Meeting convened at 7:09 p.m.

PRESENT: ZBA Members - Steve Bowers, Jon Warzocha, Todd Goings, Jeff Newcomb, and Katherine Stearns; and, Planning and Zoning Coordinator, Patricia Moyer

Also Present were: Please see attached sheet

Jeff Newcomb, being the senior member of the Zoning Board of Adjustment (ZBA), opened the meeting. The first order of business was to elect a Chair and Vice-Chair for the Board.

Jon Warzocha nominated Steve Bowers to be the Chair. Todd Goings seconded the nomination. All in favor. Steve Bowers is the Chair until the Board reorganizes in September 2019 as per ZBA Procedural Rules.

Steve Bowers nominated Jon Warzocha to be the Vice-Chair. Todd Goings seconded the nomination. All in favor. Jon Warzocha is the Chair until the Board reorganizes in September 2019 as per ZBA Procedural Rules.

Bowers made the motion to hold approval of the previous Board minutes due to the new, recently appointed members, not having time to review those. Warzocha seconded the motion. All in favor. The previous minutes will be reviewed and approved at the next regularly scheduled meeting on Tuesday, May 21, 2019.

**PUBLIC RE-HEARING for a Special Exception for the Champagne Excavation Project located at 235 Bay Road in the Forest and Agricultural District (Tax Map 4-443-037, 4-493-037, and 4-507-061)**

Bowers opened the Public Re-hearing at 7:15 p.m.

Warzocha made the motion to incorporate the previously submitted materials into the record. Bowers seconded the motion. All in favor. The motion to incorporate all materials previously submitted into the record passed.

Chris Seufert, Champagne’s attorney, presented a summary of the NH RSA 155-E rules and regulations. Seufert explained that the purpose of this Statute when it was enacted was partly to decrease the cost of roads to municipalities and provide more aggregate supplies for construction. Champagne would like to produce aggregate commercially to sell it locally. The Champagne family has lived in Andover for decades and they want to do this correctly and work with the community.

Seufert is not in agreement with the Department of Revenue Administration (DRA) letter that suggested certain things were amiss in the application. In Seufert’s opinion, the ZBA’s job is to decided whether Champagne is entitled to the Special Exception. If the Special Exception is granted, then the Planning Board through Site Plan Review will work with Champagne and set limits during this process and permitting. Seufert’s understanding is that excavations are allowed in Andover because the Town adopted the Excavation Regulations in June 2002. However, the

Andover’s Zoning Ordinance is silent on where and what district these gravel excavations are permitted. Therefore, the first analysis is to go through the criteria for 155-E and then the Special Exception criteria.

Seufert pointed out that there are two studies included with the application regarding real estate values. The first is the local Central Gold Key Realty Study which determined that communities that had excavation operations, no diminution of real estate values occurred. Additionally, the national Phoenix Study established that again, no diminutions of real estate values occurred.

The Board questioned whether the applicant took into consideration whether abutters wells would be impacted and/or monitored. Cheryl Bentley with Aries Engineers, discussed whether the local well degradation was considered. Bentley said, that yes, it was taken into consideration by looking at the distance and the effect of blasting with wells within 1000 feet. Bentley explained that the localized blasting will be on the rock face above the intended zone of mining, not in the bedrock. The charges will only be small enough to break up the rock in chunks for crushing and processing.

There are five wells within that range. Bentley indicated that simple testing can be added into the Planning Board Site Plan Review Approval. However, Bentley does not expect any change in these wells with the blasting because the area around the wells will not be stirred up.

It was noted that NH Department of Environmental Sciences (DES) is concerned with water quality, not quantity.

Warzocha noted that there could be nitrate impacts, but that again, can be brought up during the permitting process.

Seufert noted that Keith Babb with Green Mountain Explosives could answer these questions, but he was not in attendance during the meeting due to another commitment at the same time.

Warzocha asked how many square feet area will be disturbed in the active pit. Webb Stout, FWS Land Surveying engineer, responded by saying it is approximately a 7 acres footprint area.

Warzocha questioned whether an Alteration of Terrain permit was considered. Stout indicated he didn’t feel it was needed. Warzocha indicated that it was needed.

Jon Bentley stated that in the past he did a lot of blasting years ago. In the packet submitted there is a letter that shows a graph with the legal limits of what and where the blast occurs. There is a process for blasting. The rock is drilled down to a certain depth, the charges are set, and then it is cleaned up.

It is expected that during the first year, five to six blastings will occur about a month apart. The blasts are less than two seconds long. After that first year, there will be one blast depending on how much material Champagne will need to supply. It is a small operation that would yield approximately twenty, but no more than fifty tons of material yearly. A notice would be sent to the abutters prior to blasting. A letter from Champagne is included in the packet submitted.

