APPROVED

Planning Board Meeting Minutes

September 10, 2019

Members present: Nancy Teach, Chair; Art Urie, Vice-Chair; Doug Phelps; Randy Monti; John Hodgson; and Dave Blinn, Ex-Officio

Also present: Pat Moyer, Planning & Zoning Administrator; Chuck Keyser, Selectman; Nan Champagne Davis; Jill & Stephen Colardeau; Cheryl Bentley; John Bentley, agent for the applicant; Roy Carlson; Michelle Bean; Chris Champagne; Chris Walton; Valerie Provost; Jon & Joanne Champagne; John Gonzalez; Christopher Seufert; Attorney for Jon Champagne; Seth Greenblatt; Larry Giglio; Linda Barnes; Maryann & Greg Allen; J. G Tatkovsky; Stacia Eastman; Douglas Grenier, Salisbury Planning Board; Joseph Schmidl; Kelly Nan Raymond; Lenny Caron; Jesse Schust; Sonny Ashburn; Donna C. Duclos; Jeff Newcomb; Dan Mori; Joe Mahoney, Andover Police Chief; Marj Roy, Town Administrator; Peter McGlew, Aries Engineering; and Bob Norander.

Minutes of August 13, 2019

Urie – Motion to approve as amended

Phelps – Second

Vote – Unanimous to approve

Announcements / Correspondence

1. The Planning & Zoning Conference will be held October 5, 2019

Public Hearing: Final Site Plan Review for Jon & Joane Champagne, Jeff & Kelly Raymond; and Chris Champagne for the installation for a gravel and stone excavation and sales business at 235 Salisbury Highway and 424 Bay Road in Andover, Tax Map 4 lots 443.37, 507.61 and 453-37 and located in the Forest and Agricultural Zone

Teach opened the public hearing at 7:15 p.m. and the board members introduced themselves. Teach explained the process for the public hearing. Teach gave a background on the process the applicants have taken to date including non-binding consultations with the Planning Board and a public hearing and approval from the Zoning Board of Adjustment on May 21, 2019. The site plan review application was deemed complete at the July 23, 2019 meeting and it was also determined that this proposal would have a regional impact. Teach explained that a decision would not be made at this hearing as it was an opportunity for the board to listen and ask questions. Based on a review of Andover Excavation Regulations and the States Excavation Regulations, the board will have an opportunity to hire a third-party consultant and discussion will need to take place requesting an extension of the 65 days to 90 days per RSA676:4.

Teach opened the floor to the applicant and Attorney Seufert advised that John Bentley was here to discuss noise and water issues along with representatives from Aries Engineering. Seufert made a clarification to a comment made by the Town of Salisbury stating that the applicant was going to be excavating right up to the property line. Seufert explained that they would not be excavating up to the property line as they have to be 50’ with an agreeable and 100’ with a non-agreeable abutter per RSA155:E. Teach read highlights from the letter received from the Town of Salisbury and their concern with storm-water and groundwater, transportation ( traffic on Route 4), noise due to crushing and blasting, interest in a statement of intent of adjoining land owned or of interest to the owner, and RSA:155E, and a third-party review. Seufert responded to the concerns mentioned in the letter from Salisbury. DOT and their engineers determined that this is a low-impact project for the area and their report was submitted to the Zoning Board of Adjustment for their May 2019 public hearing and was also included in the packet submitted to the Planning Board for Site Plan Review. Because access will be to Route 4 there would be no degradation to town roads. Hodgson stated the approval for the driveway was included but not the report of the DOT. Seufert stated it was included. Teach read from the letter from DOT dated March 22, 2019 indicating the driveway permit application was received by DOT District 2 on June 21, 2017 which stated the driveway location site visibility use and gravel pit and deed history were received by DOT a traffic study is not required for the review of the driveway application due to the relatively small size of the development and the current traffic count on Route 4. Teach asked if DOT was aware of this proposal and what the next stages for Mr. Champagne at the time the driveway application was received. Seufert stated DOT indicated they were aware that it was going to be a gravel pit and Teach responded it was not clear in the letter and it needs to be addressed. Moyer stated to Teach that it does indicate “use gravel pit” in the letter in parenthesis. Teach stated the board will take this under advisement.

