

**Town of Milford  
Zoning Board of Adjustment  
July 11, 2019  
Case #2019-13  
Burbee Sand and Gravel**

**Special Exception**

Present: Steve Bonczar, Chair  
Rob Costantino  
Wade Scott Campbell, Alternate  
Lincoln Daley, Community Development Director  
Paul Dargie, Board of Selectmen Representative

Absent: Joan Dargie, Vice Chair  
Michael Thornton  
Tracy Steel  
Karin Lagro, Alternate

Secretary: Peg Ouellette

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. He read the notice of hearing and invited the applicant to present the case.

Nathan Chamberlin of Fieldstone Land Consultants came forward, representing Burbee Sand and Gravel. He said the project had been around for several years and had progressed through several stages. The last was Stage 8, which he pointed out on the aerial photo. Last year he went out of Stage 8 a little and was notified he needed a permit. Had been working on that for the last year. He obtained the permit. Recently it came to the Town's attention that they were processing material. It was okay to take the material out, but processing required a special exception. It had been processed over twenty years and they were just now getting in line with the ordinance, asking for special exception. Basically, sifting and sorting it. He said you would get large rocks which are set aside to be crushed. Will be doing sifting, screening and crushing on a limited basis, as needed. Some piles in Stage 8 needed to be harvested. In Stage 9, which was currently being worked, they will take material out and screen. Harvesting of natural resources was allowed under 5.04.1.D, but processing of natural resources required a special exception. He offered to go into all the details.

S. Bonczar wanted to know how the process was done and what was done to mitigate noise.

N. Chamberlain said screening would be done in Stage 8 and moved into newer phase for screening and only large boulders would be crushed. Crushing was limited. Screening was ongoing. Not much noise associated with screening. Area was limited, remote in the woods with nothing around.

S. Bonczar asked where the closest residence was.

N. Chamberlain said on North Mason Road, several hundred feet away.

S. Bonczar didn't believe screening made no noise. Dumping rocks into the screener and motion to get rocks separated would make noise. He asked if the screening would happen within the 8 acres where it was going to be located.

N. Chamberlain said it would be as close to the operation as possible. Currently on the edge of 8 and 9 and he was assuming they would be moving close to excavate.

S. Bonczar asked about existing cut.

N. Chamberlain pointed out on the map. They were cutting into a slope. Doing lower tier and then some above.

S. Bonczar asked him to point out on the map where screener would be.

N. Chamberlain said they would be working their way in. It was only four acre parcel. Pretty minor. He pointed out current area.

Applicant, from the audience, said they would probably only move one more time to a midpoint.

S. Bonczar asked about hours of operation. Seven days a week? What time in the morning?

Applicant said typically 7 a.m.

N. Chamberlain said 7 to 5, Monday through Friday. No processing or excavation shall be allowed on a legal holiday. So, occasionally a Saturday, but not on Sunday.

S. Bonczar said area was four acres, not eight. It was an eight acre parcel, but only excavating four.

N. Chamberlain said it was several hundred acres.

S. Bonczar said they were working on four of those eight acres. He asked if there were any other questions.

R. Costantino said N. Chamberlain had mentioned houses. Was Mile Slip Road the only way to get in?

N. Chamberlain said access was from North Mason Road and in Brookline and houses were in Brookline. Nothing in Milford.

W. Campbell asked if trucks were going down Mile Slip Road.

N. Chamberlain said no.

R. Costantino asked L. Daley if people on Mason Road were notified.

L. Daley said only direct abutters.

R. Costantino asked if they were direct abutters.

L. Daley said no.

N. Chamberlain said they were dealing with 58-3, 58-1 and 58-2.

W. Campbell asked if this was Phase 8.

N. Chamberlain said Phase 9.

W. Campbell asked the location of Phase 8.

N. Chamberlain pointed it out.

W. Campbell asked if there was any activity on there.

N. Chamberlain said some stockpiles, and need to reclaim it, clean it up.

W. Campbell asked the last time any activity on Phase 8.

Applicant said about a year ago. Not action for over a year. The closest houses were at least a mile away. Hundreds of acres there with nothing around. This was completion of whole process.

R. Costantino asked when it would be completed.

N. Chamberlain said the plan said three years.

R. Costantino mentioned a subdivision in Brookline off Mason Road. That was where no material would go.

S. Bonczar said it was not going far. No other questions? He was concerned about houses near and hours of operation. 7 to 5 was reasonable. From what was said, screening was located in the pit area where excavation was happening and not close to the houses or anything else.

L. Daley had one question. It did about conservation land in Mason. Any kind of dust mitigation planned?

N. Chamberlain said nothing more than typical for this.

Clarence Farwell of Brookline (one of applicants) came forward. He said conservation was at least 30 ft. above the excavation area.