A portable crusher will be used because this is a small operation and there will not be enough material for a permanent crusher. Likely, it will be Babb’s crusher.

It was noted that a Reclamation Plan was not submitted. Stout indicated that it is a Restoration Plan that was included in the application.

Stout noted that there is a small depression, which will be sloped and the water will stay inside. The bottom of the pit is approximately 110’ away from the property line. Christmas trees will be planted along the side walls of this depression.

A stormwater plan will be submitted to the Planning Board.

Seufert spoke about the following concerns that were raised:

The very steep topography is shown on the plan. The photos are ground shots, not aerial shots.

The area is not considered a bluff, it is more of a hill.

It was noted that only elevations, not the contours and grading, are indicated on the plan. Stout noted that he did not put them on the plan because if he put all of them on it, it would show up with a very dark area. Warzocha noted that he would need to put those on the Alteration of Terrain application plan along with the grading plan.

A letter in the packet from the Department of Transportation (DOT) which states that the engineers determined that a traffic study was not needed for this project.

Warzocha quested how many trucks would be coming and going during a busy time. Champagne stated that approximately twenty trucks coming and twenty trucks returning. All activity will be entering and leaving on Route 4, and not on Bay Road.

There were some concerns raised about the cistern that Champagne put in several years ago. Included in the packet submitted tonight are letters from the Andover Fire Department Chief showing they were approved for fire suppression.

There was a water issue on Bay Road near Champagne’s property. Champagne explained that it is a low water spot on the land in that area. In 2017 re-charge basins were put in and there have been no issues since. The only issue was this Spring and the issue was due to it being frozen and not maintained by the Town.

Champagne further explained that if water is needed, there is water available. The cistern was built on the uphill side and it is spring-fed. When that subdivision was approved, the Planning Board required the fire pond as one of the conditions for approval. The Fire Department checks it yearly.

Seufert stated that the excavation regulations were approved in June 2002 and excavations are permitted by right or by special exception.

The Planning Board January 8, 2019 minutes state that the Planning Board approved the Site Appropriateness and one of the reasons was because it fits in with Andover’s Master Plan.

There is a decibel study included in the packet submitted tonight. This will be a small operation yielding small amounts of aggregate. The ZBA noted hours of operation and Champagne agreed to those during the ZBA previous hearing.

Seufert reviewed NH RSA 155-Sections A through G

Webb Stout stated that the project is not in the flood zone and the finished height will be above Champagne’s home.

**Public Comment**

Nan Champagne Davis – One of the Applicants. In favor. Davis has no concerns. Davis believes it is very good for the town and the state. The State would like to have aggregate.

Chris Champagne – One of the Applicants. In favor. Chris Champagne wants to do it correctly and with due diligence. He would like the Special Exception to be granted.

Donna Crisp Duclos – Resident. In favor. Champagne’s do a lot of good work for the Town. She asked if Champagne’s tax bill will change.

Jeff Raymond – One of the Applicants. In favor. Raymond noted that the blast will be right behind his home and he is not concerned. Raymond believes it will be beneficial to the Town.

Chuck Keyser – Resident. In favor. Keyser’s property looks down at the knob that is currently on Champagne’s property. Keyser has known Champagne since he was little. If he thought it was going to be a problem, Keyser would not be in favor of it. It is a minor operation. Green Crow Lumber makes a lot of noise. Keyser feels that if someone can make a little money, he can give up two to three weeks and deal with the noise, etc.

Penny Allen – Resident on Shady Lane. Not in favor. Allen noted that Green Crow is very noisy. Allen’s property is on the river and the noise is amplified due to the river. Allen can hear every time a nearby person has an argument, every f-word. Allen is concerned with twenty trucks driving in and out of the area daily. Allen also noted that with every project, things get waylaid. Allen questioned whether Champagne will need to carry a bond for damages to properties and homes that might occur.

Jim Steiner – Attorney representing Jill and Stephen Colardeau. Not in favor. Steiner filed a motion for re-hearing and provided a Proposed Orders for the Board tonight. Steiner encouraged the Board to seriously consider 155-E. In Andover’s Zoning Ordinance it is not allowed in that district and it is not an Unlisted Special Exception.

Steiner noted that there are pitfalls in the plan, including potential hazards with the steep 1-1 ratio on the hills and there is no buffer plan. Additionally, there is a concern with the aquifer right underneath the project. Steiner referred to the Town of Andover map he found on line that depicts the aquifers. When questioned Steiner could not provide information on this during the meeting or a reference for the Board to review. Steiner indicated that the burden is on the applicant, and not the abutters to provide this information.