Bentley presented the project stating that there is a number of regulations that cover crushing and blasting operations. Blast is 1/250th of a second. Most blasts will be quite small and infrequent as the site is small and there is no place to put material. This project will be looking at 4,000 to 5,000 pounds of explosives at the biggest when in full operation, the first will be around 2,000 pounds. There is a dust-control system that is embedded in the crusher which is mandated by the EPA and NH DES to minimize the amount of dust produced. 200 gallons of water is put into the crusher at the beginning of the day, and it will spray a fine mist as the rock as it’s being crushed and it adheres to the rock and pulls the dust but it does not run off. The engines on the crusher are diesel powered and the emissions from the crusher are governed by the EPA and NH DES and both departments monitor this frequently. Calculations were run on the noise levels and based on the Andover Zoning Regulations which states not to exceed 60dB at the property line and they estimated the property line to be approximately 260’ from where the machine is going to be so they will be well under the 60dB at the property line in all directions. A blast (seismology) report from Green Mountain was submitted with the application including a letter of explanation for the blast report. Once material is on site, there being significant up-gradient features to the topography, and as material is stock-piled that will be an additional buffer around the crusher. The number of days for crushing will be limited as the footprint of the property is small. They will probably crush two to three weeks at the most, not necessarily every day, and then the material created needs to be dealt with. Seufert asked what the anticipated level of noise of the crusher to be at the property line and the response was if they use the model of 200 feet with 105 Db at the machine, they are anticipating it to be 59Db at 200’ not taking into account the loam pile and any deflection from the topography or materials stock-piled, they are well within range. Monti asked if they drill into the ledge and the response was yes. Monti asked for an idea of how long the drilling takes and how much noise the drill makes. Bentley responded that once in the bedrock the noise is attenuated by the bedrock and you will hear the drill running and then a thump, but it won’t be a particularly loud noise as the noise level has to be under 105 as that is the limit you can have at the machine. Champagne anticipated two to three days of drilling and then cleaning the debris up and there will be long spaces in between the drilling, blasting and crushing. It was presented at the ZBA hearing that there will be two short cycles of blasting not including the short small infrequent blasts to get the footprint created. Once you are into the working phase you will be able to blast and crush and it would take you months to move two weeks’ worth of crushing, presuming the market is there and you are able to sell it.

Phelps asked if the blast would have any effect on the abutters’ foundations or if it would it shake the houses and Bentley responded that if they refer to the seismology report, the answer is no. Phelps asked if it would react differently to different types of soils. Bentley responded that this is rock and it would not go far. Seufert stated this is all ledge. Phelps responded that all the neighboring homes would be built on that same sheet of rock. Seufert stated that Phelps was asking how far it would travel through the ground. Bentley stated it would not be anywhere near those houses and he can get the hard data for it. Champagne stated that when his home was put in, there were seventy-seven charges and his mother’s home was approximately two hundred feet from his foundation and there were no foundation or water issues. Phelps asked if the blasts were heard and Steve Colardeau stated that yes, he could hear it and feel it. Colardeau is 0.2 miles from Champagne’s home and it shook their home. Champagne stated that when Fenvale was built and developed, there was significant drilling and blasting as well as crushing on-site and at that time the largest abutting family was the Champagne’s and not once was there a registered complaint. Walton asked what the decibel rating at the property line is and Bentley responded that the regulations call for 60. Duclos asked if the sound any louder than the fireworks they hear in the neighborhood on the 4th of July and the response was no. Jill Colardeau asked if anyone had any insight into this causing the opposite effect of a sonic boom ( shock wave ) and possible sinkholes.

