

**TOWN OF NEW BOSTON  
NEW BOSTON ZONING BOARD OF ADJUSTMENT  
Minutes of 2022**

**March 15, 2021**

The meeting was called to order at 7:02 p.m. by Zoning Board of Adjustment Chairman David Craig. Present were regular members David Craig, Michael Dahlberg and Anthony Olivier. Also present was alternate member Lorraine McKim and Planning Coordinator Shannon Silver. Absent was Wayne Charest.

**Approval of the minutes of February 15, 2022, with the correction of Michael Dahlberg's name where needed, was unanimous.**

**PUBLIC HEARING(S)**

**CONTINUED FROM NOVEMBER 16, 2021:**

**MICHAEL A. HALVATZES (PROPERTY OWNER)**

Application for a special exception to the terms of Article II, Section 204.4, of the New Boston Zoning Ordinance. The applicant/agent is Morgan A. Hollis, Esq. The applicant/owner are requesting a special exception for the removal of earth products.  
Property located on Lyndeborough Road, Tax Map/Lot # 10/70-1  
Residential-Agricultural "R-A" District

Chairman David Craig advised the only order of business this evening was an application continued from November, that it is a request for a special exception under 204.4, for a gravel pit issue with the owner Michael Halvatzes, represented by Attorney Morgan Hollis. Chairman Craig advised resuming from where they left off, with one question to Shannon Silver, was there anything in our Ordinance that just passed that changes anything the Board is doing tonight. Shannon stated the applicant had already gone through those steps that effected the change. Chairman Craig then asked Attorney Hollis to walk the Board through from beginning to end. He then identified himself for the record as Morgan Hollis, an attorney with Gottesman & Hollis, in Nashua, 39 East Pearl Street, representing the owner, Michael Halvatzes, who is here this evening with him, the property is identified as Lot #70-1, Map 10, and they are here for a special exception. Mr. Hollis stated the property is located in a "R-A" zone, and the proposed use is for earth excavation, which is listed as a special exception in the zone as 204.4, that it is also located in the Groundwater Resource Conservation District, so there is a section governing that. He continued saying there was originally a section called D(9), which said it is "prohibited except where conducted in accordance with a permit issued pursuant to a conditional use permit issued by the Town or except when incidental to a permitted use", and that sort of started the process there, with that question, what did that section mean, and that section has been deleted by amendment at the town meeting. Mr. Hollis stated they (applicant) came to the Board October 20, 2021, presented, they (applicant and the Board) all agreed there was some question about

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1 what the process would be, they (applicant) went to the Planning Board for some guidance, and  
2 they (Planning Board) met on October 26, 2021, and the Planning Board noted that Groundwater  
3 Resource Conservation District Regulation D referred to Permitted Use, and under E, “any use  
4 permitted in the underlying district...including use by Special Exception”. Mr. Hollis stated it  
5 sorted bounced back that if its allowed by special exception that it’s now allowed within the  
6 District, as long as you get a special exception, so it was referred back by the Planning Board to  
7 the ZBA, and that was when we (applicant and the Board) all discovered, on the evening of  
8 November 10, that we also have to get comments, and ask for an opinion, from both the Planning  
9 Board and the Conservation Commission under Section F, what is your opinion as to whether  
10 “the proposed use is consistent with the purpose of this Article”, so they (applicant) left the  
11 Zoning Board and went back to the Planning Board on November 23, 2021. Mr. Hollis stated  
12 the Planning Board issued a determination, took a vote, which he believes was given to the  
13 Zoning Board, indicating that it was not inconsistent with the purpose and intent, that they  
14 (applicant) then went to the Conservation Commission on January 6, 2022, and made the  
15 presentation there as well, and they (Conservation Commission) voted that they do not believe  
16 the requested gravel operation will adversely affect the groundwater, those were the two  
17 referrals, those were the two answers back, and so now they are back here for a Special  
18 Exception, and under your Ordinance there are essentially two separate criteria, your use to a  
19 special exception criteria and then, in addition, there are certain regulations they (applicant) have  
20 to meet under Groundwater Resource Conservation District for a Special Exception. He advised  
21 one set of regulations is called 204.7 and the other set of regulations is called 206 Regulations,  
22 and he will run through each of those, how they comply with each of them in a minute, but what  
23 he thought might be most helpful, in the very beginning he did a little summary sheet of what he  
24 has just described, citing to the regulations so that they (the Board) can see what regulations they  
25 need to pay attention to, and then a copy of those regulations, he knows they all have a copy of  
26 zoning books, but sometimes it is just easier to highlight those sections, and he will hand those  
27 out as the preliminaries, he calls it a guide book, what it is they (the Board) have to do at the end  
28 of the night, and what they (applicant) have to prove to satisfy the Board [he then handed out  
29 copies of those documents to the members of the Board], and stated that he noted on there that in  
30 Section 204.7, he still included it, even though it has been amended by the Zoning Ordinance,  
31 that he wasn’t sure of the effective date because it didn’t say in the Town vote when it was  
32 effective, but he thinks they are by that, in that they have already gone through all these steps  
33 anyway, so that is kind of the guide book. Mr. Hollis then advised that he thought it would be  
34 useful before he runs through any of the criteria issues that he introduce Jim Petropulos, who is  
35 here from Hayner/Swanson, and he has done the engineering design of the earth excavation  
36 proposal, including phasing, he has worked with Michael [Halvatzes] on the phasing, and survey  
37 that had been previously done by Meridian, Jim is the project engineer on this project and asked  
38 him to introduce the site to the Board. He then introduced himself as James Petropulos, stating  
39 he is a civil engineer, a professional engineer with Hayner/Swanson, doing business at 3  
40 Congress Street in Nashua, that he knows that they have been here (Zoning Board) a couple of  
41 times, they have been to Planning, and Conservation Commission, and that Morgan has given a  
42 nice overview, and he thought maybe what he could add to the discussion is a very brief  
43 presentation, maybe just walk through some of the schematics that they submitted as part of their  
44 application, and he handed out to the Board what he described as a series of plans, that the Board  
45 may already have them (he then handed out copies of the plans to each member of the Board),

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1 stating that he would just quickly then walk through each particular page, the piece of property is  
2 on Lyndeborough Road, that it measures about 45.5 acres, the property has got frontage on  
3 Lyndeborough Road, there is residential homes adjacent to the property to the west, the South  
4 Branch of the Piscataquog River is to the north, and they have property to the east that is both a  
5 combination of residential properties, and you can also see from the aerials that there has been  
6 some excavations in the general area as well. Mr. Petropulos advised that this particular property  
7 (he then went to an easel set up with pictures of the property) indicating that this was an existing  
8 survey of the property, it tells us that if you look at a property like this the areas they can look at  
9 for excavation and those areas that they shouldn't look at for excavation. Using a laser pointer  
10 he indicated where Lyndeborough Road is located, pointed at Meadow Brook, that he stated runs  
11 in a northerly direction, a recently constructed culvert underneath Lyndeborough Road, and its  
12 requisite 50 foot buffer, they also have South Branch of the Piscataquog running in this direction,  
13 that there is also a finger of wetland that juts into the property, they have highlighted the 50 foot  
14 setback, and they have also identified the 250 foot NH DES Shoreland Protection along the  
15 South Branch. He advised the topography of the site is essentially a large hill right in middle,  
16 advising that they (his company) took some pictures, which he handed out to members of the  
17 Board, stating that it (the property) is almost like an upside-down cereal bowl, where the center  
18 of the property is just a large hill of gravel. He stated the site is fairly flat along Lyndeborough  
19 Road, again steep in the center is about a 90 foot elevation change, pointing out the Board that  
20 they would notice on the second drawing he handed out indicating that change, the site has been  
21 partially forested over the years. He advised that the handout that he provided to the Board starts  
22 off with the aerial that they just saw, sheet 1 of 1, which shows the existing conditions, and there  
23 has been geologically testing throughout the property to indicate its material content, which is  
24 sands and gravels, and Sean Kennedy is with them tonight, with Terracon, the geotechnical  
25 engineer, in case any questions come up, that they also indicated deep deposits of the material.  
26 Mr. Petropulos stated it is a phased excavation, over a period of 10 years, essentially six phases,  
27 about a year and a half for each particular phase, this is just a general outline which he has  
28 handed to the Board. He advised that they are here to talk about use, that is what they (applicant  
29 and agents) are requesting, stating that if they (the Board) read the New Boston Regulations on  
30 Earth Removal, as well as the RSA 155-E, that there are very detailed and thorough regulations  
31 needed, and if successful this evening they (applicant) will need to prepare a much more detailed  
32 set of drawings as they work through them [regulations] for the Planning Board and go through  
33 the process. Chairman Craig confirmed that each one of the plans before the Board is a different  
34 phase, that the engineer was walking them through them; Mr. Petropulos stated that was correct.  
35 Mr. Petropulos advised if they look at the lower right hand corner he will see Sheet 1 of 7, which  
36 is the existing conditions which he just described, that the First Phase, Sheet 2 of 7, Mr.  
37 Halvatzes proposes to build a home in the northwest corner of the property and in doing so he  
38 needs a rather long driveway off Lyndeborough Road to get back there, and that driveway cuts  
39 through a fairly large excavation along this property line (pointing at the drawing with a laser  
40 pointer), that the Town's regulations indicate that for subdivisions that require an excess of  
41 10,000 yards of earth removal, that it puts them (applicant) back to the Zoning Board, so that  
42 particular first phase of construction of the driveway is part and parcel of what they are calling  
43 Phase one, Phase two, Page 3 of 7, essentially begins the process, and it will be a process that  
44 works from south to north, from Lyndeborough Road to the south fork. He continued, saying the  
45 First Phase is essentially a 5 acre area, which sets up the access to Lyndeborough Road, it sets up

