

**Ashland Zoning Board of Adjustment  
Approved Meeting Minutes  
Thursday, December 10, 2020**

CALL TO ORDER: David Toth, Chair of the Board, called the meeting to order at 6:30 PM. The meeting was conducted via Zoom video and teleconference.

MEMBERS PRESENT: Mardean Badger, Charlie Bozzello, David Toth, Alan Cilley (alternate)

OTHERS PRESENT: *Paula Hancock*, ZBA Secretary  
*Susan MacLeod*, Land Use Assistant  
*Daniel Lucchetti*, civil engineer HEB Engineers, agent for Centerstate LLC, owner of the property, and Brandon Hiltz of Brandon Hiltz Construction.  
*Susan Slack*, Planner, LRPC (Lakes Region Planning Commission).  
*Ryan Clouthier*, (Deputy Director, SNHS, Southern New Hampshire Services) (Common Man Commons).  
*Regina Buteau*, Building Director, (Common Man Commons).

RIGHT TO KNOW LAW: Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

David Toth, Chair of the Board, appointed Alan Cilley as an alternate and a voting member of the Zoning Board of Adjustment for this meeting.

(David Toth) Before we reconvene this hearing I want to approve the minutes from our last meeting. Do I hear a motion to approve the minutes?

(Mardean Badger) I make a motion to approve the minutes of Thursday, November 12, 2020.

(David Toth) Is there a second?

(Charlie Bozzello) Ok. I'll second.

(Mardean Badger) I have one correction that I noticed. On page 3, a little more than halfway down, David Toth and Daniel Lucchetti in both of those the word boring pit is mentioned. I believe it should be borrow pit. Is that correct? Daniel? That would be the correct term?

(Daniel Lucchetti) Yes. In both consecutive lines it should be borrow pit.

(David Toth) Any other corrections to the minutes? All those in favor of approving the minutes?

(Charlie) aye.

(Alan Cilley) You haven't appointed me a voting member yet.

(David Toth) I think you are a voting member from the last meeting.

(Alan Cilley) I know, but I just want to make sure you are aware of that.

(David Toth) I will reappoint you as a voting member of the Zoning Board of Adjustment.

(Alan Cilley) In that case, I say aye.

(Mardean Badger) aye.

(David Toth) aye. A roll call vote of 4-0.

1 (David Toth) I would like to reconvene the Public Hearing from last time. We were at the point where  
2 the Chair was going to summarize the main points of the meeting. I want to thank everyone for  
3 indulging me because this is a complicated case. I wanted to review my notes and the minutes of the  
4 meeting before I presented a summary. What I will do is go over the summary I put together by the  
5 criteria; I am going to go over each criteria and then ask if there are any additions or deletions that  
6 anyone wants to make to the summary. Criteria 1: Is the specific site an appropriate location for the  
7 intended proposed use or structure? The land for the proposed gravel pit/quarry is a vacant lot 85  
8 acres in size. It is located in the Rural Residential Zone at the end of West Street. A portion of the land  
9 is located within the wellhead protection area. The land is currently not in use. There are abutters and  
10 conservation land to the north, abutters to the east and residential land and a commercial district to the  
11 south. A portion of the land is in the commercial district. The proposed excavation would be  
12 approximately 11.5 acres in the central portion of the land. There is currently no design for the use of  
13 the property. However, it will consist of storage areas and stockpiles for gravel, crushed stone and other  
14 types of aggregates and a pond to provide and retain water. The design will adhere to the State  
15 Excavation Regulations, the Town Excavation Regulations, and the DES Alteration of Terrain Permit  
16 Regulation. There will be a stockpile on West Street. There is evidence of excavation on the north side  
17 of the site. There is evidence of it having been used as a borrow pit for the construction of I-93. The  
18 applicant did not find records confirming that the site was a borrow pit. The applicant has not done  
19 borings or engineering studies to determine whether the site was a borrow pit. The applicant has not  
20 done borings or engineering studies to determine whether the site would serve as a gravel pit/quarry. A  
21 portion of the land on the southern end is in the commercial district with access via West Street which  
22 is part of the commercial district. There is a semi-circular hill that arises to approximately 830' at the  
23 southern end, the West Street end of the property. This hill could serve as a buffer between the  
24 proposed site which is at an elevation of approximately 530' in the Rural Residential Zone and the  
25 businesses on West Street. The hill slopes steeply toward West Street, and somewhat more gradually  
26 toward I-93. This may mean that the access road would need to be cut into the side of the hill  
27 especially at the West Street end where the property is on the wellhead protection area. The proposed  
28 site will not be visible from West Street. The service road is possibly visible. The gravel pit/quarry  
29 could be visible from I-93. The site might also be visible from certain areas of Bridgewater as well as  
30 the Glidden Conservation Area. Does anyone have anything they would like to add or delete from  
31 here?

32  
33 (Mardean Badger) I think one note in the first paragraph. I think you mention abutters to the east on  
34 residential land. I think it is important to note that the residential land is also under conservation status.

35  
36 (David Toth) Criteria 2: Will the use be compatible to neighboring land uses?

37 While a portion of the land at the southern end is in the commercial district, most of the land is in the  
38 rural residential zone. Businesses in the commercial district include Ashland Lumber, Irving Station,  
39 Burger King all of whom are located on the southern end of West Street and Rte 3/25. Common Man  
40 Commons (a senior living facility), Comfort Inn and a storage facility are located toward the northern  
41 end of West Street. I probably should have added that there are also a number of residences on the  
42 northern end of West Street as well. The applicant stated that the proposed project would be an  
43 additional commercial use of the land in this area and there would be no serious hazard to vehicles or  
44 pedestrians. Ryan Clouthier of SNHS (Southern NH Services), which is the owner of Common Man  
45 Commons, stated that he believes the project is not compatible with the elder housing project due to  
46 concerns about traffic, safety, dust, debris, air pollution, noise, vibration and the structural integrity of  
47 buildings, all of which would adversely affect the lives of and lifestyles of the seniors who reside at  
48 Common Man Commons. Would anyone like to add or delete anything from this criteria?

