

TOWN OF CENTER HARBOR  
ZONING BOARD OF ADJUSTMENT

Monday, June 14, 2021  
7 p.m.

**Per the Governor's order, as of June 11<sup>th</sup> at midnight, virtual meetings are no longer allowed.**

**All Board meetings are to be in person; therefore, this meeting was held at the Municipal Building, 36 Main Street in the Cary Mead. Due to the short notice of the in-person meeting, the Chair provided Zoom access for those members of the public that had planned on joining remote. Any meetings subsequent to this June 14<sup>th</sup> meeting will be in person only.**

In attendance: Chair Bernie Volz, Vice Chair, Jean Meloney, Members, George Lamprey, Karen Ponton and Stephany Marchut Lavallee. Alternate Member Gregory Hime. Zoom access Alternate Member Susan Patz.

**Voting Members: Bernie Volz, Jean Meloney, George Lamprey, Karen Ponton and Stephany Marchut Lavallee. Chair states Susan Patz can participate but the people that are physically present will be the voting members Susan understands and confirms.**

While the agenda has other items, the Chair decides to move to item II on the agenda which is to continue the Public Hearing for Ambrose Bros, Inc. application to amend their Special Exception approval from January 28, 2002.

**I. MINUTES:**

Approval of the May 10, 2021, minutes. There were some corrections along with a request from Member George Lamprey regarding a statement made by Rob Ambrose in regard to transporting material on College and Keyser Roads. Some members of the Board wanted to approve the minutes as corrected, Member George Lamprey wants to make sure the statement about truck travel on College and Keyser is accurately documented, Clerk states she would prefer she make the corrections first because people view her minutes on a regular basis and she wants them to be accurate. Clerk will listen to this section of the recording again and adjust the minutes where necessary for Board to review and approve at their next meeting. Board deferred the approval of the May 10<sup>th</sup> meeting to their next ZBA meeting.

**II. PUBLIC HEARING –AMENDED SPECIAL EXCEPTION AMBROSE BROS, INC. CONTINUED FROM MAY 10<sup>TH</sup> 2021.**

Chair states he is going to continue the hearing emphasizing that the Board wants to focus on new information and not restate items that have already been thoroughly discussed at their last meeting. Hopefully, everyone has read the meeting minutes from May 10<sup>th</sup>. Chair turns the meeting over to Attorney Fitzgerald.

**Attorney Fitzgerald of Wescott Law in Laconia:**

Rob and I met and went over the complaints from the last meeting. We were asked what if anything we would be able to modify. Regarding the abutter concerns, one thing that we discussed is that there have not been any complaints to Ambrose over the years. No visits from the Police or letters or calls from any town officials nor did he receive any calls from any of the abutters. This meeting was noticed publicly to the surrounding communities, that was the appropriate things to do and yet none of those agencies were here to discuss or weigh in on any of the issues that have been brought up. This operation has been in place several years, Mr. Ambrose lives in Center Harbor and the track record they have developed throughout the state, locally and amongst their neighbors speaks volumes.

If there were significant problems out there with noise, with dust, with fumes or pollution or anything along those lines, town officials would have heard about it and acted on it long ago and they have not looked into it because there haven't been any complaints or concerns. The other concern from abutters was what if Ambrose sells the business, that can happen at any business at any time. Mr. Ambrose and I spoke there are no such plans to sell. Is

it reasonable to wonder about that, yes, but it's pure speculation and not a reason for the Board not to grant these approvals.

With that I would like to address specifically the modifications to make this more palatable for the Board. Regarding the crushing operation, there are limits on the maximum number of days. We would like the Board to grant 12 weeks of crushing operations. They are not planning on running the crusher June, July and August but rather have the flexibility to space out the operation to fit with the need for material throughout the year. We would like to go 12 weeks but not consecutive weeks rather spread out throughout the year.

Regarding the number of vehicles at the present time the limit is 25 trucks a day. We believe the appropriate amount would be 75 round trips per day. Given the amount of traffic that travels on that roadway, we don't think that the additional 50 round trip trucks per day will be noticeable. The activity has to take place where the resource is which is the existing pit. Rob and I can answer any questions you may have, thank you for your time.

