

**Town of Milford
Zoning Board of Adjustment
March 15, 2018
Leighton A. White, Inc.
Special Exception**

Present: Steven Bonczar, Chair
J. Plourde, Vice Chair
Joan Dargie
Rob Costantino
Tracy Steel, Alternate
Robin Lunn, Zoning Administrator
Laura Dudziak, Board of Selectmen Representative

Absent: Michael Thornton
Karin Lagro, Alternate
Wade Scott Campbell, Alternate

Secretary: Peg Ouellette

Case #2018-08

Leighton A. White, Inc., for the property located off Mason Rd at Milford Tax Map 42, Lot 1, in the Residential R District, is seeking a Special Exception of the Milford Zoning Ordinances per Article V, Section 5.04.2.A.9 to allow for a gravel and earth removal operation on a 27.5 acre parcel. The proposed excavation will consist of disturbing 10.4 acres.

APPROIVED April 19, 2018

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. Since there was a full agenda, he stated the Board's rules allowed for adjournment at 10 p.m. Any cases not completed or heard would be continued or tabled to the next regularly scheduled meeting - unless an alternate location, date or time was decided upon at the end of this meeting - with no additional notice to applicants or abutters. One regular Board member being absent, it was moved by S. Bonczar to seat Tracy Steel as a voting alternate for this case. All agreed. J. Dargie said, given the time (9:30 p.m.) and that they only go until 10 p.m., and since she didn't think this case would go quickly, she would like to adjourn. S. Bonczar asked L. White if he would be opposed. Or they could start it. L. White asked that they at least listen to it tonight. He had a lot of people who worked for him who were depending on this.

52 J. Dargie said it might not get finished tonight. Just so he knew, they could hear it but probably won't
53 have a decision.

54 S. Bonczar suggested hearing it and then continue. He read the notice of hearing.

55 Chad Branon, Civil Engineer of Fieldstone Land Consultants came forward. He would give a somewhat
56 abbreviated presentation because he thought the application was pretty straightforward, and because of
57 the late hour. He passed out copies of an 11 x 17 size copy of the plan attached to the application to Bd.
58 members. He was representing the owner, Thomas Lordon, and applicant, Leighton A. White, Inc. with
59 their special exception application to permit processing of natural materials on parcel at Tax Map 42-1.
60 Dale White of Leighton A. White, Inc. was present. He said the property was located on the north side of
61 Mason Rd. The cover sheet of the plan best depicted locus of the site, showing Mason Rd to the south
62 and the site having a heavy highlighting around it. The zoning was Res. R. and also partially located
63 within the Wetland Conservation Overlay District. Property consisted of approximately 27.5 acres,
64 bordered by vacant land and Osgood Pond to the east, Mason Rd to the south with some residential
65 properties on the other side of Birch Brook that runs along the southern boundary of the property. East
66 was vacant land, a good deal of which owned by Beaver Brook Association. To the north, vacant land out
67 to NH Rt.101. Access was from Perry Rd. down the service road and then an existing woods road
68 through Tax Map Parcel 39-74, also owned by Mr. Lordon. Looking at existing conditions plan that he
69 had on the easel, he pointed out the blue line boundary of the property and the access from the northern
70 boundary down to the southern. From the northern boundary down, there was an ester of material approx.
71 26 ft. high at its highest location. Proposal was to excavate that material was to excavate that material.
72 They were before the Bd. not for the excavation, but for the processing of the material. An important
73 point that was in the memo that went out that day and hopefully was in the Bd's packet. Harvesting of
74 natural material was a permitted use in Res R zone. All set in excavating the materials. They were before
75 ZBA simply for screening of the materials. A lot of it will probably be good right out of the bank – really
76 nice sand. But what happens occasionally in this type of setting, you will run into different veins of soil
77 and need to screen it, especially for winter sand where you don't want larger stones on the road. They
78 were there strictly to talk about screening of materials. They received Planning Bd. approval on Feb. 27.
79 Unfortunately, it was brought to their attention after that approval that they needed a special exception
80 pertaining strictly to processing of these materials. This was missed during the whole planning process,
81 which was why it was critical to be heard tonight, because there had already been a great deal of time lost.
82 He referred to the third sheet of the plan set, showing what was proposed to be done on site. Coming in
83 from the northern side and excavating into this ester. The whole time the site will be entirely self-
84 contained. Excavation will be from north to south, and as they go will be creating a natural berm that at its
85 highest will be about 26 ft. high, and working back to the back of the property it will be approx. 10 to 12
86 ft. high at the completion. Operations will be much lower elevation than any peripheral areas. What was
87 nice about site was the location. He believed that when the special exception was adopted in 2011,
88 according to his understanding, it was adopted because the harvesting of someone was harvesting material
89 in close proximity to a residential neighborhood which would be a more difficult scenario for running this
90 type of operation. Considering this site location and the fact they had an approval to harvest these
91 materials, and they were just talking about screening, the buffering from the site to abutting properties
92 was substantial. In going through and reviewing the five special exception criteria specifically relating to
93 the processing of material, it was unique. In many cases they weren't applicable. They tried to
94 thoroughly address all the criteria in the context of the project. Property bordered by a jurisdictional
95 wetland area on east and south. What was important with this project was they weren't proposing any
96 wetland buffer impacts. Natural buffering, vegetation along with the elevation, will provide buffering and
97 mitigation for any abutting uses, which really only pertained to a couple of residential homes on Mason
98 Rd which were a great distance away from the excavation operations. They addressed all these items as
99 part of Planning Bd. review process. It required a 155B permit, so they addressed noise, dust, etc.
100 through that review. Project required an alteration of terrain permit; they were working with them through
101 the review. In his last discussion with them they were anticipating a review letter next week. Very close
102 to securing approvals on this site. Met with Fish & Game and incorporated some notes into the project

