

Newfield Planning Board
Meeting Minutes of July 6, 2022
23 South Effingham Rd
Newfield, ME 04096

A Quorum meeting was called to order at 7:06 PM with the following in attendance: Chair Gloria D, Anthony G, Dan P, Emily F, Attorney Leah R, CEO Norman Hutchins, Frank Ring, Molly Roy, Counsel Ted Small, Sam Parks, Jim McLaughlin, Karen Ring, 3 other members of the public and Administrative Assistant Maria Marchant. Ben Buzzell is excused from this meeting and Town Administrator Nichole Hubbard arrived at approximately 7:10 PM.

The Pledge of Allegiance was recited by all in attendance.

Chair Gloria D began the meeting with how the proceedings will be followed. "There are several people in the audience, so I just want to go over how this is working. In our agenda we have a place for public comments, for anybody wanting to address the board, for three or four minutes about a separate topic; other than what we're talking about tonight. We can do that and then we're gonna move onto working on the conditional use permit amendment for Balch Lake Marina. They are requesting year-round boat storage and after that we're going to do the conditional use permit for the Salt & Sand Facility and finish reviewing conditional use permit application. When the Board is considering these applications there isn't any back and forth communication. We've had a public hearing for both of these so I just wanna make sure that's clear. There may be times when people on the Board would like to ask a question of the applicant so that is a possibility. So, we'll go ahead and get started on the conditional use permits. Is anyone here wanting to make any public comment on something other than the Salt & Sand Facility or the Balch Lake Marina they wanted to speak to the Board about? We do this in every meeting. As there is no public comment, we will move on to the conditional use permit amendment application Findings of Fact for the Balch Lake Marina. They're requesting year-round boat storage. The year-round boat storage amendment is a request to an existing permit regarding months of storage. They would like to change to year-round instead of just seasonal months that they had before. So, if you go to your Land Use Book and Article 8, or if you have your Findings of Fact sheet, that's what we're gonna start on. If you're going into Article 8 it's 8.2. Standards for conditional use permit. Section 3 conditional use may be granted by the Planning Board only in the event that the applicant has established satisfaction with the Planning Board that a says neither the proposed use nor the proposed site upon which the use will be located is of such character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the zoning district." At this time Chair Gloria D asked CEO Norman H if the Marina is located in Rural or Farm and Forest Zoning. CEO Norman H replied, "Rural." Chair Gloria D confirmed that CEO Norman H stated Rural Zone and that is what the Application states. "First one says the proposed use compared with surrounding uses. I guess before we start, I would like to say that we've received some information this afternoon, and I know many of you were at work, from Skelton Taintor & Abbott and they're representing Molly Roy and Frank Ring. So, there's a letter there and some pictures which are similar to what we've seen before. There are some complaints to our CEO, some of which we've seen before. There is a video and I don't know if you folks were home or at work to see it or not but there is a video available that goes with these pictures."

Attorney Ted Small, "I'll start with the procedural question as to the reason why we submitted that was because I believe at the last meeting it was my understanding that the Board was holding things over, at least in part, to get the Applicants response from the last meeting. So, you folks said we could submit something which is why we did that. I don't know if that happens here tonight or not so I'm not looking to add anything more to the discussion unless they are."

Chair Gloria D, "We did close the public hearing and I did tell you that you could submit something in writing. You asked at the end of the meeting and I said we'd like to have that a week before so we can review it 'cause it's kind of hard to get it tonight and then look at the application. So, that's what we're doing now. We're reviewing the actual application just to approve or deny. We can ask applicants questions if they are here when the topics come up. Is there anything else?"

Attorney Ted Small, “No, I just wanted to explain this submission. Also, I don’t know if the applicant was here or not.”

Chair Gloria D, “The applicant is not here yet. Tracy Gibson and Richard Peterson are not here. We did receive communication from Tracy that they were on vacation this week and I believe she submitted something in an e-mail to contribute.”

Administrative Assistant, Maria Marchant read the email received from Tracy Gibson today at 12:40 PM as follows: “Good morning Maria.

I have submitted an amendment to the conditional use permit for the boat storage lot on Sanborn Rd. I am requesting the boat storage dates be removed as discussed in the 2020 zoom meeting. The ‘out’ April ‘in’ November notation was referencing traffic concerns of neighbors. Boats start coming out in April and are in by November as noted in the minutes. The Board was to go back and listen to the recordings of the meeting where this was discussed. I appreciate the volunteers on this Board and hope this can be resolved.

Sincerely,

Tracy Gibson”

Chair Gloria D, “Thank you. So, let's move onto standards for this conditional use permit Section 3 a number one: The size of the proposed use compared with surrounding uses. So, we need to make some comments on that. So, the Findings of Fact. We wanna know how the proposed use of amending the permit is compared to the surrounding uses. So, I would say something like the Newfield Planning Board issued a conditional use permit for a seasonal boat storage area in 2019 and that the applicant is now requesting an amendment to extend that from seasonal or a few months out of the year to 12 months out of the year boat storage. However, during the winter months there is very little activity of boats in and out. Is there anything else anyone would like to contribute to that? Ok, we will go on to the next one. The intensity of the proposed use including amount and type of traffic to be generated, hours of operation, expansive pavement and similar measures of intensity of use compared with surrounding uses. So, the intensity of the proposed use would be increased if we were to grant a year-round permit. The amount of traffic again, chime in, but I'm thinking traffic is essentially going to be the same because in the winter you don't go in and out and the number of boats being stored isn't gonna change. Number 3 the potential generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances. So, at public hearing we heard about some nuisances that are bothering neighbors. We did have some evidence presented at the public hearing about some neighbors complaining of noise, odor, not necessarily litter, but some potential contamination to the well because some fuel or oils may have been leaking onto the ground; however, we didn't receive evidence of that. We did do the site walk. We walked around the whole perimeter we saw the tires where the boats sit on the tires. Did anybody? We didn't notice that in our site walk that there was any evidence of any spillage anywhere. Do we have anything different in the pictures. Take a minute and look at the pictures please. Sorry they came in late. Norm, have you seen any evidence of gas and oil being spilled on the site?”