**George Lamprey:** Relative to the absence of complaints, you spent a lot of time in the introduction addressing those issues, given the testimony of the first meeting, it was pointed out that one of the reasons there may not have been many complaints is that there were known parameters to their activity and that their acceptance of a set number of weeks. I guess my question to you, could that not explain at least to some degree, the absence of complaints? There is no question about the good corporate citizen by the way, I think we all agree to that.

**Attorney Fitzgerald:** Yes, that could be an explanation, and again we've put limitations on what we've proposed this evening. As equally a rational explanation is that the fact that there is no, as your ordinance refers to obnoxious use, occurring over there. That section was in place at the time this special exception was granted, it predates the special exception by approximately 4-5 years if I remember correctly. A determination was made at the point to allow this type of use. Is your point well taken? Certainly. If this is specific to the noise of the crushing, that is a relatively minor noise to other activities that can occur, so I don't think the increase of the crushing volume creates much of an impact.

**Chair Bernie Volz,** just for the record the Obnoxious Use section was added March of 1998 or at least modified some way which is before the 2002 granting of the Special Exception by the ZBA.

**Member George Lamprey,** Excavation, Removal and Filling of Lands was added in March of 2013, just to point out. Another question, you also spoke about the absence of planning to sell, it's good to remember, audience and Board Members, that the issues are about activity and not ownership we really need to focus on that. I have a few questions from the last meeting, in your application you have a comment on C:2:2 (reads section), I just wanted to ask what you mean by that because at some point you mentioned during the summer months having foliage that might lessen the noise but I just found that to be a very interesting sentence so I just wanted you to expand on that you meant by that.

**Attorney Fitzgerald:** Sure, the thrust of that is that, the activity is taking place and there are certain levels of impact as a result of the activity itself and that the limitations specifically, the 3 that were in discussion this evening and last month, don't particularly do anything that results in a diminution of those impacts to a significant degree. For example, the truck count, I don't know if anyone has ever stood outside the driveway there and actually counted the trucks going in and out, I kind of doubt it. The fact of the matter is the volume on that roadway is so significant that even the casual observer would look at that and say 25, 50 even 150 trucks or more is insignificant to the total volume going up and down that roadway. A limitation of 25 or 50 trucks really does not do anything to deter the rural character of the neighborhood or anything along those lines. Same is true taking the 8-10 qualifications, modifying the 3 we discussed last month and this evening don't seem to impact on the surrounding neighborhood. The noise of the crusher is simply not that significant based on the testimony of Mr. Ambrose regarding the decibel levels. When the leaves are on the trees that reduces that noise even more so.

**Member George Lamprey**, relative to the discussion traffic on College and Keyser Road. I thought there was a comment made by the applicant that the only traffic on those roads would only be if that was the destination point but I didn't see it in the minutes so I'm questioning whether or not I heard that.

**Rob Ambrose**, I believe I did make that comment.

**Alternate Member Gregory Hime**, I recall that statement being made and also a discussion regarding load limits and no through traffic.

**Member George Lamprey**, I just want to affirm that was an accurate statement and if so, I would like that reflected in the minutes. (Clerk will refer to the recording and amend the minutes upon confirmation these statements were made).

**Alternate Member Gregory Hime**, there was also discussion about signage and no through trucks.

**Vice Chair Jean Meloney**, I have a question about the trucks and noise itself. I haven't been to the pit and so I don't know where they load up but there is a certain amount of noise when a dump truck fills up, dumps or backs up. I'm not sure what the decibel levels are on that back up beeper in regard to the surrounding neighborhoods but I can tell you I hear it in my yard frequently and I have to tell you, I would rather not. The other thing regarding traffic, yes, there are trucks that go down rte. 3 but when something comes out of a driveway there is a whole other decibel level as it revs up and changes its gears to get out onto the roadway. So, there are other noise concerns when you increase a truck load from 25 to 75. I think we have to look at the broader picture here not just the trucks on the road but trucks getting onto the road or trucks getting to the aggregate itself and what kind of noise levels that entails.

