

**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

**FINAL MINUTES OF THE 7/11/19 ZBA CASE #2019-13 WERE APPROVED 10/17/19**

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 abut 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.