they can show where the wells are in relation to the aquifer.

Chair Fracht said that there is a map that has a general location, however they cannot say for certain that the aquifer is under the pit. Chair Fracht said he had reached out yesterday to the program leader for the Alteration of Terrain (AOT) program. Chair Fracht said he would get the name for guests. The answer was that the state deals with stormwater runoff, and not really with aquifers. He volunteered to speak with a colleague in the Drinking Water Division and provided Chair Fracht with contact information and a brief summary that the Drinking Water program also does not have a hand in dealing with protection of aquifers. Mr. Rich said he thinks they need an independent expert, previously thought to be the state, in order to determine if the aquifer would be affected. Chair Fracht agreed. He said they cannot base a decision that could potentially affect up to 1400 households based on speculation.

Mr. Cunningham said that the statute that outlined the DRI talked about aquifers. He spoke with Bob Barnum at AOT who said that they would look at the aquifer at the state level once the permit is filed with them.

Chair Fracht found the name of the contact, Ridgely Mauck:

"David, I spoke with Pierce Rigrod ...regarding the proposed excavation in Enfield we discussed earlier today. Pierce indicated there are no rules in the DWGB (Drinking Water Groundwater Bureau) that would prohibit such a project, nor would there be any permit required."

Mr. Schneider asked what agency Mr. Mauck is with. Chair Fracht said that he is with the Alteration of Terrain division. Ms. Stewart asked what RSA this was. Mr. Cunningham said it is RSA 155E.6

Vice-Chair Kiley asked to bring the conversation back to the determination of whether this is a DNI. Mr. Rich, Secretary Vermeer, Mr. Jennings, Ms. Jones, and Ms. Stewart agreed that this is a regional impact situation.

Mr. Conkey asked if the reason to go through this was because of the large size of the lot. He said if the lot was smaller, there would be no abutters within 200'. Chair Fracht said this is one way to look at it, however, the board is dealing with it as the ~95-acre parcel. He said this is a development that has regional impact. More abutters need to be notified.

Mr. Rich said the regional planning commission would also need to be notified. He said that this now requires 30 days and suggested that in that time perhaps the board could research with the

178 contact Mr. Cunningham had referenced. Secretary Vermeer said he would like to see a map
179 with wells plotted and their location to the aquifer. Mr. Rich said he felt this would be for the
180 state to do. Mr. Jennings said he believed that if the aquifer is an item that the state is looking at,
181 when they consider the Alteration of Terrain permits or any others, they will ask for Mr. Conkey
182 to submit an application which should address all of these issues, including engineer review,
183 request for more information, etc. He said he believed that if the state was going to look into the
184 aquifer, this is when they would do so.

185
186 Ms. Jones asked if the Eastman Development has maps, they could share with the well locations.
187 Mr. Jennings said the wells are geo-located on the state maps and will be found. Mr. Jennings
188 said a problem is that there is no information on which direction the aquifer is flowing, toward or
189 away from the wells? What about the movement of contamination, etc. He said he did not find
190 this something that the board could determine by looking at the maps. This will take an expert to
191 decide. Chair Fracht agreed this was an accurate assessment. He said they will need to get a
192 qualified expert who can look at the situation and review/test to answer the question of will a
193 gravel pit impact the aquifer, and will it affect the wells in the Eastman community. If it does,
194 what mitigation measures can be taken by Mr. Conkey to eliminate or at least minimize the
195 possibility of an impact on a community water source. Ms. Stewart said that the town would not
196 need to do any of that. This is a task that would be assigned to the parties in front of the board.
197 Chair Fracht agreed and clarified that the Planning Board needs the answers to these questions in
198 order to make an informed decision.

199
200 Chair Fracht suggested that Mr. Conkey, the applicant, and the abutters would need to agree on
201 an expert. Ms. Stewart said that she did not think this was the correct course of action, that
202 instead this should go to the state. Vice-Chair Kiley said he agreed, it is up to DES to ask the
203 questions and up to community members here to push DES to ask the questions. The RSA says
204 the state does this, and it is the state's responsibility to do this.