103 plan for this site, very similar to Brox operation because it was a sensitive area with rare and threatened
104 species within proximity. He was happy to answer questions from Bd. at that time, or go directly to the
105 five criteria.

106 S. Bonczar had questions because he said they addressed noise. J. Dargie said she did too.

107 S. Bonczar said hours of operation, because they weren't just harvesting but sifting. With those giant
108 sifters it gets noisy, plus trucks and tractors backing up with the buzzers, etc. How will they mitigate
109 noise and what will be hours of operation? Will there be operations on weekend? Because there were
110 abutters. It was stated they were quite a distance, but what is quite distance?

111 C. Branon pointed out, again, they were only there for the processing, the screening operation.

112 J. Dargie said not the trucks.

113 C. Branon said not the trucks and tractors.

114 S. Bonczar said they needed a tractor to dump the material into the screening. Can't do it without a front
115 end loader, etc.

116 C. Branon said he only brought that up because those practices would be on site regardless.

117 S. Bonczar said he didn't answer the question on the hours of operation.

118 C. Branon said he was getting there. He just wanted to address the other parameters of the Chair's
119 concern. Hours of operation noted on the plan. Proposed to be 6 a.m. to 7 p.m. Mon-Fri. It got modified
120 at Planning Bd, he believed to 8 a. m. to Noon. D. White corrected that it was 7 a.m. to Noon was
121 decision at Planning Bd for Saturday hours. No material would be processed before 7 a.m. That was a
122 waiver request that was approved, so it was addressed in detail before the Planning Bd. So 7 a.m. to 7
123 p.m. would be the hours of operation that they could technically screen, Mon. through Fri.

124 J. Dargie said 7 a.m. to Noon on Saturday?

125 C. Branon said that was correct.

126 J. Dargie asked how many years this project?

127 C. Branon said it was anticipated to operate for five years. He wanted to stress about the Saturday hours –
128 couldn't remember exact terminology because he hadn't gotten the final decision letter – but it was
129 essentially the Saturday hours were allowed for emergency reasons. Applicant had a lot of municipal
130 clients and discussion was that if you had a situation particularly with New England weather and a
131 municipality needed sand he wanted the ability to go in there on a weekend if absolutely necessary to
132 provide sand to a municipality.