N. Chamberlain said the prevailing winds were east.

C. Farwell said there was a vegetated buffer.

S. Bonczar said it typically didn't cause a lot of dust.

C. Farwell said they used water.

S. Bonczar asked if there were any other questions. None. He opened public comment.

Liz Fletcher, a member of the Mason Conservation Commission, came forward. She said dust was one of their concerns. Dust control would be done by water trucks, from what was said. When would they start seeing dust?

C. Farwell said, as necessary. When dump trucks come through. Trucks created more dust driving in and out. That day it had started to get dusty, but then the rain took care of it. As necessary.

L. Fletcher said sometimes it was dust you couldn't see that was worse for breathing. That was the best they could do, but they hoped they could keep it from getting too bad – would be bad for the men working there. From the way it was described, the processing equipment was moved to the place for processing. How close to the town line?

C. Farwell said it would be hundreds of feet from the town line.

S. Bonczar said, they were not excavating up to the town line?

C. Farwell said no.

L. Fletcher said excavation site was within 50 feet but machinery won't. Machinery needed lubrication. When it was fueled, did they use a pad so it was not dripping? Years ago Mason had been fueling trucks and had a problem because it was going into the ground.

C. Farwell said they used rags. Fuel was expensive.

L. Fletcher said any pad or a nozzle.

C. Farwell said they make absorbent pads and rags.

L. Fletcher said rags were not good for the ground.

C. Farwell said on the machinery. When you shut the fuel pump off no more potential for leaking. They used good quality rags.

L. Fletcher said the Conservation Commission was concerned about air quality. Sand was in a pit?

Farwell pointed contours.

R. Costantino said that helped control dust materials.

C. Farwell said down in the hole. It gets dusty.

R. Costantino said most would tend to stay.

C. Farwell said in the hole.

S. Bonczar said concern was that processing material there would not cause much more dust than actual mining, which was already approved. They were there to give relief on the actual processing of the material. You could have dust dumping it into the dump truck.

R. Costantino said it sounded like it was naturally controlling dust.

S. Bonczar said on top of the hole you could have a bigger issue with dust moving to where you don't want it. He asked for anything else from the public. Nothing. He closed public comment and moved on to discussion of the special exception criteria.

### **1. Was the proposed use similar to those permitted in the District?**

W. Campbell believed so, considering the location. It had already been going on for quite a few years. He hadn't heard of any other issues with that area.

R. Costantino agreed. It was a remote location for processing.

S. Bonczar said under Residence R district, Sec. 5.04.1.D, Harvesting of natural resources was an allowed use. They were asking by special exception for processing in that place, and it was allowed by special exception if the criteria were met.

### **2. Was the specific site an appropriate location for the proposed use?**

R. Costantino said that was what he was answering before.

S. Bonczar said they went together. It was an existing gravel operation. They were trying to mitigate any adverse effects of the processing by keeping it as close to the harvesting as possible. Operating only between 7 to 5. He thought it was an appropriate location.

### **3. Would the use as developed not adversely affect the adjacent area?**

R. Costantino said it was a very remote site. Nearest neighbors were quite a distance away.

W. Campbell agreed, since they were taking measures to make sure it fell within that.

S. Bonczar agreed. The use would be use of the equipment for processing and would not adversely affect the adjacent area. Agreed that, based on the equipment in the excavation site, there would be no adverse effect

**4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

R. Costantino said they talked about dust and noise. Didn't think it was an issue for vehicles or pedestrians.

W. Campbell said not on the Milford side.

S. Bonczar agreed. It was remote. Didn't see the use would make it any worse or better.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.**

R. Costantino said they had a permit from the Planning Board and State and it sounded like they had been doing this, so they knew what they were doing.

S. Bonczar agreed. They were going through the permitting process. In their testimony establishing proper use of equipment in the location by its positioning and hours of use, etc.

S. Bonczar asked if anyone had anything to add. No.

S. Bonczar moved on to vote on the Special Exception:

**VOTE: On Special Exception:**

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

W. Campbell – yes

R. Costantino – yes

S. Bonczar – yes

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

R. Costantino – yes

W. Campbell – yes

S . Bonczar - yes

S. Bonczar said, based on the vote, the criteria for special exception had been satisfied. The application was unanimously approved. He reminded applicant of the 30-day appeal period.

There being no other business S. Bonczar asked to adjourn.

R. Costantino moved to adjourn. W. Campbell seconded.

All in favor.

Meeting adjourned at 7:35 p.m.

**Town of Milford  
Zoning Board of Adjustment  
August 1, 2019  
Case #2019-17  
San-Ken Homes, Inc.  
Special Exception**

Present: Steve Bonczar, Chair  
Rob Costantino  
Michael Thornton  
Wade Scott Campbell, Alternate  
Karin Lagro, Alternate

Lincoln Daley, Community Development Director  
Paul Dargie, Board of Selectmen Representative

Absent: Joan Dargie, Vice Chair  
Tracy Steel

Secretary: Peg Ouellette

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. He read the notice of hearing and invited the applicant to present the case.