1  
2 (David Toth) Criteria 3: The property values in the zone and the surrounding area will not be reduced  
3 by such a use. The applicant did not provide evidence that property values would not be reduced by the  
4 proposed project, but offered to obtain an assessment of property values. Anything anyone would like  
5 to add to this section?  
6

7 (David Toth) Criteria 4: There will be no nuisance or hazards to vehicles or pedestrians. The applicant  
8 stated that all internal roads would be safe for vehicular traffic and that pedestrian traffic in that area  
9 would be limited. The applicant also stated that vehicular traffic on West Street would be consistent  
10 with current use. Trucks from Hiltz Construction use the Irving station and Ashland Lumber. The  
11 applicant estimated that traffic would consist of between 10 and 20 trucks/day depending on project  
12 requirements. Ryan Clouthier stated that the additional traffic from heavy trucks would increase the  
13 risk for senior drivers and pedestrians. Any additions to that section?  
14

15 (David Toth) Criteria 5: Adequate and appropriate facilities will be provided for the proper operation  
16 of the proposed site. The applicant stated that necessary facilities and equipment to operate a gravel pit  
17 would be provided. The applicant would also meet state and local excavation regulations that DES and  
18 DOT require. Any additions to this section?  
19

20 (David Toth) Criteria 6: The proposed use will comply with the minimum lot size and setback  
21 requirements. The applicant has stated that the proposed use will comply with minimum lot size,  
22 frontage and setback requirements. Any additions to this?  
23

24 (David Toth) Criteria 7: Existing roads and highways capable of carrying additional traffic. The  
25 applicant has stated that there will be minimal traffic. It has been estimated that between 10-20  
26 trucks/day, as I stated before. The applicant has also stated that West Street already supports larger  
27 commercial uses and that the road meets the 12' travel lane that is recommended for commercial use by  
28 AASHTO Geometric Design of Highways. Susan Slack, principal planner for LRPC (Lakes Region  
29 Planning Commission), stated that there could be traffic issues at the intersection of West Street and  
30 Rte 3/25 which is close to I-93 entrances and exits. Any additions or deletions to this section?  
31 Does anyone have any further comments they would like to make before we close the hearing?  
32

33 (Mardean Badger) Both Ryan Clouthier and Regina Buteau are here from SNHS (Southern NH  
34 Services). I wonder if they have anything to add?  
35

36 (Ryan Clouthier) I don't have anything to add but appreciate the opportunity. Thank you.  
37

38 **(David Toth) In that case I will bring the Public Hearing to a close. (6:43 PM)**  
39

40 **(David Toth) At this time I would like to start the deliberations by the Zoning Board of**  
41 **Adjustment.** We might use the summary I just made as a starting point to discuss the information we  
42 have been presented that supports or does not support the criteria and then vote on each of the criteria  
43 individually. When we do get to the voting portion of this, each of us needs to vote yeah or nay and  
44 explain the reasons and the facts we base our decision on so we have that in the public record.  
45

46 **Criteria 1: Does the design determine the site is an appropriate location for the intended use or**  
47 **structure?**  
48

1 (David Toth) We know that the proposal is to place a gravel pit quarry in the rural residential zone  
2 which is north of West Street.  
3

4 (Mardean Badger) I'll start off. I have concerns about the particular piece of land. On both the northern  
5 end and the southern end of the property, there are aquifers where we draw our water from. It overlaps  
6 both ends of the property. The northern end it overlaps significantly. But I think even more important to  
7 me is the fact that our wellhead protection area also is overlapped by this property and it actually  
8 comes into more towards the center of the property which conceivably could overlap the area that they  
9 would be doing the excavation in. So that is my first concern -- the location of the aquifer and  
10 wellhead protection area. My second concern is that, while West Street is commercial, we know that  
11 most of the heavier use areas are at the lower end of West Street. What is at the northern end of West  
12 Street, for instance just beyond the Comfort Inn, are two private residences and across from those is the  
13 Common Man Commons which is the elderly housing area. So the closest part of West Street to this  
14 excavation site and to the access road with its traffic is actually in a more residential portion of West  
15 Street than the lower part. So those are two of my concerns.  
16

17 (Charlie Bozzello) I would like to comment. I believe that the site is potentially a very successful  
18 development site for the use that has been proposed. The main fact that turned out to be an  
19 economically sound investment as a quarry, as the natural resources there lend themselves to that type  
20 of development. I note that the Planning Board, the NH DOT, perhaps other jurisdictions will weigh in  
21 on the amelioration of many of the issues that have been presented, some of which Mardean just  
22 expressed and that these ameliorations have the potential of being successfully resolved in favor of the  
23 applicant and on that basis I think on this criterion I would...I am very optimistic of this to go forward.  
24

25 (Alan Cilley) Mardean has expressed my concerns. I would just like to reiterate. My issues are that it is  
26 within the wellhead protection area and any increased traffic flow on West Street is a potential problem.  
27

28 (Charlie Bozzello) We are very early in the process that is very unusual, especially for me, to review an  
29 applicant where the Planning Board has been involved, where the engineering is not complete, where  
30 there has not been a serious attempt to look at the items that need amelioration that include the road. I  
31 think potentially this would be a benefit to the Town of Ashland and one of the things that may come  
32 out of this is that West Street may even be improved in the process and we know it needs sidewalks and  
33 maybe some further development for heavy traffic. I don't think that the fact that at the moment the  
34 street may or may not be appropriate for the use, because we don't know exactly what that use is based  
35 on the applicant's presentation; that all has to be defined. I think that for us to take positions that you  
36 know these are things that cannot be resolved at this very early stage is very activist for a Zoning  
37 Board. I think, as for myself, I feel it necessary only to limit myself to the exact criteria of the seven  
38 points and whether or not they can go forward and as I say whether or not it is likely that the Planning  
39 Board or other jurisdictions that come to bear on this process can design solutions that make this a  
40 successful application.  
41

42 (David Toth) I share Mardean's concerns and Alan's concerns and also Charlie's reflection on the  
43 potential for this property. But I do have a problem with the fact that there really hasn't been anything  
44 done in terms of design or studies to confirm whether this will actually serve as a good site for a gravel  
45 pit/quarry. I think I would have liked to have seen at least some information in that to confirm that the  
46 potential that Charlie is talking about.

