

## Newfield Planning Board Meeting Minutes of June 1, 2022

Chair Gloria D called the Newfield Planning Board meeting of June 1, 2022, to order at 7:01 PM with a quorum in attendance as follows: Gloria Dyer, Anthony Garrity, Ben Buzzell, Dan Phelan and Emily Foss. (Skip Tonge arrived at 7:03 PM.) Also in attendance were Town Attorney Leah Rachin, Frank Ring, Molly Roy, Counsel Ted Small, ten (10) members of the public, Newfield Selectboard members Shelly Gobeil, Jim McLaughlin, Sam Parks, Town Administrator Nichole Hubbard and Administrative Assistant, Maria Marchant.

All in attendance stood to recite the Pledge of Allegiance.

Chair Gloria D announced that a Site-Walk was held at 6 PM for the Application of a Conditional Use Permit regarding Balch Lake Marina Boat Yard for Year-Round Boat Storage located at 375 Sanborn Road, Map 47 Lot 27. Attendees were Chair Gloria D, Anthony G, Ben B, Dan P, Emily F, Attorney Leah R, Administrative Assistant Maria Marchant and 2 citizens of Newfield. The applicant Tracy Gibson, Frank Ring, Molly Roy and CEO Norman Hutchins were not present at the Site Walk.

Chair Gloria D stated, "I'd like to go right into the Public Hearing if that's OK with you folks." She declared the Public Hearing open at 7:02 PM. "Thank you all for coming. I'm not sure if you are here for the public hearing or something else but we have a public hearing on an applicant. First of all, let's start with introductions." Each member of the Board, Attorney Leah R and Maria Marchant introduced themselves. "Alright thanks. We advertised the public hearing in the paper and local places around town. The documents for the application that we're considering are available at the town office or you can e-mail our planning board administrative assistant and she can get you copies if you would like copies. The purpose of this hearing is to inform, and obtain input, from the community on the application submitted by Balch Lake Marina map 47 lot 27 in the rural zone. The applicants are requesting an amendment to a current conditional use permit that was issued to them in January of 2019, by this board, to operate a boat storage area on a portion of their property located at 375 Sanborn Rd. Currently, the applicants are requesting an amendment to increase the months of storage to year-round; at this time it's just several months out of the year. I'm chair of the meeting so when we get to the question-and-answer period direct questions to me not to someone sitting next to you. We may or may not be able to answer your questions, or if you have input, we want to hear your input, or if you have any written evidence, when it's your time to speak, you can turn that into our administrative assistant or right up here. The bathroom is out in the hall if anybody needs to, just feel free to quietly get up and do whatever you need to do. The order that we're going to start today is with the applicant if they have anything to add. Tracy's not here, is she? I guess we're not going to do that. Maybe she'll come in a little later. So, I guess I've given what information I have. I don't know if the board members want to add anything to the members here about the application or should we just start taking comments and questions? Anybody have anything to add about this application? Well, they might in a few minutes and they can add it. Is there anyone that would like to offer evidence on whether they're for or against the application? Do you have any questions on the application?"

Counsel Ted Small stated, "I represent abutters Frank Ring and Molly Roy and I'll just say, procedurally, it's a little bit awkward. I think this was all sparked by violations in the original Conditional Use Permit which then resulted in submission of an application for a new permit. I'll start by noting that the existing permit was granted expressly conditioned upon only seasonal storage of boats and that the Board as recently as 2019 voted unanimously that the project would not be a nuisance because the boats would only be stored, or would not be stored, in April to November and would be out during that period of time. One could suggest that a board member felt that the project would not be a nuisance since the boats would not be stored there year-round. Now, the only thing that has changed and comment was made at the last meeting, that decision was never repealed and is the law, as far as the municipality is concerned, and is fully enforceable, now nothing has changed factually and so from my position, if the Board thought a couple of years ago that only seasonal use could be implemented and otherwise the project would be a nuisance, if nothing has changed there's more basis for the change of the Court's decision on that point and in a contrary way, just arbitrary, and could suggest that an applicant could

just keep coming back to the Board every couple of years and depending on the composition of the Board ..... To be honest I don't know how many of you folks were on the Board a few years ago, but you get my point. So, that's sort of the legal position that we have. Factually, I would note, and Mr. Ring and Ms. Roy can chime in on this, they have concerns that go beyond the legal concerns. Specifically, despite prior representations that there will be no, or very limited dispersal or leakage of fuel and oil and other contaminants there; in fact, has been quite a bit of that. Concerns that if used for year-round storage is only going to increase that problem. Problems, or at least concerns about drinking water is contaminated as a result of this, beyond that obviously the Board previously was properly concerned about having buffers around the Marina. That's been of limited value. The project really doesn't have any meaningful buffer as currently configured. Concerns is if we turn this into a year-round storage facility that's gonna be worse, there's gonna be more boats stored for longer periods of time which is just gonna diminish any benefit of the buffers that the buffers are providing presently. I'll turn it over to Ms. Roy and Mr. Ring and offer their kinds of concerns factually.