Pete of Aries Engineering gave a brief background of his work with gravel mining operations and people trying to protect for groundwater and as a hydrogeologist and surface water. Aries helped the applicant with the plans for stormwater protection and reviewed the plans to determine if there would be any impacts that they could see or predict to groundwater and how to prevent them. What they have come up with is Best Management Practices. Regarding the groundwater – there are Best Management Practices that the State of NH has come up with stating the procedures to follow if drilling and blasting to protect the groundwater. The depth that is being blasted is from a knob of bedrock that extends pretty high above the site and because of that, the face would come down and the groundwater is pretty far below that; therefore, the groundwater will not be impacted because they are so far above it. Regarding the surface water, because that is an impact that is always possible, and it can also feed to the groundwater, they will be following Best Management Practices by having the diesel tanks under cover which will not allow ice or other things to impact the machinery; therefore, it won’t go into the aquifer. With a Stormwater Prevention Plan - looking at large storm – how much water could bring down, where that water would be funneled to and you would not get sediment funning off into streams or the street because sediment is extra nutrient and you don’t want that in the streams. The Stormwater Plan would follow the state rules and those rules are pretty well prescribed so there is not much chance for problems as well as following Best Management Practices regarding fuel and keeping things under cover. Seufert asked if the storm water permit was going to require {something} based on water and the response was yes and Seufert asked him to explain the process to the board. Look at very detailed topographic map, maybe with 2’ contours, and see where the water will flow, they actually look at the site for its topography and where the water flows to, will cause it to mostly infiltrate – they won’t let it run off, won’t let it build up and move sediment around. Upon viewing this site, there was nothing noted that would be problematic for this now; however, in order for this to continue, there would have to be inspections continued by Aries and the owner. The stormwater plan contains checks and balances such as looking at the area to make sure there is no erosion, you look at the plan to be stamped by the engineer and identify where the runoff will go. They will try to get it to infiltrate into the groundwater so the groundwater continues to store it at a good level which is typical and follows the regulations.

Seufert stated there was some concern at the ZBA hearing regarding pollution of the bays and the water around there and peoples wells. Pete stated the materials they are using – the drill and then blasting of rock – if you following the state procedures which are the Best Management Procedures, you should not cause any additional concentrations to get into the groundwater or surface water. Surface water should be retained on the site and infiltrated at a slow rate into the ground. The ground acts as a filter to a good extent for the groundwater and will remove some of the extra sediment and some of the things that would be in the water will break down because it is a microbial populations and the geo-chemistry of the groundwater allows it to break down to natural components; however, they will not be putting anything additional in that’s not naturally there. Teach stated the report was July 2018 and asked if he can think of anything that has changed since that report as, if approval is given, they will need a signed contract and asked if they would go back again. The response was yes, and they were visited the site today and saw no changes. Schmidl stated that originally Champagne was going to pursue an Alteration of Terrain Permit from the State and asked if this was still going to happen. The response was it is less than the required threshold which is 100,000 and this is 91,000 and because Aries was going to be there doing some mapping they should probably do the data for that and a final decision has not been made but it is something they will consider; however, if they go over 100,000 they will get the AOT Permit. Teach clarified that the letter from Aries from 2018 was actually as work scope and budget and not a full report. Jill Colardeau asked what type of explosives will be used and Bentley explained that the blasting caps are now non-water soluble so they won’t dissolve into the water. Colardeau stated she was very concerned about contamination as their dug well is about twelve feet deep. She asked again what the name of the explosives is and what they are made of. Bentley responded that the brand name is High-Ex and he does not know what the chemical composition is; however they are the explosives that the state has recommended that everybody use. Caron stated that there was no information on the size of the drill to be used or how far apart the holes are going to be. Bentley responded that all of this is determined by the blast engineer. The blast engineer will come in and look things over and make a determination. It would probably be two inch which is standard and depending on the fryability of the rock they are trying to blast out will determine how close they are and the level of the cut is how deep you go and this is all calculated by people who do this all the time. The explosives are used to minimize the effect on neighboring properties and there is a legal limit for that to travel. Caron read an example from Keith Babb stating the most common drill is a four inch which will make a five and a half inch hole going down 58.4’ so if the applicant does not know the depth, width of the hole, distance between holes, they will not know how much gun powder to use to do the blasting. This example is based on holes 6’ back and 4’ apart and blasting three rows at a time. IF you make short holes, there is drilling at a shallow depth but the holes have to be close together and the higher the depth, the further back the holes have to be and the bigger the holes will get; however, this information is unknown for this proposal. Bentley stated this is why the engineers will come in and study the site and they make the determination based on what the final outcome that Jon is looking for and every site is different and the report submitted is from a much larger pit. Caron asked what type of crusher will be used – a cone ? Champagne explained gun powder is not used; you space the drilling out depending on how big you want the piece of ledge to fall, so the closer you drill and the closer your charges are and the finer the rock will fall. There are two different pieces of crushing equipment – a jar crusher and a cone crusher. Normally you use the two in unison. A jar crusher can crush up to a 2 ½ - 3’ diameter piece pf rock. These drill depths are going to be approximately 15’ – 17’ – in talking with the drill master. Small blasts will be the first thing done to develop a face and lifts for that site and that is where they obtained the information they have. You can only drill so deep on the terrain. Phelps asked which type of crusher will be used and Champagne responded Keith Babb is contracted to do the drilling and blasting and he will be using identical equipment to what he uses for the crushing for the Town of Andover Caron stated that he is pretty sure Babb has a cone crusher and also stated that there are actually three types of crushers, a jar, a gyro and a cone and the cone crusher is the loudest of them all. Champagne stated that Keith Babb has been to the Zoning Board and to the Planning Board and has made his presentations. Bentley stated that all of this data is on file with the application that will answer most of these questions. Bentley stated he does not know the brand name of the crusher; however, but the decibel reports that they received at the source of the machine is in the report. Sound is the same no matter what brand of crusher you are using and sound attenuation is handled in the same manner by whatever crusher is being used. Blasting is handled by the engineers – they determine which size hole is drilled, how deep they go, how far the holes are spaced apart. All of this is within the guidelines set by the EPA, MSHA, OSHA, and the State of New Hampshire DES. This is a highly regulated industry. Jill Colardeau asked if there would be two crushers on site and Teach stated that is what she heard. Caron stated he was only asking about one and if there is two, one would be a primary and the other a secondary. And from the size of the stone it is indicated will be made, there will be a secondary crusher. He also read that Babb states he will not be using a blasting mat. He is concerned with how they will stop the rock due to the small width holes as the bigger the nuggets, the more control you have over the over blast. Walton stated that if the sound regulations are being met, why is the brand name applicable and is curious as to why this is being discussed. Schmidl stated that is was stated that they would be trying to infiltrate the storm water into the ground on site and it could provide a migration pathway to the nearby wells. Allen asked if there has been any thought given to the trickle-down effect of any radon being released from the granite as it’s being blasted. The response was radon has a very short blast life and as the blasting opens up the rock, the radon would dissipate very quickly as it’s a gas, so it should not impact the water as it will be above the water table which is many feet down from the ground surface. Schmidl stated that the applicant plans on infiltrating water at the site to get it in which will trickle down to the water table and provide that migration mechanism.