**Chair Bernie Volz**, I would add to that, you are increasing the level of activity if you've got 25 vehicles coming in and out every day that's one level of activity, then 50 or 75 coming in and out that's another level of activity which means the crusher needs to run more often to provide more material. That's just another consideration, the level of activity. Again, not just the nature of the vehicles but the nature of the activity required to support that increased traffic.

Someone from the public tried to ask a question, Chair Volz states at this time they will not be taking any input from the public. The Board will ask their questions and then the Chair will be making a statement before he opens up questions from the public.

**Member Stephany Marchut Lavallee**, you addressed to change items A and C, what about item B?

**Attorney Fitzgerald**, we are not proposing a change there.

**Chair Bernie Volz**, they are asking to eliminate that all together.

**Chair Bernie Volz**, I have a few comments to make the Board and the public aware of. These are factual statements we as a ZBA do have the power to put on Special Exceptions (Chair reads from RSA 674:33 which was on display for the public in attendance and those attending via Zoom). Chair also states Special Exceptions run with the land not with the owner (Displays § 23.05 to the public in attendance and those attending via Zoom). Regardless of if it's 6 months from now or 30 years from now the new owner will also be able to make use of these changed special exceptions. Chair shows the Town Ordinance 8:1:1 specifically refers to 8:1:1:3. To set everyone straight, you can see by the Town Ordinance that both the AR and CI zones allow for gravel pits by special exception. The display of the zoning map is put on screen for all to review which provides the location of the Ambrose properties (3 parcels) indication of purple color code is for the CI zone and the green color is the line of the AR zone. Ambrose is in both districts. Chair apologizes for stealing Ambrose logos off their website but felt it was an easier way to show where his properties were. Rob had no problem with the use of his logos. Display of Meredith Town Line is shown which Chair didn't believe there was anyone from Meredith that came in. Notification was sent to Lakes Region Planning Commission due to the regional impact of this request and

have received nothing back from them. Jean Meloney corrected the Chair and stated there were people from Meredith on the Zoom call last month. Chair apologizes and states he had missed where they were from. Ordinance 4:4 discusses Obnoxious uses along with 4:4:2 which pertains to the Excavation although that is really about the pit is under the supervision of the Board of Selectmen and there are also other RSA's that apply to their operation for example the blasting. I just wanted to highlight those conditions. Chair asks if Gregory Hime had something to add.

**Alternate Member Gregory Hime**, in regard to 12 weeks of crushing materials, have you written up a specific schedule for that? In consecutive months, year-round, etc.

**Rob Ambrose**, the idea of having inventory more strategically planned throughout the year would guide that schedule. Increase inventory in spring and replenish in summer and then replenish in fall early winter is the general idea to make up the 12 weeks. We have not put together an elaborate plan just the nature of the business.

**Alternate Member Gregory Hime**, I think moving forward I would like to see something more specific because I look at modifying this current exception that is specific to something broader, I think should be discussed.

**Rob Ambrose**, the specificity of it as we discussed before, is just based around the nature of construction, we figured you would want something more specific but it is more advantageous to us not to have it specified due to demand or a project someone else is doing. Things that just come up and the demand for the product is something we cannot predict.

**Alternate Member Gregory Hime**, these conditions have something in there for some flexibility due to weather which is out of our control.

**Member Karen Ponton**, just to understand the nature of your business a bit more, are there months of the year in general that you are not able to crush? For example, in this area is it unlikely someone would crush in December and January.

**Rob Ambrose**, December is fine January depending on the weather may be doable but February I would say never. It's generally a time just the seasonal time of construction in the area, but in February even if we wanted to I would say it's not possible.

**Vice Chair Jean Meloney**, with you leaving it open ended with not specifying and being vague about the 12 weeks, you kind of put it back into our court to determine that for you on which weeks you could do it. Without you being specific with us, we can then become specific with you and that may not be to your advantage.