CEO Norman H “None at all.”

Chair Gloria D “How many times have you been up there two or three?”

CEO Norman H “Five or six times doing a couple with DEP.”

Chair Gloria D “OK. Did they find anything that we need to know about?”

CEO Norman H “Nope. Residue from aluminum boats; they have a residue that comes off.”

Chair Gloria D, “OK I'll just take one more look at these pictures. OK so shows shrink wrapping, it shows the visual aspect from a home and what they're looking at, you know, shows the density of the buffer, the natural vegetated buffer that's there. Some places it's more; certain times of year it's obviously different than others. Ted, I have a question and you might need to refer me to your client but there were some concerns about contaminating water because of any drainage that might be on the site from the boats being stored there. Are there any tests available? A water test or anything? Any kind of evidence that might show some contamination?”

Ted S, “None that I’m aware of.”

Frank R “All of my well was under water. My well was two feet under water. I haven't drank the water since this is taking place. We shower with it.”

Chair Gloria D, “Let the record show that at this point there is no evidence of well contamination. Although it is a concern if fluids were leaking, however our CEO has been to site and with a DEP representative and they didn't find

any evidence of spillage at those visits. The potential generation of noise, dust. So, what were the other new nuisances that came up at the public hearing that we discussed. There were some odors I believe from doing the shrink wrapping and some noise I believe from truck with a ball joint problem and some trailers and traffic.”

Skip T, “In addition to those two items there was substantial comments about the process shrink wrapping itself adjacent to other boats next to it.” Skip T further spoke about the fumes from the propane torches and the hazards of full fuel tanks and stated perhaps this process could be conducted at another location.

Gloria D, “CEO Norman H and DEP didn't find any evidence of leakage. I'm not sure can we consider this.”

Attorney Leah R, “I guess you can because the intensity of use is increasing so we could consider that this is, you know, this is a storage and a warehouse. I think storage and warehouse and so arguably if we so find, you can find that this would be considered. This shrink wrapping is an accessory to the storage use in order to be stored.

Accessories is something that is customarily subordinate right? And so I think if you find that this is an accessory use and therefore you can ask where and dictate where it can happen on the site or impose some conditions around that. That no propane tanks or propane torches can't be used within X feet at a certain amount. Those kinds of reasonable conditions could preserve safety or you could say it has to happen somewhere else.”

Skip T, “In other words there's a staging area we could designate?”

Leah R, “That is one option.”

Skip T, “Because it if it is a severe danger.”

Leah R, “Another reasonable condition, and again, this is entirely up to this Board, but I think that the ordinance is clear that you do have the authority to impose reasonable conditions so anything that you think is reasonable related to health, safety and welfare, and again I know nothing about boating and I don't claim to, but you know I don't know if it's the best management practice to drain tanks before their stored. Those kinds of things I don't know of course, but I think that if you believe it to be a reasonable condition you can impose it.”

Gloria D, “Thank you. Norm, did you see what they used for shrink wrapping? Which what kind of equipment? Did you get a chance to look at the equipment they used for shrink wrapping?”

CEO Norman H, “I think it's some kind of a heat gun.”

Chair Gloria D, “What causes the heat?”

CEO Norman H, “It's like a battery operated one that they have.”

At this moment Molly R interjected and Chair Gloria D responded, “I'm sorry I'm gonna have to close the meeting if you keep interrupting. I apologize we do have your evidence it's loud and clear and we thank you for being persistent and submitting it.”

Skip T, “I am familiar with boating and shrink wrapping and what that looks like for the winter. What the evidence is is that it needs to be tightened up in terms of the preparation of these boats for storage and otherwise the whole block can go up. And they pointed that out, so I'd just like to point that out. That that's exactly correct.”

Chair Gloria D, “OK so make yourself a note and when we get to conditions of use, we're gonna need to remember that at that time. Anthony, do you know what the the setbacks are?”

Anthony G, “Front is 50'; 75' from center of the road; and 50' back.”

Gloria D, “So moving on. We address the odor. Anything else on the nuisances? Potential generation nuisances? Next one: unusual physical characteristics of the site including the size of the lot, shape of the lot, topography and soils which may tend to aggravate adverse impacts on surrounding properties. I'm thinking the characteristics of the site have not changed since we issued the last permit. Do we have to review it again?”

Leah R, “I think you can find that but we wanna just note that. If the characteristics have not changed. I think you can say that nothing has changed from the last time and we've heard nothing that could change your mind.”

Gloria D, “We didn't see anything different at the site walk. Skip, Anthony and I and Ben were all at both site-walks.”