Champagne stated that the loudest piece of equipment will be the screener with its initial startup and shut down and asked if Caron could provide him with his own sound chart at his pit and they could use that in comparison to what their equipment will be on the decibel and noise. Phelps stated that it sounds like what they want to know is the point source dB for the three pieces of equipment. Caron stated that they had information on the drill, crusher and excavator but there was no decibel sound on the screen beyond the driveway and the screen is louder than the crusher and it is not the start-up and shut-down it’s the rattling. Schmidl asked if there had been any suggestion as to whether there would be any site specific testing to see how the sound carries on that site given its unique topography. Teach stated the board would take that under advisement. Colardeau stated she was concerned with the children waiting for the bus on the end of Bay Road. Grenier asked if the plans submitted to the town were the most up-to-date plans and the response from Teach was yes.

Bentley addressed the vegetation buffers and fencing at the top that was required by the ZBA stating that they were added to the most recently submitted plans. Seufert stated that these were points that the LRPC addresses.

Barnes asked how many loads are anticipated on a daily basis and Bentley responded that there will probably be a net reduction in the truck traffic now for part of the time as right now material is currently being brought and dumped onto Champagne’s property, then he loads it onto his trucks and then hauls it out. So if he is manufacturing it on site, it would cut out 50% of the traffic. As far as additional sales, that is market driven. Currently there is a high of 24 loads per day going out. Jill Colardeau asked where the truck loads are currently coming and going from and the response was Route 4. Colardeau stated that the trucks are currently going down Bay Road. Urie responded that everything will be onto Route 4 with this proposal. Eastman asked what direction his current trucks travel in. Champagne responded that most commonly towards Wilmot and New London. Phelps asked if he expected the traffic on Bay Road to increase or decrease and Champagne responded decrease as his primary inlet and outlet will be onto Route 4.