47 Does anyone have any other comments on Criteria 1?  
48

1 **(David Toth) Let's look at Criteria 2. Will the use be compatible with current land uses?**

2  
3 (Mardean Badger) Again, West Street is commercial. It is zoned commercial at the lower end of West  
4 Street. You get the Ashland Lumber traffic. You get the Irving traffic in and out. Some traffic in and  
5 out from Burger King. Most of those businesses though we have Burger King which is in food service.  
6 You have a couple of buildings in there that have offices in it. Ashland Lumber has traffic in and out,  
7 but it is also retail. The types of commercial businesses at that lower end of West Street are very  
8 different from the type of activities that are in the gravel pit/quarry area. Gravel pit/quarry is a much  
9 more intensive, much more invasive, type of use in contrast to the lower portion. Again north of that  
10 particular property and east of that property is conservation area. I just don't feel that a quarry area in  
11 that area is conducive to the other types of businesses. Again, as I mentioned previously, there are  
12 residential properties along that street. All the way down the east side of West Street there are houses  
13 among the businesses that are there. So I just do not, I am not comfortable with that and the  
14 surrounding businesses and residences.

15  
16 (Charlie Bozzello) One thing I note is that it is one large piece of property and the footprint on the  
17 property is only a partial use of the property. I was looking at that property and also there is a  
18 topography there with a kind of hill that sort of, I think, proper engineering can be used to kind of  
19 shield any commercial or industrial use of that site from interfering with surrounding properties. On  
20 that basis I don't think in my mind it is significant that a quarry is not the same thing as a Burger King  
21 or a storage facility. But once again this is very early on. I think good engineering will allow the  
22 applicant to develop this site and ameliorate those issues compatibility.

23  
24 (Alan Cilley) It would be different if it totally fit the area, which it does not. It is one of the  
25 unfortunate things that we have so many multi-purpose uses in that area. I guess it is a point to be  
26 argued whether it fits or it doesn't. I am not going to have an opinion at this moment on it.

27  
28 (David Toth) I think I have two points here. One I think agrees with Mardean. Most of the activity that  
29 takes place in the commercial district is on the southern end. The traffic on the northern end is mostly  
30 cars going in and out of the Common Man Commons and the hotel and storage units. But this would  
31 obviously increase the heavy truck traffic on the northern end of West Street which I don't think is  
32 compatible with those entities, especially Common Man Commons. The second thing is that this is  
33 more of an industrial use and perhaps the hill or small mountain that sort of encloses or encapsulates  
34 the proposed site with engineering could provide a buffer on noise and dust, but since there is ledge  
35 running throughout that whole area, vibration from blasting could affect the houses that are much  
36 closer to the site, hotel and potentially Common Man Commons. Those are my concerns.

37  
38 **(David Toth) Criteria 3: The property values in the zone and surrounding area will not be**  
39 **reduced by such use.**

40  
41 (David Toth) I can start off by saying that as it says here, there hasn't been an evaluation to determine  
42 whether property values will be affected or not. The argument made by the applicant is that, well, there  
43 are other commercial uses there, so it really shouldn't affect property values except that then those  
44 commercial uses are at the southern end of the street and it remains to be seen that an industrial use of  
45 that land would affect the property values of the homeowners who are much closer to that use. So I  
46 would have to see an evaluation, a real estate evaluation of that to be able to answer that question.

47  
48 (Mardean Badger) We really don't have any information on that at all.

1  
2 (Charlie Bozzello) Well, I have just a quick comment on property values. Economic development, I  
3 think, from the revenue point of view would benefit the Town of Ashland and I am clearly aware as the  
4 town generates sources of revenue it tends to relieve the tax burden on everybody else. The property  
5 values and taxes go hand in hand. Property values go up, taxes go down. Taxes go down relative to the  
6 activity of the town property values go up. So I think it is a little shortsighted to say well, you know,  
7 what is the impact of this on property values. I think you need to look at the impact that says, hey the  
8 town could benefit from the revenues that ultimately relieves the tax burden.  
9

10 (David Toth) Other comments?  
11

12 **(David Toth) Criteria 4: There will be no serious hazards to vehicles or pedestrians.**  
13

14 (Mardean Badger) Again, I am not sure about the additional traffic on West Street. Again, the upper  
15 part of West Street is where there is more residential use. Up there includes the Common Man  
16 Commons. I know that the residents are out there walking. Often they are in and out of there in their  
17 cars a lot. While I know that the road is wide enough to handle the two-way traffic, I understand the  
18 criteria used for that, except there are no sidewalks along there. There is very limited shoulder area. I  
19 can see a hazard to pedestrians. I can see a hazard especially to the cars coming in and out of Common  
20 Man Commons as trucks are coming up and down that road. That is all I have to say at this point.  
21 There is just one other thing just to note as far as pedestrians. The Comfort Inn is on the west side of  
22 the road and their main parking lot is on the east side of the road. So guests at that hotel do also walk  
23 across the road from their cars to their rooms. Just a minor point.  
24

25 (David Toth) Again, I would say that the project does increase the traffic from heavy trucks onto the  
26 northern end of West Street. It certainly increases the risk for pedestrians and drivers especially at  
27 Common Man Commons. The extent of that increase, however, is something that I really can't estimate  
28 at this point.

29 Other comments?  
30

31 **(David Toth) Criteria 5: The proposed use will comply with the minimum lot size, frontage and  
32 setback requirements.**  
33

34 (Mardean Badger) There is no issue with these requirements.  
35

36 (David Toth) The site is set in the middle of the property as there is no problem there.  
37

38 **(David Toth) Criteria 6: Existing roads and highways are capable of handling the additional  
39 traffic.**  
40

41 (Mardean Badger) Again, we keep coming back to the traffic on West Street over and over. There is a  
42 lot of traffic on West Street and the intersection on West Street. Obviously this intersects with Rte 3/25  
43 and is just a short distance from the on and off ramps of I-93. That intersection is not a great  
44 intersection; it is busy; the cars turning are often not careful who they are turning in front of; many  
45 times I have seen people come off I-93 without really looking and pulling out so I can see some issues  
46 there, not just on West Street but extended beyond that. Some possible additional congestion.  
47

48 (David Toth) I think the applicant has demonstrated that West Street is wide enough to deal with heavy

1 trucks and equipment that would be going in and out of there. Susan Slack basically said the same  
2 thing that Mardean said, that there could be potential problems with the traffic in the area. I am not  
3 sure if we have done a recent traffic study in that area. I think the last traffic study I saw in Ashland  
4 was in the summertime. We did about 7,000 cars/day up and down Main Street. So again the potential  
5 for minor traffic problems in that area. It is also not the easiest street to turn into if you are coming into  
6 town and making a left hand turn into that area. The other thing I might say is at the northern end of  
7 West Street, with heavy truck traffic, it is more likely we will have to repave that road more often than  
8 we have. I don't know the last time West Street was paved but I know the northern end of that street has  
9 not always been in good condition.