133 J. Dargie said that was getting into excavation. That was not processing on a Saturday.

134 Dale White came forward. He said the intent for weekend hours was to serve his municipal customers
135 and loading of the sand out especially this time of year. We just had two back to back nor'easters. Being
136 he wasn't there right now, he couldn't serve them. But in the future he wanted to be able to supply his
137 customers in event of an emergency on weekends to load out. Didn't need to process on weekends, but to
138 load out. That was the intent. Has been in business 40 years and doesn't make a practice of working
139 overtime.

140 R. Costantino said they didn't anticipate working weekends in the summer at all.

141 D. White said correct. That was his desire – not to do it, i.e. not work on weekends throughout the
142 summer unless there were emergencies.

143 C. Branon said when it was discussed before the Planning Bd meeting, they had situations in the past
144 from a design standpoint where they get called for flooding event that takes out municipal roads, etc. That
145 can occur during summer hours and D. White may need to go in to get material from a pit on a Saturday
146 to serve municipal clients in that fashion. But for sanding roads, that wouldn't be a summer. Applicant
147 was looking for flexibility to be able to respond to his specialized clientele. That was the only reason they
148 sought Saturday hours before the Planning Bd.

149 S. Bonczar asked how many pieces of equipment would be there. One screener? Or two?

150 D. White said in a typical screening operation it was one screening plant and one loader. Sometimes two,
151 but intent in this case was one loader feeding a screening plant and taking away.

152 J. Dargie asked if loader would have those beeping backup signals.

153 D. White said it was required by the Mine Safety & Health Act (MSHA).

154 S. Bonczar said that would be there anyway because they can harvest.
 155 D. White said a good part of the material would go out in its virgin state.
 156 J. Dargie lived with this for years when they were building Ledgewood
 157 D. White said he built Ledgewood.
 158 J.; Dargie said at 6 a.m. getting the trucks ready and beep, beep. For the quality of life of residents
 159 hearing that – he said this project will be seven or five years - is awful.
 160 D.. White said this operation they would be down in a hole.
 161 J Dargie said he mentioned the berm. How far would people be away from that?
 162 D. White said he couldn't say you wouldn't hear it, but it would be very minimal because if you have a 26
 163 ft face your deflection of noise was greatly diminished.
 164 J. Dargie admitted that at Ledgewood it was higher up and the noise was coming down.
 165 S. Bonczar asked if he anticipated being in there every day?
 166 D. White said absolutely not. To answer the question re consistency of screening, he didn't see it as day
 167 in and day out. This was a portable screening plant. So he would make two or three thousand yards,
 168 move the screen plant to another operation, even to other job sites throughout the state.
 169 J. Dargie asked if he meant it would be even off that property?
 170 D. White said yes. It wasn't a permanent plant. It would come in, make two or three thousand yards, and
 171 then moving out.
 172 J. Dargie said he had ten acres; how much property?
 173 D. White said what was approved by the Planning Bd last week, they had ten acres and they were setting
 174 up two phases. Phase one, which will build or load out, reclaim it, and then take out the second five
 175 acres.
 176 J. Dargie said it was about 240,000 cubic yards?
 177 D. White said 313,000 cubic yards.
 178 J. Dargie said that was a longer period of time.
 179 D. White said they put in time frame for five years but goal was to move it a lot quicker. But with the
 180 economy it can
 181 J. Dargie said it could dictate what happened.
 182 D. White said that was correct.
 183 J. Plourde asked if access was only going to be from Perry Rd and the service road and going to State
 184 101.
 185 C. Branon said exactly. Nice part of project was that none of the traffic went through residential areas,
 186 just commercial and industrial areas.
 187 J. Plourde asked if there would be no access on Mason Rd.
 188 C. Branon said no access on Mason Rd. They were essentially sharing the access with Northeast Sand &
 189 Gravel that will be operating the Brox operation. To address that point, Leighton A. White Inc. ,
 190 specifically Dale White, had been very proactive in working with the town. They teamed with the town
 191 and Northeast Sand & Gravel to do an analysis on the bridge over Tucker Brook. It had an E2 status and
 192 a study was done allowing that status to be removed. A lot of proactive work with the town and the other
 193 operator utilizing the area. It fit with the surroundings – Brox Industries that operated there, Granite
 194 State, the Brox community land excavation and they were up the road. He was touching on some of the
 195 special exception criteria. Important to understand how the material gets out because that was part of the
 196 reason this may be been put into the special exception in 2011, that this could be an area where things
 197 needed to be looked at much more closely. He said the excavation would be in the north area. You were
 198 looking at 1500 ft. plus the berm and vegetation. The homes sit lower in elevation and Great Brook going
 199 through there. A lot of natural vegetation would remain. It was unlike most gravel operations in abutters
 200 in close proximity.
 201 J. Dargie said C. Branon had been there the whole meeting, so he saw there was a couple asking for an
 202 ADU. They went to every single one of their abutters and said what they were planning to do and asked if
 203 they had any issues. That would be a nice thing for Mr. Lorden to go to all the abutters because when you
 204 go to the Planning Bd. you are addressing a lot of the regulations and issues for the town.. Her feeling was