Greenblatt, representing Lois Levick an abutter, stated that Lois Levick and Jon Champagne came to a private agreement at the Zoning Board level to have certain screening done prior to any excavation being undertaken and wanted to make sure that it was part of any site plan should the proposal get approved. Seufert stated that the trees have already been sourced and are ready to go once the permits are issued. Greenblatt also stated that the board is aware that there may be some dispute about the impact levels of all this activity; however, there is no dispute that there will be some level of impact - there will be sound, dust and traffic - and the boards obligation is to try to minimize those known impacts that everyone knows will come with the common sense of what the operation is and to ensure that those minimization efforts are effective through ongoing monitoring to make sure water is preserved, the sound remains at proper decibel levels, the dust remains at an appropriate level and traffic is not increased beyond what is being portrayed by the applicant.

Jill Colardeau asked if the surrounding property owners’ water will be tested and monitored and Teach responded that she does not have an answer for that. Bentley stated that they are undecided on the well monitoring. Champagne stated that a drilled well can be monitored; however, a dug well cannot as the State does not see a dug well as suitable for drinking water. Phelps asked what will happen if there is a problem with a dug well. Champagne responded that it would depend on what the test is and what the result is and what the contamination is would determine who is at fault. It is Aries Engineering’s responsibility that this business is being conducted legally so there is no problems, safety issue or groundwater contamination.

Grenier of the Salisbury Planning Board stated that the letter submitted on September 6, 2019 referenced a lot of the regional impact guidelines. He asked if the Andover Planning Board would entertain comments from the Salisbury Planning Board at the Site Plan Review level or is their input basically capped to what is in the letter in terms of regional impact as there are things on the plans that should be addressed, and if not addressed at this hearing, maybe a work session, as the plans he has seen is nowhere near the level of detail that he would expect for this project and particularly for a 155 Excavation Permit Application. He is unsure where the Salisbury Planning Board fits into this process as he feels there are a lot of t’s that need to be crossed and I’s that need to be dotted to make this a better project and does the Andover Planning Board want abutting towns to participate in this process. Seufert responded that this is home-rule and basically each town deals with those projects in town so the Regional Planning Commission Statute RSA:35B was instituted so that if towns neighboring had issues, they would go through the Commission and then the Commission filters those concerns back down to the home town. Andover is part of the Lakes Region Planning Commission and Salisbury is part of the Central NH Planning Commission and if Salisbury has any input in this process and it had to be at the Planning Commission level, they would have to go through the Central NH Planning Commission. Grenier stated he has some questions and concerns with what is on the plans that should be addressed. Schmidl stated that there are also specific RSA’s that deal with developments of regional impact that go beyond this home rule issue and do incorporate abutting towns for comment and inclusion. Serge stated that it is his opinion is that Salisbury is an abutter for the proceedings, they have a right to be there and present their concerns. Teach asked if this would be an opportunity for the Central NH Planning Commission to work with the Lakes Region Planning Commission and Serge responded no because the pursuant statute the Town of Salisbury and the Lakes Region Planning Commission are the ones that had to be notified of the hearing and they both responded in writing and Salisbury is present and the Commission is not. Grenier stated the comments he has on the plans would require him to go through the plans and is unsure if the hearing would be the venue to do that or if there should be a work session. Grenier stated that on the plans he has, it shows the author as Web Stout and does not mention Aries Engineering and that is why he asked if there are other drawing as part of the application that they are not aware of. He is considering a work session with the Andover Planning Board to review the plans. Phelps asked if a memo as an addendum to the letter could be drawn up and submitted to the board for review. Grenier stated he could go through the plans and put a letter together with his concerns or take a clean set of plans and do a red line at the Site Plan Review level of input. Serge stated that Andover has a set of excavation regulations and clarified that the board is considering a Site Plan Review along with an excavation permit that is required pursuant to statute and pursuant to the regulations and there are certain requirements that have to be met pursuant to the regulations - operation standards as well as reclamation standards – and he is unsure about how much of what has been presented has covered the regulations and he feels that a lot of Greniers’ concerns pertain to the regulations and not just the site plan. Grenier stated that as a practicing landscape architect for 46 years, he has some strong opinions as to what should or should not be illustrated on the plans. Serge asked Seufert if Seufert should go forward ad explain to the board in a letter what has been addressed pursuant to the regulations and what hasn’t to date Seufert responded that the board should come back stating they need more information on specific items. Serge asked if everything has been submitted according to the regulations and the response from Seufert was yes. Serge stated that if approved, there would be a Site Plan Approval and an Excavation Permit, each being its own concept, and yes, they will overlap. Greenblatt stated that the Site Plan would ultimately inform whether the regulations are met and so there may be a site plan that gets modified and that modification might bring something into compliance or they may find that you can’t bring anything into compliance, but unsure if you can bifurcate the two conversations. Seufert state that they believe that everything the board needs has been submitted and if the board needs anything further, the board can identify those things and the applicant will be happy to provide what else might be needed. Serge stated that his concern as an attorney is this hearing was noticed as a Site Plan Review and not an Excavation Permit and in the future someone may say that they only got noticed for a Site Plan and not an Excavation Permit and feels this should be continued to another hearing date and provide new notices that it will also include an Excavation Permit Review as well. Salisbury and the Lakes Region Commission recommended that the board get a third party review of the package and Serge also recommends this. Grenier stated that, as a Salisbury Planning Board member, he will draw up a summary letter of his concerns in a Site Plan Review context as it will be more detailed that the excavation based on the plans he has and will present them to the Andover Planning Board.