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1 a kind of landing area, and the beginning of the excavation area as it starts to move in a northerly  
2 direction. Chairman Craig asked Mr. Petropulos to show the Board as they are walking through  
3 this, specifically show it to the Board on the plans as he (engineer) is describing it. Mr.  
4 Petropulos approached the table and advised he did not bring the full plans, Chairman Craig  
5 advised that was okay, that back on Phase One they were dealing with this particular lot  
6 (pointing to the 31.2 acre parcel), not the lot next door, for the house. Mr. Petropulos advised  
7 that the Board was not dealing with the subdivision, that that is a Planning Board matter.  
8 Chairman Craig stated it is not subdivided. Mr. Petropulos stated it is not subdivided, it is one  
9 parcel, and as he just mentioned, the construction of this driveway to get back to this back corner  
10 does exceed 10,000 yards of excavation, and per the Town Zoning Ordinance it would require a  
11 Special Exception, so they baked it into their overall plan. Chairman Craig asked the Board if  
12 everyone understood that, all agreed. Mr. Petropulos moved to Page 3 of 7, that this is kind of  
13 the first piece where they (applicant) identify the access road, and they begin excavation, clearly  
14 in that First Phase Meadow Brook is the first resource they want to protect, and without  
15 disturbing any of that particular buffer and wooded area, the excavation occurs in this general  
16 location (pointing out the area to the Board), he stated each phase would have its own set of best  
17 management practices for erosion control and runoff, and before they can proceed to the  
18 subsequent phase that phase will have to be stabilized. Lorraine McKim asked if he was talking  
19 about the First Phase on Lyndeborough Road, and that he just mentioned that he would protect  
20 Meadow Brook; she asked what he meant by protect Meadow Brook. Mr. Petropulos advised  
21 that by not disturbing the buffer, by not disturbing Meadow Brook, that whole area, that tree  
22 clearing line would be protected, he thinks it sits above us (property), and they would be below,  
23 that they would be protecting the sediment erosion. Ms. McKim asked how they would be  
24 protecting it. Mr. Petropulos advised that in areas that there were low points they would have silt  
25 fences, probably double-lined, a silt fence and hay bales, they will have a storm-water catch area  
26 during this phase in case it rains, to make sure it doesn't get into Meadow Brook, and it stays  
27 within that sediment basin. Ms. McKim advised that she was sure he was familiar with the  
28 request from the Conservation Commission that they requested regarding that protection. Mr.  
29 Petropulos advised that regarding the best management practice, yes. Ms. McKim stated the  
30 Conservation Commission was looking for a permanent buffer, they (Conservation Commission)  
31 highly recommend some type of permanent buffer to protect Meadow Brook. Mr. Petropulos  
32 stated he is not sure what they meant by permanent buffer. Ms. McKim stated something that is  
33 not temporary. Mr. Petropulos stated after they are constructed the tree line would remain, and  
34 they could represent that on a plan. Chairman Craig advised that he also has questions about  
35 what the Planning Board sent over to them (Zoning Board), that they gave their opinion on the  
36 legal issue, but they also sent some recommendations, and that it would be helpful... Mr.  
37 Petropulos asked if he meant the Conservation Commission, and Chairman Craig said yes, and  
38 asked if he could address those, either do it as he goes, or address them separately. Mr.  
39 Petropulos stated he would like to peel through the drawings, then go back to Attorney Hollis,  
40 that he was sure he could... Chairman Craig advised he has more questions, and Mr. Petropulos  
41 stated that he would be happy to answer his questions. He went on to state that they would be  
42 starting at the south end and work in a northerly manner, that is the First Phase, then go on to the  
43 Second Phase, eventually as they start working on the east side of the property they try to show a  
44 progression of the earth removal operation, showing that Phase One had already been excavated  
45 and showing the limits of phase two, so each phase will have tree clearing, will have stripping of

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1 stockpile, have creation of erosion best management practices, and they can see as the land starts  
2 to move toward that finger of wetland here (pointing to the plan), that is the lowest part of Phase  
3 Two, so that is where they are going to have their catchment area or sediment basin, each phase  
4 removes between a hundred and a hundred fifty thousand cubic yards, and it is estimated to take  
5 between a year and a half and two years to complete. He went on to say the next phase, Sheet 5  
6 of 7, they start getting into the top of the hill, the top of that 90 foot cut, which is essentially the  
7 north side of the hill, and all along they are progressing this, they are progressing the haul road,  
8 and they are showing their storm water basin in the lowest area of that particular phase, and,  
9 again, it is about the same scale, 4 or 5 acres of disturbance, restoration, and one or two year  
10 duration. Chairman Craig asked what is the catch basin all about. Mr. Petropulos advised that  
11 essentially it is a catchment area, it's a low region that they will excavate so that when it rains the  
12 sediment does not get into wooded areas, and get further transported. Chairman Craig stated so  
13 any runoff goes to a dedicated area. Mr. Petropulos advised that so Meadow Brook and South  
14 Branch become important resources. Ms. McKim stated that on this plan they designate it as a  
15 temporary sediment basin, and asked that on his design, his plan, is it staying as a temporary  
16 sediment basin or are they changing it around to more of a long-term thing. Mr. Petropulos  
17 stated that its temporary in the sense that that is the one that will be used for that Phase, but that  
18 particular location is going to be the lowest part of this excavation and that one will remain, and  
19 their detailed plans for the Planning Board will get into more detail of that, he went on to advise  
20 the last Phase is Sheet 6 of 7, its to the west, and it's about a 4 acre site, about a two year  
21 duration, and it's the last piece, so essentially four big Phases of excavation to remove this  
22 material, he stated he provided a drawing at the end which is just Restoration, when it's done this  
23 will be tree clearing (pointing to the drawing), so the buffers will be preserved for the finger  
24 [wetland], for Meadow Brook, the 250' Shoreland Act, NH DES Shoreland Protection District  
25 will not be breached, which is located on the lowest part of the site here (pointing to the  
26 drawing). Chairman Craig asked where the location of the catchment basin would be. Mr.  
27 Petropulos pointed to where that would be. Ms. McKim asked if the restorations are going to be  
28 done after each phase, or is their plan to do them after all the phases are completed. Mr.  
29 Petropulos advised that they would be done after each phase, as the Conservation Commission  
30 stipulated. He stated that was the progression, pointing to the drawings Mr. Petropulos advised  
31 that if you think of the elevation grades, he pointed to elevation 500 which goes almost up to  
32 600, then comes back down to about 450 in the Brook, that they were going from 500 to 490, to  
33 480, to 470, and that they were really topping that hill, which is essentially what this operation is  
34 all about, that they provided, he thinks it is in the minutes of the last meeting, some cross  
35 sections of this, and they just give a general sense of the cuts and fills and protections in the side  
36 property lines, 50 feet in the side property lines are observed, and that is in accordance with DES  
37 standards. Chairman Craig asked what was being observed on the side. Mr. Petropulos stated 50  
38 foot no touch buffer, on the easterly property line, and also on the westerly property lines.  
39 Chairman Craig asked if the driveway cut was on the ...., Mr. Petropulos pointed to the area  
40 where the driveway cut would be, and stated it would not penetrate into the 50 foot buffer, he  
41 advised that was the technical side, they (applicant) could now attempt to address the  
42 Conservation Commission concerns, or have Attorney Hollis speak to the uses, and have Q & A,  
43 or however the Board would like to proceed. Attorney Hollis then addressed the Board, stating  
44 that the Board probably all have the letter from the Conservation Commission. Chairman Craig  
45 asked Shannon if anyone was here tonight from the Conservation Commission, she replied no.

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1 Attorney Hollis advised the (the applicant) went to the Conservation Commission, presented, and  
2 frankly, there weren't any questions, or very few questions about it, and the Commission said  
3 they would get back to them (applicant), but apparently afterwards there were some discussions,  
4 and these issues (referring to the letter written by the Commission), came up, and he would have  
5 enjoyed having conversations to flush some of these things out, but we are here where we are,  
6 and they (Commission) have four recommendations, strongly recommend the following to insure  
7 that the water bodies are protected, it includes a 2 lot subdivision, Mr. Hollis stated this project  
8 does not actually include a subdivision, this project before the Board tonight is strictly an earth  
9 excavation, to get a subdivision they (applicant) would have to go to the Planning Board, to get  
10 an earth excavation they (applicant) have to go to the Zoning Board, so if they were not doing  
11 any subdividing, and they weren't doing any developing, they are still going through the same  
12 process, here (before the Zoning Board) for the excavation, but one of the things that is a little  
13 concerning is that the Conservation Commission is making recommendations with regard to a  
14 future use that, while they (applicant) have said that is their intent, it may not happen, and it is  
15 not really before the Board, that they (applicant) are saying as a courtesy, this is what they expect  
16 to happen out there, but it could be earth excavation that just ends as an earth excavation,  
17 [reading from the letter], "in any event we were informed by the representatives the owner  
18 intends to build a home within the 250' Shoreland Protection", that is his intent, but there is a  
19 long way between today and intent. Mr. Hollis stated you are allowed to build a home within the  
20 250', and there are protections built in, as far as the excavation proposed, earth excavation and  
21 the 250' they (applicant) are not proposing to excavate within the 250' shore line, and they would  
22 agree to that as a stipulation, no concerns whatsoever, they would ask that maybe they (the  
23 Board) would not incorporate the stipulation with regard to a house because that is not really  
24 before you (the Board) and they (applicant) don't really know what they are going to do out  
25 there, and that part is going to be before the Planning Board. Mr. Dahlberg stated that would be  
26 for the Planning Board to address. Mr. Hollis went on to say they recognize the sensitivity so  
27 they are making plans, and thinking about how they are going to approach that, but they don't  
28 have anything tonight because it is not before the Zoning Board. Chairman Craig asked, even if  
29 they (applicant) wanted to excavate within that 250' buffer, they couldn't, they're prohibited by  
30 law. Mr. Hollis stated that is his opinion, he believes they are prohibited, but if you (the Board)  
31 are worried, to stipulate no excavation within the 250' buffer. Chairman Craig advised that he  
32 doesn't feel it is necessary to stipulate if they (applicant) are prohibited by state statute. Mr.  
33 Hollis advised the final sentence in there (letter from the Commission) is something that may be  
34 worth your (the Board) consideration, which is, "we are therefore opposed to the removal of  
35 vegetation and construction of impervious surfaces...and recommend that the buffer be  
36 maintained to offer a better level...". Chairman Craig asked where Mr. Hollis was quoting from.  
37 After some discussion it was determined that Mr. Hollis had a different letter from the  
38 Conservation Commission than what the Board had in its possession, and copies of the modified  
39 letter dated January 14, 2022 were made and distributed to the Board and the audience. Mr.  
40 Hollis stated he could comment on the letter dated January 11, 2022, that he thinks it is similar.  
41 Chairman Craig asked for a minute for the Board to review the letter dated January 14, 2022, and  
42 suggested Mr. Hollis compare the letter from January 11 to the letter dated January 14, that it  
43 appears that Mr. Hollis did not get the letter dated January 11 and the Board did not get the letter  
44 dated January 14. There was a brief discussion that there were some differences in the letters,  
45 with Mr. Hollis advising that the January 14 letter was signed and the January 11 was not,