Leah R, “And I think it's already in your prior decision. I looked at that basically it's saying it's a fairly regular shape, level 5.48 the parcel which is already in there all the activity takes from that front two acres I don't think anything has changed from that and that you know there's that specific condition. This is about topography but I think you were that would tend to aggravate adverse impacts and I think it's pretty clear that there was a condition of approval in 2019 that talks about that natural vegetated buffer be maintained. It does say maintain it doesn't say

established so from my perspective I don't know if that's what the Board's perspective is. Is that what was existing was sufficient and it must be maintained."

Skip T, "We made requests based upon evidence and testimony of people who came that we modify certain things of the previous permit and address more adequately and permanently.

Gloria D, "Such as? Are you thinking about modifying?"

Skip T, "For example adding more vegetation and buffers."

Gloria D, "Well did you get a chance to look at the pictures? I know they just came in. In that packet and it kind of shows different seasons? They're mostly deciduous trees so sometimes the leaves are off and obviously could use a different view from when the leaves are on? So I was kind of wondering if we were to modify it. Let me back up for a minute. It's not only the Rings there's another neighbor on the other side in this same packet. (There are two abutting neighbors; one on each side of this lot.) I believe there was a complaint to the CEO from Mr. Engall. He's complaining that he came to live in a rural area, thought he was in the country now he's gotta look at boats. So, if we were going to consider the buffers, I'd like to consider them on both sides where the residents are. The rear is the swamp and there's never gonna be anybody out there but the wildlife." Someone mentioned that there is a berm that goes up there in the back of the lot and then it drops off on the other side. "So, I don't know if we should also consider like a 6-foot fence believe as mentioned in our performance standards. I'm sorry I didn't know what the consideration is besides that. Either vegetative buffer enhanced with maybe evergreens or a 6' fence? We can come back to that but since you brought it up, I wanted to add my 2 cents. OK so we'll move on to Section 3 standards for conditional use permit B. Municipal or other facilities serving in the proposed use will not be overburdened or hazards created because of inadequate facilities. In reaching a determination on the standard the board shall consider the ability of traffic to safely move into and out of the site at the proposed location. I didn't see any change from when the permit was issued. By having this year-round is that gonna change that standard? Skip T, "Can we consider putting hours on that operation.?"

Gloria D, "The original permit does have hours of operation from 5:00 AM to 10:00 PM."

Skip T, "But we can consider modifying that if we choose? I believe that the neighbors were complaining about the traffic."

Gloria D, "But we're talking about safety. We're not talking about the nuisance aspect. We already talked about the nuisance aspect. So, this part of safety is the traffic. Can the traffic safely get in and out? So, they're hauling boats on trailers in and out, is there enough room at the entryway or is the driveway wide enough? Is it level? You know, if he's gonna slip with ice?"

Skip T, "What about the fence? What happened to the fence? What about the gate? There is no gate.

Gloria D, "There's a chain gate. I don't know I think he used the word gate when the conditional use permit was issued so we want to talk about gates and what they should like look this is probably time 'cause it would have to do with safety."

Skip T, "It can also go with the vegetation barrier."

Gloria D, "Yeah and it goes with number 2 the pedestrian activity too. So, what did you wanna say about the gates?"

Dan P, "A chain is not a gate."

Gloria D, "Thank you for your input I agree. I'm just gonna look at the picture and see if we can see the front. I thought it was a wall up front there. Yeah, there's a little short stonewall with two granite posts and then they put a chain in between 2 granite posts. That's existing and that was added. That wasn't there before. I have just written that a chain is not a fence and then we're gonna need to determine if this permit amendment is issued then you know you're gonna need to be able to describe what you are looking for the gate. The next number B2 is the presence of facilities to assure the safety of pedestrians passing by or through the site. So, I think that would go with the fencing and the gate that we've already discussed unless there's something else in this. There are no sidewalks on any of our roads so there could be pedestrians on any of our roads. This isn't any different than any other one except that maybe this road happens to be a little bit wider in that section."

Leah R, "Madam Chair can I just ask for clarification as I'm drafting the findings? Is it fair, I'm just looking for direction from the board, that unless there has been some change of substantial change from the criteria and findings in the last go round can I refer to them by reference and incorporate those into these findings? If there's been no change?"

Gloria D, "I would think so."

Leah R, "I just want to make sure that that's your intentions."

Gloria D, "The next one is the capacity of the street network to accommodate the proposed use. We've talked about the gate, we've talked about the minimal traffic; will be minimal depending on your definition of minimal, the street network; there aren't any hills. They have really good site when you turn in and out of the driveway. And again, there's no change; the streets haven't changed. Possibly he might have more a little more traffic 'cause there are a lot of camps and lakes up in that area. We did discuss before that the traffic was going to be less because there will be fewer boats going up and down Sanborn Road because they just come out of Russell Rd and right across the street instead of going up and down at the location. Next one is the capacity of sewerage and water supply systems to accommodate the proposed use. That's not applicable because there are no buildings proposed and there's no sewerage or water supply on site and there was none in the request. Next one is the capacity of storm drainage system to accommodate the proposed use. Back again from the site walk information and the pictures that all looks the same as when we initially issued the permit. Unless somebody has something to add that you saw on the site walk. Number 6 the ability of the fire department to provide necessary protection services to the site and development. So, you mentioned, Skip, maybe doing a staging area if they're gonna do shrink wrapping on site; the way you're feeling like the ability of the fire department is impaired at this point? I know it was brought up at the public hearing.