10  
11 (Mardean Badger) Alan, do you have any input on that?

12  
13 (Alan Cilley) I do, to me traffic when we are talking about this is sizable vehicles that will be going in  
14 and out. I could go into depth but I will try not to. The problems are going to arise during the  
15 summertime more than any other time of the year. Spring and fall would not be as hazardous. I use that  
16 word travel as it would be in the summertime. It's a best guess, in my opinion, of what potential  
17 problems could occur. I will leave it at that.

18  
19 (Charlie Bozzello) I am just concerned that because no one has tried to solve these problems, which I  
20 agree are issues that need to be considered, that we are passing judgement as if they are not solvable  
21 and again I am going to point out that this is so early in the process. I think everything I have heard  
22 certainly is a problem. It is something else to say you can't solve those problems and again with a  
23 successful commercial or industrial venture you want to call it generating some revenue, with the  
24 Planning Board having to determine exactly what the rules of engagement would be and NH  
25 jurisdictions as well. I think that to sell this opportunity short because we haven't solved the problems.  
26 I am an engineer by experience and education. I don't know if the others are also but I think that the  
27 issues being discussed here are well within the realm of engineering and solutions that could possibly  
28 make them work. It is almost activist from a Zoning Board of Adjustment perspective to make a  
29 decision based on problems that no one has had a chance to solve. There is no development that  
30 doesn't present problems. The question is, are there other boards and other jurisdictions which will  
31 bring to bear on this application the things that are necessary to make it work successfully and deal  
32 with the issues being raised. I just don't see why we want to cut this conversation short at this point  
33 knowing that this Special Exception is necessary for going forward for the applicant to have further  
34 discussions with the appropriate jurisdictions

35  
36 (Mardean Badger) I am going to toss something out here at this point. We do not have to make a  
37 decision tonight. Are there some areas in which it would be helpful to have some additional  
38 information? I have a few things in mind. I would like to get a sense from others. As an example, traffic  
39 has been an issue some of us have brought up more than once. Would it be helpful before we make a  
40 decision that we ask the applicant to do a traffic study that will look at the impact of heavy gravel  
41 trucks on West Street/ Rte 3/25 intersection and in conjunction with the I-93 off and on ramps. Would  
42 that be useful in helping us make a decision? And that's just one thing I am thinking about.

43  
44 (Charlie Bozzello) Traffic studies are a good thing, however, a traffic study just takes a snapshot of  
45 what exists presently. I, for one, am in agreement with some of the other board members who have  
46 expressed concern, with the only difference is I think those concerns will require changes to West  
47 Street that are going to make it appropriate for the intended use. I think in two different visions: West  
48 Street right now is a good use for this applicant. I think it's simple to say, no it's not. However, I think

1 there are changes you can make to West Street and discuss who is going to absorb those costs. I expect  
2 it would be mostly the applicant. But that would result in a better West Street and most appropriate for  
3 the intended uses. That is the dilemma we have. It is not looking at what exists currently. It is doing  
4 the homework and problem solving that says here is what it could be; here is the cost and now go back  
5 to the applicant and say now you know the cost and what you have to do, do you want to do it? Is the  
6 opportunity economically worthwhile given the costs? Because we want the problem solved. We don't  
7 want West Street to be an inappropriate avenue for heavy trucks. We don't want dust, or noise  
8 interference with the local residents. We don't want anything to harm the environment around their  
9 property. So it is a challenge and I'm just saying I don't have any reason not to challenge the applicant  
10 and say these are the problems when you have a plan and fix them and know the cost come back and  
11 tell us if you want to go forward. I think that's fair and is kind of good from everyone's perspective  
12 because there are problems there and we get to solve them and move forward and the applicant and the  
13 town will benefit from that.

14  
15 (Mardean Badger) There are a lot of specific details that would be under the purview of the Planning  
16 Board if this were to go to that level. They have a great deal of power to set conditions: operating  
17 conditions, reclamation conditions and so on and so forth. The Zoning Board, what we are dealing with  
18 -- is this piece of land an appropriate site for this use? We don't necessarily get into all the details and  
19 yet we need a little bit of that in order to make some decisions, such as if this were to go through and  
20 get the approval of the Zoning Board of Adjustment as a Special Exception, the Zoning Board of  
21 Adjustment can also put some conditions on that approval. And maybe knowing some of this other  
22 information may enable us to set some appropriate conditions to move forward to the Planning Board  
23 for them to flesh out in more detail. So traffic study was one thing I was thinking about. Noise study is  
24 another big issue that I can see; if you are crushing and blasting, noise is of concern. If there is a lot of  
25 ledge around there, what vibrations are going to be created through blasting? A third area I can see  
26 needing a little more information is some sort of property value analysis and its impact on surrounding  
27 properties. Would those areas (traffic study, noise study, the property value analysis) give us enough  
28 extra data to make a real informed decision on this particular project?

29  
30 (Charlie Bozzello) I think, Mardean, you have said it well. You've outlined what I think is the work that  
31 the Planning Board needs to do. I'm somewhat surprised we are here at the Zoning Board of  
32 Adjustment talking about this at this very early stage. I don't know why this didn't go to the Planning  
33 Board first. I wasn't privy to any conversations about that.

34  
35 (Mardean Badger) Let me explain that a little bit, Charlie. This piece of land is in the Rural Residential  
36 Zone and in the Zoning Ordinance, in the definition of allowed uses in rural residential, gravel  
37 pit/quarry is not listed. Therefore, it is not permitted. The only way it would be permitted in the rural  
38 residential zone is to get a Special Exception from the Zoning Board of Adjustment. So they have to  
39 come to the Zoning Board of Adjustment first to get that Special Exception, to allow that particular use  
40 on that particular property. That is the way the State regulations are.