Mr. Ring commented and Chair Gloria D asked, "Did you wish to comment Mr. Ring?"

Mr. Ring stated, "I will listen for now and put my two cents in later."

Chair Gloria D, "Alright is there anyone else that would like to offer information?"

A citizen had a question directed to the audience. Chair Gloria, D responded, "Address your questions up here. You can't go back and forth. So, you're wondering about fuel disbursement? OK we'll try to address that in later discussion, so thank you. I'm writing it down, so I don't forget. Yes, sir you have a question?" Mr. Ring stated, "Tracy told us this was seasonal storage, they wrap the boats, you can see the boats that are wrapped there." Chair Gloria stated, "You need to address the board I'm sorry, but we can't do that 'cause it just ends up a mess." Mr. Ring continued, "Even for other boats and customers that don't even end up on that lot. They just come in to get wrapped and then go to other places and they change the fluids, winterize them and then they send them off." Discussion between the public ensued again and Chair Gloria D stated, "OK we can't do that. I'll have to close the hearing. You have to ask and comment up here. You cannot speak to each other back and forth. Sorry." Ted S wished to respond to the question in this discussion. Chair Gloria D asked, "Yes sir what was the question you're responding to?" Ted S, "The question about more boats being stored. The point isn't necessarily that there may be more boats being stored at any one particular time than there may be at another, the point is that instead of having perhaps storage for a shorter period of time than another, you're gonna have up to capacity storage year-round, which means for a longer period time, on average, there may be more boats there. But in any event, the site will be used far more intensively than it is now." Chair Gloria replied, "Thank you. Yes, ma'am state your name if you're willing."

"Yes, my name is Molly. To my understanding the word nuisance means to cause a problem for other people or to cause, you know, some disruption, and the fact where this boat yard has caused disruption not just by being there aesthetically, the noises that we have to put up with during the summer, squeaking of the trailers going up and down the road, the noise from the torches, can smell the fumes from the torches, there's no sound control you know. We had scheduled and would like to schedule family gatherings at our house however it is impossible when we've got a squeaking truck with bad rear wheel bearings on the truck, that's neither here or there, but when that's coming in getting trailers, going down the dirt road back and forth all summer long, it doesn't allow us to have a peaceful family event at our own home, not to mention the possible contamination of our water, constant barking of the dogs, not just our dog, all the neighbors dogs and you know from the start of the day to the end of the day. If this was elongated to year-round, we're not gonna have any kind of peace. The fact that our rights have yet to be addressed in the four years that we've been complaining to the town and just the rights of the owners, it's just not right by me. We are stand up citizens, we pay our taxes and we're quiet people. We're just trying to have our own voices heard and let you know. Put the shoe on the other foot and imagine being in our shoes in our driveway trying to enjoy ourselves and we've got noises and fumes and the risk of fire from these big blow torches they're wrapping boats with gas tanks on them and fuel leaking all over the ground, it's not right. I mean something needs to be done. Not to mention that they were issued a violation in April of 2020. Nothing came to fruition of that. So, I just

want to know why all of our complaints and videos have been ignored, relatively. They've just fallen on deaf ears as if we don't have any rights to where we live. Frank has lived in the town for over 20 years."

Chair Gloria D replied, "I'll make a lame attempt to answer. There was an appeal on the original conditional use permit as you're aware and the courts have settled that so it is my understanding, legally, correct me if I'm wrong, there has been a complaint about a violation about the months that the boats are stored; there that they're not out by April and they're in before November. So, when trying to resolve that violation the applicant has submitted an application to extend the storage to year-round. That's the only part we can consider is my understanding."