Skip T, "What fire protection measures are in place on the site while this shrink wrapping is going on. Best management practices. You could say something like that. Shrink wrapping goes on all over the state. It starts in August. But what I was specifically pushing toward was that the boats are placed, when they are shrink wrapped, they're always along the outer edge so you can pull in and around, so shrink wrapping actually could occur in the center of the of the horseshoe. One boat at a time; not a collection of boats next to one another 'cause you really don't know when you put the cover over those who's been taking care of what. So, let's just say do it in the center away from all the other boats to minimize the potential for an accident because it is an accident and the nature of the beast. It happens to all of the boat yards.

Leah R, "So for clarification, it sounds like if there were to be an approval, that a condition of approval would be to ensure that any shrink wrapping would occur in a segregated area. Do we wanna specify at no less than X feet away from any other boat?"

Skip T, "That could be a bit harder to enforce because fumes go with the wind, so you don't know what you're dealing with. But if you if you, do it in the center of the horseshoe where they come in that should be sufficient distance; it's probably 50 feet.

Leah R, "Yeah, I just don't know if that's how they do store. I was thinking when I look at the findings from the last time it doesn't specify how many, it doesn't specify where."

Skip T, "Typically they get pushed out of the way, but we see in the pictures that that they're actually where the boat is gonna sit for the winter is next to other boats and they're shrink wrapping one next to another. That's not realistic. It's just not."

Ted S, "When you pull a boat out of the water, then you shrink wrap it, then send it over to storage. On the original application I believe it asks for storage and on this application, they're asking for an extension of storage. I would think that any other use would be nullified."

Gloria D, "Except that if you know if you're in the business of storing boats that is part of the storage process or an accessory use. I don't have any problem with that."

Ted S, "Have the actual Marina do all that."

Skip T, "So we have two ways maybe segregating it on the site and having shrink wrap done at another lot. Moving on Section 3 standards that conditional for conditions permit see the natural characteristics of the site including topography, drainage, relationship to the ground and surface waters and floodplains shall not be such that the proposed use when placed on the site will cause undo harm to the environment or to neighboring properties. Topography hasn't changed since we issued the first permit. The characteristics of the site, well they've added this little stone wall in front and put a chain across, but the ground hasn't changed any since we first issued it. OK Section 4 Standards for conditional standards use. Additional standards and shoreland district. That's not applicable because this is not in the Shoreland District. Section 5 conditions of approval. The planning board may attach

conditions to its approval for conditional use permit. So, the performance standards are located an Article 9 that's on 9.1 in the book. The first one is access to lots and lots with frontage. We've discussed that. The second one is air emissions. We talked about dust and odor. Third one is buffer areas probably wanna talk about that a little more or not."

Dan P, "No."

Gloria D, "No? OK. Explosive materials. No flammable explosive liquid solid gases will be stored. I think that was in our original permit, wasn't it?"

Leah R, "It was one of the things that you, I know that that was of concern, as oil and gas leakage, etc. You could find that nothing has changed and/or you could find that it may be an inappropriate condition to require draining of those gas tanks prior to or detaching them or, again I'm not a boater, I would defer to those who actually are, if those are reasonable conditions and that's sort of best management practice."

Gloria D, "Well you have to winterize the motor so you can't like drain them of all their fluids."

Leah R, "And, as you said I mean the evidence showed, and I think you said this, is that there has been no evidence upon inspection by Codes and DEP that there has been any leakage nor has there been any evidence submitted by the abutter with respect to it. I know they have concerns around contamination but... So, you can go back and leave it as it is if that's what your pleasure is."

Skip T, "But it's the fumes we're talking about."

Gloria D, "It's explosive material we're talking about, and fumes can explode if ignited."

Skip T, "That's why we should get the shrink wrap off premise or near the entrance to the facility."

Gloria D, "OK so I keep hearing that coming up as a condition of the use of the permit."

Skip T, "I would. It would eliminate fire danger 80%."

Anthony G, "Isn't that in our original permit? That portable tanks be removed from the boats?"

Skip T, "We don't whether they are now. Who's inspecting it? Are we going to ask Norm to go there and inspect it? I mean isn't it a violation if they don't?"

Leah R, "Yeah it says, I'm looking again 2019 approval under smoke and gases, gas tanks in boats are sealed and vented. I don't see anything about removal. It says no boats will be stored on lot where bulk liquids will be stored."

Skip T, "Those external tanks are what we're talking about. Most pontoon boats have them. The red tanks should be removed and stored off site."

Gloria D, "OK Section 5 is glare. I don't believe there are any security lights on site and I don't think any were required in the first permit. Unless I'm remembering it wrong. Section 6 is landscaping. The landscaping shall be preserved in its natural state insofar as practical by minimizing tree removal from great changes. There have been no changes in the grade that's the way it was when we went on our first site walk nothing really has changed, I think. I didn't measure the trees, but it looked basically the same as our 1st first site walk."

Skip T, "Can we require, as part of this application, that a buffer fence be placed on the adjacent properties to limit the view 100 percent?"

Gloria D, "Did you say a buffer fence?"

Skip T, "Yeah, they have a nice line of trees on their property. I was a businessman I put fence right down there that would be six or eight tall, so you don't look out at these stored boats."

Leah R, "I think if you're asking for legal perspective one of the conditions of the conditional use application, I think that would fit more neatly and I think the question is the degree to which landscaping fencing or other design elements have been incorporated to mitigate adverse impacts on surrounding properties. So, I think that's precisely the kind of thing that is allowed and I think it is within your discretion to impose that as condition if your fellow board members or majority of them agree. I think that given the fact that what is being applied for here is an intensification of the use that that would trigger you know I think the reasonable condition to impose it if the board is so inclined."