205
206 Dr. Theis, Chair of Conservation Commission said that the Conservation Commission had two
207 issues with regard to this gravel pit. One was the wetland, which they asked Mr. Conkey for
208 permission to access his property and measure. Mr. Conkey refused. The second thing was the
209 aquifer, this is on the US Geological Survey map previously provided at the first meeting. Dr.
210 Theis said that he researched companies that use MiDAR imaging systems which are capable of
211 measuring aquifers underground. He said that the Conservation Commission had also sent a
212 letter to both the Wetland Bureau at DES and the AOT division outlining their concerns and
213 asking them to investigate. Dr. Theis said he contacted the Wetland Bureau at DES this morning
214 and was told that Mr. Conkey had not filed a permit with the state yet, and DES will take no
215 action until that happens.

216
217 Chair Fracht said, as previously mentioned, typically applicants nail down the town permits first,
218 before going to the state. The state permit is a significant cost. Chair Fracht said that in this case
219 they may need to deviate from the normal sequence of obtaining permits (being that you obtain
220 the state permit last). In this instance this will not work because the board needs information
221 from the state permit before they can make a decision. Mr. Jennings said that a condition could
222 be put on the town permits that the state permit must be obtained as well for the towns to be
223 valid. Chair Fracht said he would not be comfortable granting a town permit even if it is

conditioned on state approval. There might be some things that the state would suggest as mitigating factors, and thing that the town would regulate, and if it were not in the permit who would follow up on it.

A MOTION was made by Vice-Chair Kiley to consider the Conkey Enterprise, LLC. Application a Development of Regional Impact (DRI). The MOTION was seconded by Secretary Vermeer.

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Linda Jones, Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Tim Jennings, Brad Rich **all voting Yea.**

None voted Nay.

None Abstained.

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

Chair Fracht said this was determined to be a DRI. The board will notify the town of Springfield Regional Planning for the next meeting. Mr. Schneider suggested the Planning Board also notify the village district that is considered a municipality. Mr. Taylor said that the next meeting is October 12.

Chair Fracht asked if Mr. Conkey approves waiving the right to a decision within 90 days. Mr. Conkey said he approves. Chair Fracht asked Mr. Taylor to write a memo for Mr. Conkey to sign. Mr. Taylor said that this would also be noted in the minutes.

Mr. Hanna said that the board had previous hearings where abutters were not notified, because they decided today that this is a DRI. He suggested that permission is not needed for the 90-day extension, as the hearing would start over. Vice-Chair Kiley said he believed that the 90 days begins when the application is accepted which had been done. Mr. Hanna said that this would start over because some abutters were not notified yet.

Mr. Hanna also said that he had reviewed the August 10 minutes, and that he did not find that the board had a formal conversation about the abandonment issue. He said he believed the order would still be that Mr. Conkey go to the ZBA for a special exception, then to Planning Board, etc. Chair Fracht said as he previously stated that the zoning administrator, Mr. Taylor, made the decision a long time ago. Mr. Hanna asked where this decision was. Chair Fracht said that that the decision was based on the fact that Mr. Taylor did not tell Mr. Conkey he would need a special exception, and that it was discussed at the previous meeting where Mr. Taylor confirmed it was his decision, and the board agreed to proceed with his decision. Chair Fracht said if Mr. Taylor had made a different decision, that he would have told Mr. Conkey when the application was submitted that he would have to go to the ZBA. Mr. Hanna said that he wrote down earlier Chair Fracht's explanation that the board was proceeding with this as abandonment. Chair Fracht clarified that this was from the Excavation Permit track, not the Zoning track. The two have different definitions of abandonment. Mr. Hanna agreed they have two different standards. Mr. Hanna said from his perspective, once abandonment is determined than the use is abandoned,

269 and the case would start from scratch – which would be to go to the zoning board.