Ken Lehtonen II, Vice President of San-Ken Homes came forward. He was contractor under contract to build a home and owner would like to finish off an in-law apartment for her mother and father.

S. Bonczar asked if it would be in the basement.

K. Lehtonen said in a daylight basement.

M. Thornton asked about room for an egress window.

K. Lehtonen said yes.

M. Thornton asked if it was a sliding glass door.

K. Lehtonen said yes and referred to last page.

After some discussion between Board members, it was determined which picture it was.

K. Lehtonen said if you came up the drive there would be a fork in the driveway.

L. Daley asked how big the ADU would be.

K. Lehtonen said 743 SF.

S. Bonczar said under the 750 allowed. It had access to the upstairs.

K. Lehtonen said yes.

S. Bonczar said that was required. He assumed L. Daley went through all the checkboxes.

L. Daley said yes.

K. Lehtonen said he did one a year or so ago.

R. Costantino he went through all the applicant's comments. Had no issue.

M. Thornton agreed.

S. Bonczar said L. Daley reviewed everything and wrote all the requirements for an ADU.

K. Lagro said the septic was adequate.

S. Bonczar said in this case it was easier on a new build. He asked for comments from the public. None. He asked for questions from the Board. None. He closed public comment and moved on to discussion of the special exception criteria.

**1. Was the proposed use similar to those permitted in the District?**

R. Costantino said yes.

M. Thornton said yes.

All others agreed

**2. Was the specific site an appropriate location for the proposed use?**

R. Costantino said it was new construction.

M. Thornton said it was entirely within the existing .....

S. Bonczar said it was within the criteria.

**3. Would the use as developed not adversely affect the adjacent area?**

S. Bonczar said there was no visibility except for the fork in the driveway.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

M. Thornton said no.

R. Costantino said no.

K. Lagro said no.

S. Bonczar said no.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.**

R. Costantino said they were building all that in the construction.

S. Bonczar said the review by L. Daley at the office showed they checked all the boxes off.

**VOTE: On Special Exception:**

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

**K. Lagro – yes**

**W. Campbell – yes**

**R. Costantino – yes**

**M. Thornton – yes**

**S. Bonczar – yes**

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

**R. Costantino – yes**

**K. Lagro – yes**

**M. Thornton – yes**

**W. Campbell - yes**

**S. Bonczar - yes**

S. Bonczar said, based on the vote, the criteria for special exception had been satisfied. The application was unanimously approved.

**Town of Milford  
Zoning Board of Adjustment  
August 1, 2019  
Case #2019-14  
Christine and Charles Gibson  
Special Exception**

Present: Steve Bonczar, Chair  
Rob Costantino  
Michael Thornton  
Wade Scott Campbell, Alternate  
Karin Lagro, Alternate

Lincoln Daley, Community Development Director  
Paul Dargie, Board of Selectmen Representative

Absent: Joan Dargie, Vice Chair  
Tracy Steel

Secretary: Peg Ouellette

Motion to Approve: \_\_\_\_\_  
Seconded: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. He asked that Alternates W. Campbell and K. Lagro be seated as regular members. Motion was made by R. Costantino and seconded by M. Thornton. All in favor. W. Campbell and K. Lagro were seated as full voting members. He read the notice of hearing and invited the applicant to present the case.

W. Campbell excused himself from this case, as he had an interest in it, and sat in the audience for this case.

Charles and Christine Gibson came forward.

Charles Gibson said they had been in town since 1990 and wanted to put up a garage on their property. Property had an easement drive back to the abutter's house and easement at Mile Slip Road. They were proposing to put a garage along the easement perpendicular to the house. Would be small box in the front with carport on either end. They had provided pictures. It would face west and then you would be able to look right through the carports and he would be able to drive down and park in either section. They had spoken to neighbors, and there were no objections from neighbors. Most, if not all, neighbors had garages. He felt the building would blend in with the neighborhood. Design would have an old barn type feel. 14 ft. tall in center and slightly smaller on each end.

S. Bonczar asked about the height of the walls.

Charles Gibson said from the back, at 14 ft.

Christine Gibson said the back was just 14 ft. The carport will not have walls. Will be dressed in the front and have barn-type pillars coming down.

Charles Gibson said he didn't have the exact number. Guessed about 12 ft.

S. Bonczar was guessing what the pitch would be. 12 ft. wall would be heavy and large looking with very shallow pitch. Trying to see how this would look being so close to that property.

Christine Gibson said they wanted to be as non-invasive as possible.

Charles Gibson said the same person they wanted to build it put in the porch on the back some years ago. House was a cape. Would not want very shallow roofline which would not match the cape.

S. Bonczar said the less shallow the lower the walls would be – 8 to 10 ft.

M. Thornton said he thought he heard that the carport would be a pull-in building with no sides.

Charles Gibson said that was correct.