Gloria D, "OK Section 7 is noise. There was, and again you may not have had a chance to look at it if you weren't available today, but there was a video submitted along with these photos that I had accepted to the record even though they are a week late. The video had demonstration of some noise of the truck and then some other things that I couldn't determine exactly what they were, kind of a rattling noise, I could also hear what I'll call a torch, but whatever you use to shrink wrap. You kind of hear that noise you know the pressure sound. However, and there

really isn't any evidence that they exceeded in decibels or anything as required in our noise ordinance here. It talks about sound pressure level limits 7:00 AM to 10:00 PM sixty decibels 50 decibels at night so we don't really have any evidence that it was exceeding those.”

Skip T, “But we couldn't limit the use of those blow torches.”

Gloria D, “Well if we discuss moving it off site that would resolve that issue. Anything else from noise? Section 8 is off street parking and loading. Well, this is a storage facility that we did approve so I would say that none of that has changed from the original permit. Section 9 is refuse disposal. Applicant shall provide for the disposal of all solid and liquid waste I believe we said there wasn't going to be any disposal on site. Sanitary provisions. Again, that's talking about public sewer system, subsurface disposal system, wastewater, so that's not applicable as there is no sewer or water on site or requested to be on site. Section 11 Satellite receiving dishes shall meet the setbacks. I say that will be not applicable as there aren't any and they're not requesting that they have one. Section 12 setbacks in screening, exposed storage areas, exposed machinery, sand and gravel, areas used for storage, shall have sufficient setbacks and screening such as stockade fence or dense Evergreen hedge, 6 feet or more in height to provide a visual buffer sufficient to minimize the impact on other land uses and properties in the area. So, I think that's kind of what we've been talking about with the vegetative buffer and or fence correct? Anybody wanna add anything to that? It also talks about safety hazards to children so that that's where we gotta get into the gate and the pedestrians. The signing requirement at the time was about having videos on site.”

Leah R, “It says cameras will be installed and I'm not sure if they have been and security message signs shall be posted.”

Gloria D, “I did see the signs and I saw game cameras. There's no power on that site. Soils no activity shall be permitted in the area with soils rated severe very severe. It's not applicable because we already issued the permit and nothing changed. Soil Erosion Control Section 15. Again, nothing has changed since the original permit. Section 16 storage of materials. All materials stored outdoors will be stored in such a manner to prevent the breeding and harboring of insects, rats or other vermin. There is no storage of material other than the storage of boats. Section 17 stormwater management. All new construction development... This is not new construction this is just an amendment to a or permit and it was already issued. The intensity of use of changing in that it would be additional days out of the year but not additional number of boats or an additional acreage being used so I don't think that applies.”

Skip T, “There are boatyards that have requirements for density of the boats. I don't see there's plenty of room and acres there for this area to work on the boats getting ready to store. It could in the future be more dense if you triple the boats.”

Gloria D, “So when we issued the first permit the theory was, they were gonna be able to drive between and around so if you gotta do that you really can't fit a lot more in there.” There was discussion coming from the attendees and the Chair informed them of the process of reviewing the application and the applicants are aware that this meeting is taking place this evening and the Board will either issue it or not this evening. Section 18 toxic and noxious discharges. No use shall for any period of time discharge across the boundaries of lot in which it's located and there's more to it you can read it yourself but again talking about you know the odor and how that can be toxic to a person smelling that. I think that issue would be resolved if we were to just have a condition of approval that the shrink wrapping be taken off site 'cause that's primarily the biggest problem with a lot of the fire hazard, the odor, the noise. Traffic Impacts and Street Access Control. Well part of that is driveway. Design driveway design shall be based on the estimated volume using the driveway classification. I believe we've discussed that before. Sight distances again I don't see that anything changed. You can't fit anymore boats on that lot, and they can't use the back part of the lot because it's a wetland. Section 20 water quality. No activity shall locate store discharge or permit the discharge with any treated untreated or inadequately treated liquid gases or solid materials of such nature, quality, obnoxiousness, toxicity or temperature that runoff seep percolate or wash into surface and groundwaters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating, submerged debris, oil, scum, powder, odor or taste. We've talked about when the site visit was done with DEP and our CEO there wasn't any evidence of the discharges and there wasn't any evidence at the site walk however the applicant wasn't there and neither were the Rings who have filed a complaint. So, if there was a place that we

missed, nobody was there to point it out. Norm's been their DEP has been there and we've had two site walks. One without boats and one with. Is there anything we should additionally discuss here?"

Leah R, "No. I think I can incorporate by reference the prior comments about no water testing." Gloria D, "Section 21 water supply. Prior to the issuance of any occupancy permit for any structure with a potable water supply. That is not applicable. They did not request a structure and there is no structure and there's no water supply."

The Balch Lake Marina Boat Yard Year Round Storage - The Findings of Fact:

Number 1 – Findings and Conclusions. The proposed use **IS** or **IS NOT** listed as a conditional use in the zoning district in which the use is proposed?

The storage warehousing distribution IS a conditional use in the rural zone.

Page 82 - A – Neither the proposed use nor the proposed site upon which the use will be located is of such character that the use **WILL** or **WILL NOT** have significant adverse impact upon the value of quiet possession of the surrounding properties greater than would normally occur from such a use in the zoning district which is rural. The conclusion is based on the following findings which we already went through about the potential nuisances, unusual physical characteristics and we talked about landscaping fencing, etc. So, we need a motion that the proposed use **WILL** or **WILL NOT** have significant adverse impact. And then we need a second."