Mr. Ring spoke, "Yeah security lights or having lights that they never put up either, it's violations that they never even... code enforcement does nothing." Chair Gloria D Replied, "Well code enforcement is the authoritative figure in town. He's the one that enforces rules and we issue the permits." At this time the letter from the code enforcement officer Norman Hutchins was read aloud by Ben B. "This is the original letter dated January 18, 2020. It says, 'Dear Richard and Tracy this notice is coming to you related to your Boat Marina located on 375 Sanborn Rd. I am getting complaints and complaints about your Marina not meeting your conditions of your permit. There are several issues about what the complaints are about but the one that stands out is the boats out in April not in until November. Also, no boats left on-site during those months of storage. I talked to Tracy about *the boats out and in* back in October 2021 and told her you need to take this back to the Planning Board. You need to get this condition taken care of but if you'd like, you can come to my office and see the complaints I've been getting and get your own copy of that.' So, besides the timeline he doesn't say anything about the lights." Ben noted that the letter does not list any other complaints specifically. Chair Gloria D, read a complaint that the Planning Board received. "So, this is the complaint that the Planning Board received which triggered the applicant to submit a new application for year-round boat storage as opposed to November to April boat storage. So, there is this other Town of Newfield complaint in the file dated March 5th, 2020. I don't know if it's a complaint, I think it's a letter. It's from Norm Hutchins CEO Town of Newfield, 'Dear Tracy and Richard I have received a complaint that your boat storage area at location referenced above of 375 Sanborn Rd is not compliant to the conditions laid out on your conditional use permit given you by the Newfield Planning Board. Below is a list of conditions that you have not met. Boats must be out by April and they are not to be moved back in until November. Boats are not to be left on site except for storage months, in other words November through April. The driveway entrance must be gated, security cameras installed, security message signs will be posted, a vegetative buffer must be maintained at all times along sideline boundaries. Because you're not in compliance then the boat storage area would be in violation of your conditional use permit. It could be suspended, or it could be revoked by the Planning Board after having a public hearing on it. The boats will need to be out by this April. This was in March 2020 and all other items listed above must be completed by June 1st, 2020. I would have no choice but to shut down your boat storage area and serve you with a violation if this is not done.' It just talks about the authority from our ordinance. Norm you're not here? Normally we could ask him what the resolution for that was. We did have a site-walk today at 6:00 o'clock. All of the board members except for one were there and we had a couple of community members; the Rings were not there; the applicant was not there. We walked around the area, we looked at the vegetative buffer, we looked at the ground for you know signs of oil, gas leakage, just the area that was approved to store the boats. It is a large deep lot, and the back of the lot was not to be used and it appears that that's being followed. There is a sign, I saw at least one security sign or camera, there's a chain that's up for gate. There are some boats in there and it's June 1<sup>st</sup>. Probably 6 boats, maybe a few trailers I saw, I didn't count them, but there's a few boats still there. There is a security camera installed according to Mr. Hutchins and the applicants at our previous meeting. That addresses all of those complaints. It doesn't talk about the lighting in the March 2020 or in the January 18th, 2022. It doesn't talk about the lighting as a violation."

Molly R responded, "Yes, hi, just because it doesn't speak of the light doesn't mean that they're not in violation that's yet another condition that they are in violation of because they still do not have those lights up. Secondly, I know the board is not permitted to enforce these conditions however the Board voted five to zero based on these conditions so since these conditions have not been met why is it that they are allowed to submit an Amendment for another year-round storage. I'm so confused, does that mean I can submit a permit for anything and not follow any of the conditions and whoever complains it's just gonna fall on deaf ears and I can continue going about my business? I'm just having a hard time

understanding why if these conditions are written out that they don't need to be abided by? Isn't that the basis of the permit in the first place? OK we voted on this; however, we will approve this if you follow XYZ; these conditions. If you can't follow, we serve you a violation and if that violation is ignored then their permit gets taken away. None of that has transpired. Secondly, it's like giving a child additional privileges when they haven't even earned them in the first place. I apologize for my tone but it's also infuriating as a parent because I see what's going on and I see a situation being extremely taken advantage of and it bothers me. That's just my comment." Chair Gloria D said, "Thank you is there someone else who wants to offer information that hasn't spoken yet?"

A citizen requested to speak on behalf of an abutter who was unable to attend due to an appointment. She was asked if she had written documentation. She did not so Chair Gloria D asked, "Do you mind stating your name and then in general terms who you're sharing the information about." The citizen replied, "Oh, OK, yeah, my name is Michelle and I'm speaking on behalf of John Engall. He shared with me that he's lived there for 15 years and is an avid outdoorsman. He loves coming up and enjoying the quiet and peace of nature and now it's a boat yard and all the trees are gone and it's noisy and it's just not what he originally set up to have his place and spend the rest of his life there and enjoy the peace and quiet." Gloria D, "Can you tell me what their location is. Is that on the West side?" Michelle, "If I'm looking at the property it's on the left and the boat yard is on the right." Gloria D, "OK so the Rings are on the East and the Engall's are on the West." Leah R, "Just to clarify he is a direct abutter to the lot."

Gloria D, "Is there anyone else that wants to speak 'cause I have just a minute. Is there anyone that hasn't spoken or do you have anything to offer or ask any more questions.

