

**Ashland Zoning Board of Adjustment
Approved Meeting Minutes
Thursday, January 14, 2021**

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

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

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10 OTHERS PRESENT: *Paula Hancock*, ZBA Secretary
11 *Susan MacLeod*, Land Use Assistant
12 *Daniel Lucchetti*, civil engineer HEB Engineers, agent for Centerstate
13 LLC, owner of the property, and Brandon Hiltz of Brandon Hiltz
14 Construction.
15 *Ryan Clouthier*, (Deputy Director, SNHS, Southern New Hampshire
16 Services) (Common Man Commons).
17 *Regina Buteau*, Building Director, (Common Man Commons).

18
19 RIGHT TO KNOW LAW: Due to the COVID-19/Coronavirus crisis and in accordance with
20 Governor Sununu's Emergency Order #12 pursuant to Executive Order
21 2020-04, this Board is authorized to meet electronically.

22
23 David Toth: I am going to call this meeting of the Ashland Zoning Board of Adjustment to order with a
24 roll call vote: Mardean Badger here, Charlie Bozzello here, Alan present, David Toth present.

25
26 David Toth: Let me appoint Alan Cilley as a voting member of the Zoning Board of Adjustment just for
27 tonight's meeting. Just wanted to remind everyone where we are -- the Public Hearing on Case 2020-
28 01; there is no more public input. Tonight the Board is going to vote on the proposed gravel pit in the
29 rural residential zone at the end of West Street. Before we do that, I want to review the minutes from
30 the last meeting. I have corrections but does anyone else have corrections before I begin? [corrections
31 made to minutes of December 10, 2020 meeting]

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33 If there are no more corrections, I will entertain a motion to approve the minutes as corrected.

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35 Mardean Badger: So moved as corrected.

36
37 Charlie Bozzello: I'll second that.

38
39 David Toth: Any discussion? All those in favor: Mardean Badger aye, Charlie Bozzello aye, Alan
40 Cilley aye, David Toth aye. Daniel Lucchetti did provide us with some additional information. Did
41 everyone receive the packet?

42
43 Mardean Badger: I could put those materials up on the screen and screen share if people wish.

44
45 Charlie Bozzello: I got the packets. I am ok with it.

46
47 Mardean Badger: There were two items in the packet. Some were some additional comments relative to
48 a few of the criteria and there was an adjusted plot plan map. I will share the criteria first and then the
49 text.

1
2 David Toth: Mardean, I am wondering if Mr. Lucchetti could review this for us?

3
4 David Toth: Daniel, could you go over this briefly for us?

5
6 Daniel Lucchetti: Sure. At the last meeting there were obvious concerns about the additional
7 information requested to more or less satisfy the concern about vibrations, noise, from the actual
8 operations and from the trucks using West Street as well as the aquifer and the wellheads protection
9 plan. So one thing is, I can run through these justifications but, Mardean, that plan should be below.

10
11 Mardean Badger: Let me see if I can. I separated the two documents.