S. Bonczar said open front to back.

Charles Gibson said yes.

R. Costantino asked if the stone wall was the property boundary.

Charles Gibson said yes.

R. Costantino asked if the private drive was owned by anyone.

Charles Gibson said yes.

S. Bonczar said on the map it looked maybe 50 ft. wide. If the easement was 50 ft. wide, didn't believe the drive was 50 ft. wide. Looked like the easement which went to the back lot and other to Lot 45-21-5. The right of way.

L. Daley had that. For clarification, it was actually two 25 ft. areas.

S. Bonczar said right. 50 ft. but two separate rights of way or splits.

L. Daley agreed.

R. Costantino said if he was planning to widen that, that could be a problem for snow.

Charles Gibson said it was water. That water had increased to the development across the way.

Christine Gibson pointed it out in the slide.

Charles Gibson said if they were to come to the Board and ask to widen that he would be surprised if it would be allowed due to that waterway.

S. Bonczar said that driveway wasn't paved. Didn't know if it sat in the middle of those two 25 ft. accesses.

L. Daley asked the applicants if construction of this would impact the stone wall or require removal of any trees.

Christine Gibson pointed out in the photo what was left of an old tree because it was lopped off years ago. That would have to come out. Wall would be pulled to remove that and then rebuilt.

Measurements of structure would be 12 ft. for one carport, 16 ft. for enclosed portion, and 12 for the other carport.

L. Daley said two pieces and one in the middle. 2 ft. from the property line.

S. Bonczar knew it was far enough into the setback.

L. Daley asked about the current structure.

Charles Gibson pointed out where the structure would go.

L. Daley asked if they had legal access to use that private right of way. There was a curb cut into that right of way.

Christine Gibson said when the house was built in 1990 they used that to come in and do all the building and work.

L. Daley asked if this structure would impact that.

Charles Gibson said no. They made it so that access past that will be the one carport. Then it will be the enclosed one and then the other carport.

Christine Gibson said they were very careful about setback from Mile Slip Rd. They had spoken to L. Daley first. Will make sure contractor maintains that setback from the road.

L. Daley said re talking with the neighbors, they had letters in the file saying they were okay with it. Did they consider any mitigation to block that structure? Along the 25 ft. right of way.

Charles Gibson said if you looked at the property you would see there were several concerns about the house. Will most likely dress it up with some shrubbery.

L. Daley said he asked because they were asked for relief from side setback 2 ft. from the property line. Part of that was providing visual mitigation.

M. Thornton said ..... would be deeper and broader.

Charles Gibson said one of the reasons they chose carports instead of completely enclosed.

S. Bonczar said he had questioned that at first.

L. Daley asked about the back side.

Christine Gibson said it would be a solid wall. Private drive and neighbor on the other side that had a two-story and it was on that side of the property. When they [neighbors] were in their house they would not see it. Pretty much distance – 50 ft. of road.

L. Daley asked if it was area he pointed out in the slide.

Charles Gibson said yes. They spoke to the neighbors before going to L. Daley.

S. Bonczar said for the record there were three letters – Exhibits A, B, & C. He read from the first one from Delages because they were all the same.

Christine Gibson said they were the ones most affected on the other side of the private drive.

L. Daley asked what alternatives were considered.

Christine Gibson said they considered going in line for the house which would still need a special exception. But thought esthetically for the whole house it would look too long.

Charles Gibson said it would almost look industrial. They talked about outdoor rooms. He pointed out greenhouse and fire pit with sitting area. They tried to create an outdoor living space. Could envision that big outdoor room, the main house, and carport and garage.

K. Lagro said in that spot it was so close.

Charles Gibson said to put closer would be really hard to pull into the drive.

K. Lagro said there was no room in the easement.

S. Bonczar said it was right up the middle of the two 25 ft.

Christine Gibson said there was enough room. Didn't usually get snow in that stone wall.

Charles Gibson said snow usually fell in the waterway.

R. Costantino asked if the town plowed it.

Charles Gibson said he would plow it.

S. Bonczar asked for any other questions from the Board. None. He opened public comment.

W. Campbell of 16 Mile Slip Road came forward, saying he owned the abutting property. Other half of the drive was his. Clarification : He pays for the plowing up to the trees. He didn't have a problem. Whatever the Board decided.

S. Bonczar asked for anything else. Nothing. He closed public comment.

S. Bonczar said they would proceed to discussion of the special exception criteria.

### **1. Was the proposed use similar to those permitted in the District?**

R. Costantino said this was a residential district. Special exception for a setback was allowed in the district.

S. Bonczar agreed. The request was the setback. Reason for the request being a garage not out of character with other houses within the district.

### **2. Was the specific site an appropriate location for the proposed use?**

R. Costantino said it was on the property on the side of the house. Normally setbacks they deal with were with abutter or neighbor. This didn't quite have that, with the road.