270
271 Chair Fracht asked for comments from the board. Mr. Jennings asked if there was any more
272 information about what happened in the past 6 years. Mr. Rich said that Mr. Taylor had
273 explained these at the last meeting, and that town counsel agrees they are on solid footing, there
274 is no reason to do this. Mr. Cunningham said he would like to have a document of the specific
275 things that categorize this as grandfathered. He said that everybody is wondering how this
276 determination was made. Ms. Stewart said that she did not think the statement “everybody” was
277 appropriate. She said for the record that she was not wondering how the determination was made
278 as Mr. Cunningham had stated “everybody” did.

279
280 Mr. Taylor provided some background information. The property and the pit were owned
281 previously by Mr. Hastings of Green Links Construction. The pit dates back previous to the
282 construction of I89. Mr. Hastings became ill and passed away prematurely while the pit was in
283 operation. After this, the pit hit “pause” – there was no action taken by Mr. Hasting’s heirs to do
284 anything with that pit. The pit was left exactly as it had been in use after his premature death. At
285 that time, they were settling up his affairs which took some time. Mr. Taylor said that with
286 abandonment, an intentional act has to happen to change the use. Mr. Taylor referenced a
287 Supreme Court case where there was a mobile home on a site, grandfathered prior to zoning.
288 That home was removed from the site, and the property owner later asked to put a mobile home
289 back on the site. The town said no, this could not be done because the intentional act of
290 removing the home from the site was considered abandonment of that grandfathered allowance.
291 He said there was a case in town that involved footprint grandfathering – where homes can be re-
292 built in a non-conforming footprint after a house is removed within 12 months. If that is not
293 done, in the future the grandfathering cannot be used. Mr. Taylor said in the case with Mr.
294 Hastings it was not an intentional act. Mr. Hastings passed away prematurely while the pit was
295 active – piles of gravel and equipment were all left. This was what was looked at and it did not
296 appear that Mr. Hastings had any intention of abandoning it. Mr. Taylor said he believes Mr.
297 Hasting’s heirs would agree. Any overt, intentional act to abandon the property (remove items
298 and materials, etc.) starts the clock. Mr. Taylor said as well technically 12 months after
299 abandonment a reclamation must start. The town did not require any reclamation, which is
300 another factor in the determination that there was no intent to abandon this operation. Mr. Taylor
301 said that he spoke recently with a community member who knew Mr. Hastings prior to his death
302 and his intention was to continue to use the pit. Mr. Taylor said a gravel pit operation is an
303 important impact to all of the local citizens. Mr. Taylor said it was his determination. He said
304 that he spoke about this at the last meeting and expected an appeal, however there was not one.
305 Mr. Cunningham asked what town counsel’s response was about the fact that the Enfield
306 ordinance language does not mention intent. Mr. Taylor said he explained these same things to
307 the attorney who agreed he had a good case.

308
309 Chair Fracht said that Mr. Taylor said at the time of Mr. Hasting’s death, there were dump
310 trucks, and other equipment on site. Mr. Taylor also said there were large piles of excavated
311 material and holes, and that the town never made the owners reclaim the property, which they
312 should have done if it was abandoned. Chair Fracht said even though Mr. Hasting’s did not file
313 the tax forms for some time before he passed away, however there was still equipment there.
314 Chair Fracht said that he thinks that the fact that the equipment and material were left there

315 speaks to the fact that Mr. Hasting's expected to resume operations before he prematurely passed
316 away. Mr. Taylor said if equipment and material had been removed, that would be different, but
317 this is not the case.

318
319 Mr. Hanna asked if it is correct that the board has "done away" with track 1 for the special
320 exception at the ZBA, because Mr. Taylor made the determination that it was not abandoned and
321 not needed. Mr. Taylor and Chair Fracht confirmed. Mr. Hanna said their position is that there
322 has been no administrative ruling on this case that would require an appeal within 30 days. This
323 has all been part of the Planning Board process. He said they will dispute both the 30-day clock
324 as well as the board's reasoning.