**Rob Ambrose**, I'm not saying I would not be specific, specificity is something we can adhere to but the underlying theme of it is to give us a little more flexibility with as specified as we need to be.

**Vice Chair Jean Meloney**, that was one thing Paquette did was to give us specifics and that was able to help us put it through I'm just saying that as a point of reference.

**Rob Ambrose**, I understand. we are not looking to be June through September going all the time, the reason we are here is to have more flexibility.

Chair opens the hearing up to the public starts with those in favor and then those opposed and reiterating that if people have comments regarding the same issues from the last meeting, they can just state they have the same issues. The Board wants to hear from anyone providing new information.

There was no one in attendance or on the zoom call that wanted to speak in favor of the proposal. Chair moves to those who want to speak in opposition.

**Steve Caney College Road**, (inaudible) Chair asks Mr. Caney to speak up. Mr. Caney states he lives near another quarry in France where there is a tiny village but a very large quarry most famous for supplying the white stone used to build the White House. I'm somewhat immune to the blasting but what I've noticed is the huge amount of spill from the trucks coming from the quarry on to the main road. The stone is excessive, I've had flat tires on that road and I see tracks of the tires from these trucks on the road. When you speak about the number of trucks, I would imagine that would increase the amount of stuff that comes off the vehicle. They all seem to have the tarps but none the less, stuff still falls out. That is my comment.

**Tim Nefores College Road**, I live in an old barn with stone foundations that's why I'm here tonight. I have lived in that barn for just about 2 years now, I recognize the quarry by living there by being outside and by hearing noise. I don't get dust and things like that but I do get noise. I was not at the last meeting but I did read through the minutes and had some notes of things I wanted to touch on. In my view, this quarry was granted as a mom-and-pop operation. I think they were asking for small measures and I think it was right for the Town of Center Harbor to give them small measures. For them to make a living and to make use of this property taking the resources that it has and I'm all for that. I am 37 years into construction management and work on job sites every day of my life so I am certainly not against this business I want that to be clear. However, I also find this quarry to be nestled, as I believe, what was a mom-and-pop operation, I think we are asking it to be much more now. I think we are looking to take advantage of an industry that is thriving, alive and I think we want to go in and get this stone as fast as possible and I don't think that is very neighborly. I also, if you look at other quarry sites in NH, it looks like we have plenty of aggregate in stock in many places in many towns. I believe Ambrose Inc., is a great company from what I know and what I've seen, I have used them, but I believe they also have plenty of business interests not only in Center Harbor but all the towns surrounding us they have other quarries. In regards to the 25 trucks a day, I think Attorney Fitzgerald said there would be no real difference between 25 trucks and 150 trucks? I almost fell off my chair, you've got to be kidding. I know they are only asking for 75 but the statement was 150 and I want to make note of that. It makes an impact with those trucks coming and going, how we load those trucks, every truck by OSHA regulations, has to have beepers on it, every machine loading that truck by OSHA regulations have to have beepers on it. All you would hear instead of cicadas was beepers. I'm not sure if all of you know what Jake Brakes are and I believe one of the council members made a mention to that, if we know what jake brakes are and the noise that makes when switching gears which is all the time all day, and if we are asking for hours up to 6 p.m., that's when I'm having dinner. I'm having dinner on my nice property outside I don't want to hear jake brakes. In my industry, I'm a consultant, two weeks ago I looked at a property up in Moultonborough for a client. They were very interested they wanted to move very fast, I was at that property with the realtor within an hour I immediately turned it down because of road noise. My clients were ready, they had cash and wanted to secure it that day and I said no it's not for you because like myself, I bought in a quiet neighborhood on College Road. I also have another house on High Haith Rd I bought both because it's quiet. I think truck limit of 25, I think that is a wonderful place to stay. There was a comment that nobody counts those trucks and I'm not sure why someone isn't counting those trucks. If you're allowed 25 then there should be a daily docket of how many trucks are coming in, that's the current regulation so someone has to document that. Maximum hours of operation, again in the construction industry, every job site I'm on, which are multiple job sites, everyone leaves at 3:30 in this industry. I cannot keep a job open later than that so why a quarry needs to operate until 6 I would have a question about anyway. Portable crusher, again I think the original intent was a mom-and-pop operation which is why the town gave them these exceptions now we are asking to go into a larger operation. I don't think there were any complaints before because it wasn't modified, I'm not complaining today with 25 trucks going in there even though they do produce noise and the crushers produce noise along with the beepers. If we are upping the operation and we are looking to get more stone out of there or stockpile, we are not just talking about a crusher running longer, we are talking about trucks, beepers and loaders running longer. We may have trucks on rte 25 waiting to get in unless you have enough room to store 75 trucks a day on that piece of property. My biggest concern with that part, there will be a lot more noise and a lot more dust and if we don't have someone counting the trucks going in there on any given day, how do we know how much dust is being controlled. Are these pieces of equipment inspected, are there water sources available for the crusher etc. Blasting, you can't get more product without blasting. Blasting is a big one for me, it's noise and I'm not an abutter I live at 65 College Road. I live probably 1.5 to 2 miles away and my wife has literally running out of the house during a blasting incident, we should not have that. My house was built in 1790, I'm not saying the