12
13 Daniel Lucchetti: This plan has been updated. The blue line, I did my best to recreate the aquifer limits
14 that are on the Town Zoning Map and overlay it into our plan. The red line is the wellhead protection
15 and overlay line also taken from the zoning maps. Starting there, as we have it up, as we mentioned
16 before, the excavation is proposed more centrally on site and more or less outside of both the aquifer
17 and the wellhead protection overlay line. There would be some excavation in the aquifer and, we'll say,
18 but it is not an excavation downward but more or less scraping off the knoll of the mountain so we
19 would not be digging into the ground straight down, forming a massive pool. It would be an excavation
20 from that point horizontally into that hill for the excavation, so minimizing the impacts on the aquifer
21 in that area. Further for that aquifer concern, these plans will be reviewed by DES Resource
22 Management under the Alteration of Terrain Permit where groundwater protection districts and
23 setbacks are identified and reviewed as part of that application as well as aquifers. They have a GIS
24 mapping system that outlines aquifers and wellhead areas. So the Zoning Board would not be the only
25 committee reviewing potential impacts to the wellhead protection as well as the aquifer. Those would
26 be reviewed under DES Alteration of Terrain as well. There is also a need for an inspection in the
27 maintenance manual and the maintenance program as part of the Alteration of Terrain Permit. Alan, I
28 know you had a concern for the aquifer and groundwater quality. This INN Inspection Maintenance
29 Manual and Program more or less is a safety measure taken that holds the contractor responsible for
30 making sure there are no leaks, spills of oil, any heavy equipment hydraulic fuels and diesels, things of
31 that nature and what the correct remediation would be if an event like that were to occur. So it is an
32 ongoing program throughout its use. So it is not a one-time thing. It's not a permit handed to them and
33 they're good to go. They have to log the information that happens on site. It could be traced back to
34 DES, EPA and if the manual isn't followed, there could be fines levied on the corporation and the
35 applicant if they do not abide by those rules. So that is one. As I mentioned before, there will be storm
36 water runoff measures taken on the property, drainage calculations will be performed, properly sized
37 storm water ponds to contain the runoff. That will be reviewed under DES Alteration of Terrain Permit
38 as well, to make sure there is no sediment laden waters being discharged directly into the water table,
39 to make sure that flooding of all off-site properties doesn't occur. All of the water and groundwater and
40 surface water elements are going to be reviewed by DES. There is no allowance for increasing flow
41 rates off the property, so they would not be allowed to discharge more than the current discharge
42 volume in the post-development condition or during the entire operation. They would have to maintain
43 the hydrology of what the property is performing as right now. So, if there is 100 CF of water leaving
44 the property as it exists today, that would be the threshold for what they would be allowed to discharge
45 during the operation of the gravel pit. Are there any other questions in regards to the aquifer and
46 wellhead protection overlay and groundwater concerns I can potentially answer as well? If I didn't
47 answer them now.

48
49 David Toth: I have none. Does anyone else have any?

1 Mardean Badger: I do not at this point no.

2

3 Alan Cilley: I'll just say thank you for that explanation.

4

5 Daniel Lucchetti: Then obviously the other major concerns are further toward the West Street side of
6 things now. Now in relation to West Street, the users of West Street that pedestrians and obviously
7 Common Man Commons. One of Mardean's comments and questions was, is West Street in a condition
8 to support the increased truck traffic, specifically at the northern end of West Street where truck traffic
9 doesn't exist? Roadways are generally typically constructed in linear uniform fashion so the same
10 pavement section that is used in one location is used for the entire length of that roadway. So obviously
11 West Street at the southern portion is under truck traffic now, with the Irving Station, Ashland Lumber
12 and that same pavement section where truck traffic exists right now would be the same condition on the
13 north end of West Street. So the amount of gravel, crushed gravel and pavement that exists on the
14 southern end where truck traffic exists now will be the same amount on the northern end, sufficient and
15 adequate for truck traffic. The geometry, the width and turning movements was one question. On West
16 Street, there is an increasing width toward the end of West Street at the dead end where the driveway
17 for this property would go. That location would serve as a turnaround for passenger vehicles and
18 trucks. Trucks using the site would not be turning around on West Street. They would be going into the
19 driveway right at the dead end of West Street. There would obviously be adequate on-site road
20 networks to maneuver, turn and come back out onto West Street. The width of West Street is fairly
21 consistent between the southern and northern end. Obviously pedestrian safety is a major concern for
22 this project. There are the existing conditions with pedestrians exist on West Street where truck traffic
23 exists from Ashland Lumber and Irving Station already. So the user of Common Man Commons and
24 the other residential homes on West Street would like to walk on West Street. Unless they are only
25 walking on the northern 500' off West Street past the driveway of Ashland Lumber, they would be
26 walking in the same condition that would be proposed with this use, except for an additional
27 approximately 500'. So the road does not narrow up past Ashland Lumber's driveway on West Street.
28 The width is sufficiently consistent from that point to the end and obviously increases in width at the
29 end. There is really no increase in risk based on the existing conditions since truck traffic is already
30 present on West Street where they are walking from Common Man Commons toward the intersection
31 of Irving, the Liquor Store, Burger King and that area. The geometry is sufficient in width. I know
32 there is another concern about vehicles parking on the roadway during winter months. This gravel pit
33 would have limited to no use in the winter months. There is not a ton of construction going on, so that
34 concern shouldn't be an issue. The applicant stated that they probably would not be using that pit in the
35 winter months at all. Truck traffic would be limited to construction season as well as late spring,
36 summer, early fall and then basically shut down late fall, winter and early spring. Are there any
37 questions about pedestrians and road conditions questions?