325
326 Mr. Jennings asked if the ZBA had granted a special exception for a gravel pit, and a question
327 came up 10/15 years later if it had been abandoned or not, Mr. Taylor would rule on the question
328 and who would an appeal go to? Mr. Taylor said the ZBA. Mr. Jennings said the parties and
329 counsel will then appeal to the ZBA? Mr. Cunningham said that in the case of conflicting
330 regulations the more stringent one applies. The more stringent one is the 1-year. Mr. Jennings
331 said regardless of this if there is an appeal the ZBA will review it. Chair Fracht said this is
332 correct. Mr. Taylor said if there is further appeal it can go to Superior Court.

333
334 Chair Fracht said that the excavation permit is being treated as a new permit, not a grandfathered
335 permit. Mr. Jennings said he is wondering if the application is complete or not. Chair Fracht said
336 that this is a good point. He said at the first hearing, he had thought that the board would be
337 discussing a reclamation plan, pros, and merits etc. On the application form, Mr. Conkey
338 indicated on his application that he would supply final topography, and several other items that
339 were incomplete. The other items included a timetable for reclamation of fully depleted sites
340 within the project area, and a schedule of final reclamation activities including seeding mixtures.
341 Chair Fracht said he had been through the document Mr. Conkey submitted and did not find any
342 of this. He says Mr. Jennings's point of whether the application is complete has merit. Chair
343 Fracht said to Mr. Conkey if he had supplied this information he would like to see where it is in
344 the plan. If not, he suggests that Mr. Conkey supply the information.

345
346 Chair Fracht asked if the board feels at this point the application is complete. Secretary Vermeer
347 said won't Mr. Taylor have to review a new application that meets the regional requirements?
348 Mr. Rich said isn't this for Rob to determine at that time? Chair Fracht said he is bringing the
349 discussion to the table now to give Mr. Conkey an opportunity to provide a plan that meets the
350 town submission requirements. Mr. Rich said he thinks that if Mr. Conkey reads the online
351 handbook on how to prepare this document, he will find it is not complete. He suggested that Mr.
352 Taylor could assist him with this if he has questions.

353
354 ***A MOTION was made by Mr. Jennings that the board declare the application incomplete as it***
355 ***exists on September 14, 2022.***

356 ***The MOTION was seconded by Vice-Chair Kiley.***
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358
359

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Linda Jones, Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Tim Jennings, Brad Rich **all voting Yea.**

None voted Nay.

None Abstained.

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

Mr. Jennings said, he thinks given all the hurdles that have to be overcome that he does feel the gravel pit can get to the point where it is operational. As Mr. Taylor pointed out the community needs gravel pits, they are a vital resource to building material in the Upper Valley. Housing costs are already high, and trucking in gravel from further away will only increase this. Mr. Jennings said he thinks this will require a considerable amount of engineering and detail that Mr. Conkey will need to provide.

Chair Fracht said the application is incomplete. The board will not act on a similar application when they start the re-hearing. He reiterated what Mr. Jennings said about getting together a complete application. Chair Fracht said he did not think a hearing should be scheduled until a complete application is submitted. Board members agreed. Vice-Chair said that they will also have to send the notification out to all abutters. He also said they can vote later on fees.

Mr. Taylor said there was a virtual applicant who wished to speak. Christine Conroy. Ms. Conroy asked whether Mr. Conkey can continue operations while this application process is going to be restarted. Chair Fracht said no. Mr. Taylor said no for excavation of materials. Mr. Conkey is able to cut trees etc. Mr. Taylor said he thought that the material that had been excavated and that taxes had been paid could be removed, but he would advise against it given the abandonment discussion. Ms. Stewart also clarified that Mr. Conkey owns another gravel pit on this road and that he is free to continue to use this, as the town will not restrict it in any way. Chair Fracht clarified that the inability to operate is only for this lot Tax Map 1, Lot 10.