Mr. Ring, "When they initially submitted a map, they submitted a map that shows an 8' buffer. But also, it's a fire road to get these boats. There's no way to get around these boats. If there is ever a fire, there's no way to put it out. There should be fire lanes off to the side so there's a way to access the back of that. It's crazy. The fire chief signed off I don't even realize what's going on now. Did he sign off from the map or did he sign off the way it is, but it doesn't seem safe." Gloria D, "We have heard that, and I've written it down again." Mr. Ring went on to speak about no restrooms on site. Shelly G, "I'm sorry are we here to only talk about the amendment?" Gloria D, "Yes." Shelly G, "So I think maybe we're getting a little carried away and not dealing with the amendment in my personal opinion." Gloria D, "Well you came in a little late and it was explained that there may be more intensive use if it's year-round and not just several months out of the year and these are some of the issues that they would have to deal with 12 months instead of current months. So yeah, we said that at the beginning. OK any other comments or any other information to supply to the Planning Board before we take action on the application?"

Karen Ring, "Hi. I'm a little confused myself. We are in the process of buying property on that road. The way I understand it is permission was given for this business. There were rules that needed to be abided by, but those rules are broken and now you're saying or I'm hearing, that because they were bad, the way to fix it is to give them year-round permission to continue to be bad. I don't understand this at all. Would someone please explain to me how that works because I don't get it."

Gloria D, "I did mention earlier and I'm not sure if you were here, that the original conditional use permit was appealed, and it was turned down so the original conditional use permit stands. There are performance standards which our CEO enforces our permits so, yes, the rules of the performance standards need to be followed however they do have a right to come back with another application and that's what they have brought to us is an application to amend their current conditional use permit so that's what we're considering." Karen R, "I don't get that if they have been in this business for more than a year and they hadn't been able to follow through with the conditions that you gave them in the beginning how could you even consider giving them more leeway when they haven't abided by in the first rules." Gloria D, "So can you just clarify we're talking about the rule of no boats in the yard between April and November?" Karen R, "That's one of the biggies." Gloria D, "OK so that is the rule, that our CEO mentioned in his letter, that was broken. So, the applicants have a choice to get the boats out in April, put him back in November, or they also have a choice to apply for an amendment which is what they're doing. There's been no decision made on it, we're in that process right now. Trying to rectify the problem. There are best

management practices for different businesses and if you look at the practices for a boat storage area it really doesn't make sense to say that your boat, in state of Maine, is going to be out in April. Sometimes we have snow in April. Sometimes the ice is barely out in April. June 1st today was at 50 degrees so a lot of out of state people or vacationers might not put the boat in until Memorial Day so that's more of the standard of the business, this type of business, so those are also considerations. Best practices." Karen R, "No, no, I understand that life happens. But when you guys gave them these rules to go by and they agreed upon, they also, as businesspeople, knew these things could happen. We're talking a month later and there's still boats sitting there. So why don't they have a second place to put them, or hasn't there been another rule to work around this?" Gloria D, "They submitted their application this April. We tried to schedule it for May but the job the folks are in; they were required to be at school for teacher conferences. Principal teacher conferences. So, we had to reschedule them from May so we're in the process."

Leah H, "And if I may, I think there's some legal questions about how is it possible that if people earn violations they can then come and ask for an amendment. So, I absolutely understand from a commonsense standpoint you're thinking well how could this be? If someone's in violation, how can they then come before a board and ask for more privileges. So, this is a situation where, don't shoot the messenger, I'm telling my understanding of what the law is, and so as the chair has explained, it's almost like a two-pronged process right? On one hand you have enforcement which is the code enforcement as the name suggests, the code enforcement office. Here the planning board does not have enforcement authority. Again, I understand that that's frustrating. What I will say is as town attorney I represent lots of different towns and Boards like this are governed by the plain wording of their ordinances right? So, there's all this case law out there that says boards are creatures of statute and making an ordinance and they can only exercise those powers that they're specifically given. So, in some ordinances believe it or not it actually addresses that. It says planning boards cannot grant permits in the event that a property owner or an applicant is in violation of a current permit. I don't see that provision in here granted I haven't read it entirely, you know with a fine-tooth comb, but as conversation is happening, I'm looking for a provision like that and I don't see it, and so as frustrating as it may be, that's the legal answer why. Because it's not this Board's purview to enforce and if there had been a provision in here that says they have the discretion to deny permits if there is a violation, they could do that. But unless there is something that is specifically stating that, then they cannot. Now that is not to say, as the chairwoman had talked about, that when they go through the governing criteria under the ordinance for conditional uses, for the general standards that apply, that they might find another, but they could say, it doesn't meet this criteria or that criterion that's the substitute review of the application. So, I know that it may not be a satisfying answer but that's the legal rational."