that part of being on the Zoning Bd., besides looking at whether it fit the character, you were kind of protecting the other stakeholders – the people that live here. Her concern was quality of life. She learned a big lesson over on LedgeWood – the reason she was on the ZBA. But it would be good to go the abutters. Everything the applicant was doing was fine, and 6.a.m to 7 p.m. It would be nice for abutters to have a phone number to call and say “my grandmother just had a heart attack” for instance. She cited when her sister was in Mass General ICU and she was traveling there every day, coming home and not having any peace from the noise. It would be nice for the abutters, if this was approved, to have a phone number to call if for some reason there was noise or dust all over their patio, or whatever.

D. White said he would be glad to do that. They’ve been in business 40 years, working in very sensitive areas, working in many parts of the state, and they do that. He had a quarry in Wilton, and they do that. He would be glad to do that.

J. Dargie said you call the town and they say there’s nothing they can do.

D. White had no problem putting a face to what they were doing; was happy to do that.

J. Dargie said that would help her concern a lot.

S. Bonczar asked for any other questions from the Bd. None. He asked C. Branon if he had anything to add.

C. Branon said when the time was right to address the five criteria.

J. Dargie said they said they went through an agency, or to the Planning Bd. about noise. What was the decibel level of a sifter?

C. Branon said they talked about the noise from the operations and how it would be buffered from the area.

R. Costantino said he mentioned a noise limitation and dust limitation.

C. Branon said they addressed noise and dust concerns when they went before the Planning Bd. They talked about was the separation, the buffering, the berm. When you have a berm and always working at a lower elevation than the surrounding, noise deflects at 45 degree angles off faces. The residences are all south. They will be working from north to south. There will always be a face in front of the operation so the noise is always traveling to the north where the vacant land is. The way the site will be worked to reduce and mitigate any concerns. He didn’t have exact decibel level. Any decibel he could give would be at the unit and wouldn’t take into consideration the distance, the berm, the vegetation, all of which were mitigating factors for noise. He felt comfortable saying that with 1200 feet, the berm, and the vegetation there would be very reasonable noise levels, certainly once it got to the residences.

D. White said it wouldn’t be like where J. Dargie lives. That was a lot of action in a very concise area with a lot of equipment.

C. Branon said a lot of ledge.

S. Bonczar moved on to the criteria.

C. Branon criteria for special exception in Sec. 5.04.1 which lists harvesting of natural materials. Sec. 5.04.2. A, processing of natural resources required a special exception.

A. The proposed is similar to those permitted in the district: As stated, Brox Industries, Granite State, the Brox community land and their project all in the same general vicinity, so it was very similar to uses that existed in the past and currently exist in this area of town. Wanted to stress that when they were talking about use they were talking about processing as well. This type of processing was inherent – done on all sand & gravel – in fact, done on nearly all construction sites.

B. The specific site is an appropriate location for the proposed use because: In that paragraph of the application they talked about the vegetation, the buffering, operations working north to south. Will not be any measurable impacts on abutting residential properties. Traffic patterns will be going away from the residential properties and through a commercial and industrial area to access Rt. 101.

C. The use as developed will not adversely affect the adjacent areas because: The proposed gravel removal and processing of natural materials on site will not adversely affect the adjacent areas because the site has been designed to maintain adequate buffering and to always operate at a lower elevation with the berms mitigating noise and dust.