Steiner also noted that the Board has much more work to do with the for the Alteration of Terrain in order to consider the Special Exception. The Board should consider having the applicant have a hydrologist report at the applicant’s cost.

Steiner concluded by stating that he does not believe the applicant has met the criteria of granting a Special Exception. Steiner encouraged the Board to vote to deny the Special Exception or at least table the decision until they further investigate the matter.

Joe Schmidl – Salisbury Planning Board Alternate requested that when and if the plan is approved that there are two signature blocks on the plan. One for Andover and one for Salisbury.

Jill Colardeau – Bay Road resident, abutter. Not in favor. Jill Colardeau voiced her concerns about the noise, vibrations, and the dust from blasting. Jill Colardeau has lived at that location for 39 years and its has been very quiet for the most part. Jill Colardeau is also concerned with the water. Colardeau submitted copies of photos of the area before and after the 2006 Mother’s Day flood for the Board’s review.

Jill Colardeau indicated that she is less than .02 miles from the bluff on the Champagne project. This project is on the edge of the Andover and Salisbury town line. Colardeau said she would not purchase the property today knowing this operation might be up and running. Colardeau bought the property in the Forest and Agricultural district. Colardeau stated that the operation won’t be light industrial, but heavy industrial. It is a mining operation.

Warzocha asked about how many years does Champagne proposes for the project. Champagne indicated about 15-20 years.

Warzocha made the motion to close the Public Hearing at 8:50 p.m. Bowers seconded the motion. All in favor. The deliberations were tabled until the next scheduled ZBA meeting on Tuesday, May 21, 2019.

The Board recessed the meeting at 8:50 p.m.

The Board resumed the meeting at 8:55 p.m.

**PUBLIC HEARING FOR VIANDIER for a Special Exception for a Tiny House on Hoyt Road (Tax Map 15-730-346)**

The Public Hearing opened at 8:55 p.m.

Viandier described the “Yurt” that she proposes to put on her Hoyt Road property. The property is located in the Agricultural Residential District. A Tiny House is a permitted use by Special Exception in this district.

The Yurt is approximately 315 square feet. Viandier provided plans for the Yurt in the Special Exception application.

The Yurt will have a 50-gallon tank for a compost toilet which is capped off every two years.

The Yurt will have a small generator for electric.

**Public Comment**

Armand Boisvert asked where the driveway will be. Viandier explained it is off of the Hoyt Road portion of the property. Viandier has already obtained the approved driveway permit from the Town Road Agent.

Boisvert asked about a septic system. Viandier will not have running water and by State law a septic is not required. Viandier explained the property will not have an electric composting toilet but a dry slow composting system.

Viandier indicated that the property will also have a dry well with gravel for grey water.

Boisvert is not in favor of this proposal, however, but he noted that Viandier met all standards.

Bowers closed the public hearing at 9:15 p.m. Warzocha seconded the motion. All in favor. The public hearing was closed at 9:15 p.m.

Deliberations began at 9:15 p.m.

After review and discussion, Bowers made the motion to grant the special exception on the condition that Viander provide proof that the gray water dry well system complies with all State of New Hampshire Department of Environmental Approvals. Warzocha seconded the motion. All in favor. The Special Exception for the Tiny Home is granted with the condition listed above.

Bowers made the motion to adjourn the meeting. Warzocha seconded the motion. All in favor. The meeting adjourned at 9:16 p.m.

Minutes prepared by Patricia Moyer in the absence of Lisa Meier, the Zoning Board of Adjustment Secretary

ATTENDANCE:

Marj Roy, Andover Town Administrator

Matt Serge, Attorney for Town of Andover

Chris Seufert, Attorney for Champagne’s

Jon Champagne, Applicant

Joanne Champagne, Applicant

Nan Champagne Davis, Applicant

Jeffrey Raymond, Applicant

Chris Champagne, Applicant

Jon Bentley, Salisbury, Applicant Representative

Cheryl Bentley, Salisbury – Aries Engineering for Applicant

Webster Stout, Canterbury – FWS Land Surveyor for Applicant

Seth Greenblatt, Attorney, for Lois Levick, Andover Resident, Abutter

Chuck Keyser, Andover Resident

Jill Colardeau, Andover Resident, Abutter

Stephen Colardeau, Andover Resident, Abutter

James Steiner, Attorney for Colardeau’s

Joseph Schmidl, Town of Salisbury, Planning Board Alternate Member

Heather Wood, Andover Resident

Penny Allen, Andover Resident

Eric Allen, Andover Resident

James Tatakowsky, Andover Resident

Donna Crisp Duclos, Andover Resident

Armand Boisvert

Sophie Viandier