Sam P, Selectboard member, "When the original application was presented to you who came up with the out by April and in by November time frame?" Gloria D, "The applicant and this board." Sam P, "The applicant or the board?" Gloria D, "The applicant and the board." Sam P, "You guys agreed upon that?" Gloria D, "Right we signed it." Sam P, "They didn't put that time frame on the application?" Gloria D, "I'd have to go back and review it to tell you for sure, but it came from the application; the application process, some of it's written and some it's recorded in minutes. I can go back and look." Shelly G, "Yeah, I have a recording from that meeting, and it was very vague, quite frankly, because if you remember if anyone one here was on the board then, when talked about that. They basically said most of the boats are out at this point or at that point. They did give some suggestions from a woman that her husband had died so that their boat basically had stayed there for a full term. So, it was pretty much a verbal back and forth with the board and the recipient and I do have that on tape and I'm sure you guys do too. So, it's a very vague issue as far as when boats are supposed to be in and out. It wasn't as cut and dry as it sounds like you know." Gloria D, "At our last meeting when the applicant was here, you probably heard on the tape as well, there was some discussion that got mixed up in there I believe about the traffic and the traffic patterns and that's when they get into the discussion when most boats clear out and going back whenever. It was all related from the traffic."

Mr. Ring, "We were told that boats would only be stored in there during the winter months, and we'd only see white plastic in the winter months and the snow would cover them. In the middle of summer all I can hear is torches going off from my

house from inside my house, so they're shrink wrapping in the summer." Ms. Roy, "Yeah you can smell the fumes like from our house."

Ted S, "We had lots of discussion, yeah, and I've heard nothing from anyone speaking on behalf of the applicant to suggest anything has changed from when the original application was submitted when this board determined that the conditions that are in place now needed to be in place. So, it again sounds to me like they're just coming back and saying well we just want a different permanent event though there's nothing functionally different nothing has changed, and I just reiterate my point that under those circumstances for the board to just say OK well now that a year-round permit is fine nothing has changed would be arbitrary decisions. So, I'll leave it at that unless you have any questions." Gloria D, "Well I think the change is the timing of the storage is not working for this type of business and I mentioned earlier about best practices." Ted S, "And I understand that perspective. My point is the facts of a few years ago in the opinion of the board dictated that only seasonal storage would be permitted to avoid a nuisance. The applicant has presented no evidence to indicate that year-round storage would now create the nuisance the board was clearly concerned about when the original application was submitted."

Leah R, "If your question is how is this pending application to be reviewed my recommendation would be that you look at the ask. The narrow ask that is before you, and you go through the analysis of the gripping criteria on that limited question. So, I don't think you need to look at the original application, I think as you said and I think that council has acknowledged, that that is essentially a valid permit. There was no appeal and so it stands. So, what you are looking at is a fairly narrow issue in the sense that you look at the limited question of does the expansion of the use from seasonal or whatever the months are to all year-round how does that dovetail with the various criteria. And the criteria to look at is the conditional use criteria but also under the ordinance. I think it's pretty clear that for all uses, conditional uses, regular uses, all that general performance standards also could be examined (article 9.) And I say that you need an introductory language says following standard shall apply to all uses both conditional and permitted as appropriate in the various districts. That said, I don't think it's necessary for the board to have to go through a full analysis of each and every one of those in the circumstances presented; you find them to be not applicable. But I think you still need to turn your mind to them and make that determination that they are not applicable." Gloria D, "Are there any other comments or information for the board before we start looking at the application. I will get to you I'm just making sure that the people that haven't spoken have an opportunity before I close the hearing. Mr. Ring." Mr. Ring had an enforcement question, possibly regarding another location, which is inaudible to do doors in the town hall opening and closing. Gloria D, "That's an enforcement question we're talking about the Sanborn Rd lot so I wouldn't be able to answer that for you. You would have to go to the town office to talk with Nicole or the CEO." Mr. Ring was insistent about wanting an answer this evening and stated that the CEO doesn't answer his phone or return calls. Gloria D, "We're talking about the Sanborn Rd lot right now. I don't have an answer so I would say you should talk with the town office 'cause maybe you can get one there. So, I had heard from some folks that he does respond. You could try again, or you could try with the town administrator, Nichole, she might be able to help. Anybody else?"

Dan P directed a question to Mr. Ring regarding the shrink wrapping of boats and what is used for this process. Dan P stated that he does not own a boat and is unfamiliar with what is used, i.e., propane or acetylene. Frank R replied that they use very large propane torches. Most of this conversation is inaudible, however, Frank R and Molly R began speaking and Chair Gloria D stated, "OK now we are going back and forth again. We can't do that but thank you. Anybody else on the board that had a question or comment on this application before I close the hearing? Hearing none Chair Gloria D closed the public hearing at 7:45 PM. "Thank you all for attending and you do not need to leave. I'm just saying thank you that you came should you wanna leave and we will continue with our agenda."