41  
42 (Charlie Bozzello) OK. I think that is an acceptable criteria, but it doesn't change that the work really  
43 falls on the Planning Board to answer the questions we've all raised here. They are the resource that is  
44 going to call the appropriate experts and engineers, to require the applicant to do whatever they think is  
45 necessary for the applicant to do. I think my sense is here the Zoning Board of Adjustment simply  
46 needs to rule on whether or not there could be, under some criteria, a quarry. You know, is that land  
47 quarry-able. Given that, there are lots of problems whether it gets turned into a quarry to more likely be  
48 determined by the Planning Board. Because it is a difficult scenario. There are many issues anytime



1 you propose mining or quarry. As Dave pointed out, an industrial process. I don't believe the Zoning  
2 Board of Adjustment, I don't think we are smart enough frankly and don't have the support of the  
3 experts and things to resolve this. I think it's an interesting conversation. I think there is potential here  
4 for everyone. I see no reason that the property can't be a quarry. Will it ever become a quarry? I think  
5 the Planning Board needs to tell us more about that.

6  
7 (Mardean Badger) One... the applicant earlier said that the planning had not been done because the  
8 applicant wanted to know whether they would be able to get this Special Exception before they went to  
9 a lot of the design work and so on. And yet there are a lot of times when applicants come before the  
10 Zoning Board of Adjustment for proposals, for either for a variance or Special Exception, and they do  
11 provide us a great deal of information. They have put in a lot of work answering a lot of these similar  
12 questions before the Zoning Board of Adjustment even makes their decision. I understand that the  
13 applicant is concerned about spending money up front before receiving the Special Exception, but at  
14 the same time it puts us in a bind, for we don't have a lot of information that I think typically we would  
15 have had for determining the Special Exception.

16  
17 (David Toth) That is my feeling, Mardean, and you know that problem is very perplexing because there  
18 is a lot of potential there. As you have outlined the potential quite well, however, we are charged with  
19 making a decision based on the factual data that is presented to us, not on what the potential of the  
20 property is. But factual data which we don't really have.

21  
22 (Mardean Badger) That is kind of why I was suggesting if we delayed this decision and asked the  
23 applicant to provide us some additional information, that would give us a better way to make that  
24 decision and it would give us more information to support whichever decision we do make.

25  
26 (Charlie Bozzello) Wouldn't it be the normal activity of the Planning Board? If this came to the  
27 Planning Board....let's just hypothetically say, we agree that this is something that's worth further  
28 conversation and we say, yes, it could have a Special Exception but the conditions are it has to meet the  
29 criteria of the Planning Board which are yet to be determined. So then it moves to the Planning Board  
30 and all the questions we are talking about condition, information, expert testimony whatever and  
31 however long that process is, is that the correct venue for that process? At the end it is the Planning  
32 Board by one or two ways: the Planning Board says no this just isn't going to work or as I would  
33 expect the Planning Board would say here are all the costs the applicant must bear in order to make this  
34 proposal right for the community. And then it becomes the question of the applicant, is it economically  
35 viable to bear those costs and to move forward in compliance with what the Planning Board has  
36 directed. I am not trying to do work here, but I don't want to do the Planning Board's work. Their's is  
37 the venue for this type of discussion. I don't know if we are ever going to have enough experts and  
38 enough testimony here that is going to resolve some of the issues that have been raised. I think the  
39 Planning Board is capable of doing that.

40  
41 (Mardean Badger) In this type of a venture, the Planning Board, yes, has a tremendous long list  
42 between our ordinance and between State RSA 155:E which governs commercial excavation sites in  
43 NH. Those ordinances cover a tremendous amount of information everywhere from how the operation  
44 is manned, time it operates, what it has to do as far as what it is allowed to do on the site, how it can  
45 manage the product that is produces; how it can reclaim the land. There is a tremendous amount of  
46 detail at the Planning Board level which will be taken care of. And yes, if we had information if there  
47 were an impact on the road, yes we can put conditions on the applicant and on the proposal at the  
48 Planning Board level. The Zoning Board of Adjustment can also put some conditions; it is allowed to

1 put some conditions on their approval if that were to be done. But not to the extent or the detail that  
2 the Planning Board would. If the Zoning Board of Adjustment were to have the information to say, yes  
3 traffic and the condition of the road is going to be a big issue, then that can come across from the  
4 Zoning Board of Adjustment to the Planning Board; then the Planning Board can get into all the  
5 specifics as to how to deal with the issue.

6  
7 (Charlie Bozzello) Our discussion has been fairly complete and the condition in my mind is, we will  
8 send it through, but it must meet the requirements of the Planning Board in the final analysis. We don't  
9 know what those issues are. We can't go further than that as a Zoning Board of Adjustment. Yes there  
10 are things we are concerned about, but not I guess in a judiciary this tends to be handled is is a belief  
11 that if we grant the applicant's request for Special Exception is there a belief that going forward there  
12 could be a successful outcome with the Planning Board. Could the things that we have raised concerns  
13 be addressed by the Planning Board and the applicant in a way that would result in the applicant being  
14 ultimately successful? I believe that in good faith there is that opportunity going forward and that the  
15 Planning Board and the applicant can sit down and, over time and whatever is required, work these  
16 issues out and/or agree to terminate the process.

17  
18 (David Toth) I would agree with you, Charlie, except I am very concerned about Common Man  
19 Commons. That is a senior residential facility that was built in the rural residential area for specific  
20 reasons. I am not sure that any of the things that we are talking about...I don't think anything we've  
21 talked about can mitigate the impact that this project will have on Common Man Commons. I just don't  
22 see it.

23  
24 (Charlie Bozzello) David I will comment, in looking at the site the topography is interesting. It has the  
25 potential of creating a barrier because of the high hill. Barriers are very useful in this type of situation  
26 because if that barrier is maintained and there is a natural sound deadening that occurs with that barrier  
27 and I think it doesn't resolve the dust issue. I think there could be excessive dust being produced no  
28 matter what. There's going to have to be action taken by the applicant to reduce dust in general. Is it  
29 solvable is the criteria that I would use. I don't know. I haven't engineered it. I just went and looked at it  
30 and said you know what, if there were some clever engineers and the applicant was willing to bear the  
31 cost of what engineering would require to resolve this problem, potentially it could happen. Without  
32 negatively affecting the Common Man Commons, which I agree is certainly something we need to be  
33 concerned about. It seems like there are a number of issues that are going to have to be dealt with. I just  
34 don't know if I am in a position to say no it can't be done. And so therefore let's stop it here and not let  
35 the conversation go forward. I think people and Common Man Commons in particular are going to  
36 have to be satisfied that the solution doesn't negatively impact their interests in this process. And  
37 maybe, in the end analysis, it is impossible but I'm not in a position to say that today. And so why  
38 would we stop that conversation from happening and the appropriate people doing the things necessary  
39 to say, hey, this is what we can do.