38

39 Mardean Badger: No, I don't have any.

40

41 David Toth: No, I don't have any either.

42

43 Daniel Lucchetti: The concern of noise and vibration from both trucks and operations. As stated
44 before, for blasting would be a very infrequent activity at the property. There could be a year plus
45 between blasts. It wouldn't be a weekly, monthly occurrence. It would be as needed and very spaced
46 out and infrequent. When blasts do occur we would have to adhere to the NH Code of Administration
47 Rules SAFC 1600 Explosives. In those regulations there are vibration limits and thresholds that the
48 blasting operation must follow to protect abutting structures and those thresholds need to be
49 documented and recorded by the blasting company to make sure they are not exceeding those levels

1 and causing damage to abutting structures and making it a nuisance to abutters. That is the detailed
2 information I can present today, but they are the guidelines and rules that those actions would need to
3 follow to protect the abutters from excessive vibrations and blasting when they occur. As far as dust
4 and noise, this project would also have to adhere to RSA 155-E the State's Excavation Requirements
5 and Regulations and a section from RSA 155-E:3 Section VI-a requires that specific actions will be
6 taken by the applicant on the site relative to fuel and chemical handling, storage, dust control, traffic,
7 noise control and abatement and comprehensive site of unauthorized personnel. So the noise concern
8 for the abutters would be covered under RSA 155-E:3, where the contractor needs to follow and adhere
9 to their noise requirements so they can't exceed that decibel level and cause nuisance to abutters. The
10 excavation from the nearest building is several thousand feet away on West Street. I would first like to
11 make the statement that West Street and Common Man Commons, it is approximately 500' from I-93
12 where there are several trucks obviously a day traveling at 60-70 mph creating that noise on I-93
13 without a mountain in between the highway and their structure to deafen that noise. As in this case, we
14 have thousands of feet of distance plus the natural terrain and topography to shield the noise generated
15 on the property. Are there any questions regarding noise and vibrations?
16

17 Mardean Badger: No, I don't have any.
18

19 David Toth: I have none. Does anyone have any general questions they would like to ask about the
20 additional information? If not, we can proceed to the vote on the criteria for the Special Exception.
21 There are seven criteria that we will be voting on. We will go through each of the criteria. Each one of
22 the members of the Board will vote yes or no and then provide their explanation concerning their vote.
23 Just for the people who are here and who are listening to this. For this project to be approved, there
24 must be at least 3 yes votes on each of the 7 criteria. If there isn't, if the votes do not add up to 3 on
25 even one of the criteria, then the project will be disapproved. So we will vote on this and then I will
26 entertain a motion to either approve or disapprove the project. At the end, I believe, Mardean has a
27 copy of the Appeals Process. We will provide Appeals Process information at the end of our vote. If the
28 project is approved, we can also at that point add conditions to the approval of the project if we so
29 choose.
30

31 David: I will not take a motion after each one but a motion at the end of the process.
32

33 **ZBA Vote on Centerstate Application** 34 **January 14, 2021** 35

36 **Criteria 1: The specific site is an appropriate location for the intended use or** 37 **structure** 38

39 Toth – Y Badger – N Bozzello – Y Cilley – N **YES-2 NO-2**
40

41 Mardean Badger Criteria 1: I am going to say no for the following reasons: While it is in the rural
42 residential zone and we would be allowed to approve a Special Exception for this in that zone, I am
43 going to say no because on the northern and eastern sides there are very large expanses of conservation
44 land surrounding that area. I do acknowledge that the applicant did give further explanation as to the
45 protection of the aquifer and wells I have some concern that is not extensive but my main concern to
46 the nature of the land surrounding it is primarily conservation land. So I am going to say no.
47

48 Charlie Bozzello Criteria 1: In my review that land looks like a quarry. It has a natural resource

1 consistent with being used for a quarry and so I will vote yes.

2

3 Alan Cilley Criteria 1: I am almost undecided but obviously they have made a better case with the
4 additions today. Even with those comments being brought forward, I still have reservations about this
5 project, so I am going to vote no.

6

7 David Toth Criteria 1: I am going to vote yes on this and the reason I am voting yes is I still have
8 concerns about the aquifer and wellhead protection area, but I believe that if we were to forward this
9 project to the Planning Board, that these concerns would be taken care of by the permitting process. I
10 do believe it is in an appropriate location for a quarry/gravel pit.

11

12 **Criteria 2: The use will be compatible with neighboring land uses**

13

14 Toth – N Badger – Y Bozzello – Y Cilley – N **YES-2 NO-2**

15

16 Mardean Badger Criteria 2: Debating on this. While I did mention under the first criteria the sense of
17 conservation land surrounding two sides of this, at the same time I recognize that the type of terrain can
18 provide some shielding and... I am going to say yes at this point.