B. P22-09-01, Drew Hitchcock has applied for minor site plan review approval to operate a woodworking business, specialty lumber yard, property maintenance business and a metal fabrication shop in multiple suites in the former “roller rink” location at 180 US Route 4 (Tax Map 14, Lot 46). The property is currently owned by Hersey Acres LLC of Enfield, NH and sits within the Community Business (CB) zoning district. The parcel in question is 3.92 acres.

Chair Fracht read the case.

Ms. Jones said that she is an abutter and would like to recuse herself. Chair Fracht asked Ms. Banker to be a voting member for this case. Chair Fracht elevated Ms. Banker to a full board member to participate and vote for this case.

Chair Fracht reminded the board that the discussion they had in July was a conceptual

discussion, so anything said by us or by Mr. Hitchcock does not necessarily hold true today. Mr. Taylor said that Mr. Hitchcock provided him with a letter from Mr. Hersey granting him permission to negotiate since Mr. Hersey still owns the building.

Vice-Chair Kiley asked Mr. Taylor if the application is complete. Mr. Taylor said yes. Mr. Hitchcock said his proposal is for his woodworking shop (kitchen and bathroom cabinets etc.) within the footprint of the building. He said in addition to this, he is proposing a lumber yard. He also owns a property maintenance company that will occupy a portion of the existing footprint. There is not a current tenant for the remainder of the footprint. Mr. Hitchcock said in the future, he would like to have a tenant whose business compliments his wood shop.

Mr. Hitchcock explained where he is proposing equipment storage when not in use. Mr. Jennings said this is just an area identified, not a building. Mr. Hitchcock confirmed. Secretary Vermeer asked about the boxes along the other side of the building, Mr. Hitchcock said these are trailers as well. Chair Fracht said the only access that would be larger than a door is the existing garage door. Mr. Hitchcock said at this time yes. In the future he plans to add more garage doors on the long side of the building, however the timing would not be immediate with supply chain issues. Mr. Taylor said that Mr. Hitchcock has been in contact with the building inspector as well and any changes would follow codes as required. Mr. Kiley asked if they were able to avoid getting town water, Mr. Hitchcock said this was correct there is a well on site. Chair Fracht said that a sprinkler system was also not required due to the size of the business. Mr. Hitchcock said that he plans to but a chemical fire suppressant system in place, as well as a heat detection system (similar to a smoke detection system).

Mr. Hitchcock said he currently employs 3 people for property maintenance (they are not on site all the time). For the woodshop there are three employees, as well as himself. The amount of space in the building will allow him to expand somewhat, to potentially double the woodshop employees to 8. The lumber yard would require a minimum of three people, one being an office personnel who is shared with the woodshop. Mr. Hitchcock said they would estimate about 15 employees. Chair Fracht said that with his knowledge of the parking lot, even with the equipment stored, they will have more than enough.

Chair Fracht said in terms of retail traffic/visitors, what would be the anticipated daily impact. Mr. Hitchcock said the woodshop rarely has traffic, but the lumber yard would see traffic but not like Home Depot or La Valley's. These are hardwood and more specialty lumbers. He estimated on the high end about 25 customers. Secretary Vermeer asked for the hours of operation. Mr. Hitchcock said the woodshop is 7-3:30 and the lumber yard may go to 4:00 or 5:00 – daytime hours.

Chair Fracht said that one criteria they need to review is access for fire, police, and emergency vehicles. He asked what the number of man-doors are planned initially. Mr. Hitchcock said there are two double-doors on the front right now, as well as one in the back, and the garage bay at the end. Chair Fracht asked if there will be access to each suite from these doors. Mr. Hitchcock said yes. Mr. Jennings said he would imagine Mr. Ehrenzweig would note if additional doors are needed for egress. Mr. Hitchcock said with the current businesses no additional doors are needed, however one will be if he gets a tenant in the rear in the future.