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1 wondering if the January 11 letter was a draft. Chairman Craig stated to Shannon that Mr. Hollis  
2 had suggested that the January 11 letter was a draft; Shannon advised that she had never received  
3 the January 14 letter so she cannot speak to that, that the only letter she received was the January  
4 11 letter. Mr. Hollis then went on to say if we talk about the letter dated January 11, 2022, the  
5 first bullet is "We were told that the owner of this property intends to create a two lot subdivision  
6 and build a home on a 13.7 acre lot. He intends to build his home inside the 250' shoreline  
7 buffer. We are against allowing a structure to be built within that buffer zone and would hope  
8 that this would not be allowed." Mr. Hollis stated that again, that may be part of a subdivision  
9 process before the Planning Board, if they wanted to oppose it, they (applicant) don't believe it is  
10 part of gravel operation. Chairman Craig said that is not before the Zoning Board. Mr. Hollis  
11 said they (applicant) would just keep that one over to the side. Continuing to quote from the  
12 January 11 letter he went on, "We further would aggressively push for a permanent buffer to be  
13 built, perhaps a berm, that would protect the Piscataquog River from any run-off. Our feeling is  
14 that this should be required prior to the excavation of any sand & gravel." Mr. Hollis stated that  
15 they (applicant) have no objection to that, that they would be building a sort of berm in the lower  
16 areas, that it doesn't need to be higher in the areas they are not excavating, but they would  
17 certainly agree to a berm as recommended by the Conservation Commission. Continuing to  
18 quote from the January 11 letter, "We are concerned that once the sand and gravel has been  
19 removed from the property, the flat nature of the site along with the wet nature of the area could  
20 easily result in surface water running right into the river." Mr. Hollis advised that he thinks this  
21 would be taken up in great detail by the Planning Board at the earth excavation permitting  
22 process, because they (Planning Board) want to make sure that is the case, but if they (Zoning  
23 Board) want to make a stipulation that they (applicant) should address this, in any application to  
24 the Planning Board, he thinks that is a fair stipulation. He continued on from the letter, "We also  
25 would highly recommend some form of permanent buffer to protect Meadow Brook"; he advised  
26 that Jim (Engineer) was caught by surprise, as was he, as they hadn't seen this, but his thought is  
27 that perhaps what the Conservation Commission is talking about that there might be some area  
28 between the Brook and the use of that land that should be permanently restricted, so it doesn't  
29 get shaved down, trees clear cut, etc., there are set back regulations obviously, they can't build  
30 there, and there is the 250' shoreline buffer which has other regulations they have to submit, but  
31 he is not sure what size buffer they (Conservation Commission) are looking for. Chairman Craig  
32 advised that it is hard for him, looking at the aerial and looking at the drawing on the easel to tell  
33 where the tree line actually stops, is it right at the 250', he assumes the black dash line there is  
34 the 250' Shoreland Protection, on the Brook below. Mr. Petropulos advised there is no 250' on  
35 the Brook. Chairman Craig asked what the black line delineates, and Mr. Petropulos advised it is  
36 a combination of the 50' buffer to Meadow Brook, and actually, Meadow Brook and South  
37 Branch are studied streams so it probably within the 100 year floodline as well. Chairman Craig  
38 asked what the black marking was, and Mr. Hollis advised it was the 50' buffer for Meadow  
39 Brook. Chairman Craig asked where the existing tree line is located, he asked if it was the same  
40 50' or does the tree line extend further. Mr. Petropulos advised if they looked at the first sheet of  
41 the aerial photo, using a laser pointer he indicated that the tree line is within existing woods, and  
42 Chairman Craig stated that the 50' line that is showing on the map is inside the tree line; Mr.  
43 Petropulos responded that it was near, or inside the tree line. Chairman Craig advised that he  
44 was trying to get a sense of how far the tree line is..., Mr. Petropulos stated that they (applicant)  
45 are not going anywhere near the 50' buffer. Mr. Petropulos advised, that this is not something he

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1 has discussed with their client or Mr. Hollis yet, one idea he is considering is, because this is an  
2 area of the site that they (applicant) are not actively working, or have any intentions of working,  
3 he could see drawing a line (indicating an area with the laser pointer on the drawing) as a  
4 conservation easement on this part of the property, and that would give them further protection.  
5 Ms. McKim asked if it was possible, because they (applicant) are excavating further up, that they  
6 would get runoff in that direction. Mr. Petropulos advised that is not possible, because the Brook  
7 is recessed, it comes up a banking and then it goes back down on to the property, so there is no  
8 way that sediment is going to transport uphill to the top of the banking and down into the Brook.  
9 Mr. Hollis advised, pointing at the drawing, if you look at the topo lines here, this is the top, if  
10 you walk out there, this is a ridge, when this road was closed to do the culvert, this is how you  
11 had to access the property, they found, when they (Town and State) was working on the culvert  
12 area, you had to cross the area and climb this banking, and then it dropped back down on the  
13 other side of the banking. Chairman Craig asked where is the tree line, he asked if the top of the  
14 ridge is the top of the tree line. Mr. Halvatzes (owner) stated that it was cut before he bought the  
15 property, that they (applicant) haven't laid out exactly where the tree line is, that he doesn't  
16 know exactly where it is, versus they just did the topo, so he doesn't know exactly where it is  
17 versus that 50' line, but he stated that the majority, at least that 85-90% is fully treed with pine  
18 trees, that there might be a piece in the middle of the property that is not treed because there is a  
19 \_\_\_\_ road through there, but mostly it's all treed. Chairman Craig advised that he is trying to  
20 understand, that the concern is that there be some kind of a natural buffer to Meadow Brook,  
21 what is there currently, there is a ridge... Mr. Halvatzes stated that it comes up, and then it  
22 comes back down to the property. Chairman Craig asked if there was a tree line on top of the  
23 ridge, and then the tree line comes down on the other side of the ridge. Mr. Halvatzes stated yes,  
24 to a point where it was cleared previously. Chairman Craig asked if there was any plan to clear  
25 any trees, to do any excavating closer to Meadow Brook, so the ridge is really the natural buffer  
26 to Meadow Brook. Mr. Halvatzes stated yes, basically, for the most part that top of the ridge line  
27 is roughly the 50', he doesn't know exactly. Chairman Craig asked if there was any intention to  
28 cut on the side of the ridge line, that the ridge line would stay where it is. Mr. Halvatzes stated  
29 that they may be grading the inside of the ridge to have a constant slope so it's uniform, but  
30 that's it. Mr. Petropulos advised that its fairly clear on Page 3 of 7, pointing to the plans, that if  
31 they (the Board) look at the contours they can see the ridge line, they can see how they  
32 (applicant) are trying to hold to the top of the ridge, they can see how the minimum distance  
33 right here is 50', that they can see in many instances that it is more than 50' from the Brook.  
34 Chairman Craig advised that the ridge line is the natural buffer. Mr. Petropulos pointed to the  
35 ridge line on the plan. Chairman Craig advised that then you have the retention pond down  
36 there. Mr. Hollis advised that they (applicant) have no problems making a restriction that the  
37 ridge line remain intact, that no trees from the top of the ridge down to the Brook be cut, that  
38 would be a permanent stipulation. Chairman Craig stated that they do want to remove some  
39 trees on the site side of the ridge. Mr. Halvatzes advised that it depends exactly where it is, once  
40 they (applicant) are designing the actual plans, where it makes sense to cut and not cut, the 50'  
41 buffer will not be touched. Chairman Craig advised that he wanted to make sure he understood  
42 exactly what they (applicant) are proposing, and what the natural lay of the land is, and also  
43 stated that as a Zoning Board member he feels awkward going on someone's property, he  
44 personally doesn't do that, he might drive by, but he doesn't feel it is his place to go tromping  
45 around on someone's land, so he is really, for the first time, getting his bearings there. Ms.

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1 McKim asked Mr. Petropulos when they were discussing Meadow Brook before, he had stated  
2 he was okay with doing a permanent buffer, now they have changed that to you think what is  
3 there is going to take care of the problem, or any anticipated problems, is that correct. Mr.  
4 Petropulos advised that he would have to talk to Michael as to what is the definition of a  
5 permanent buffer, they have no plans, and their site plans, as just discussed on Page 3 of 7, that  
6 they will work up to that ridge line, which in some instances is 50' from the Brook, and in some  
7 instances it is over 100' from the Brook, and so he thinks, moving forward, they (applicant) could  
8 represent a line on the site plan to saying this area will not be disturbed. Chairman Craig stated  
9 that he guesses what he (Mr. Petropulos) is saying is the ridge is the natural buffer. Mr.  
10 Petropulos stated yes. Chairman Craig stated that they do not have any plans to construct  
11 anything within the natural buffer. Mr. Petropulos stated not within that side of the ridge. Mr.  
12 Hollis stated that in terms of permanent buffer, there would be notations on the plan, but as Jim  
13 said, they could do a conservation restriction covenant that just says there will be no cutting, no  
14 digging, no drainage, etc. within that area, if that's what the condition of the Board is, that's fine,  
15 that they (applicant) are going to end up at the Planning Board. Chairman Craig stated that he  
16 assumes the Planning Board is going to review this meeting, and so, for the record, let it be noted  
17 that that is a concern of the Conservation Commission, and likely a concern for Board members  
18 here as well, so the Planning Board needs to look at that in the 155-E process. Mr. Hollis  
19 advised that the next bullet (from the Conservation Commission letter dated January 11) is "The  
20 Commission would like to make sure that before each new phase of this 10-year process begins,  
21 there be confirmation that the previous phase of the gravel operation has been entirely reclaimed.  
22 This will help ensure that runoff is kept to a minimum.", Mr. Hollis stated that he thinks they  
23 (the Board) might want to hear from Michael [Halvatzes] how he is going to proceed from Phase  
24 to Phase, because he does not do this for a living, he does, it is not a finish it up, we reclaim, we  
25 don't do anything new over here, but it's we finish, we reclaim, while we are going forward. Mr.  
26 Halvatzes advised what the plan would be, for example, you would do Phase One, you do your  
27 cuts, you loam, you seed, and obviously there is a period of time where the grass has grow to be  
28 fully stabilized, during that period he would like the ability to start opening up and prepping the  
29 next Phase because it takes time to get all the erosion control operational, while the other side is  
30 being stabilized, growing grass, with that they are perfectly fine with having third party person  
31 come and inspect to make sure it is considered stabilized when its time, but it takes time for grass  
32 to grow, if you're growing or seeding in May, you may not get good grass until June, then  
33 you've lost two months of production which extends the life of the project. Chairman Craig  
34 asked how he typically reclaims, how much loam. Mr. Halvatzes stated a minimum of 4", but  
35 typically 6", 4"-6" is typically the construction standard. Chairman Craig asked what types of  
36 grasses would he be using, is it going to look like someone's front lawn, or scrub. Mr. Halvatzes  
37 stated it would probably be a NH DOT slope mix most likely, beside the wetland areas, which  
38 would be a wetland mix. Mr. Petropulos stated it would be a conservation mix, which would be  
39 naturalized over time. Mr. Hollis stated their (applicant) preference would be if they (the Board)  
40 wanted to put a stipulation, rather than say that is has been entirely reclaimed, which is pretty  
41 broad, that it be loamed and seeded in accordance with the requirements of the Planning Board.  
42 Ms. McKim asked if there was a possibility that it could be done that way, and that she is  
43 sensitive to what they are saying, and that they want to keep the project moving, so you put in  
44 your loam, and you put in your seed, now you start digging again over here, you hit maybe a  
45 little wet stuff and you wash out what you've just done because you didn't give it time to take