S. Bonczar said would be more concern if talking about two rights of way. If it was a more dense neighborhood in other parts of town.

M. Thornton said like a public street with a sight line .....

S. Bonczar said applicant was pushing it far enough off the road behind the 30 ft. so when the owners of the property come out they would have a clear sight.

R. Costantino said no visibility issue.

S. Bonczar said also the fact that it was opened up, which diminished the impact of the size of the structure. Re location, he could see where you could put it along the house but would probably still go into the setback. It was more esthetic than being attached to the house. As the applicants stated, if they turned it around getting in would be a problem.



**3. Would the use as developed not adversely affect the adjacent area?**

M. Thornton said no.

R. Costantino said they already talked about that.

S. Bonczar didn't think it would. It was on their side of the street and current drive was right up the middle of that 50 ft. – 25 and 25. He thought the consensus of the Board was that that was the case.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

M. Thornton didn't see a pedestrian walkway to be impacted.

R. Costantino said none of the abutters had an issue. They would usually bring that sort of thing up if so.

S. Bonczar said it was off the road and two properties will not have obstructed view in either direction.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.**

R. Costantino said there was no problem.

S. Bonczar said they had to get the permit to build.

S. Bonczar asked the Board if there was anything else to discuss. No conditions?

L. Daley suggested requiring applicants to restore the stone wall after.

R. Costantino thought if they stated it during the discussion, that was sufficient.

M. Thornton said it was in the record.

S. Bonczar said he had just stated it; assumed that based on the testimony that would remain.

M. Thornton asked L. Daley if he wanted them to have before and after photos.

L. Daley said no.

S. Bonczar said he heard the applicants state they would put it back – based on testimony they had wanted to.

S. Bonczar asked if there was anything else. Nothing.

**VOTE: On Special Exception:**

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

**K. Lagro – yes**

**M. Thornton – yes**

**R. Costantino – yes**

**S. Bonczar - yes**

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

**R. Costantino – yes**

**K. Lagro – yes**

**M. Thornton – yes**

**S. Bonczar - yes**

S. Bonczar said, based on the vote, the criteria for special exception had been satisfied. The application was unanimously approved. He reminded applicant of the 30-day appeal period.

**Town of Milford  
Zoning Board of Adjustment  
August 1, 2019  
Case #2019-15  
2C Builders, LLC  
Special Exception**

Present: Steve Bonczar, Chair  
Rob Costantino  
Michael Thornton  
Karin Lagro, Alternate  
Wade Scott Campbell, Alternate

Lincoln Daley, Community Development  
Paul Dargie, Board of Selectmen Representative

Absent: Joan Dargie, Vice Chair  
Tracy Steel

Secretary: Peg Ouellette

Motion to Approve: \_\_\_\_\_  
Seconded: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

Steve Bonczar, Chair, opened the meeting and introduced the Board members. He informed all of the procedures of the Board. He read the notice of hearing and invited the applicant to present the case.

Chris Brown and Christine Brown came forward. They said they were looking to purchase 244 Elm Street to bring in a manufacturing machine shop. Seeking a special exception to allow that.

S. Bonczar asked for more detail re working of a machine shop.

Chris Brown said they would have a small machine shop. A lot of prototypes. Not a lot of volume. UPS deliveries. Usually handle vehicles by themselves. Business had outgrown their current location.

R. Costantino asked where the current location was.

Chris Brown said in Brookline.

Christine Brown said in the back yard.

Chris Brown said there was not enough room.

S. Bonczar said it was very small.

Chris Brown said they were working on getting contract with the military for unexploded ordinance.

S. Bonczar said there was a lot of work to do in the interior. No major changes to the exterior.

Christine Brown said the footprint was more than adequate for their needs.

Chris Brown said they were planning on painting it for their needs and making it inviting for their customers.

M. Thornton said typically a bowling alley was a high powered structure. Will that be adequate?

Christine Brown said yes. Trelborg was feeding off the same, which was more than adequate.

S. Bonczar said it was the type of building you would build for a machine shop. Were they planning to put in any shipping garage doors?

Christine Brown said a large overhead door in the rear.

Chris Brown said they planned to put in a rollup door.

Christine Brown said when trucks come in, they had been in discussion with Trelborg to use their right of way around the back. It was a quick resolution so they didn't have to worry about it.

Chris Brown said he talked with the CFO of Trelborg, who was at the Planning Board meeting. Looking to make a deal to have their [Trelborg] employees park in their lot and use his right of way.

S. Bonczar said it was smaller manufacturing.

R. Costantino asked how often deliveries of steel.

Chris Brown said once a month for steel.

R. Costantino said it was very little volume.

Chris Brown said UPS came several times a week. Sometimes three. They very rarely ship UPS.

R. Costantino pointed out parking for employees.

Christine Brown said there was a taco truck out front, but even with that.. They wanted to continue that relationship. Even with the volume .....