The Motion by Anthony G and a second by Skip T that the proposed use and proposed site upon which the use will be located is of such character that the use WILL NOT have significant adverse impact upon the value of quiet possession of the surrounding properties greater than what would normally occur from such a use in the zoning district is subject to conditions that Shrink Wrapping WILL BE done off-site. The vote of 4 – 0 – 1 (Dan P abstained.)

Page 82 – B - Municipal or other facilities serving the proposed use **WILL** or **WILL NOT** be overburdened or hazards created because of inadequate facilities. This conclusion is based on the following findings: traffic, safety, pedestrian, street network, sewer, water ,storm drainage, fire department.

Gloria D motioned and Skip T gave the second that Municipal or other facilities serving the proposed use WILL NOT be overburdened, or hazards created, because of inadequate facilities subject to the condition that the chain currently installed chain is replaced by a gate consistent with the original condition of approval. The vote of 4 – 0 – 1 (Dan P abstained.)

Page 82 – C - The proposed use when placed on site **WILL** or **WILL NOT** cause undue harm to the environment or to neighboring properties.

Gloria D made a motion and Anthony G made the second that the proposed use when placed on this site WILL NOT cause undue harm to the environment or to the neighboring properties. The vote of 4 – 0 – 1 (Dan P abstained.)

Page 82 - C – Shoreland Does Not Apply

Number 6 The proposed use CONFORMS or DOES NOT CONFORM to the applicable space and bulk standards and building height requirement in which the proposed use is located. There are no buildings on site.

Article IX

Gloria D motioned and Emily F gave the second that access to lots and lots without frontage is NOT APPLICABLE. Vote 4 – 0 – 1 (Dan P abstained.)

Suggested motion by Leah R that the criteria for air emissions has been met for similar articulated in the conditional use standards about emissions, dust, ash, smoke or other particulate matter. Gloria D moved this motion seconded by Anthony G. Vote 4 – 0 – 1 (Dan P abstained.)

Suggested motion by Leah R that the buffer criteria HAS BEEN MET subject to the condition that a 6-foot stockade fence be installed along property lines of adjacent neighbors but not across front and rear. Gloria moved the motion and Anthony G seconded. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned and Anthony G seconded that the standard of no flammable explosive liquids solids, gases will be stored HAS BEEN MET based on the condition that NO external fuel tanks will be stored on site. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D made a motion and seconded by Emily F that the standard of glare is NOT APPLICABLE because there is no lighting required or existing. Vote 4 – 0 – 1 (Dan P abstained.)

Suggested motion by Leah R that landscaping criteria HAS BEEN MET because there is an existing landscaped buffer and there will be an addition of a fence to screen from neighbors. Gloria D moved the motion with a second by Emily F. Vote 4 – 0 – 1 (Dan P abstained.)

Suggested motion by Leah R that the noise criteria HAS BEEN MET because there has been no change from the previous approval and given the condition that they will no longer be shrink wrapping there. Moved by Gloria D and seconded by Emily F. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned and seconded by Emily F that the off-street parking and loading HAS BEEN MET because nothing has changed since the original permit was issued. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned and a second by Emily F that refuse disposal criteria in Article 9 has been met based on the standards of the original conditional use permit issued. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned with a second by Emily F that the criteria for sanitary provisions is NOT APPLICABLE because there are no buildings on site and there is no sewer or water. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned with a second by Emily F that criteria for satellite receiving dishes is not applicable. The applicant has not requested any. Vote 4 – 0 – 1 (Dan P abstained.)

Suggested motion by Leah R that the setbacks and screening criteria HAS BEEN MET given that the original approval requires governing setbacks to be applied and subject, and given, the condition that a 6-foot stockade fence shall be installed. Gloria D moved the motion with a second by Emily F. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D made a motion with a second by Anthony G that the criteria for signs HAS BEEN MET based on the standards set forth in the original conditions because there have been no changes. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D made a motion seconded by Emily F that the criteria for soils it HAS BEEN MET based on the previous issuance of the permit in 2019 and no changes have been made to the site.

Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D a motioned and seconded by Emily F that soil erosion control criteria HAS BEEN MET based on the issuance of the original conditional use permit and that there have been no changes to the site. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned and seconded by Emily F that the storage of materials criteria HAS BEEN MET based on the original issuance of the conditional use permit in 2019 and there are no changes. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D made a motion with a second by Emily F that the stormwater management criteria HAS BEEN MET based on there have been no changes to the site location since the original permit was issued. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned and a second by Emily F that toxic and noxious discharges criteria HAS BEEN MET with the condition that the shrink wrapping will take place off site. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned with a second by Anthony G that traffic impacts and Street access control criteria HAS BEEN MET based on the fact that there has been no change since the original permit was issued. Vote 4 – 0 – 1 (Dan P abstained.)

Suggested motion by Leah R that water quality criteria HAS BEEN MET based on the fact that there were site visits by CEO and DEP with no evidence of discharge found by them or on either of the two (2) site walks and that the Rings did not submit any evidence of contamination. Gloria D moved the motion with a second by Emily F. Vote 4 – 0 – 1 (Dan P abstained.)

Gloria D motioned and seconded by Emily F that criteria for water supply is NOT APPLICABLE because there is no water supply on site, and none is proposed and that hasn't changed since the original permit. Vote 4 – 0 – 1 (Dan abstained.)