40  
41 (David Toth) I agree with the potential. I am not in a position to answer those questions either. But my  
42 understanding is that we have to vote on these specific criteria based on the factual data that we have.  
43 And if we do not have enough adequate data then we have to say no.

44  
45 (Charlie Bozzello) No, we have to say pending resolution by the Planning Board as a condition of  
46 approval. That pending Exception by the Planning Board or whatever is ultimately proposed. That is  
47 the condition that this needs in going forward. And then the Planning Board has the ability to walk  
48 away from this or they can entertain it. It is going to be on them to do the necessary homework and

1 figure this all out and/or dismiss it if they believe it is unsolvable.  
2  
3 (Daniel Lucchetti) Would there be additional information for you, David, that you would like to see  
4 from those seven criteria to answer your questions? As Mardean has mentioned before were it to be  
5 continued, could you provide a document list of what you are looking to see to make a more informed  
6 decision on that.  
7  
8 (David Toth) I have to understand that this is not going to adversely affect Common Man Commons  
9 and the residents of that facility. I think that all of the other conditions can be mitigated. I think  
10 sidewalks can be put in; I think traffic lights could be put in; I think the entrance to West Street can be  
11 reengineered; all of those can be dealt with. I think that hill may provide a buffer, but I am not really  
12 convinced that we can protect Common Man Commons and that is what I would really like to know  
13 about. I would like to know enough to say to Common Man Commons we are going to...we have  
14 information from the applicant that leads us to believe that, yes, we can mitigate the circumstances that  
15 they are concerned about. At least not to do what Charlie is saying and sending it to the Planning  
16 Board for further development. I don't really want to stop this project because economic development  
17 is really important to Ashland, but so are the residents in those buildings; a lot of them are long time  
18 residents of Ashland and Common Man Commons built that building in the rural residential zone.  
19 They invested a lot of money in that; there is a certain lifestyle; don't forget these people are there 24/7.  
20 It is not like they go to work and so while they are out at work you are running trucks up and down the  
21 street. That is one thing. But they are there all day. That really concerns me.  
22  
23 (Daniel Lucchetti) I understand. Mardean, please correct me if I'm wrong. I believe Common Man  
24 Commons is in the Commercial District not the Rural Residential District.  
25  
26 (Mardean Badger) Let me look at something. Let me pull up.  
27  
28 (David Toth) I would say that even if they are in the Commercial District they are not in the Industrial  
29 District. That's kind of a close line but that is the line that I really need more information about.  
30  
31 (Mardean Badger) It is...Common Man Commons straddles Rural/Commercial Zone. It is half and half  
32 in the Commercial and Rural Residential.  
33  
34 (Alan Cilley) That is correct Mardean.  
35  
36 (Mardean Badger) About half and half.  
37  
38 (Daniel Lucchetti) From the information standpoint I fully understand your stance of needing to  
39 understand what the seven criteria are. My request would be that what is that satisfactory level where  
40 you will be willing to accept the application provided what documentation; clearly what has been  
41 provided so far is insufficient standard of what you are saying, but I would like to know what  
42 professional do we need to go to provide that information to you, for you to feel comfortable with this  
43 project. There are several different classifications of traffic studies and noise studies, vibration studies.  
44 I just don't want to open a rabbit hole of things where one's provided and snowball effect keep coming  
45 back.  
46  
47 (David Toth) I don't think we are asking for a complete design and study but at least I would like to  
48 know there is at least the potential for mitigating these problems that these issues raised by Common

1 Man Commons. So traffic is one, noise, operational noise, vibration from blasting, dust. Those are the  
2 main concerns that were raised. So if we could address those in some fashion, in a minimal factual  
3 way so we could say, look we are going to approve this because we believe that these factors can be  
4 mitigated and as we pass this on to the Planning Board that those issues will be part of the final design  
5 of the project.

6  
7 (Daniel Lucchetti) And this would be a document that we will be receiving with specific criteria or are  
8 we really just sticking to the traffic item #4.

9  
10 (David Toth) I wish I was an engineer to say do this, but not this. All members of the board feel can we  
11 put together a list of concerns that we would like more data on.

12  
13 (Charlie Bozzello) I think the list of concerns is a very appropriate way of proceeding before we turn  
14 this over to the Planning Board. These are things that people have told us with regard to the public  
15 meeting. These are the concerns we raise as residents and knowledgeable about understanding the  
16 process. That list of concerns should be forwarded to the Planning Board so that we can be assured that  
17 they can become conditional and that the Planning Board will deal with them and will not proceed  
18 further unless there is an appropriate remedy that is proposed.

19  
20 (Mardean Badger) Couple of things I just want to clarify. That this cannot come to the Planning Board  
21 unless we grant a Special Exception. It cannot skip this step. Granting a Special Exception would be  
22 required before it can even get to the Planning Board. Also just keep in mind, once we grant the Special  
23 Exception it goes with the property. And even if the owner changes or does not change, that Special  
24 Exception stays with the property. Yes, we can. Also not only can we put some conditions on an  
25 approval that would, Charlie, carry over to the Planning Board, but we could also state that if nothing is  
26 done within two years, for instance, the Special Exception would expire. We can put a time limit on it.  
27 But it is important to know that Special Exception if granted stays with the property; it stays with the  
28 entire property, not necessarily just the proposed location in the center of the property. That Special  
29 Exception if granted goes to the entire property so the applicant could totally change where they want  
30 to put the excavation area.

31  
32 (Charlie Bozzello) Whoever, whatever, this proposal will go to the Planning Board. Am I right? So if  
33 the Planning Board says no, that's not the deal. You can't do that then you e town complete control. So  
34 I am not worried about it. You said it very well just then, that we are redefining the property. And that is  
35 exactly the way I see it. I went and saw the property. It is a good size piece of property. There are rocks  
36 on that property and in my mind that makes it a potential site for quarrying. There is a resource there. It  
37 is kind of like if you went into the mountains and found a gold mine. If you found gold, you would say  
38 this could be a gold mine. When I saw rocks I said you know what this could be a quarry. It doesn't  
39 mean it will be a quarry. That's the Planning Board's job and the applicant to work things out so it can  
40 be done successfully in a way that satisfies the interests of the abutters and the townspeople and all  
41 those concerned. But I feel that it could be a quarry and that's what we're voting on.