D. There will be no nuisance or serious hazard to vehicles or pedestrians because: He felt this didn't really pertain because the use was strictly for processing which doesn't have a direct connection to pedestrians or hazards to vehicles or pedestrians. He said if they wanted to talk about traffic leaving the operation, they wouldn't be operating in residential areas, but on the same roads as similar uses in this area. Project will conform to all local and state regulations.

E. Adequate appropriate facilities will be provided for proper operation of the proposed use because: The approved site plan establishes site improvements to site access, outlines all onsite operations and design elements such as storm water management, erosion and sedimentation controls, procedure to avoid threatened and endangered species, and monitoring the requirements for the proposed use. With all of these, site will have adequate and appropriate facilities.

S. Bonczar asked for any further questions from the Bd. None. He opened the meeting for public comment.

S. Fournier, Coordinator of Brox Environmental Citizens, came forward. She said the Chair stated she could ask questions of the applicant.

S. Bonczar said they had to come through him as Chair. And they had to be about what they were there for. They had to keep the conversation on processing of materials on parcels of five acres in size. They were not focused on harvesting natural resources.

S. Fournier said applicant stated they were starting at 26 ft at highest point and then it seemed it went down to 10 to 12 feet where it stopped. She asked for clarification from the applicant.

C. Branon said the elevation was about 12 ft. at the southern edge – a 12 ft. berm at the lowest point, which he pointed to on the south edge of property on the map. It was about 14 ft [at the left-hand curved edge of the south]. He pointed out the high point of the property [approximately across the middle, east to west] at about 26 ft.

S. Fournier said the closer you got to Mason Rd. there was less of a berm, as you got closer to the housing.

S. Bonczar said correct. But they were there for the processing.

S. Fournier said the processing and the noise.

C. Branon said there was a 12 to 14 ft berm along the south side, but they were maintaining all the buffers to the wetland. Processing the material will be in the northern area. Trucks will come in and get loaded in that general area, quite a distance from Mason Rd. He asked if Ms. Fournier lived in that southeast corner.

S. Fournier said she was not an abutter. She said material she had to present would get them past 10 p.m.

S. Bonczar asked if it stayed on the processing as opposed to excavation.

S. Fournier said it did. She would show photos of the buffer area.

S. Bonczar said that didn't have anything to do with it. Applicant already approval for this plan based on the excavation. The processing was a small piece of it and that was what they were dealing with.

S. Fournier said she was addressing the noise, the buffer. One more point before that one. In B & C he was talking about adequate buffering. She had documentation and photos.

S. Bonczar asked if she had photos of this site.

S. Fournier said she did – from Mason Rd. Photos of the buffer view from Mason Rd. You could obviously see where all the logging was done. Very different there now. Ten acres were logged. Could be seen as you drive down Mason Rd. She doesn't live there but drives by there. She said they mentioned they didn't know they were supposed to get a special exception.

S. Bonczar said they were there now to get it.

S. Fournier said but they didn't know and had to be reminded.

S. Bonczar asked what that had to do with anything. They were there now to get the special exception, and that was what they were dealing with.

S. Fournier said they mentioned it. S. Bonczar said that was neither here nor there. S. Fournier asked why they mentioned. She said it was very interesting they were waived \$75 fee on it. She wanted to make her comments on their application.