Anthony G motioned with a second by Gloria D to approve the amendment application subject to the conditions articulated. Vote 4 – 0 – 1 (Dan P abstained.)

At this time Attorney Leah R, Ted Small, Frank Ring, Molly Roy and all attendees except Sam Parks, Jim McGlaughlin and Town Administrator, Nichole Hubbard left this meeting.

Chair Gloria D motioned to approve the minutes of June 1st, 2022 with a second by Emily F. Vote 4 – 0 – 0. The minutes of June 22nd were tabled to have all of the public hearing comments. Dan P left the meeting at this time.

The Board decided to remain until approximately 9:30 PM to review the Findings of Fact for the Newfield Salt & Sand Facility.

Chair Gloria D, “We got some information at the end of the meeting last week it was from Inland Fisheries and Wildlife and another one from Enid and an e-mail from Noble & Holden and then Nicole’s synopsis of these conversations. I’m gonna summarize it a little bit. On the inland fisheries and wildlife portion I just made a couple of asterisks. There’s all kinds of stuff you can read but it says our department has not mapped any essential habitats that would directly affect your project. There are some bat species in Maine that are endangered and protected however our agency does not anticipate significant impacts to any of the bat species as a result of this project. They also talk about some turtle species; blanding’s turtle wood turtle and you can read it yourself. It talks about where their particular environment would be or habitat and then they said we recommend you contact wildlife biologist Derek

York for any further site-specific data for your project area which the Nichole attempted to do and we'll get to it in it in a minute. Then significant wildlife habitat, vernal pools says at this time inland fisheries and wildlife significant wildlife habitat maps indicate no known presence of significant vernal pools in the project search area. Search area is larger than the project site just to remind you guys we talked about that last year. Fisheries habitat it's not applicable to this project site. I'm not going to read the whole thing but there is a comment. This consultation review should not be interpreted as a comprehensive review for the presence of other regulated features that may occur in this area. Prior to this data any future site disturbance, we recommend additional consultation with the municipality and other state resource agencies such as main natural areas program Maine department of marine resources and Maine department of environmental protection in order to avoid unintended protected resource disturbance. So pretty much it sounds like everything is fine with the inland fisheries and wildlife except that if they do anything else on the site, they would recommend getting further evaluation before removal of any other material. Then the other one is says that the top e-mail to Nicole from William Noble and it said I believe this was the one that was trying to clarify the Mark Holden thing about how the water flows in the bedrock, the dominant fracture trend, so on and so forth. This gentleman said William T Noble said I did check our GIS database for geology info. The site is on course sandy glacial till soil underlain by granite bedrock. It shows the luminants trending Northeast and southwest in the area of the project site. So that's going towards Symmes and up the other direction. That's the way the water is trending underground. That was based on a previous e-mail from mark Holden and Nicole was unable to get hold of him, so she put in hours and hours, and I was trying to get a hold of several different people which is where this one came from. There's also summary from Nichole. It says after receiving a letter dated June 17th 2022 wildlife biologists Becca made several attempts at contacting her back with Becca with someone mentioned about having a further assessment done if you do anymore on the property. But it's kind of like a standard letter, Nicole again went to some supervisors to finally get some information, which I think is it satisfactory and his name is Bob Stratton and he's the environmental program manager Becca Steel's Manager or Supervisor to discuss the different species of bats and the turtles and fisheries. Bob prefaced the conversation by saying it's pretty standard response letter from that department. The department is really an advisory department. This department views our project and contents of the letter to be a very low concern. Then now in another paragraph no known turtles in our area. There is documentation that shows that there have been signs much further downstream in Little Ossipee River but there are none in been in our area because either they haven't been observed or they just didn't document it doesn't mean they're not there. The habitat of the turtles is usually wetlands and bogs forested swamps which is not the makeup of the project site, so it's all dry it's up hill so it's very unlikely that there are turtles. So last time we got all the way up to the degree to which a landscaping fencing and other design elements had them could be incorporated. Then remember we talked about the vegetative buffer and all that stuff. So that gets us down to municipal or other facilities serving with proposed used will not be overburdened or hazards created because inaccurate inadequate facility. It goes down to the ability of traffic to move safely, to show safety of pedestrians. There's this one the about the storm drainage system to accommodate the proposed use and that is where we talk about the permit by rule preexisting land cover, erosion control measures that are being instituted, the remaining 80 feet of the vegetative buffer although that looks like it's shrinking every day. These on the back page of conditions of approval. If you're not ready to vote on tonight hold onto them until next time. The first one says any changes to the location or building will require Planning Board Approval. So, in other words if they put in a playground or whatever or they change the building to the Town Hall they have to come back for approval. The residents sand pile shall be stored on asphalt which as the engineer said must be stored on asphalt. This could also be covered with a tarp or it could be a building. That would be up to someone else besides us unless you wanna make it specific. There will be no on street parking Water St. AKA Route 11 during construction or otherwise and that came straight from DOT plus the fact that they go way too fast by there so all the construction equipment should be able to fit on that two acre somewhere and not the roadway. Local wells will be sampled for content before and after installation of the salt shed in accordance with the advice or suggestion of the Division of Environmental Assessment (Maine Department Environmental Protection) that's in appendix L. He didn't say 'must be' he would suggest or advise. So, you know we could consider that. The last one Town Administrator/Selectboard submit a vegetative buffer plan to the planning board for approval within 45 days of the conditional use permit approval. The plan will incorporate 80-foot set back from Route 11 but at a distance from Route 11 to allow visibility while exiting. We want to have sight distance

when you're pulling in and out of driveway so you can't just pile stuff up. The vegetative buffer will be put back to its natural condition as much as practicable. The plantings will be sufficient for zone 4 plantings. Materials should be native to the area and include trees, road salt tolerant plants, drought tolerant plants and sustain along life. The plan shall include the barrier design separating the driveways and should be pleasing to the eye and distinctively marked and cause no traffic hazards. Nichole did we get the approval for the PBR. Has it been 14 days and we haven't heard anything? We met the 22nd from then but it may have submitted. Nichole, I'll leave that up to you in the next few days to figure out will follow up. The other question was a performance bond. We sometimes recommend those. I didn't write anything in here. I don't know if you want something in here about the Selectboard rule.”