19

20 Charlie Bozzello Criteria 2: I also believe I would vote yes on this article also. It is bounded by a major
21 interstate highway. It is remote enough given the nature of the abutting properties. It is shielded by the
22 natural topography. So I think it is appropriate.

23

24 Alan Cilley Criteria 2: My concern would be noise. I will agree that there is a buffer there. But I do not
25 think it would stop everything that you might hear so I am going to vote no.

26

27 David Toth Criteria 2: I am going to vote no. I don't believe that an industrial use in a rural residential
28 zone, even one bounded by a commercial zone, is an appropriate use of the land. I am especially
29 concerned about the Common Man Commons and protecting the lifestyle of the many seniors who live
30 in that building. I do believe the increased truck traffic beyond Ashland Lumber represents an increased
31 risk to seniors, pedestrians and drivers.

32

33 **Criteria 3: The property values in the zone and in the surrounding area will not be**
34 **reduced by such a use**

35

36 Toth – Y Badger – Y Bozzello – Y Cilley – Y **YES-4 NO-0**

37

38 Mardean Badger Criteria 3: We really have had very little evidence one way or the other on this issue.
39 At this point I am going to say yes.

40

41 Charlie Bozzello Criteria 3: I think that beyond being reduced, I think that the additional revenues to
42 the town would be very welcome and may have an overall positive impact on the tax rate and property
43 values for the entire community, so I am going to vote yes.

44

45 Alan Cilley Criteria 3: My answer is yes.

46

47 David Toth Criteria 3: My answer is also yes. We had very little evidence either way, but I feel the
48 impact would not be significant.

1 **Criteria 7: Existing road and highways are capable of carrying the additional**
2 **traffic**

3
4 Toth – Y Badger – Y Bozzello – Y Cilley – N **YES-3 NO-1**

5
6 Mardean Badger Criteria 7: I am going to say yes. I am distinguishing this from Criteria 4. Criteria 4
7 issue has to do with the effect of traffic on pedestrians. Criteria 7 to me talks about the structure of the
8 road: is the road capable of handling the width and nature of the road and I would say yes.

9
10 Charlie Bozzello Criteria 7: I also say yes on this.

11
12 Alan Cilley Criteria 7: I am going to say no. I will just state, one, mixed flow traffic is in my mind but
13 it still is the wear and tear on the road no matter what.

14
15 David Toth Criteria 7: I am going to say yes. I believe the existing road structure and the adjoining
16 highway are capable of carrying the additional traffic.

17
18 David Toth: We have two or more no votes on three of the criteria so I want to entertain a motion to
19 disapprove the proposal for the gravel pit/quarry.

20
21 Mardean Badger: I will make a **motion to deny the Special Exception for the gravel pit/quarry**
22 **based on the Criteria 1, 2 and 4.**

23
24 David Toth: Do I hear a second?

25
26 Alan Cilley: Second

27
28 David Toth: Is there any discussion?

29
30 Roll Call Vote: Mardean aye, Charlie Bozzello nay, Alan Cilley aye, David Toth aye. The Special
31 Exception has been denied.

32
33 David Toth: Mardean will you read the Appeals Process?

34
35 Mardean: I will. NH RSA Chapter 677:1 through 677:14. Summary: Within 30 days after the decision
36 is made, any party to the action or proceedings or any person directly affected thereby may apply for a
37 rehearing in respect to any matter determined in action or proceedings. The party must specify in the
38 motion for rehearing the grounds for the rehearing and then the ZBA will determine whether they will
39 grant the motion for rehearing within 30 days. The motion needs to be filed within 30 days. The ZBA
40 has 30 days to determine that they would grant a rehearing. We will include this Appeals Process with
41 our Notice of Decision.

42
43 David Toth: I have no further business at this time. Our next meeting will be Thursday, February 11,
44 2021 at 6:30 PM.

45
46 Mardean Badger: I have heard from the Land Use Assistant that there may be a case for the ZBA to
47 consider on a different property and situation.

1 David Toth: I will adjourn the meeting until Thursday, February 11, 2021 at 6:30 PM.

2

3 ADJOURNMENT

4 The meeting adjourned at 7:15 PM.

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6 *Minutes submitted by Paula Hancock*

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