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1 hold, is that a possibility, or ... Mr. Halvatzes advised that Phase One is off the side, so that  
2 definitely wouldn't happen, as they are working Phase Two to Phase Three its downhill so Phase  
3 Three would end up being downhill of Phase Two because of the way the property is going to be  
4 going, and as they are opening up new Phases it is going to be lower than where they were just  
5 working, so it is always going to be pitching down to the next work area where the next  
6 catchment basin is. Ms. McKim asked when he says downhill, does he mean downhill towards  
7 the River or towards Lyndeborough Road. Mr. Halvatzes stated it would be towards the River,  
8 but again...he asked if Jim [Petropulos] wanted to take this to explain the basin, etc. Mr.  
9 Petropulos advised that he thinks what Michael [Halvatzes] is trying to say, is that given that it is  
10 a hill, the next piece doesn't drain back into the first piece, it's in a different direction, so  
11 typically what they would do is, they would begin their clearing operation, the first thing they do  
12 is at the low area of each Phase dig that storm water practice so it can sit in that sediment trap, in  
13 that sediment basin for each particular Phase, so it does not drain back into the loamed and  
14 seeded previous Phase, it's just unique in that sense, a lot of pits would drain back if they went  
15 on, and on and on, but this one is, the way they set this up is the south side and the east side and  
16 the north side and the west side, so they all work in different directions, so they don't see  
17 contamination from a future Phase back into the previous Phase, he guesses is what he is saying.  
18 Mr. Halvatzes stated that he would add that they will be adding siltation logs, or silt fence,  
19 whatever, periodically, because, obviously, if it's a large area water can build up over time when  
20 it flows, so you put in where the water is channeled, if there are swales, you put in silt socks or  
21 silt fences, check dams, so you slow the water down and you control it, that is all part of best  
22 management practices, which is part of the same position. Mr. Dahlberg stated that there is  
23 going to be construction sequence on their plans that the Town Engineer is going to review, AOT  
24 (Alteration of Terrain) is going to review, there will be a reclamation bond, there is going to be a  
25 maintenance bond in place for it, and establishment of it. Chairman Craig asked if the bond  
26 covers the full project. Mr. Dahlberg advised that it would be per Phase, and they (applicant)  
27 would have to come up with an inspection schedule, and they will have to go to a hearing to  
28 release the bond, or a partial release, and those bond amounts would be adjusted for the  
29 economy, for what NH DOT specs. Chairman Craig stated that it sounds like there are a lot of  
30 safeguards in place to make sure this is reclaimed as it goes. Mr. Dahlberg advised that the  
31 Planning Board is going to have an inspector, there is going to be an inspection process that is  
32 going to look at all this. Chairman Craig stated his concern as a layperson is that there is no  
33 reclamation, the project fails economically, and then it just sits, unreclaimed, but that is what the  
34 bond is for. Mr. Dahlberg stated that what he is going to stipulate, if it gets to that point tonight,  
35 is that they (applicant) have a bond, a true bond, involving cash, not a letter of credit. Mr.  
36 Petropulos advised that most communities, when you are disturbing a large area, require the  
37 restoration to be done by \_\_\_\_\_, the instrument should go and reclaim it themselves, they have  
38 the money to do so, and that theoretically prevents sites from being exposed for extended periods  
39 of time, becoming eyesores, he thinks they saw more of this in the late 80's, early 90's, half-built  
40 projects that just sat and sat, and those instruments weren't there, and generally the towns get  
41 those instruments so that they can call that bond and go ahead and hire forces to deal with that.  
42 Chairman Craig asked if this was once an operating gravel pit, historically, and asked if someone  
43 could walk him through the history of this, is this a partially, unreclaimed pit from many years  
44 ago. Mr. Halvatzes stated he doesn't know, from when he has owned the property. Chairman  
45 Craig asked how long Mr. Halvatzes has owned the property. Mr. Halvatzes stated he bought it

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1 in 2020. Chairman Craig advised that he is a very recent owner. Mr. Halvatzes stated, as far as  
2 he knows, just from being out there, it looks like people have used it for a gravel pit before, there  
3 are some faces of gravel here and there, he doesn't know, he knows before him there were two  
4 other owners, but he doesn't know if either of them have operated a pit there, but he doesn't  
5 know. Shannon advised that Thibeault Corporation has been in there, and after Thibeault Skip  
6 Gomes had been in there for a period of time, and Ms. Strong (abutter) may be able to speak  
7 better to that, but those are the two she knows about. Ms. Strong advised it was the other way  
8 around, Skip Gomes in the late 80's and then Thibeault. Chairman Craig stated that nothing has  
9 been removed since...he asked how long has it been sitting. Ms. Strong stated more than 20  
10 years. Mr. Hollis advised if they turn the page on the January 11 letter [from the Conservation  
11 Commission], the last bullet is "We are also recommending that at the time the owner brings in a  
12 plan for a multi-lot subdivision on the remaining 31.8 acre parcel, the Planning Board consider  
13 an Open Space Development as is stated in the Zoning Regulations Article IV. This would  
14 create more open space and protections for the wetlands and river as well as reducing the area  
15 impacted by impervious surfaces." Mr. Hollis advised that he would defer that to the Planning  
16 Board, he then advised that if they take a minute to go to the January 14 letter [from the  
17 Conservation Commission], just so they are all consistently on the same page, the first sentence  
18 talks about what we've already discussed on the first bullet [January 11 letter], it states "The  
19 proposed plans currently show a driveway and associated vegetation and earth removal into the  
20 250-foot shoreland...", he advised they (applicant) have already addressed that it is their hope  
21 that they don't do that, and they are going to move that over to the side. Chairman Craig advised  
22 that they (the Commission) are correct, because that is what the plan shows. Mr. Hollis stated it  
23 is not in the jurisdiction of this Board [Zoning], that they (applicant) are only there for  
24 excavation permitting, he went on to say, quoting from the January 14 letter again, "Any  
25 reduction in vegetation and increase in impervious area can alter the hydrologic characteristics of  
26 the site, generally increasing the volume and rate of surface runoff"; he advised he thinks they  
27 (applicant) have explained how this will be designed through the Planning Board earth  
28 excavation permitting process that they have to control this as they go, that they are not intending  
29 to do anything that is going to cause a runoff, and they think it is regulated pretty highly under  
30 your (Town) Earth Excavation Regulations, so he is not sure that the Zoning Board has to  
31 address that. He went on to read from the letter, "We are therefore opposed to the removal of  
32 vegetation and construction of impervious surfaces within this buffer zone"; he stated he  
33 assumes they (Commission) are talking about the 250' Shoreland Protection Zone, to which his  
34 answer was that they are not excavating within the 250' Shoreland, they can't and they won't,  
35 and if there is a concern and the Board wants to add that as a stipulation that there would be no  
36 earth excavation within the 250' zone, that takes care of that concern. Chairman Craig stated that  
37 they (Commission) is talking about vegetation, and asked if the applicant intends to remove  
38 vegetation from that 250' Zone to open up a view of the river, or do any of that stuff. Mr.  
39 Halvatzes stated none of that right now, not at this stage, that would come later. Chairman Craig  
40 advised that that would come later with the subdivision and the Planning Board, so the  
41 representation of this Board is they are not doing anything within the 250'. Mr. Hollis stated not  
42 as far as the excavation process. Mr. Hollis cited the next bullet from the January 14 letter, "We  
43 recommend the use of permanent structural best management practices (BMPs) such as diversion  
44 berms...", he advised they (applicant) have no problem with that, that they have talked about the  
45 existing vegetated buffer, Meadow Brook he thinks they have dwelt on that a bit, quoting again

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1 from the letter “As noted above, the bank slopes are steep and sandy and thus more prone to  
2 erosion from increased runoff..., limited quantities of loam for which to establish vegetation  
3 during the reclamation phase, which may require increased use of fertilizers..., long-term  
4 fertilizer use can also be expected after development as homeowner’s landscape their  
5 properties..., unless addressed, fertilizers will introduce nutrients such as phosphorus and  
6 nitrogen through surface runoff..., which can contribute to the algal blooms and lower dissolved  
7 oxygen levels that can impact aquatic habitats. We recommend that BMPs to prevent direct  
8 runoff from entering the waterways be constructed prior to the excavation of any sand &  
9 gravel.”, he stated he thinks they (applicant) have agreed they will do that with each phase, so  
10 they don’t have any problem with BMPs. Chairman Craig asked if the BMPs are published  
11 anywhere, is there a set of them that they (applicant) are referring to, and can they incorporate  
12 them by reference. Mr. Hollis agreed. Chairman Craig advised that when there is a vague  
13 reference to a Best Management Practice he wants to know what it is. Mr. Petropulos stated that  
14 each Phase that they are seeing, they talked about the 4 Phases, the engineering plans for the site  
15 plan, each Phase will be fully engineered with grading and full depiction of the storm water  
16 areas, and the Best Management Practices, and sequencing and all sorts of things like that.  
17 Chairman Craig asked if the 155-E Permit is a phased permit. Mr. Hollis stated that it is under  
18 the earth excavation permitting from the Town. Mr. Petropulos stated the New Boston  
19 regulations are quite good. Chairman Craig advised that each approval for each Phase is  
20 contingent upon... Mr. Petropulos advised it would be one approval, but each Phase, they want  
21 to communicate to the Board a lot of the questions they are having, or how will this get done  
22 over that 10 year period, that there is much more engineering and much more detail to be done.  
23 Mr. Hollis went on to say the next bullet from the January 14 letter, “The Commission  
24 recommends that before each new phase of this 10-year process beings, there be confirmation  
25 that the previous phase of the gravel operation has been entirely reclaimed...Vegetation to  
26 achieve reclamation should be performed following USDA NRCS Vegetating New Hampshire  
27 Sand and Gravel Pits, Technical Note PM-NH-21. Confirmation of reclamation should be  
28 provided by a Registered Professional Engineer or Certified Profession in Erosion and Sediment  
29 Control (CPESC).” He stated that is more detailed than [the letter of] the 11<sup>th</sup>. Chairman Craig  
30 agreed way more detailed than the 11<sup>th</sup>, and asked Mr. Dahlberg if he is familiar with that  
31 reference, does that mean anything to him, is that part of the bonding and reclamation anyway, or  
32 is this a different, higher standard. Mr. Dahlberg advised no, that will be in their (applicant)  
33 construction sequencing. Mr. Hollis went on to quote from the January 14 letter, “We  
34 recommend that at the time the owner brings in a plan for multi-lot subdivision”, that they just  
35 talked about that, he thinks they (applicant) have addressed all the concerns, at least how they  
36 feel, and he also has the New Boston Planning Board vote [11/23/21], which was “it was the  
37 opinion of the planning board that the proposed use was not inconsistent with the groundwater  
38 resource conservation district”, so that was the vote after some discussion, and stated that he did  
39 not know if the Zoning Board had that vote. Chairman Craig advised that they did have that, that  
40 this was November 23<sup>rd</sup>. Mr. Hollis stated it was. Chairman Craig advised that that takes care of  
41 their mandatory opinions from the other Town groups. Mr. Hollis stated that they (applicant)  
42 have a long road to hoe, but certainly their concerns you (the Board) should be aware of as well,  
43 he went to say this is sort of the legal side of things, they refer back to the sheet that he passed  
44 out, that they have a set of regulations that they have to satisfy, and the first one he refers to on  
45 his sheet called “Standards For Special Exception”, no. 1 [Section 204.4] says its allowed, no. 2