Chris Brown said one a Friday there were 15.

M. Thornton said the facility across the street had been used for parking for their bigger vehicles.

Chris Brown said he did see that.

M. Thornton said the bigger ..... Using it would be to check their locks. As far as noise, they were coming from a back yard. Anytime it was noisy, doors are shut to keep it contained. Will not be adding to the noise of the areas.

S. Bonczar said there was manufacturing next door.

Chris Brown said the traffic noise was very loud. They had sat outside to see what they would hear. Didn't hear manufacturing; traffic drowned it out.

S. Bonczar asked the hours of operation.

Chris Brown said ..... Monday through Friday

S. Bonczar opened up public comment. None. He asked for any other questions from the Board. None. He closed public comment and moved on to discussion of the special exception criteria.

**1. Was the proposed use similar to those permitted in the District?**

R. Costantino said it was in a commercial district. It was manufacturing.

S. Bonczar said it was commercial. It was allowed by special exception. There was manufacturing next door.

R. Constantino agreed.

**2. Was the specific site an appropriate location for the proposed use?**

R. Costantino said there was plenty of room.

S. Bonczar said the location on Elm Street and type of building that existed, the use of this type of machine shop manufacturing would be an appropriate use.

M. Thornton said he owned a business at 222 Elm which was a strip mall and most problem was occasionally some of the overflow on late nights coming over to Blake's parking lot. That was the extent of any bother.

S. Bonczar said the scale of this, they would not be filling that parking lot.

K. Lagro said they would probably be the quietest out of all.

S. Bonczar agreed.

**3. Would the use as developed not adversely affect the adjacent area?**

R. Costantino said no.

S. Bonczar said no issue.

K. Lagro it was a good place for it.

S. Bonczar agreed.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

M. Thornton said it sat back from the road.

R. Costantino said it was all inside.

S. Bonczar agreed. It was off the road. Adequate acreage and square feet. More than enough for the proposed use.

K. Lagro said the ..... Of the manufacturing and other was .. .... Positive.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.**

R. Costantino said they looked at electricity.

S. Bonczar said he didn't hear anything to disagree with that.

K. Lagro said they had been storing in the basement.

**VOTE: On Special Exception:**

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

**K. Lagro – yes**

**W. Campbell – yes**

**R. Costantino – yes**

**M. Thornton – yes**

**S. Bonczar – yes**

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

**R. Costantino – yes**

**M. Thornton – yes**

**K. Lagro – yes**

**W. Campbell – yes**

**S. Bonczar - yes**

S. Bonczar said, based on the vote, the criteria for special exception had been satisfied. The application was unanimously approved. He reminded applicant of the 30-day appeal period.

**Town of Milford  
Zoning Board of Adjustment  
August 15, 2019  
Case #2019-07  
Ogie Brewing, LLC  
Request for Rehearing**

Present: Steve Bonczar, Chair  
Joan Dargie, Vice Chair  
Rob Costantino  
Michael Thornton  
Tracy Steel  
  
Paul Dargie, Board of Selectmen Representative

Absent: Wade Scott Campbell, Alternate  
Karin Lagro, Alternate  
  
Lincoln Daley, Community Development Director

Secretary: Peg Ouellette

Ogie Brewing, LLC, for the property located at 12 South Street, Milford Tax Map 26, Lot 157 in the Commercial zoning district is seeking a Special Exception of the Milford Zoning Ordinances per Article V, Section 5.05.2.A.4 to permit the manufacturing of craft beer products associated with a low-volume nano brewery.

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



1 S. Bonczar, Chair, opened the meeting and explained the procedures of the Board. He introduced the  
2 Board members.  
3  
4 S. Bonczar then stated that the agenda had two cases before the Request for Rehearing. Since J. Dargie  
5 had to leave early, they would handle this first because J. Dargie was a member of the Board for this case.  
6 It was not a public hearing. There would be no public comment. The Board would review the Request  
7 for Rehearing, discuss, and make a decision on whether or not to grant a rehearing. He assumed everyone  
8 on the Board had a chance to read the two requests: one from Alan Kaplan of LCimino, LLC and one  
9 from Buttermilk Falls, LLC.  
10  
11 J. Dargie asked if there was a separate rehearing request for Buttermilk Falls.  
12  
13 S. Bonczar said it was a request for both.  
14  
15 J. Dargie said she had only read one.  
16  
17 S. Bonczar said it was a request for rehearing. Anybody could do a request for two parties. They would  
18 review each request for rehearing and if on any one of them they agree there should be a rehearing, they  
19 would have a rehearing.  
20  
21 J. Dargie said she only saw one.  
22  
23 R. Costantino said he got both. They were both downloaded on the website.  
24  
25 S. Bonczar didn't know how they could do it.  
26  
27 J. Dargie said there may be a request from one party they didn't agree with, but the other one is the one  
28 they do.  
29  
30 S. Bonczar said if they felt one or the other deserved a rehearing there could be a rehearing.  
31  
32 R. Costantino said they would both have the same result.  
33  
34 S. Bonczar said if there were ten requests, if they felt any of them was valid they would have to have a  
35 rehearing.  
36  
37 J. Dargie said she could read it then, while they kept going.  
38  
39 S. Bonczar wanted to be sure she had time to look at it. He explained procedure. They would ask for  
40 comments on each request. If either one warranted a rehearing they would end up asking for a motion  
41 and vote on that.  
42  
43 M. Thornton asked which to proceed with first.  
44  
45 S. Bonczar said Buttermilk Falls. He had reviewed it and took a lot of notes. They also want to curb the  
46 discussion to actual request for rehearing and not rehash the case. The case was closed. It was a matter  
47 of looking at documentation given and determining whether there was substantial and compelling