449

450 Chair Fracht asked if there is a need for ADA-compliant access. Mr. Hitchcock said that there
451 will be for the lumber yard, and the double door that exists will be allowed as long as they put in
452 a doorbell.

453

454 Chair Fracht asked for any comments or plans to change the existing drainage. Mr. Hitchcock
455 said at this point no, it has all been cleaned out and is operating appropriately. He recently visited
456 the site during a heavy rainstorm, and all were operating as expected.

457

458 Ms. Jones said that she would like to speak on drainage on the west side of the building. She said
459 there is a drainage ditch that runs down to a catch pool. The solution for water runoff diverts the
460 water into Ms. Jones' field. She has some suggestions for changes to this as she does not want
461 the runoff to continue to go into her field. She said if the drainage here did not go onto her land,
462 it would go into the cemetery. She said Mr. Martin previously had a diagonal drainage pipe that
463 put the runoff to the abutting land on the other side (owned by Mr. Hersey). Mr. Hersey said on
464 the backside of the property that abuts her property, there is drainage that naturally existed
465 before his work on the sediment pond. He said he understands her concern, but the water comes
466 down from Route 4, and sets in the sediment pond then drains down. He said that he had
467 included a berm with clay and sand. He asked what Ms. Jones would propose he do, and she
468 suggested diverting the water to the unnamed brook. Mr. Kiley said that he believed this was
469 from a culvert coming from Route 4. Ms. Stewart cautioned the group against recommending
470 any change to groundwater as this is regulated by DES and is not allowed. Mr. Jennings asked if
471 Ms. Jones was saying the updates to the drainage done by Mr. Hersey made the drainage worse.
472 Ms. Jones said it made it different. She said she would like to work on a solution to having less
473 water come into that field. Ms. Jones said she would like to ask the board for approval contingent
474 on improving the drainage onto her property.

475

476 Chair Fracht asked if water supply is an on-site well, and if sewage disposal was on-site. Mr.
477 Hitchcock confirmed. Chair Fracht asked if there was any knowledge of the condition of the
478 septic system. Mr. Hitchcock said it is operating as far as he is aware. It is oversized based on
479 what their business will need. Mr. Hersey said when he bought the property from Mr. Martin the
480 property was approved for a use for a much higher number of people. He said when they were
481 working on the property there were no issues with them regularly using the water and septic.

482

483 Chair Fracht said he had read in the narrative about dumpsters and screening them. Mr.
484 Hitchcock said he is thinking of putting them on the east side of the building (parallel the parking
485 lot). Chair Fracht asked if this will be screened from public view. Mr. Hitchcock confirmed it
486 would be.

487

488 Chair Fracht asked if there is a letter from Police and Fire Departments with approval of the
489 plan. Mr. Taylor said as part of the application it is sent to them, but they had not given
490 feedback. Chair Fracht asked if Mr. Taylor would send a memo to ask if they have any issues.
491 He said they could make approval contingent on their approval as well.

492

493 Mr. Jennings said that at some point they may want to alter the parking lot, to bring it up to the
494 level of the entry to the building. He said that he did not know if they can regulate this, but

because of the issues with water drainage this is a substantial project. Chair Fracht said if there is substantial movement of earth, it might be reviewed by Planning Board or the building inspector. Mr. Taylor said he did not believe this would be the case. Mr. Jennings said if the parking lot needed significant alterations this might need a site plan review. Mr. Hitchcock said he believed the state has a regulation. Mr. Taylor said it is an Alteration of Terrain permit. One was not required for the work that Mr. Hersey had done. Mr. Jennings said he did not think upon further review that a large amount of work would reach the threshold. Mr. Taylor said if Mr. Hitchcock has any questions he can.

Motion – Jennings – motion to approve the site plan as presented with the following conditions...