S. Bonczar said that was fine.

306 S. Fournier said on their application in B & C, they talked about adequate buffering. She passed out two
307 photos – long distance and closeup - taken from Mason Rd. looking over at the logged area. Pretending
308 to be an abutter, she was a driver who looked over at the logged area pretending she would be in the area
309 hearing the noise.
310 S. Bonczar made sure that C. Branon and D. White saw them.
311 S. Fournier asked them if the photos were of his land.
312 S. Bonczar said he wouldn't be able to tell what the photos were.
313 D. White said he spent a lot of time on that property and these didn't look familiar.
314 C. Brannon wanted to know where they were taken from.
315 S. Bonczar wanted to know where those pictures were taken and if she could verify those. Where on
316 Mason Rd? Was she standing on the road? On property?
317 S. Fournier said she was on the road beside a house.
318 C. Branon asked where. Could she show it on the map?
319 S. Fournier said she'd have to get them that address.
320 S. Bonczar asked her to show them on the map. If he wanted to put them in the file as evidence he would
321 like to know where she stood, or whoever took the pictures.
322 S. Fournier went to the map. She said it where the logging was and asked C. Branon to show her where
323 the logging was.
324 C. Branon pointed to the logging area on the map and said it was a great distance from Mason Rd.
325 S. Fournier said it was looking through the trees between the houses.
326 C. Brannen said there was no way that was where those photos were taken.
327 S. Fournier said she wasn't matching it to that. She said that C. Branon was the one putting her on that
328 location. She was looking at the log area. Did it look like the log area? C. Branon said he didn't put her
329 finger on the plan anywhere. S. Fournier then asked D. White where the log area was. D White said the
330 second picture may be correct, but not the first picture.
331 D. White said it (one photo) looked more like it.
332 S. Bonczar said he wasn't going to put them in the file because it couldn't be verified where they were
333 taken.
334 S. Fournier said on Mason Rd.
335 S. Bonczar said they would not include them in the file as evidence or exhibits because she couldn't
336 clearly tell them where they were taken.
337 S. Fournier said she should have taken an address for the closest house, but she was looking out at the
338 logging and saw a vast opening and very sparse trees where it used to be forested. She asked to describe
339 what she took. She said from Mason Rd. it used to be forested and now there was a very thin buffer and
340 there was a wide opening which she pointed to on the photo. She said the closeup of that was the other.
341 D. White mentioned piles of material.
342 S. Fournier said she didn't know what that was.
343 C. Branon asked if he could address his experience of the property. He's been on site, they did a survey of
344 the site; he walked the whole site with the Alteration of Terrain Bureau and with Fish & Game. They
345 delineated all the jurisdictional wetlands around the perimeter of the ester. He was very familiar with
346 vegetation that existed through there. When you get down on the bottom side of the ester, the vegetation
347 through the wetland area isn't mature trees. It's wetland. But the whole side [pointing to the curved
348 portion] was pretty mature trees. The buffer area in the far right corner was somewhat sparse. Pointing to
349 that area on the map, he said from that area they would be a distance from Mason Rd. Buffering on this
350 property was substantial. Where there weren't mature trees, when they walked the site with Fish & Game,
351 Fish & Game asked if they could cut all the pine trees because there a lot of four to six foot pine trees that
352 will absolutely take over that buffer.
353 S. Fournier went to the map and said she was on Mason Rd looking over at the logged are – clearly the
354 logged area – and that was what she saw (picture).
355 C. Brannen pointed out the existing wood line on the plan [middle of the property]. He didn't understand
356 how she could stand anywhere along Mason Rd. and have a photo looking like that. He disputed that.