1 evidence to warrant, or evidence they made an error in some way, or whether there was new information  
2 provided in the request.  
3  
4 M. Thornton made the observation that it was unique to have an objection to a decision that had not been  
5 made. He understood the concerns of both applicants.  
6  
7 S. Bonczar asked what he meant.  
8  
9 M. Thornton said this was a motion for rehearing with initial proposal request, which proposal or request  
10 had not received a yes or no.  
11  
12 S. Bonczar said yes, it had. On June 20 they approved five conditions. This request for rehearing was to  
13 re-look at the case.  
14  
15 M. Thornton said no operation had taken place, no complaints. They had a right to appeal. It was  
16 seemingly directed at imposing many expensive restrictions. He found some very valid concerns and  
17 some uncommon fears. Concerns were based on facts.  
18  
19 S. Bonczar asked if any concerns that had not been discussed at previous meetings.  
20  
21 M. Thornton said no.  
22  
23 S. Bonczar said they were not going to rehash the case.  
24  
25 M. Thornton said that was what he was trying to get to. Didn't find any concern based on this had a  
26 point. "you made a mistake based on A,B,C."  
27  
28 S. Bonczar said it didn't have to be a mistake, also any substantially new information or complaint, if it  
29 was that different from what was already heard. Applicant had a right not to be tried multiple times.  
30  
31 M. Thornton said that was his point. Attorney Quinn and Mr. Kaplan did explain proposal of putting their  
32 fence and their expert made some pointed recommendations which were in the minutes and part of the ...  
33 His point was he had no concern except for a few typos in the application for the rehearing – Attorney  
34 Quinn's, page 5, second paragraph from the bottom that referred to both 16,000 barrels of beer and  
35 16,000 gallons of beer.  
36  
37 S. Bonczar asked where he was reading. Focus not to the minutes or material from the case.  
38  
39 M. Thornton said form the motion for rehearing. He would hold his comments unto he could find it.  
40  
41 R. Costantino said he read both the Buttermilk and the other. He didn't see any errors or any talk of  
42 error in their procedure or new information. It implied conditions had changed but he didn't see any  
43 difference.  
44  
45 S. Bonczar asked T. Steel.  
46 T. Steel said she had nothing to add.  
47

1 J. Dargie said the only thing she was going to offer was that most of the items were things that could be  
2 worked out with the applicant. Basically there were conditions covered, but not to the detail. Conditions  
3 should not be getting into detail.  
4

5 S. Bonczar said he looked at the Buttermilk Falls objection to the scope of the conditions. Same as the  
6 conditions in the tattoo. They spent three meetings and 63 pages of minutes. They made sure applicant  
7 and abutters were heard and took time to make sure conditions were just for both in a reasonable manner.  
8 This [request] failed to take into consideration the amount and focused on not liking the conditions. He  
9 didn't see any substantial new and compelling information that said they forgot something. Also concern  
10 about the stack – it was established quite clearly that the applicant was moving to use the condenser not  
11 the stack for the brewing. But the fact was there was no electric heating of the kettles. It was using  
12 propane and that he had been venting gasses like a restaurant. He didn't see anything persuasive here. It  
13 said they made assumptions.  
14

15 J. Dargie said also their expert testimony was also making assumptions.  
16

17 S. Bonczar said he looked at the minutes and the expert also said the condenser was usable itself. It was  
18 not just one situation with the stack which this dwelt on. In his opinion, he took offense from this in that  
19 it stated that the Board seemed to have no interest in the adequacy of the ventilation. They spent a lot of  
20 time on this. The Board deserved an apology on that. They spent three meetings and reams of data, and  
21 saying they lost interest in that was ridiculous.  
22

23 M. Thornton said in the past if they had empirical data if somebody would come forward as might  
24 become appropriate would make sure it was within their scope.  
25

26 S. Bonczar said it talked about Condition 4 being vague because it failed to define what is meant by  
27 "storage". The fact is that 3, 4 and 5 needed to be taken together. He didn't see anything compelling that  
28 stood out that they should have considered.  
29