Chair Fracht said that a condition discussed was possible resolution of the drainage issue or that this could be a matter between property owners. He suggested it not be a decision of the board. Ms. Stewart said that she thinks this is a DES issue and that there are a lot of regulations about groundwater. Mr. Hitchcock said that he is happy to meet with Ms. Jones to look at where the water is being diverted. Ms. Jones said she is 100% for what Mr. Hitchcock is doing and has been impressed with the work Mr. Hersey had done. Mr. Hersey said the work he had done did not increase any drainage than what was already there. Chair Fracht and Secretary Vermeer agreed this was beyond the purview of the site plan review and should be worked out separately.

A MOTION was made by Mr. Jennings to approve the site plan as presented.

The MOTION was seconded by Secretary Vermeer.

Roll Call Vote:

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

None voted Nay.

None Abstained.

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

Ms. Stewart asked if Mr. Taylor can give all parties the information for DOT (over near Whaleback) as they are the state department responsible for this section of road. Mr. Taylor will provide the contact information for them.

Mr. Taylor said he and Chair Fracht will present a decision and get this to the board as well as to Mr. Hitchcock.

V. CONCEPTUALS

None.

VI. REVIEW MEETING MINUTES:**A. August 10:**

*Vice-Chair Kiley MOVED to approve the August 10, 2022, Minutes presented in the September 14, 2022, agenda packet as presented and amended.
Seconded by Mr. Rich*

Amendments: N/A

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Linda Jones, Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Tim Jennings, Brad Rich **all voting Yea.**

None voted Nay.

None Abstained.

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

B. August 24

Vice-Chair Kiley MOVED to approve the August 24, 2022, Minutes presented in the September 14, 2022, agenda packet as presented and amended.

Seconded by Mr. Vermeer

Amendments: N/A

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Linda Jones, Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Tim Jennings, Brad Rich **all voting Yea.**

None voted Nay.

None Abstained.

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

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

Co-Chair Fracht said this task force met this past Monday for the first time in several months. They are back on track, though behind schedule. They hope to have the final draft before the board before Thanksgiving.

Co-Chair Fracht said the current-latest version of the plan is informational for review only. He said he believed everyone also go the mailer. Ms. Stewart said that the mailer was difficult for

her to follow. She said that the language of “is this your plan” she immediately thought “no” and didn’t read further at first before realizing it was important and not another political mailer. She said will average community members be able to read this and follow/understand.

Chair Fracht said it is an invitation to review the draft plan before it goes forward. Ms. Stewart said if it is about the Master Plan, these should be some of the biggest letters in future mailings. Chair Fracht said he believed the flip side would have the cover and say Master Plan. He agreed that adding the word Master is a great suggestion.

VIII. OLD BUSINESS:

None.

IX. NEW BUSINESS:

Mr. Jennings said, is there any way for the Teams participants to turn off video unless speaking as it is distracting. Ms. Stewart said it is a setting on teams. She said another option should be to “feature” something, and we could feature our own screen.

Mr. Jennings asked to confirm there will be no other hearing on the Conkey case until the DRI is checked in addition to a complete application. Chair Fracht confirmed.

X. NEXT MEETING: September 28, 2022

Chair Fracht said the only item he is aware of is a conceptual for 150 housing units.

He said the board will also start talking about possible changes for the zoning ordinance that can be brought before voters in January.

XI. ADJOURNMENT:

A MOTION was made by Mr. Vermeer to adjourn the meeting at 9:25 p.m.

The MOTION was seconded by Mr. Rich

Roll Call Vote:

David Fracht (Chair), Dan Kiley (Vice-Chair), Linda Jones, Kate Plumley Stewart (Selectboard Representative), Phil Vermeer (Secretary), Tim Jennings, Brad Rich **all voting Yea.**

None voted Nay.

None Abstained.

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

Respectfully submitted,

Whitney Banker

Recording Secretary