Seufert stated that Salisbury is an abutter, they are no more powerful or less powerful than any other abutter, and they do not have a seat at the Andover Planning Board table. All they can do, just like any other abutter, is make comments and suggestions. It carries no weight of law under RSA:35B. Grenier responded that as an abutter, his goal is to present things that he feels the board needs to understand in order to make a solid decision. Serge stated that the board would take it under advisement as they would any other abutter.

Nan Davis stated that she is an abutter and is in favor of this proposal and asked if the word “final” in the hearing notice is suddenly becoming not final or do they still need “final”. Serge explained that the Excavation Permit is a separate statutory issue and he is trying to find a way to get this done fairly efficiently.

Teach and Serge summarized what the next steps will be including continuing the hearing to Tuesday, September 24, 2019 and to come back on the issue of picking a third party expert to review the package that was presented that addresses the excavation and the Site Plan and that person will proceed with the review. There will be a notice provided pertaining to the specific excavation permit review. Grenier asked when the board would want the concerns of Salisbury and Phelps suggested they submit them as soon as possible. Seufert stated that the board would probably want to provide the third party review with the concerns of Salisbury.

Ashburn commented that he feels Champagne has done his due diligence and has professionals present with him; however, there are no professionals present from the other side. Caron stated that he has reviewed the pans and would like to know where the gravel is locate on the property as it is not indicated on the plans; he does not see any gravel outcrop, therefore, it should only be a ledge permit. He also stated that the third party reviewer should have the information pertaining to his previously mentioned concerns in order to make an informed decision. Champagne stated that there is no gravel or bank run sand on the lot – it is a ledge lot and the state spec standard is a uniformed fractured ledge with stone dust – no loam, no sand – just a uniform material. This is a completely different type of operation than Caron’s and the noise that is going to manufacture from these machines which is the same equipment that the town leases and uses to crush gravel and screen sand, it is the same person, the same equipment and the same readings that were provided. Champagne asked the Selectmen if there have been any complaints for the towns crushing and screen operation and the response was no, but they only do this for two to three weeks. Greenblatt stated that it is not uncommon for a board to do a site visit with the equipment operating and include any abutters that wish to be present and the board may want to consider doing this.

Teach asked Champagne and Seufert to provide names of people that they would like for a third part reviewer as soon as possible.

There being no further discussion, Phelps made a motion to adjourn at 9:00 p.m. Blinn seconded the motion and the board voted unanimously in favor of adjourning.

Submitted by,

Lisa Meier, Recording Secretary