There was no public comment and the Board moved onto the Meeting Minutes of May 4, 2022, and Emily F motioned, and Skip T made the second motion to review the May 4, 2022, Meeting Minutes at the July 6, 2022 meeting to move things along as there is another Conditional Use Permit Application to review this evening. The motion passed 5-0-0.

Chair Gloria D asked fellow Board members their thoughts about reviewing the Application for Balch Lake Marina Boat Yard for Year-Round Storage. In an effort to allow the Applicant to have input on the comments and concerns raised this evening the review of this Application will be postponed until the July 6, 2022, meeting. Skip T motioned and Anthony G gave the second motion that the Application for Conditional Use Permit Amendment for the Balch Lake Marina Boat Yard for Year-Round Storage be moved to the July 6, 2022, Agenda so the Newfield Planning Board may further review the evidence and discussions presented this evening. 4-1-0 The Applicant will be notified by the Administrative Assistant that this Application will be reviewed on July 6, 2022. Attorney Leah R, Frank R, Molly R, Karen R, and all other public citizens left this meeting at 8:00 PM.

The Application for the Town of Newfield Conditional Use Permit Salt & Sand Facility began at 8:05 PM. Chair Gloria D asked the Selectboard if they wished to present.... Shelly G interjected, "Nichole would love to do that." Gloria D explained that what is needed is a brief description and a general overview of what is hoped for and how this came about and what they're trying to accomplish; how long it's been going on, the process about town meeting, etc.

Nichole H stated that about three years ago or so the Town was asked by the private landowner (Tarbox), where the salt & sand is currently stored, to find another salt & sand facility as they would like to sell their property. She stated that money has been allotted by the voters of the Town for this project. \$700,000.00 was approved for this project at the March 2022 Annual Town Meeting to build a salt & sand facility on the existing transfer station lot. Some land clearing has been completed. She stated that DEP and DOT have approved this project. Shelly G interjected, "So basically, the sand and salt have been at the Tarbox's for over 65 years and this private property, obviously, and they've asked us to move it in the three years. So anywhere we have to move it, we have to have the big facility that we're asking for because it's not like the olden days where you can just move it to another spot."

Gloria D, "There's already been some land clearing. Can you discuss that a little bit?"

Ben B inquired about the top portion of the map.

Shelly G, "There's a RFQ out there right now that's do back on the 6th, but we extended it now until the 13<sup>th</sup>. There are 4 bids for that so the RFQ for the top portion you talked about, Ben, is what Arnold Winn is working on now. He has already cleared the stumps, he's cleared the land, he's doing the excavation now, he's working on the road and then with the RFQ he will be doing the graveled road, where the building's going, all of that site." Shelly G further explained that an engineer completed the plan presented. She stated, "Looking at the far right of the plan the entrance and exit to the transfer station will now be brought out probably 10 feet to the right and then if you look at the third arrow going in from the right to the left that would be the salts & sand 'in' and then it will go around to the entrance 'out' around almost like a 'u.' The existing entrance and exit will be used. At this time something like jersey barriers will be used right now and will be confined in between one or the other. Right now, you can see on that 3rd entrance if you go out up and around almost halfway across and almost across from the catch basin. The reason why I'm saying that is, is if you come in the entrance right now to the new salt & sand shed you get to where the gate is and if we move that gate to the right, pretty much where that 'e' is in the word gate, we're gonna pretty much come out probably about 15 feet on the right so that we have room for public access to get salt & sand. So basically, we're going to put a lean-to right there." Ben B asked, "Kind of like what Shapleigh has?" Shelly G replied, "Similar to what Shapleigh has. It will be a small area and we can have up to 100 cubic yards of salt & sand there without having a pad or anything. So, we're gonna just have something right there and then the gate will be over by that catch basin." Sam P stated, "By the catch basin with a designated area where the building is, and the road goes up." Shelly G interjected, "So that they can't get in and access where the salt & sand is stored out back, only access where they can fill a bucket." Gloria D asked, "Can you come up here show me where the catch basin is because it's too small and I cannot read it. Shelly G, "It's not on the plan right now and all we want to do is right now we can block it right there because it's under 100 cubic yards and that's ok with DEP and we want to put a lean-to there. That's the only thing that's not on this drawing. Other than that, everything is kosher. As far as erosion, we actually met with Arnold, and in the middle of where the proposed the building is going to be there's going to be an area about 70 x 108 with drainage and catch basin to the right, basically in between the 2 driveways. Sam P stated, "So everything that runs off the building will be going into