42  
43 (David Toth) I'm really not quite sure that that's what we are voting on. I am sure we are not voting on  
44 potential. I think we are voting on factual information. That is my understanding.

45  
46 (Alan Cilley) May I make a further comment on where we all started with this. As far as the wellhead  
47 protection area, that is my major concern. Possible contamination of our water source. There is a lot of  
48 water that comes off that hillside. There are two points of discharge for that water: under the

1 northbound lane of I-93, southbound lane of I-93 which ends up on Rte 3, which also ends up directly  
2 in the middle of our aquifer. We already have problems with contamination in our well site. This is my  
3 whole issue on this site. I want to make it perfectly clear. I just don't believe that there is anything that  
4 can be done that would make contamination not happen; yes it has to travel a long way but it does not  
5 take much to contaminate a well source more than what it is already. Thank you.

6  
7 (Mardean Badger) The general area that the applicant is proposing -- I am sharing the wellhead  
8 protection area map again. The wellhead protection area is the one outlined in red. And the proposed  
9 area that they are proposing for excavation overlaps that map somewhat. If we were to look at... I wish  
10 the applicant had overlaid this map on their site plan. That would have been helpful. But the proposed  
11 excavation area is in this area; it overlaps the wellhead protection area. The road that would be put in  
12 up along this also travels right along over the aquifer at both ends.

13  
14 (Charlie Bozzello) My comment would be, yes, that is important as all these issues are important.  
15 However, a quarry done well is a natural process. You are dealing with stone and earth. Now I mean if  
16 someone were proposing fracking, I certainly would blow the whistle and say no. That is something  
17 that can't happen there. Is it possible to store, if there was a storage area of oil or other contaminating  
18 material that could be a problem. But the process itself is not inherently dangerous to the aquifer. Then  
19 it is stone and earth. It is a natural process.

20  
21 (Alan Cilley) I am going to disagree with you, Charlie, because we are talking about equipment. Most  
22 equipment has oil in it. You get a leak and it does not take much to contaminate ground soil. It is  
23 amazing what a couple of drops of oil will do. And it does not go away.

24  
25 (Charlie Bozzello) Just one more problem to be solved. It doesn't have to be a process that  
26 contaminates. There again, we can make requirements of the maintenance of the equipment, make  
27 requirements equipment has to be stored on a foundational base that is not permeable. You raised  
28 important issues as we are all doing. But it is different to say that you can't solve those problems in a  
29 way that makes the applicant viable. Again, maybe it will turn out that, you know, we have to listen to  
30 problems too long, the Planning Board won't want to be done and the cost of solving them the applicant  
31 won't want to. And that's really the best way to finish a discussion like this that is so complicated, is  
32 somebody decides you can't get there from here. The cost is too high and/or the number of problems is  
33 so large and severe that going forward is going to be unproductive. I don't know if we are the people to  
34 decide that.

35  
36 (Mardean Badger) As far as that part of the process, once if the Special Exception were approved and  
37 they come to the Planning Board, obviously I mentioned earlier the local excavation regulations, State  
38 excavation laws, also they would be required to go through DES because it would require an Alteration  
39 of Terrain Permit which gets into all of the contamination issues. They require best management  
40 practices, to manage storm water to manage any contamination possibility. That is all part of the  
41 Alteration of Terrain Permit. Things required through DES. So the mitigation requirements and best  
42 practice requirements would be there at the Planning Board level.

43  
44 (Mardean Badger) OK. I still have a concern about the traffic and, in my opinion I would still like to  
45 have some traffic information study from the applicant before I move forward. We are dealing with  
46 increased volume especially on the upper level of West Street. We are dealing with having vehicles  
47 moving through the area, where you are more likely to have pedestrians walking along the roadway.  
48 Then of course down at the end coming onto Rte 3/25 and I-93. My biggest concern with the traffic is

1 especially the upper end of West Street.

2

3 (Daniel Lucchetti) I understand. My only concern is to provide the information to satisfy what exactly  
4 what we need to provide. Is it a traffic impact study that shows the intersection is sufficient for the  
5 intended use? The intersection needs this design for intended use pedestrian safety: I understand what  
6 you are looking for but there is the details in those concerns that I need to understand to properly  
7 provide them.

8

9 (Mardean Badger) OK, the upper half the northern half of West Street has limited truck traffic. Most of  
10 the truck traffic is at the lower end -- Ashland Lumber, Irving Station. Very little of the truck traffic  
11 goes up to the upper half of West Street. That is where I am concerned about the volume of traffic that  
12 you would be adding up in that area and its impact on the other types of traffic up there primarily  
13 passenger cars and pedestrians. So what change in volume in that upper end, what impact is it going to  
14 have? The speed and turning radius of those trucks? Still the speed at that upper end, the weight of the  
15 trucks, the condition of the road. That is what I am concerned about, mostly the upper end of West  
16 Street. As an example, someone mentioned recently Common Man Commons --the parking lot is in  
17 behind; the front parking lot you see right across from the Comfort Inn is the Comfort Inn's parking lot.  
18 The parking lot for the Common Man Commons is in behind that. In the wintertime snowstorm, they  
19 have to plow the parking lot. The residents have to move their cars out of the parking lot and they pull  
20 them up on the shoulders, both sides, on the upper part of West Street to get them out of the parking lot  
21 so they can plow the snow. That may take a couple of hours in the early morning. What is going to  
22 happen if the trucks from the quarry/ gravel pit are coming down at the same time? When those cars are  
23 parked halfway on the shoulders. That is a specific example that was mentioned to me recently. That is  
24 one of the reasons I am concerned about traffic up there.

25

26 (Daniel Lucchetti) I am taking notes of all these things. I obviously don't have any answers at this time  
27 so I don't know if you are expecting a response. I am documenting.

28

29 (Mardean Badger) The only other thing I was concerned about is, is there a way to find out whether  
30 the typical noise of a quarry and/or blasting, how far is that going to be heard? Is that going to be heard  
31 at Common Man Commons and across the street? In the hotel area? Is the noise going to be heard? Is  
32 the vibration/blasting going to be felt in that area?