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1 is Section 204.7 which has since been repealed, no. 3 is Section 204.7-E, which says its  
2 permitted, if its permitted by special exception, and then you get down to no. 4 Section 204.7  
3 Subsection F, requires the Zoning Board find four factors, and then Section 206, which is no. 5,  
4 is your standard Special Exception Criteria, so he is going to talk about 204.7 first, because that  
5 is sort of the real details about this particular use, and Section 204.7 there are four criteria as the  
6 Ordinance spells out, and he has put on the summary sheet, and they (applicant) have to prove  
7 “no detrimental effect on the ...groundwater”; not cause a significant reduction in long term  
8 volume of water or in the storage capacity of the aquifer; no waste water discharge; and  
9 compliance with other sections”, he advised that they would not have any waste water discharge  
10 on the site whatsoever, so that is easily done, now they talk about no detrimental effect on the  
11 groundwater; not cause a significant reduction in long term volume of water in the aquifer or in  
12 the storage capacity of the aquifer, he advised that they submitted to them (the Board) previously  
13 in the very beginning a hydrogeologic study which was prepared, and this was called  
14 Hydrogeologic Evaluation by Terracon, and he has a representative of Terracon here, Sean  
15 Kennedy, and he can answer any questions, but he (Mr. Hollis) would refer them to, because that  
16 is how he came to it, to Page 7 on the Terracon report, it’s the summary, and if you go down to  
17 the very last paragraph, and that last paragraph, the last two sentences, the last three sentences,  
18 “Based on the data presented above, the site does not appear to lie within a productive stratified-  
19 drift aquifer that would be suitable for the placement of a public water supply extraction well”,  
20 he stated that pertains to “not cause a significant reduction in long term...storage capacity of the  
21 aquifer”, he (Terracon) doesn’t find that is going to be a well source. Chairman Craig stated that  
22 if he recalls that was a requirement under the Groundwater Protection Overlay District. Mr.  
23 Hollis stated they had to take a look at it, he went on to quote from the Terracon report,  
24 “Anticipated excavation activities are not expected to have a detrimental effect on the quality or  
25 quantity of groundwater within the thin layer of saturated materials that comprise the stratified-  
26 drift aquifer at the site”, he advised that sentence, in a nutshell, is the conclusion to no. 1 and no.  
27 2 under Section 204.7, Subsection F, and Sean [Kennedy] is here if they (the Board) have any  
28 questions about his conclusions, how he did it, it is pretty extensive so if the Board wants to ask  
29 him. Ms. McKim advised that there are certain things that are not within their (the Board)  
30 purview to be discussing, however, if something is going to be happening down the road that  
31 affects the groundwater, there is a concern by this Board that they are fulfilling the letter of the  
32 law here under 204.7, so putting in a driveway, putting in a septic system, putting in a well, can  
33 they talk about those things or not. Mr. Hollis stated no, because one could build a house out  
34 there, and put a driveway in today, get a building permit to construct a septic, whatever that issue  
35 of putting in a house and a septic and a driveway, that is not what they (applicant) are here for,  
36 they are strictly excavation, so if they were putting in a building with a septic and an impervious  
37 structure driveway, yes, but they are not proposing that, they are proposing that this is an  
38 excavation site, there is going to be a rock crusher, but it is going to be a portable rock crusher, it  
39 comes and goes, it’s going to be onsite crushing rock, but there is no impervious asphalt,  
40 concrete, none of that is going on here, so that is their statement and he doesn’t feel that is going  
41 to affect any of it, and if they (the Board) are worried then they (the Board) can put that in the  
42 stipulation, that there be no impervious structures proposed on the site, and no septic placed  
43 thereon, and that is their representation, he thinks the real issue is, is there anything in the  
44 excavation of this earth, in performing the excavation that would cause a detriment to the water  
45 supply, and to the quality or the quantity of the water in the aquifer, that’s really the question.

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1 Chairman Craig stated Sean's [Kennedy] opinion is no. Chairman Craig asked Mr. Kennedy a  
2 little bit about his background, his methodology, his training, his credentials, to give us the  
3 opinion that he (Mr. Kennedy) has just given them. Mr. Kennedy stated his name is Sean  
4 Kennedy, he is with Terracon Consultants in Manchester, he is a senior geologist, he has been  
5 doing this type of work, geotechnical investigations, he has been doing geotechnical  
6 investigations for 22 years, in the State of New Hampshire we have done several aquifer  
7 protection district investigations, his background is environmental science with a geology  
8 specialization as far as education goes. Chairman Craig asked if this is a licensed position, does  
9 he have to hold some kind of a state certification, or a license to do this kind of work. Mr.  
10 Kennedy stated no you do not, he does the field work that the report implies, that he is a  
11 professional geologist, David Del Marco works in their office as well. Chairman Craig asked if  
12 that was a licensed position. Mr. Kennedy stated it is. Mr. Petropulos stated that he thinks one  
13 of the reasons that was in the code was that Morgan, with their firm, represented a gravel  
14 operation that went down 250 feet, and in that scenario, say it would affect the groundwater, but  
15 this case is pretty unique, it's a hilltop, the groundwater is moving in a northerly direction to  
16 South Branch, and it's fairly deep, and based on the testing Sean [Kennedy] is saying there really  
17 isn't much of an aquifer there anyway, and so to take the top off this hill he thinks probably led  
18 to his (Mr. Kennedy) conclusion that would not adversely affect anyone. Ms. McKim asked Mr.  
19 Petropulos if he is not taking down at any point, they are just leveling out, taking off this massive  
20 hill, they are not going to have to dig down at all. Mr. Petropulos stated, for the most part, again,  
21 they talked about the grades, heading in a northerly direction, of course it is all excavation, they  
22 are not mining down into the ground. Chairman Craig said his question is more fundamental,  
23 they (the Board) has an opinion that the conditions are satisfied, that there is not going to be any  
24 detrimental effect, he wants to understand background, licensing. Mr. Petropulos stated that  
25 there are different kinds of earth removal. Chairman Craig said he just wanted to understand  
26 Sean's background, and licensing for this type of thing. Mr. Hollis asked if there were any more  
27 questions for Sean, there being none, he stated that takes care of his arguments on 204.7,  
28 compliance with other sections, they have spent a fair amount of time detailing what those  
29 sections are, and the last section they have to comply with is Section 206, and he thinks he would  
30 like to go with the sort of standard which we (the Board) may all be used to, and that is under  
31 Special Exceptions, Section 206, if it is permitted by Special Exception under Section 206,  
32 Subsection D sets up the criteria, if they look at the provisions of their Ordinance, quoting from  
33 the New Boston Zoning Ordinance, "Certain principal uses of land and buildings may be allowed  
34 as a special exception only by approval of the Board of Adjustment, if the standards contained in  
35 this Ordinance are complied with. Before allowing such special exception, the Board of  
36 Adjustment shall first determine that the proposed use will conform to such requirements  
37 including", and the first is that a required plan be submitted, that is a proposed development of  
38 the site for special exception [for earth excavation], it's going to "show the location of all  
39 buildings" (there are none), "parking areas" (none), "traffic access" (showed where the driveway  
40 will be), "circulation drives", that is going to be a Phase by Phase open excavation area, "open  
41 spaces, landscaping", they have talked fairly significantly about reclamation, "deem necessary to  
42 determine if the proposed use meets the requirements", so he thinks they have met that  
43 requirement, that they have submitted the plans necessary, B is the permit for the special  
44 exception expires after a certain amount of time, C is no permits are issued if there are violations  
45 on the property, to their (applicant) knowledge, there is not, there is no record of any citations,

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1 and then D is the criteria, this is what he thinks is the meat of the matter what we (the Board) has  
2 to decide, again quoting from the Ordinance, “In order for a special exception to be granted the  
3 proposed use shall not adversely affect: (1) The capacity of existing or planned community  
4 facilities”, he feels this is relatively easy, whatever the Town’s planned community facilities are  
5 they (applicant) are not aware of any in that area, an excavation site in that area, it’s going to  
6 come on Lyndeborough Road, come off the road, and that will be the end of it, the work on that  
7 site will not affect any planned community facilities, he thinks of planned community like septic  
8 systems, a community well field, which this is not going to be the case, anything, even a  
9 community building or a recreation center, something that they (the Town) did not want next to  
10 an excavation site, that might be a legitimate consideration, but there is nothing nearby of a  
11 planned community or an existing community facility, the next one [from the Ordinance] is a  
12 little more difficult in that they can’t “adversely affect the character of the area”, so that kind of  
13 gets to what is the character of the area, and what would be the affects, and the character, of  
14 course, is rural residential zoning, there are two nearby earth excavation sites they (the Board)  
15 have seen by the aerial, there are several, there are also residents, residential uses both across the  
16 River and on the same side of the River. Chairman Craig asked Mr. Hollis to point out where the  
17 residences are on the aerial. Mr. Petropulos advised, that on the second page he believes there is  
18 a blow up, which is probably the best graphic they have, and he pointed out to the Board that  
19 they could see off of Lyndeborough Road they (the Board) will see a single family home in this  
20 driveway, and they will see residential properties that are associated with this property.  
21 Chairman Craig asked if any of those folks are here with us this evening. Ms. Strong stated that  
22 she was present. Chairman Craig said they would hear from her later, that he knows she knows  
23 this process very well. Mr. Hollis went on to state that one of the documents they (applicant)  
24 submitted earlier is from a Noise Consultant, RSP Consulting LLC, and he thinks that gives the  
25 Board absolutely the best picture, because he had measured sounds from each nearby residential  
26 home, the current noise and then predicted noise, subsequent, so it’s a lengthy document, but if  
27 you look on Figure 2, which would be the next to the last page of the document, you can see all  
28 of the residences around the area and this gives you a good narrow look, because if you up there  
29 (indicating the aerial on the easel) you can’t pick them out on the board, but you get a better  
30 sense of the adjacent gravel areas as well than you do on this plan, taking the two in combination  
31 gives a sense of what is the character of the area, it’s rural residential, there are residential homes  
32 on fairly large lots, it’s a quiet area, and they (the Board) know better than I that out there it’s  
33 very rural, and it’s a nice area, and they (applicant) can’t do anything to disturb that, their first  
34 action was, let’s analyze what the noise is and let’s analyze what the impact of an excavation and  
35 a rock crushing operation that is part of an excavation might have, and RSP Consulting did that  
36 work, and submitted the document, they do not have the gentleman who prepared this [noise  
37 document] from RSP available, he (Mr. Hollis) thought the report was rather detailed, and since  
38 you (the Board) have all had this for months he hopes the Board has all had a chance to look at  
39 this, he would refer the Board to the Conclusions, and perhaps the shortest conclusion is Page 11  
40 of 12, quoting from the document, “In summary, the noise levels calculated at the residential  
41 locations are between 49.59 dB (noise levels like walking in the forest) to 64.09 dB (like having  
42 a normal conversation). All of the thirteen (13) residential indoor noise levels are well below 45  
43 dB. The sound levels calculated at the nearest residential property boundaries should not result  
44 in unwarranted or offensive sound levels.”, now if they go to the page two pages before, under  
45 Conclusions he [Robert S. Palermo] walks through his study, what he did, how he analyzed the