an 18" culvert which goes under the working pad which goes into the catch basin that I just showed Gloria which is on the left side and in the center of that vegetative area between the lower driveway and the building. Any water running off on the left-hand side of the roof would also collect in the vegetated area. After talking with the engineer today, all the water that goes into the catch basin will go into the vegetated area from the lower road to Route 11 is then dispersed over that vegetated area and then dispersed into the ditch along Route 11 with no environmental impact." Ben B inquired, "Will this handle the "every 800-year 100-day rain event?" Shelly G replied, "We can ask the engineer he will be here. We originally didn't want a catch basin but after meeting with the Engineer today he talked us into it." Gloria D asked, "You had a meeting today?" Shelly G replied, "I talked with the engineer this afternoon with Nichole, and he basically said yes that's kind of like a filter or whatever. He said as far as this filter and everything you shouldn't have to. That's pretty much a standard catch basin that they use."

A question regarding why the transfer station is pictured on the map was asked. Shelly G replied, "It's right now a cluster but as far as the transfer station is concerned, it's staying as it is. The transfer station is only on there because it's part of the product basically."

Sam P began to describe where hot-top, and the working pad would be located. Shelly G interjected, "So you have a working pad that it is a little bit higher so that when they bring the salt and sand in through the back and then that basically won't be used again until you know... That's basically not moving but mixing or whatever."

Sam P, "There is a working pad out front, and the hot-top is all one level that's about a 10-foot elevation change from out back to the upper working pad. That's hot-top also."

Gloria D, "How far is that 10-feet? You said 10-feet elevation? That's pretty steep. How far back is the well?"

Shelly G, "They will be bringing all the salts in front of the building like every October and then everything else will be accessed from the front of the building. Everything will be inside the building itself that's why we have the pad/asphalt and everything. So basically, everything will be loaded inside the building. There will be some spilling basically from the pad."

Sam P, "When they load the plow trucks loaded from the contractor, I would say there's gonna be some spillage but within the operation they are basically going to scoop that and put it back in the building. The hot top is 2 1/2" of base."

Statements regarding the old well and landfill ensued. Shelly G, "So what happened with the previous landfill was when we could all go and just throw it over and it leaked into the system across the street into that well in about 1980 when they started testing. Basically, what happened was the state did the whole paying for that well to be redone. This is all DEP approved. Actually, this is better than honestly what we have now. I mean it's not gonna affect Symmes Pond. This is probably the best scenario that I think we could have. I understand that everybody is afraid of that and all we can do is get the DEP approval, get your approval, get the DOT approval and go from there. I think this is the best solution and we're doing everything under the guidelines."

Gloria D, "So you mentioned that all the salt would be on a pad but then you mentioned that there was gonna be a lean-to. What will that be on?"

Shelly G, "Honestly we can just have that on the ground."

Gloria D, Well I understand the rules..." It was stated by Sam P that it would be on a hot-top pad.

Shelly G interjected, "The decision for a lean-to will not be made until the 13<sup>th</sup> and no matter what we will be doing a pavement pad."

Sam P, "If you take into consideration where our salt & sand is now, we are losing a large quantity being out in the elements."

Gloria D requested the Operations Manual to be provided to the Planning Board before the next meeting because that was part of that DEP permit and the registration.

Nichole H, "Yeah so Enid initially sent me an e-mail with a conditional approval and then she sent me the actual approval which I sent you."

Gloria D, "Did the engineer get any valuations regarding the natural areas program or IF&W, endangered and threatened species or anything? It's not in the packet. Can the engineer get it, or can we ask him to send it? Usually with Conditional Use Permits, especially in areas where there's been a complaint mentioned we have IF&W type a letter stating that there are no endangered species, or this project won't impact negatively. There's another one called main natural resource something or other I think that's through DEP, they'll write the same thing, but IF&W is probably easier. I think the complaint was on April 16<sup>th</sup> email. So, what I would like for next time, it would be very helpful and I think Nicole already knows this, can you ask the engineer to bring a bigger one (sketch/map) one we can actually see. There's a lot of things missing if you look at our conditional use permit. It's supposed to have abutters, it should show Symmes Pond, where the transfer station is and anything that's in the vicinity."

Shelly G, "So I don't understand. The transfer station is on there."

Gloria D, "So it should show in this project in relation to anything around it for example the nearest house. I think the well is on there somewhere. Symmes pond."

Sam P, "I believe it's on the aerial view."