30 R. Costantino agreed.  
31

32 J. Dargie said all of this being based on an assumption that there would be obnoxious odors and they had  
33 no ...  
34

35 S. Bonczar said the whole case was based on that.  
36

37 J. Dargie said they had to go on best knowledge and that was what they did.  
38

39 M. Thornton said they had to go on statements of the applicant.  
40

41 S. Bonczar said they listened to Buttermilk Falls and tried to accommodate them and protect the rights of  
42 the applicant.  
43

44 J. Dargie asked if they would be voting.  
45

46 S. Bonczar said at the end.  
47

48 M. Thornton asked it was appropriate to do a motion to .....

1 S. Bonczar said not if they do them together.  
2  
3 R. Costantino said the result would be the same.  
4  
5 S. Bonczar said as he screened the materials in Buttermilk Falls, the material didn't warrant rehearing,  
6 correct?  
7  
8 Others agreed.  
9  
10 S. Bonczar said, re Kaplan, Cimino, LLC, it said that was, in his opinion, similar.  
11  
12 J. Dargie said it was specifically mentioned as not received the 5/16 memo sent to the Board because she  
13 was not in the meeting. She read several line items in that memo and crafted the conditions out of the six  
14 issues. She went down it as far as doors in the area and storage. That was a landlord issue. They don't  
15 know who had the right of way. They talked about all issues. Nothing new.  
16  
17 R. Costantino said the eight issues he outlined were discussed at length at the hearing.  
18  
19 M. Thornton said he was only seeing six. Were there two others?  
20  
21 S. Bonczar referred him to page 1 of 12.  
22  
23 M. Thornton said he had only two. File 2019-07  
24  
25 S. Bonczar said they were talking about 6 within.  
26  
27 T. Steel said nothing to add.  
28  
29 S. Bonczar said it was focused on the stack being used as originally proposed and the way it was going to  
30 be used. The stack existed there today. He found similar disagreement with the Board scope and detail  
31 with the conditions as with Buttermilk Falls. The focus on the existing stack to be used as boiler venting.  
32 It mentioned it was based on the fact the applicant would use industry standard condenser and existing  
33 stack would be used for heating of the kettles. Not primarily used as venting for all vapors from the  
34 actual process of the heating. It talked about taking on the attempt to mitigate. That meant to alleviate or  
35 lessen. The Board couldn't guarantee anything. They were not experts. They listened to testimony from  
36 the abutter and applicant and read through pages and pages of expert testimony supplied by the petitioner.  
37  
38 M. Thornton said both applicants seemed to be saying that the town ordinance demanded that they not  
39 open whenever possibility existed for anyone to be offended. He didn't believe that to be in this because  
40 you cannot assure that under any circumstances.  
41  
42 S. Bonczar said they talked about what was offensive to one person was not offensive to someone else.  
43  
44 J. Dargie said only thing concerned her. Cases were submitted as two separate requests. If this were to  
45 go to Superior Court they would go separately.  
46  
47 S. Bonczar said they could take two votes.  
48

1 J. Dargie said to call them #2019-07A and 7B.  
2  
3 S. Bonczar asked for motion to approve the motion for rehearing as submitted from Buttermilk Falls,  
4 LLC. There was no motion, so he said died.  
5  
6 S. Bonczar asked for motion to deny the motion for rehearing from Buttermilk Falls, LLC.  
7  
8 J. Dargie made motion.  
9  
10 R. Costantino seconded.  
11  
12 S. Bonczar said they were voting to deny the request.  
13  
14 J. Dargie said, referring to #2019-07A  
15  
16 **Vote to deny:**  
17  
18 **T. Steel – yes**  
19  
20 **R. Costantino – yes**  
21  
22 **J. Dargie – yes**  
23  
24 **M. Thornton – yes**  
25  
26 **S. Bonczar – yes**  
27  
28 S. Bonczar said on Buttermilk Falls it was a unanimous decision to deny the motion for rehearing.  
29  
30 S. Bonczar asked for a motion, re Kaplan, Cimino, LLC, to approve the request for rehearing. No motion.  
31 He said that died.  
32  
33 S. Bonczar asked for a motion to deny the request for rehearing from Aaron Kaplan.  
34  
35 J. Dargie made a motion.  
36  
37 R. Costantino seconded.  
38  
39 **Vote to deny:**  
40  
41 **M. Thornton - yes**  
42  
43 **T. Steel – yes**  
44 **R. Costantino – yes**  
45  
46 **M. Thornton – yes**  
47  
48 **S. Bonczar – yes**

- 1 S. Bonczar said both requests for rehearing Case #2019-07, Ogie Brewing, had been denied by unanimous
- 2 vote.
- 3
- 4 J. Dargie mentioned the second vote should be noted as for #2019-07B

DRAFT