357 S. Fournier said it was taken on Mason Rd. between the houses.
 358 J. Dargie said maybe it was someone else's house they logged.
 359 S. Fournier said that it was the logged area. She would go and do the same picture for next meeting.
 360 J. Dargie asked if she was sure it wasn't someone else's house.
 361 L. Dale said it might help the discussion and projected an overhead view on the projector and pointed out
 362 the property in question and Mason Rd.. It might be helpful if she could point out where she thought the
 363 photo was taken.
 364 S. Fournier said there were more houses to the left.
 365 L. Daley pointed out the property.
 366 S. Fournier said there was no logging done there. She didn't stand at somebody's house. She was in
 367 between the houses. She probably where had the cursor, looking across. She said she wasn't at a house.
 368 She wished she had a better memory of the houses.
 369 C. Branon said this wasn't relevant testimony at this point.
 370 S. Fournier said it had to do with the buffer and there was a very thin tree line on Mason Rd. She was just
 371 saying she could see this, whatever that was, from Mason Rd. through those trees. She was only
 372 presenting. Not trying to be argumentative. She asked about the time.
 373 S. Bonczar asked her to be precise.
 374 S. Fournier said she wasn't finished.
 375 S. Bonczar said yes, go ahead.
 376 S. Fournier commented they were all quitting at ten for people who work. She said criteria D talked
 377 about no nuisance for pedestrians. She wanted to show the map for the haul road.
 378 J. Dargie said they weren't looking at that because it had nothing to do with the sifting of the material.
 379 Because they could already harvest the gravel. They could already go in and out. So they were only
 380 looking at the sifting.
 381 S. Fournier said she did understand that.
 382 J. Dargie said there was no pedestrian hazard by sifting – just by the processing.
 383 S. Bonczar said correct.
 384 J. Dargie said there was no pedestrian hazard.
 385 S. Fournier said that was a very narrow view for J. Dargie to take.
 386 S. Bonczar said it was the view they had to take.
 387 J Dargie said it was the view they had to take, so that was really off the table.
 388 S. Fournier said except, they provided an answer on item D.
 389 S. Bonczar said the applicant has to. The Bd. reads the ordinances.
 390 S. Fournier asked him to oblige her for a second.
 391 S. Bonczar said all the criteria didn't necessarily fit every applicant.
 392 S. Fournier said they don't but pedestrians here did, because Beaver Brook Association was a hiked land.
 393 People hike there and go off trail where there are no posted signs. In NH we are allowed to go on
 394 property.
 395 J. Dargie said that was unrelated to the sifting.
 396 S. Bonczar asked if she had any other questions.
 397 S. Fournier said she did. S. Bonczar asked her to move it along, please. She said she was going to make
 398 her point about pedestrians. She pointed out the Beaver Brook Association land on her poster and the
 399 haul route this company would use. The applicant had to answer D, so allow her to. This was used by
 400 hikers, dog walkers, snowshoers. All of that land was used by public. There were pedestrians involved.
 401 S. Bonczar commented that, again, it had nothing to do with the sifting.
 402 S. Fournier showed a photo of a processing machine at Brox – very similar to the one to be used. They
 403 can be very clunky with rocks going through. Put yourself on Mason Rd. with no buffers. She liked what
 404 J. Dargie said earlier and compassion for the abutters. Item E mentioned avoid the take of threatened and
 405 endangered species. C.Branon mentioned being out there with NH Fish& Game.
 406 S. Bonczar said that had nothing to do with what they were discussing. She was going off track. The fact
 407 was they could go and harvest tomorrow. The Bd was there to discuss processing – allow them to process

or not. They have to take appropriate steps on endangered species based on the harvesting of natural resources. The processing they were going to do had nothing to do with that. There was no connection. S. Fournier disagreed. Processed material ends up as a pile of rocks, a pile of sand, a pile of different things. Processing changes the environment, not just the excavation. You have all those piles that go away later. Processed material is in different areas so the processing machine moves around. She thought a silt fence to keep wildlife away was part of the design. Processing impacts threatened and endangered species. She passed around a site plan for the project on threatened and endangered species. S. Bonczar said Question E addressed adequate and appropriate facilities for the proposed use. S. Fournier said it did, but the applicant put it in there, so she was addressing it. She said they were looking at the map from Threatened and Endangered Species Bureau showing all the hits where endangered species live in the vicinity. They just hadn't been identified on this property itself, so there were no hits there. But all of these were relevant. The site was in pink, so this was the report for this project. All of these species lived there. She wanted to say the processing, and of course the harvesting, does put the endangered species at greater risk than they would be without this activity. J. Plourde asked if he was looking at it correctly, that there were no endangered species on the property? S. Fournier said no, that was false. What the report showed was sightings people reported to the state. The sightings on the report, 99% were reported by Brox Environmental Citizens. Other people have reported. It was only what people reported. If someone saw a blanding's turtle and didn't report it nobody knows about it. J. Plourde said there was no proof there was or wasn't. S. Fournier referred to the Natural Heritage Bureau report, on the back at the bottom, which said a negative result didn't mean species were not present, etc. She said that was why no one could say that if they weren't on that sheet, they weren't there. She said the Natural Wildlife Plan for NH shows – referring to the rich habitat – it was all of that habitat, from Brox through Beaver Brook and to Osgood Pond and it ran through Brookline. Fish & Game doing a three year study and may discover there are animals there. C. Brannon asked to respond. Chair allowed. C. Brannon pointed out they were working hand in hand with Alteration of Terrain Bureau and NH Fish & Game on permitting of this operation. Believed they were really close to obtaining those permits. The material presented wasn't relevant to the discussion of the application because there was no local avenue to regulate threatened and endangered species. What they were pointing out with that particular criteria re the special exception had to do with adequate and appropriate facilities being provided for the proper operation of the proposed use because. If you reviewed the plan in detail, they provided proper operations that tied together with NH Fish & Game recommendations on how to run an operation that will minimize and avoid any impact to rare, threatened and endangered species in the area. He brought it up just to point out that the operations and practices for this application were very thorough. They met with Fish & Game and walked the site with them. They were not there tonight conceptually. They were essentially presenting final plans. S. Bonczar said he knew that. They were there because they had gone through all those steps. The piece the Bd. had to look at was the processing. Their assumption was that everything was checked off; the harvesting was an allowable use. The Bd. would focus only on the processing of the material. S. Bonczar asked for any other public comment. None. He closed public comment and proceeded to going over the criteria based on processing the material on site.