Gloria D, "Yes, but we want it on a sketch just like this only it has this project in relation to the whatever is around it. For example, an important thing that's going to be around it with IF&W is the conservation area, and the management area is right there. Symmes Pond..."

Shelly G interjected, "We can take stills of the aerial views and put that on there. We have it on different sheets you just wanted on one sheet."

Gloria D, "So we're asking for if you just look at the conditional use when it talks about statements addressing description of proposed development, existing buildings, proposed building expansions and then it goes down to site plans see drawing requirements which I probably don't have right here but drawing requirements telling exactly what will be on the site."

Shelly G, "We have aerial views."

Gloria D, "We are talking about this sketch, and it probably already had the footage and stuff."

Nichole H, "She is looking for the boundaries of the site that shows the actual shape, solid driveways, streets and abutters."

Gloria D, "I think the engineer may have it you might probably just have to ask for it."

Nichole H, "I can get that."

Gloria D, "The existing subsurface conditions of the site so I'm assuming he probably already has that and just didn't turn it in with the application but if you're going to put a building you must have done some soil examination of some sort to know what the project was gonna need. We're concerned about runoff and if it's going to go down the road and into Symmes Pond. Mark Holden from DEP mentioned whether or not the runoff would go down the road and into Symmes Pond, the dominant fracture trend meaning the bedrock or whatever the pattern of the water is going. It may actually help keep it from the waterway or it may send it that way so somebody should look into that and make a determination on it. Something in writing is needed from Mark Holden of DEP. It's an important in that... First of all, there's basically no runoff there right now because it was all trees and vegetative buffer, so now we put in roads and the driveway and the building, so we need to know where that runoff is going. Mark Holden said it was one of the determining factors is what he called a fracture trend likely that's the bedrock underneath or I don't know something to do with geology and fracture trend to

account where the pattern of the water flow is going. If you could get Mark Holden or the engineer to answer that question in writing so we can have it in the file in case there is such an appeal you know if the water quality whatever 10 years comes back to us.”

Shelly G, “Another thing is to when you look at the site-walk like I did with two of the contractors today, that are going to work on this job, the way that it’s just already; the way that it is now you can pretty much see where the water is.”

Gloria D again reiterated that it must be in writing.

There was further discussion regarding rainfall calculations and any additional stormwater runoff that may affect the proposed area; would the proposed project be able to handle such situations.

Shelly G again described the size of the culvert pipe and the manner in which the runoff water will flow.

Gloria D, “If you just, when he comes, have an enlarged sketch then we’ll be able to see it all. All we need is documentation about everything here, just needs to be legible, so we can put in the file. I know the engineer has it you just need to ask. He must have done it in order to do the designs. He must have the calculations so we just put it in the file. The last concern I had was, and it might be here, I can’t read this, I didn’t see the type of soil in the area; there’s the aerial view there. It’s usually a graphical map like that and it says type of soil, gravel, whatever they have, names from the DEP whatever. Again, it must have already been done.”

There was further discussion regarding the waterflow and runoff.

The checklist for this Conditional Use Permit was reviewed. Gloria D reminded the Selectboard to enlarge their site plan sketch and to include all abutters and obtain the IF&W information regarding endangered species, etc. The map showing the soil information must be added as well. There is no aquifer map but there is not an aquifer there. The floodplain must be checked. The habitat maps might come in with IF&W information as they would know anything about the habitat.

Gloria D, “Was there anything else anybody wants for information for our next meeting?” There was none.

Nichole H read the criteria required to complete this application as follows: 100 year rainfall run-off, endangered species that will not be threatened by this project, dominant fracture dealing with bedrock from Mark Holden and run-off, a larger map with abutters and relation to Pond and Route 11, topo map with soil, rainfall calculations pertaining to whatever the basin will hold, flood plain from CEO Norman Hutchins and a habitat map from IF&W.

Nichole H then inquired and the Selectboard firmly requested if the Planning Board would consider meeting again in the month of June to move this along because they have a deadline. It was noted that this could have been done sooner so as not to rush.

Skip T motioned to accept the application as complete, pending the aforementioned criteria and items that the engineer will supply are available for the next meeting. A second was made by Anthony G. Motion carried 5-0-0

After lengthy discussion Skip T motioned, second by Anthony G, for the Board to hold a site-walk at the Salt & Sand Facility at 6 PM with a public hearing immediately following on Wednesday, June 22, 2022, at the Newfield Town Hall. 5-0-0

A motion to adjourn was made by Chair Gloria D and seconded by Emily F with a unanimous vote of 5-0-0. This meeting adjourned at 9:25 pm.

Respectfully submitted,

Maria Marchant  
Administrative Assistant

THESE MINUTES ARE NOT VERBATIM