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1 sounds, where the historical sounds of excavation and rock crushing arrive from, for example on  
2 Page 10 of 12, under no. 2, quoting from the document, “The seven (7) residences situated due  
3 east of the Site are expected to have further reductions in noise levels due to the higher  
4 topographic elevations that will remain in place that will act as a soil barrier...”, so he (Mr.  
5 Palermo) analyzed the proposed layout on the plan and then drew a conclusion based upon the  
6 attenuation of that noise due to the remainder higher topographic elevation, no. 3, again quoting  
7 the document, “The Rock Crusher during operation will be located at Site locations that take  
8 advantage of natural depressions that will help to contain the noise levels...”, so again that is his  
9 observation as to how the project is laid out, how this rock crusher is always at the lowest spot on  
10 the Site, so then as they (applicant) are moving along things are collecting there, no. 4 (from the  
11 document), “The inside residential noise levels are all expected to be below 45 dB (see Table 5  
12 above). The calculated outside noise levels only slightly exceed the EPA recommendation of 55  
13 dB at eight (8) locations and five (5) of the thirteen (13) ... are below 55 dB and are within the  
14 EPA guideline.”, so he cited the EPA standard of a 24-hour exposure level of 70 dBs, and a level  
15 of 55 dBs outdoors “are identified as preventing activity interference and annoyance”, so one is a  
16 harm level (70) and the other is an actual annoyance or interference, so will they hear it if they  
17 are outside in their yard, his conclusion is, they are going to hear outside noises during the day  
18 that will exceed 55 [dBs] at eight (8) locations, he (Mr. Palermo) then goes on to say that the  
19 New Hampshire DOT and the Federal Highway Administration of Noise Abatement Criteria  
20 (NAC) is on Table 6, and this, quoting from the document, “defines a noise impact to occur  
21 when the NAC are approached within 1 decibel, are exceeded, or when sound levels are  
22 anticipated to increase by more than 15 decibels over the existing worst-case hourly noise level.  
23 All of the outside noise levels calculated for the 13 residential properties are below 67 dBs and  
24 are within the acceptable noise limits for residential without any NAC exceeded noise impact.”,  
25 so that is the Conclusion, and no. 6 is one you (the Board) might want to include as a stipulation,  
26 quoting from no. 6 in the document, “The Site property owner, if required, will construct an  
27 earthen berm around the Rock Crusher in an effort to further reduce offsite noise impacts. An  
28 earthen berm can typically reduce noise by 5 to 15 dBs depending on the geometry of the noise  
29 source and the receptors.”, so that was discussed with him (Mr. Palermo), and he is  
30 recommending that you (the Board) might want to consider it, and they (applicant) agreed that if  
31 that is the Board’s recommendation, if they feels it’s appropriate, so they (applicant) think that  
32 with this summary, that it won’t adversely impact, and they (applicant) are not above the  
33 standards of the NHDOT, they (applicant) think they have addressed that they will be  
34 maintaining the character, again, this is a ten year window of time, it’s a daily operation, it’s not  
35 a night time activity when things are quietest, there aren’t going to be any structures out there, so  
36 they (applicant) feel that this won’t disrupt any normal activities of anybody living in the area.  
37 Mr. Dahlberg stated that there is no crushing in the wintertime, right? Mr. Halvatzes stated  
38 sometimes, yes, but typically no, because it is less efficient, so it will depend on, sometimes  
39 there are jobs that go on through the winter, you might need to be producing material, but  
40 typically no, and typically they might be coming and crushing for a month or two, and then they  
41 won’t be crushing for a period because you made progress, so it’s an intermittent thing, it is not  
42 like they are going to be running a processing plant every single day. Mr. Dahlberg stated that  
43 would be according to their (applicant) hours of operation. Mr. Halvatzes stated yes. Mr.  
44 Dahlberg asked what the hours of operation were going to be. Mr. Halvatzes stated typically,  
45 probably 7 [AM], what’s the Town, 7 [AM] to 5 [PM], he can’t say now it is going to be

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1 anything less than 5 [PM], but he would think typically the hours would be 7 [AM] to 5 [PM] or  
2 7 [AM] to 4:30 [PM]. Mr. Dahlberg stated that there would be nothing on Sundays. Mr.  
3 Halvatzes stated there would not be anything on Sundays, he would say, Saturdays, they could  
4 not run the crusher but he would like to be able to load out material if they have a job going on.  
5 Shannon advised the Planning Board would put restrictions on that, that they (Planning Board)  
6 are pretty strict about starting up times for equipment, there is different times for that, and all  
7 those things. Chairman Craig asked, noting that the aerial overviews show several areas of  
8 gravel operations, and he is wondering if any of them are operating right now. Mr. Halvatzes  
9 stated the one across the street [from his property] he saw trucks going in and out. Chairman  
10 Craig stated so there is actually active gravel operations in the immediate area, anyway, and if he  
11 understands, those are all grandfathered, and asked if they are operating under ... Shannon  
12 stated everybody came in and got a permit, she clarified not everybody, there were some that  
13 didn't, but they [Planning Department] had everybody come in under the Town's new regulation,  
14 and they have 50 year permits maybe, she doesn't remember exactly, but they are long permits.  
15 Chairman Craig advised that anybody buying a home in that area is not going to be caught off-  
16 guard that there are gravel operations in the immediate area, and asked Shannon if what she just  
17 heard is consistent with these other pits have been allowed to do under their permits. Shannon  
18 asked as far as... Chairman Craig stated noise operation, decibel levels, nothing that is out of  
19 line with... Shannon stated no. Chairman Craig advised these guys [other gravel pit owners] are  
20 all restricted, really restricted, this is going to be a much louder, busier... Shannon stated they  
21 (applicant) have to follow the Town's permitting process, and when they get issued their permit  
22 all of that information is on there, how many trucks, what type of trucks, everything, hours,  
23 equipment. Chairman Craig advised that he does not want to find out that these [other existing  
24 gravel pits] were very low intensive, and that this (applicant's project) is very high intensive, and  
25 is not in keeping with the character of the neighborhood. Shannon stated no. Chairman Craig  
26 asked Mr. Halvatzes if he would agree that what he is doing is really no different or more  
27 objectionable than what is already going on in the neighborhood. Mr. Halvatzes stated not that he  
28 knows of, he hasn't been in those pits, so he doesn't know necessarily what they do or how they  
29 operate, so he can't speak to that, it's an operating pit so they have to be screening or doing other  
30 processing stuff to get certain product. Chairman Craig asked Mr. Halvatzes where he lived in  
31 relation to the property. Mr. Halvatzes stated he lives in Goffstown, he bought the property  
32 because he originally....but he couldn't do the driveway because it is too much... Chairman  
33 Craig stated ultimately all these people are going to be his neighbors. Mr. Halvatzes stated he  
34 wants to be friends with all of them. Mr. Hollis went on to say what else is in character, so they  
35 (applicant) took a look, again, at the groundwater, because it is an aquifer protection district, and,  
36 as they (the Board) hear from Sean [Kennedy] this will not impact that character, so that gets  
37 them to the other point that it will not adversely affect traffic. Ms. McKim asked Ms. Strong  
38 how long she has lived on the abutting property. Ms. Strong stated since 1995. Ms. McKim  
39 asked how she would describe the noise level from these already existing gravel pits. Ms. Strong  
40 advised that her property was a gravel pit, they lived there when they were hauling from it, so  
41 they are used to trucks, the Houghton pit has been running every day this week, going  
42 somewhere, so tailgates banging, motors running, that is just what happens in that area. Ms.  
43 McKim asked if she could hear it from inside her house. Ms. Strong stated no, but can when  
44 they are outside. Ms. McKim asked if she anticipates that this project will, as Mr. Craig said,  
45 more intensive, nearer to your property, does she anticipate that this is going to increase the noise

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1 level considerably, or in keeping with what's already going on. Ms. Strong stated it is going to  
2 be just more of the same because of what it is, she stated she does have... Chairman Craig  
3 advised that if she does have a formal presentation she wanted to show the Board if she could  
4 save the questions for then, but this is certainly something they (the Board) are all concerned  
5 about, if this is going to be something that is worse than what is already there, and inconsistent  
6 with the character of the neighborhood, and stated that if she has any opinions on that, they  
7 would like to know, but they will get to that, he wants to allow the applicant to finish their  
8 presentation. Mr. Hollis advised the traffic study was performed by Stephen Pernaw and is  
9 lengthy, he (Mr. Pernaw) analyzed each intersection, he analyzed the entrance and exit, he did so  
10 for Site distances, he did so for traffic volumes, and he came to a series of conclusions, and to  
11 short circuit the Board, if they go to Page 20 of the tome they (the Board) will see a series of  
12 conclusions, there a couple of pages beforehand that sort of build up to the Conclusion, if you  
13 will, if you have questions about the left-turn movement, they [Pernaw & Company) look at the  
14 right-turn movement, and they look at the minor-road approach, and each of those conclude that  
15 there is no need to have any further improvements made there, but the Conclusions on Page 20  
16 are really what gets to the meat of the matter of them (the Board) deciding whether the Special  
17 Exception will adversely affect traffic on roads and highways in the immediate vicinity, that is  
18 really the criteria, so if they look at no. 3, quoting from the Study, "The intersection of NH  
19 13/Lyndeborough Road/Hopper Hill Road currently operates well below capacity during all  
20 hours of the day. Traffic movements at this intersection were found to operate at Level of  
21 Service A or B during the weekday AM and PM peak hour periods. Analysis of the long-range  
22 (2032) traffic projections for this intersection confirms that traffic will continue to operate at  
23 LOS A and B through 2032 and beyond, with the earth removal site in operation.", so the traffic  
24 engineer will tell you, as this Study does, if you go through a series of categories, LOS is known  
25 as Level of Service, so you go from A to what's called F, which is in failure, it doesn't mean that  
26 you don't have any traffic going, but that generally is the intersection which needs attention, and  
27 there may be an issue if you are trying to put a few more cars into that intersection, so what the  
28 traffic engineers do is take a look at the intersection and count the traffic at the worst times,  
29 that's called the AM peak hour and PM peak hour, and that will determine what that intersection  
30 is operating at, so when they (engineers) say LOS A it means it is at the highest, best level, no  
31 failure, no problem, no waiting, and a very safe intersection, B drops it down, C, D, so forth,  
32 when you hear traffic engineers when they start talking about D they are not very happy because  
33 you are trying to put 10 lbs in a 5 lb bag, they (applicant) don't have that, so he (Mr. Pernaw)  
34 concluded that at that intersection, which is the key intersection here, there isn't any issue, with  
35 or without their (applicant) traffic, quoting from no. 4 the Study conclusions, "The intersection  
36 of Lyndeborough Road/Proposed Site Access Road will operate well below capacity during all  
37 hours of the day through 2032 with the excavation project in full operation. All applicable traffic  
38 movements at this future three-leg intersection will operate at LOS A.", from no. 5, "Analysis of  
39 the 2032 Build traffic volumes for the NH 13/Lyndeborough Road/Hooper Hill Road intersection  
40 confirms that that existing lane configuration of the intersection is appropriate from a traffic  
41 operation, capacity, and safety standpoint. Auxiliary turn lanes are not warranted at this  
42 intersection. Similarly, analysis of the Lyndeborough Road/Proposed Site Access Road  
43 intersection confirms that one general-purpose travel lane on each approach to the intersection is  
44 sufficient for the anticipated traffic volumes. Auxiliary turn lanes are not warranted at this  
45 intersection.", this means that he (engineer) has looked at the road, he has looked at the driveway