33

34 (David Toth) Also, Mardean, the noise from the trucks is likely to impact Common Man Commons as  
35 well. I know that when Alan and I were on the Water and Sewer Commission, residents complained  
36 the septic trucks going up and down the street [Collins Street]. The noise from the trucks, the vibration  
37 of the trucks, the fumes from the trucks, were a source of complaints. We did our best to mitigate that  
38 but I don't think... how many trucks, maybe 20 trucks/day?

39

40 (Alan Cilley) Equal number or less. You had to look at peak volume vs low end. The quarry would be  
41 substantially less traffic than what is going into septage receiving on Collins Street, just my opinion.  
42 But you don't know.

43

44 (David Toth) What would be the hours of operation?

45

46 (Mardean Badger) That is something that the Planning Board can set.

47

48 (Alan Cilley) Not in our purview.

1  
2 (Mardean Badger) We can even establish that in our excavation regulations.  
3  
4 (David Toth) Do we also want, in addition to the information about traffic, do we want to include  
5 property values?  
6  
7 (Mardean Badger) I am not as concerned about that.  
8  
9 (David Toth) Ok. Traffic is the major issue.  
10  
11 (Mardean Badger) Yes.  
12  
13 (David Toth) As well as noise.  
14  
15 (Daniel Lucchetti) So, to be clear, you would be looking for a study that would show the negative  
16 impact of traffic, pedestrian traffic at Common Man Commons as well as the northern portion of West  
17 Street. The northern portion of West Street has sufficient capacity for the increased volume of use.  
18 Traffic, turning radiuses, of the type of the vehicles using the road, parking on West Street during  
19 winter plowing months. I don't know how that would be addressed through study, I believe.  
20  
21 (Mardean Badger) I don't know either.  
22  
23 (Daniel Lucchetti) That is something that is allowed in the town regulations unless there is public  
24 parking on West Street.  
25  
26 (Mardean Badger) I think probably the broader issue there is that the road has very little shoulder  
27 width; once you start winter with snowbanks, it is going to be tight.  
28  
29 (Daniel Lucchetti) I understand.  
30  
31 (Mardean Badger) Probably in general the width of the road up there.  
32  
33 (Daniel Lucchetti) Noise, vibrations, noise from site, noise from trucks, vibrations from quarry would  
34 be information you are looking for.  
35  
36 (Mardean Badger) Right.  
37  
38 (Daniel Lucchetti) Ok, am I missing anything in there?  
39  
40 (David Toth) I don't think so.  
41  
42 (Mardean Badger) I don't think so.  
43  
44 (Daniel Lucchetti) Alan, just to address your major point. The aquifer was your major point.  
45  
46 (Alan Cilley) I know what it takes to determine that. You bring in a company to do the hydraulics, you  
47 know. And that's the only way you're going to have a better idea of what could happen there with  
48 runoff. There's a lot of water on that hillside. A lot. You don't see it but there is a lot of water.

1  
2 (Mardean Badger) All the way down. I will say there is a wellhead protection section in our Zoning  
3 Ordinance and it does have some of the precaution standards in there. What would be helpful is if you  
4 could overlay the map of the wellhead protection area and the aquifer onto your map. That would be  
5 helpful.  
6  
7 (David Toth: Does anyone have any other comments at this time?  
8  
9 (Ryan Clouthier) Can I just make a comment? I just want to respectfully ask the board when you are  
10 looking at this, as your property or your parents' property we are talking about. And then there are  
11 potentially ways we can get around noise or things. How do we do that? Can you put up enough walls.  
12 How is that going to affect the residents who have been devoted to the town for many years and have  
13 chosen this place as their place to retire; and now what we are looking to put in, is there is a way  
14 around noise; we talk about the hill that is there. I am wondering is that we are talking about that hill in  
15 terms of noise impact that is happening within the quarry right and you're not talking about the road,  
16 the traffic and the trucks in the summer time when the elderly have their windows down and the noise  
17 impact the trucks will have; we talk about the hill as a buffer, it has no impact on the road traffic, right?  
18  
19 (David Toth) No, we are also talking about the noise and vibration from the road traffic.  
20  
21 (Ryan Clouthier) Okay.  
22  
23 (David Toth) I just want to assure you, Ryan, that making sure that Common Man Commons is  
24 protected is a major concern, my major concern in this project.  
25  
26 (Ryan Clouthier) I guess I'm just thinking, protecting, if we could not impact the lifestyle as well. So  
27 we might be able to protect things like noise, but what impact does it have on the residents of Common  
28 Man Commons?  
29  
30 (Mardean Badger) You address that in your written statement. We have that.  
31  
32 (David Toth) It appears that we have asked Daniel to provide us with more information which indicates  
33 we are really not ready to make any decision at this point. If there is no more discussion I would say  
34 we should adjourn and...  
35  
36 (Mardean Badger) Before we adjourn, we should set the date of the next meeting.  
37  
38 (David Toth) Right. January 14?  
39  
40 (Mardean Badger) It will be... I believe that's it. It will be January 14.  
41  
42 (David Toth) Next meeting will be Thursday, January 14 at 6:30. The Zoom information will be up on  
43 the website prior to the meeting. I don't think I need a motion to adjourn.  
44  
45 (Mardean Badger) But you don't. Just make it. I think we need to make clear again for everybody that  
46 we are not going to make a decision tonight because we are asking for more information from the  
47 applicant.  
48



1 (Daniel Lucchetti) Can I provide that to the board ahead of time of that meeting?

2

3 (Mardean Badger) If you can provide anything you can provide ahead of time would be much easier for  
4 us to review.

5

6 (Daniel Lucchetti) I just want to confirm that that is what you want.

7

8 (Mardean Badger) Yes.

9

10 (David Toth) I would like to thank everybody for your input on this and Daniel for your cooperation,  
11 Common Man Commons for expressing your concerns and helping us come to this decision. We will  
12 see everybody on Thursday, January 14, 2021.

13

14 NEXT MEETING

15 The next meeting of the Ashland Zoning Board of Adjustment will be Thursday, January 14, 2021 at  
16 6:30 PM.

17

18 ADJOURNMENT

19 The meeting adjourned at 8:13 PM.

20

21 *Minutes submitted by Paula Hancock*

22

23

24