A. Is the proposed use similar to those permitted in the district?.

S. Bonczar – applicant brought up Brox and Granite State gravel. There were others in the area and district operating. He asked other members for any comment. None.

B. Is the specific site an appropriate location for the proposed use?

458 S Bonczar – since they were going to be harvesting material there, the processing of the
459 material there was appropriate
460 J. Plourde thought there might be more truck trips if they didn't process there and had to
461 process somewhere else. S. Bonczar agreed.
462 R. Costantino said it was in the center of the property, not on the edge and had buffer.
463 J. Plourde – buffer helps a lot, and no direct access onto Mason Rd. They were all using
464 Perry Rd. to get to Rt. 101
465

466 **C. Will the proposed use adversely affect the adjacent area?**

467 S. Bonczar looked at how they would use it. As far as running the whole operation he
468 saw minimal impact.
469 R. Costantino said it was right in the middle of the property.
470 S. Bonczar asked J. Dargie if she had any comment.
471 J. Dargie – not on that.
472

473 **D. Will there be no nuisance or hazard to vehicles or pedestrian?**

474 J. Dargie said she addressed her concerns and they were going to talk to abutters.
475 S. Bonczar said no nuisance, as opposed to pedestrians
476

477 **E. Will adequate appropriate facilities be provided for the proper operation of the
478 proposed use?**

479 J. Dargie it was on the back end of the property not near the road.
480 J. Plourde – they already incorporated all the required design elements.
481 S. Bonczar agreed with J. Plourde.
482

483 T. Steel asked if they could change the hours of operation. She'd be really upset if she was woken up at 6
484 a.m.
485 S. Bonczar said that had already gone through the Planning Bd.
486 J. Dargie said that was what she was saying; if they have a number to call if issues are going on or it's
487 happening too much, or whatever, that relieves a lot.
488 S. Bonczar said that was why he asked how often they would be processing there. It's not 24/7
489 J. Dargie said it doesn't go on all the time.
490 T. Steel said it could be thirteen hours.
491 S. Bonczar said some days he's in there and others not.
492 J. Plourde said D. White said he'd make sure his name and number were available.
493 R. Costantino said it would usually be in winter, not in summer when the windows are open.
494 J. Dargie said that was on Saturdays. R. Costantino agreed.
495 J. Dargie said that was seven to Noon.
496 S. Bonczar moved on to vote on the Special Exception
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500 **VOTE: On Special Exception:**

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502 **1. Is the Special Exception allowed by the ordinance?**

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504 **J. Plourde – yes**
505 **R. Costantino – yes**
506 **J. Dargie – yes**
507 **T. Steel - yes**
508 **S. Bonczar - yes**

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2. Are all the specified conditions present under which the Special Exception may be granted?

J. Dargie -yes

R. Costantino – yes

T. Steel - yes

J. Plourde - yes

S. Bonczar - yes

S. Bonczar said the application was unanimously approved and reminded applicants of the 30-day appeal period.