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1 configuration and they (applicant) don't need to widen it, they don't need to have a decel lane or  
2 an accel lane, they don't need to have a radius turning lane to get onto the Site or off the Site,  
3 just a two-lane driveway out, and a two-lane road in, and then finally, most importantly for  
4 safety purposes as opposed to annoyance, which is the Level of Service, quoting no. 6 from the  
5 document, "Adequate sight distances looking left and looking right from the proposed site access  
6 road approach to Lyndeborough Road are obtainable by re-grading the side slopes on the east  
7 side of the intersection, along with removing trees and trimming vegetation on the north side of  
8 the roadway, in conjunction with the construction of the access road.", he stated this would  
9 typically be a recommendation the Planning Board would make during the permitting process,  
10 they (Planning Board) would say do you (applicant) have a traffic study, they (Planning Board)  
11 would get their consultant, their consultant would say yes, we need to have that trimmed, and  
12 there might even be a line-of-sight easement granted to preserve that no vegetation grows, and  
13 that if it does grow, the Town has the right to go out and cut it, that would be the typical thing.  
14 Chairman Craig asked Shannon if the Town has access to a professional consultant. Shannon  
15 stated yes. Mr. Hollis continued, quoting from the last paragraph of the Traffic Study, "With a  
16 properly designed intersection on Lyndeborough Road (with appropriate corner radii for the haul  
17 trucks to prevent lane encroachment), and the recommended re-grading of the side slopes and  
18 tree/vegetation removal long the north side of Lyndeborough Road (to ensure clear sight distance  
19 triangles are maintained), truck traffic will be able to safely enter and exit the subject site and  
20 travel to/from points east and west on Lyndeborough Road. The prevailing traffic operations,  
21 capacity, and safety aspects of the NH 13/Lyndeborough Road/Hooper Hill Road are not  
22 expected to change significantly as a result of the additional truck traffic from the earth removal  
23 site.", so this kind of ties back to one of the big concerns you (the Board) all had about the hill  
24 and Meadow Brook, and no tree clearing; this would be the one exception, if the Planning Board  
25 says tree clearing, they (applicant) have to clear probably not between the Brook and their  
26 excavation site, but probably between the Brook and the Road, and they (applicant) won't know  
27 until they get to the final design, here is where the driveway comes, where is the line-of-sight,  
28 and the Planning Board professional would say this is what you (applicant) need to do, so there  
29 may be an exception to what we (applicant and Zoning Board) discussed. Chairman Craig asked  
30 if Mr. Hollis could show the Board the location of the proposed driveway. Mr. Petropulos  
31 advised that he would probably go back to the handout, and he thinks it is that first Phase, Page  
32 3, he stated they (the Board) can see one of the benefits of being on the outside of a curve, if they  
33 have entered into a road on the outside of a curve, you are able to look both down in both  
34 directions, much better than being on the inside of a curve. Mr. Olivier advised that  
35 Lyndeborough Road loops back around right there, after you go past their road. Ms. McKim  
36 asked what is the current weight of the trucks, empty and full. Mr. Halvatzes advised tri-axle  
37 empty he doesn't know, full he thinks is around 80,000 lbs, tractor trailers he thinks are around  
38 100,000 lbs. Ms. McKim asked if he is going to be using both those types. Mr. Halvatzes stated  
39 yes, typically it will be more tri-axes, but it really depends on who is coming to buy the product,  
40 he can't necessarily control who he is selling to and what type of trucks they are using.  
41 Chairman Craig asked if that is consistent in what is going on in the neighborhood already. Mr.  
42 Halvatzes stated he sees a lot of tri-axes, he assumes there are tractor trailers also. Chairman  
43 Craig stated this is also why he asked history of the property, this was used for a similar  
44 operation, maybe it was 25 years ago, but it was used for a similar operation, in a similar  
45 location, similar access, and they (the Town) is certainly not hearing horror stories of accidents

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1 and all that stuff. Ms. McKim asked Shannon if the new culvert that was built in the area is  
2 sufficient, has she been told, to handle this. Shannon stated that Road has trucks on it, it is  
3 specified to handle it. Mr. Halvatzes stated he saw the design, because he had to sign off on  
4 easements for you guys (the Town) to do a swale on his property on that side of the wetlands,  
5 and it is designed for heavy loading, which is truck traffic. Ms. McKim asked Shannon if all the  
6 bridges in that area are going to be able to handle it. Shannon advised that the State  
7 specifications require it, and she is pretty sure the DOT requires it. Mr. Dahlberg advised that  
8 the specifications for that culvert are what they should be. Mr. Hollis advised that he thinks the  
9 Conclusion is that the truck traffic and anticipated excavation is not going to adversely affect  
10 traffic on roads and highways in the immediate vicinity, with that he thinks they (applicant) have  
11 satisfied all of the conditions and requirements of both Section 204.7 and Section 206, and he  
12 would be happy to answer any questions the Board may have; he would just remind the Board  
13 they (applicant) have a long way to go to get the details done on the Earth Excavation Permit,  
14 and the Conditional Use Permit. Chairman Craig stated he has one question about Mr. Pernaw's  
15 Study, he recognizes the name and he believes Steve has been around a very long time here in  
16 Southern New Hampshire, he assumes that is a licensed position to give those kind of opinions.  
17 Mr. Hollis stated he is, that he (Mr. Pernaw) has stamped the Study "Licensed Professional  
18 Engineer". Chairman Craig asked Ms. Strong what she would like to add concerning the project,  
19 as an abutter and having some experience with this kind of operation. Ms. Strong stated that she  
20 would like to begin by saying that their property was a gravel pit so she has nothing to say about  
21 gravel removal, they have had the benefit of it, they are in a area where the whole strip is gravel,  
22 the traffic on the Road is regular cars and trucks, forestry trucks a lot on the other end of  
23 Lyndeborough, the Towne's family land down there, and the Town forest as well, so there is  
24 truck traffic all the time, she wouldn't necessarily consider them (her property) normal abutters  
25 necessarily, because they have a farm on their property, so they are up at 4:30 in the morning, do  
26 all the chores, they go to work, they come home, on the weekends they are outside, they are  
27 working, they have a tractor, in the summer they go haying, they bring the hay home, when they  
28 get to sit down and enjoy the property outside these guys (applicant) will be done, so the noise  
29 from the gravel pits doesn't affect the enjoyment of their outside activities, because there will be  
30 nothing going on at night, as far as the Groundwater District is concerned, she was looking at  
31 things like potential pollution, but also aquifers for present and future, public and private water  
32 supply, she feels the Hydrogeologic Evaluation was awesome, however, the only times it  
33 mentions water was for municipal use and public water supply extraction use, and she is  
34 wondering if there is an opportunity to hear about how the Engineer thinks it would affect private  
35 water supplies, everyone is concerned with drought, that every year wells go dry, she would be  
36 interested to hear about that, another question she has is the length of time of this [Earth  
37 Excavation Project], wondering why so many different Phases for this, predictions of the size of  
38 the operation, why is there a 10 year timetable, the estimated affect on the water table, if the plan  
39 is to stay at the 4 feet above, because there is an opportunity to reduce further if the Planning  
40 Board agrees to that because of the impact to the aquifer, so she is wondering if the plan is to  
41 stay at that 4 foot level, and just to point out that the eastern property line, which is their western  
42 property line, Mr. Halvatzes did tell her that they (applicant) are not planning to excavate close  
43 to that, and they are showing the 50' setback, which is a requirement, she would like to point out  
44 that the toe of the slope on their side that they got for a natural repose and to have a nice finish, is  
45 probably 75' to 100' from the property line so that may be where he (applicant) is going to end up

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1 being just to keep the same kind of slope on that side, but she is directing this to the Board, and  
2 that is really all she has. Mr. Halvatzes stated he could speak to the last one first, that that side is  
3 already an existing slope, besides up, so you have the Brook here and ... Chairman Craig asked  
4 him to show them on the plan. Mr. Halvatzes went to the easel and pointed, saying right here is  
5 that existing berm that they are not touching for the wetlands, so right here is probably the only  
6 point where they are going to be anywhere close to her [Ms. Strong] slope, this slope right here  
7 (pointing again to the drawing) they are not planning to touch, it is already pitching down  
8 perfect. Chairman Craig asked Ms. Strong if she could see what he is pointing to, and could she  
9 picture it. Ms. Strong stated yes. Mr. Halvatzes went on to point to the drawing saying this is  
10 the only part they would have to touch a little bit to make the slope, all of this slope here they are  
11 not planning to touch at all. Chairman Craig asked Ms. Strong if that satisfied her questions.  
12 Ms. Strong advised that you could see on the aerial where the toe of their (her property) is right  
13 about here (pointing to the drawing), which is a lot further than the 50' setback, and where the  
14 slope ends. Mr. Halvatzes stated you can see this whole area here that was cut, and he is not  
15 planning on touching any of that there, because this is where the wetlands is, down here, so that  
16 is the only place where they (applicant) would end up having to touch, and, again, it's going to  
17 be sloping, and as soon as they cut it, it's going to create a big berm on that side. Ms. Strong  
18 stated her concern is that it would not affect her slope, and Mr. Halvatzes stated they are not  
19 planning on touching that side. Chairman Craig stated to the applicant and his agents to decide  
20 how they wanted to answer Ms. Strong's concerns and questions, and advised Ms. Strong to let  
21 the Board know if there was something they (applicant) did not address. Mr. Halvatzes stated  
22 that according to the evaluations they (applicant) are not even going to be close to the water  
23 table, he said he would have to look at the elevations again, he doesn't remember the elevations  
24 of the water table, but the closest he thinks they were going to be was like 12'-15', basically, they  
25 are just taking it from the road drain to the 470, they are not planning to mine out extra material  
26 within that area, it wasn't the goal to just go...they would just make use of what is there.  
27 Chairman Craig asked Sean [Kennedy] if he would agree that there would be no impact on  
28 private wells. Mr. Kennedy stated there would be no extraction of groundwater near private  
29 wells. Mr. Petropulos stated with regard to the length of time – the 10 years, with a 5 acre max  
30 disturbance rate requirement, it's not as if they (applicant) could open up 20 acres, if they could  
31 do it in 5 acre pieces about 150,000 yards per Phase, it's going to take 1 ½-2 years for each  
32 Phase, so that gives them the 10 years. Mr. Halvatzes asked that doesn't it also come to the  
33 acreage limits as to the DOT Permit, that they are only supposed to have so much disturbed at a  
34 time. Mr. Petropulos advised Michael [Halvatzes] that he could waive that, but the Town  
35 regulation is 5 acres at a time, he believes. Chairman Craig asked what else was on the list. Mr.  
36 Hollis stated no impact on private wells, time, high-water tables, staying at 4 feet above water  
37 table, answer was yes, and then, the eastern property line. Chairman Craig thanked the agents  
38 for the clarification, and asked Ms. Strong if she was okay with this [Excavation Project]. Ms.  
39 Strong stated yes, that she also has one more thing, and it is kind of not related, but since they  
40 (applicants and the Board) are all here, she noticed on her photographs that they (applicant) have  
41 "no trespassing" signs; they (Ms. Strong's family) have heard lots of 4-wheelers and shooting, so  
42 she doesn't know if they (applicant) know about that. Mr. Halvatzes stated that was him, they  
43 have been using it (property) for recreation, but that he did that [signs] so he didn't have  
44 everyone coming on the property. Chairman Craig advised he has one other specific question,  
45 when he looked at the small shot that had all the homes identified, he doesn't know where he