Nichole has a copy from the actual bidder, and she will forward a copy to the Board.

Gloria D continued, “So let's go back to those conditions that I just read. can somebody else speak to them please.”

The Board decided to vote on the Findings and Conclusions as follows:

1. Gloria D made a motion seconded by Emily F that the proposed use and the proposed site upon which the use would be located is of such a character that the use **WILL NOT** have significant adverse impact upon value of quiet possession of the surrounding properties greater than would normally occur from such a use in the zoning district, based on the fact that there are some conditions of approval, or the condition of approval, about the vegetative buffer and them getting a plan back to the board about how the visual will look to make the aesthetics look better. Residences across the street are set back more than 300 feet from the facility. Vote 4 – 0 – 0. (Dan P left the meeting at 9:00 PM)

2. Municipal or other facility serving the proposed use will not be overburdened or hazards created because of inadequate facilities. This conclusion is based on the following findings. Current uncovered salt and storage areas located on private property over map significant sand and gravel aquifer and the watershed of Rock Haven Lake, which is a lake most at risk for pollution. The Newfield Planning Board finds that relocating the current salt & sand site to 369 Water Street is in the best interest of the town. Relocating the salt and sand is a significant improvement in handling of material hereby lessening the environmental impact.

There other burdens mentioned like safety, pedestrians, traffic moving in and out, street network, and water & sewer so we addressed some of the safety where we said there would be no on street parking. The resident sand pile will be clearly marked with directional signs for entry and exit.

Gloria D motioned and second made by Emily F with no further discussion to accept number three Municipal or other facilities serving the proposed use **WILL NOT** be overburdened.

Vote 4 – 0 – 0

3. The proposed use when placed on site will not 'cause undue harm to the environment or to neighboring properties. This condition is based on the following findings. The positive drainage relationships. The proposed use has potential to change the relationship with ground or surface waters however the site has been approved using DEP's site criteria, storm and rainfall calculations have been done, temporary and permanent erosion control plan has been written by Haley Ward Engineering and submitted with permit by rule application to DEP. The nearest well meets a setback requirement of 300 feet required by the DEPs site selection ruling. Symmes Pond and an unnamed stream are in the vicinity of the property by our well outside the building envelope. This two-acre site is not located in a floodplain nor is it located over a significant mapped sand & gravel aquifer.

Gloria D made the motion for number 3 second made by Emily F with no further discussion. Vote 4 – 0 – 0.

4. If the property is located in the shoreland district.

Gloria D stated that this is **NOT APPLICABLE** as this site is not located in a Shoreland District. Vote 4 – 0 – 0

5. The proposed use conforms to the applicable space in bulk standards in the building height requirements for the zoning district in which the proposed use is located. This site is more or less 14 acres according to the deed provided in the application; however, the town tax map indicates the actual acreages 21.3 acres. The addition of the salt sand facility and driveway will add a total of two acres to the existing four-acre waste management area on site.

Gloria D motioned and Anthony G made a second with no further discussion that the proposed use **CONFORMS** to the applicable space in bulk standards and building height requirements for the zoning district in which the proposed use is located because it's a very large parcel and we're only adding an additional 2 acres and this is also adding a second use; the first use being a waste management area and the second use being a salt & sand shed. Vote 4 – 0 – 0

6. The proposed use conforms to general performance standards required by article nine of the zoning ordinance.

Gloria D motioned and a second by Emily F with no further discussion that the proposed use **CONFORMS** to the general performance standards required in article nine of the zoning ordinance as referred to throughout this document. Vote 4 – 0 - 0

7. The proposed use conforms to the applicable performance standards for the specific activity in land use as required by article ten of the zoning ordinance.

Gloria D motioned and Emily F made the second with no further discussion that Article 10 is **NOT APPLICABLE** because Article 10 does not address specific standards for this activity of a salt & sand facility. Vote 4 – 0 - 0

Gloria D made a motion and Skip T made the second with no further discussion to **APPROVE** the conditional use permit for the Town of Newfield to build a salt and sand facility at 369 Water St. with the conditions of approval as listed in this document under A through E to include a plan for the landscaping and aesthetics. This plan must be approved by the Newfield Planning Board. Vote 4 – 0 – 0

ELECTION OF OFFICERS:

Gloria D nominated to keep the same officers as last year.

Gloria D motioned and Skip T made the second to keep the same officers as last year as follows:

Chair – Gloria Dyer
Vice Chair – Skip Tonge
Secretary – Emily Foss

A motion by Skip T and a second by Gloria D to adjourn this meeting at 9.35 PM. Vote 4 – 0 – 0

Respectfully submitted
Maria Marchant
Administrative Assistant

These Minutes are not verbatim