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1 saw it. Mr. Halvatzes said it is the second to last page of the Noise Study. Chairman Craig  
2 stated that is RSP, and that identified all these homes; he asked how many of these are direct  
3 abutters and received notice of this hearing, do they (the Board) know. Mr. Halvatzes  
4 approached the easel and counted the names listed on the photo. Chairman Craig stated so these  
5 people who were on the Noise Study, they believe they are direct-notice abutters. Mr. Hollis  
6 stated not all. Shannon advised, pointing to the photo, indicated the direct-notice abutters.  
7 Chairman Craig stated he wanted to make sure that people aren't blind-sided by this. Shannon  
8 advised Townes are, Nixons are, Vicentes are, and she pointed to others [not identified by name]  
9 that are not. Chairman Craig advised that he wanted to make sure that they (applicant) are doing  
10 noise studies on people's homes, and they (abutters) don't even know what's happening, and he  
11 asked Shannon, for the record, that they (the Planning Department) has not received any written  
12 correspondence from anyone, either in favor or opposed. Shannon stated they (Planning  
13 Department) have not. Chairman Craig stated they (abutters) certainly will have other  
14 opportunities. Mr. Dahlberg asked if Ms. McKim was a voting member tonight. Chairman  
15 Craig stated yes. Mr. Dahlberg stated that needs to be said out loud. Chairman Craig advised  
16 that they (applicant and the Board) have had the discussion many times, that they (the Board)  
17 don't have a full Board tonight, they have 3 full members, 1 alternate that is going to be a voting  
18 member tonight. Mr. Hollis agreed yes. Chairman Craig asked before they go any further does  
19 anyone (the Board) have any questions or points of clarification, or something that they (Board  
20 members) would like to hear more about. Ms. McKim stated she would just like to hear from  
21 Michael [Dahlberg] as to his "shopping list", because she has a feeling that he has probably hit  
22 all the things she was concerned about, that he might stipulate to. Mr. Dahlberg stated these are  
23 in no particular order. Chairman Craig asked Anthony [Olivier] if he had any questions or things  
24 he needed to have clarified. Mr. Olivier stated no. Mr. Dahlberg stated (referring to his list), a  
25 reclamation bond per phase and a maintenance bond, once the reclamation bond is reduced or  
26 eliminated. Chairman Craig asked Mr. Dahlberg what the difference is between a reclamation  
27 bond and a maintenance bond. Mr. Dahlberg advised a maintenance bond is going to guarantee  
28 that the vegetation grows, because they all know that people plant grass seed and it doesn't, and  
29 they (property owners) can say well, we planted it, continuing on his list, he stated, that  
30 inspections occur according to the Planning Board's Consultant for release of the reclamation  
31 bond established, the maintenance bond, there will be no excavation between the 250' SW-QPA  
32 area, maintain the existing wooded buffer for Meadow Brook, maintain the existing wooded  
33 buffer to the Piscataquog River, use of BMPs contemporary with any DES issue, and USDA  
34 NRCS Vegetating New Hampshire Sand and Gravel Pits, Technical Note PM-NH-21, no storage  
35 of chemicals or hazardous materials on site, any fuel storage for the equipment must be in a  
36 contained structure equivalent to the capacity of the storage, sound pit levels to be maintained  
37 according to the Study, and the Planning Board to have the opportunity to revisit accordingly,  
38 per Paragraph 6 on Page 11 of the RSP Consultant Study. Chairman Craig asked if by sound pit  
39 he was talking about when they (applicant) are running the rock crusher. Mr. Dahlberg stated  
40 yes, but he knows exactly what they (applicant) are talking about, he (Mr. Dahlberg) has done  
41 dozens of gravel pits, you just put the crusher in a hole, and you have a bowl. Mr. Halvatzes  
42 stated because of the way the property is you are pretty much in a bowl, anyways, and as they  
43 (applicant) progress they are pretty much going to be coming into more a bowl, a tighter bowl,  
44 which is going to make the sound a lot less. Mr. Dahlberg went on to say the other one was to  
45 obtain the Alteration of Terrain Permit from the Planning Board for a gravel pit. Chairman Craig

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1 asked if the Alteration of Terrain Permit is mandatory, and he (Mr. Dahlberg) is just reminding  
2 them (Planning Board) of that. Mr. Dahlberg stated yes. Chairman Craig said that is a pretty  
3 thorough list, is everybody satisfied that they heard what they needed to hear with regard to the  
4 Project, what is being proposed, he asked Ms. McKim is she has heard what she needed to hear.  
5 Ms. McKim stated yes. Chairman Craig stated he feels the same, he assumes Anthony [Olivier]  
6 might. Mr. Olivier stated yes. Chairman Craig asked if someone would care to make a motion;  
7 he advised Mr. Dahlberg that he might nominate him so that he may incorporate those things as  
8 conditions. Mr. Dahlberg stated he would make a motion.

9  
10  
11 Michael Dahlberg made a **MOTION** to approve the Application for a Special Exception  
12 to the terms of Article II, Section 204.4, of the New Boston Zoning Ordinance for the  
13 removal of earth products for the Property located on Lyndeborough Road, Tax Map/Lot  
14 # 10/70-1 Residential-Agricultural “R-A” District, the Applicant would obtain a Planning  
15 Board Conditional Use Permit, and the Gravel Operation Permit from the Planning  
16 Board, they would obtain an Alteration of Terrain Permit, there would be a Reclamation  
17 Bond per Phase, and a Maintenance Bond per Phase for Vegetation, with proper  
18 inspections per the Planning Board’s Consultant, and it would be a true bond, it will not  
19 be a letter of credit, no excavation within the 250' SWQPA area, maintain the existing  
20 wooded buffer to Meadow Brook, maintain the existing wooded buffer to the Piscataquog  
21 River, maintain the existing slope on the east side of the property adjacent to the Strong  
22 property, use of BMPs contemporary within DES Current Issue, and the USDA NRCS  
23 Vegetating New Hampshire Sand and Gravel Pits, Technical Note PM-NH-21, there will  
24 be no storage of hazardous or chemical materials on site, any fuel storage for use on the  
25 gravel operation will be in a contained structure per DES Rules, and sound levels will be  
26 maintained according to the sound study by RSP Consulting LLC, and the Planning  
27 Board can revisit that accordingly if there is a complaint, and they should maintain that in  
28 accordance with Paragraph 6 on Page 11 of the RSP Consultant Study.

29  
30 Chairman Craig advised they (the Board) have a Motion that has been made to approve the  
31 Special Exception subject to those conditions and criteria, and asked if they had a Second.

32  
33 Lorraine McKim seconded the **MOTION** made by Mr. Dahlberg.

34  
35 Mr. Hollis advised he would like to raise a Point of Order. Chairman Craig advised Mr. Hollis to  
36 continue. Mr. Hollis advised that in your (the Town’s) regulations, 204.7, it requires that you  
37 (the Board), “in written findings of fact” determine the four factors are true, so if they could just  
38 make those findings... Chairman Craig stated he feels, personally, that they have been satisfied,  
39 so if we can incorporate them by reference.

40  
41 Michael Dahlberg **AMENDED** his **MOTION** to include that they feel that the criteria  
42 for the Special Exception, in that there is no impact on the capacity of existing or  
43 planning community facilities; the character of the area affected will not be adversely  
44 affected as foreseen at least by what is seen now; the traffic on roads and highways in the

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1 immediate vicinity; there is no impact because this is pretty much the same thing and  
2 they can rely on the report by Stephen G. Pernaw & Company, Inc. Traffic Study.

3  
4 Mr. Hollis asked if Mr. Dahlberg would also incorporate 204.7(F) the same way.

5  
6 Michael Dahlberg continued with his **AMENDED MOTION** to include [from Section  
7 204.7 of the Zoning Ordinance] the proposed use will not have a detrimental effect on the  
8 quality of the groundwater contained in the aquifer per the Terracon Report; nor will it  
9 have a detrimental effect on the long-term volume of water contained in the aquifer; the  
10 use will not discharge any wastewater on site other than that which is permitted which  
11 would be domestic waste; and we feel that it complies with all other applicable sections  
12 of this Article.

13  
14 Chairman Craig they have a Motion that has been made and seconded, and asked if there was  
15 any discussion. Mr. Dahlberg advised that they should get a second on the Amended Motion,  
16 and Chairman Craig asked Ms. McKim if she would second the Amended Motion.

17  
18 Lorraine McKim seconded the **AMENDED MOTION**.

19  
20 Chairman Craig stated they have an Amended Motion that has been seconded, and asked Mr.  
21 Hollis if that satisfies him. Mr. Hollis indicated that it does. Chairman Craig advised they (the  
22 Board) has a pretty comprehensive Motion in front of them, and asked if there was any  
23 discussion among the Board. Chairman Craig asked all in favor to signify by saying "aye".

24  
25 The **AMENDED MOTION PASSED** unanimously.

26  
27 Mr. Hollis thanked the Board, and Chairman Craig thanked the applicant for the thorough  
28 presentation and the professionals present to allay the Board's concerns. Chairman Craig  
29 advised the applicant to be careful about starting any work on the Project because there are  
30 appeal periods, but he doesn't think the applicant is anywhere near to starting on the Project, that  
31 he is just worried about people getting approval and starting their project the following day. Mr.  
32 Halvatzes indicated he understands the process.

33  
34 Chairman Craig advised that unless there is any other business he would entertain a motion to  
35 adjourn.

36  
37 Anthony Olivier made a **MOTION** to adjourn, it was seconded, and it **PASSED**  
38 unanimously. The meeting adjourned at 8:52 p.m.

39  
40  
41 Respectfully submitted,

42  
43 Lorraine McKim

Minutes Approved:

May 17, 2022