construction of it back then warrants stopping any operation here today I expect it to be compromised but I'm also trying to keep it in this town. I've spent a great deal of time and money refurbishing that barn to keep it in Center Harbor.

**Deborah Tall, College Road,** George and I along with our children purchased the overlook farm that used to belong to John Bennett. The property was on the market for a long time, I may just be finding out why. We adore the location; we are known for putting more money into old decaying homes than we should, but we are trying to preserve the history it's really important to us. We have vacationed in the area for 35 years and no matter where I was, I would come to walk to dogs on College Road because it's a true treasure. College Road is one of the most New England looking roads you can find. The preservation of the agricultural resource on the Overlook Farm property consists of 20 acres, 15 of which are in conservation which allows farming activity by Moulton Farms. This may have been a turn off to some people but to George and I we love the association with the farm and with the town. The thing that has really surprised us is the noise from the trucks. I didn't realize you would hear that much truck noise but I'm ok, we need industry, but I think light industry for a gravel pit is pushing it for the size of area they want to develop. Based on definitions I have come across in Websters Dictionary, Better Business Bureau etc. Light Industry is defined as almost fully processed, product that is finished and then sold to an end user something like Freudenberg or the doll factory. A gravel pit pushes beyond that definition which is why the limitations were probably set by the Board. That was a very reasonable and neighborly thing to do. When a gravel company has 5 other sites to use and when the gravel pit is almost abutting conservation land which is land that was graciously given by other neighbors and people that fund conservation I think for us, we would like it to tip in the direction of no more noise than what we have now. The truck noise is very disappointing and made us wonder about our investment both time and money to think of tripling that for one company is upsetting. There are new homes going in all over the place so this is going to be a busier area than we've ever had. To Attorney Fitzgerald, you say it's not noisy but do you live there? (At 1:02:36 inaudible due to cross speaking with Board members regarding addressing questions through the chair. Audio recovered at 1:03:04 discussion about number of trucks), your town is changing we are hoping to change in the direction of peaceful which it already is. The reason there have been no complaints is because we know certain exceptions are allowed but we do complain amongst ourselves. I don't think the truck limit of 25 should be increased. Thank you for your time we are happy to be here.

**Gordon Dagnall, Keyser Road,** Mr. Fitzgerald said there were no complaints and it may sound redundant now but I would have complained many times except that the special exceptions were made so I would I complain to. Now I would definitely complain against any increases in these exceptions. Question to Mr. Ambrose, I would like to know exactly, what is product.

**Rob Ambrose,** it's a term for aggregate or crushed stone.

**Gordon Dagnall,** so the only value is the aggregate you can quarry out of the ground.

**Rob Ambrose,** that's what you think?

**Gordon Dagnall,** well I don't know that's why I'm asking.

**Rob Ambrose,** no most of the property is not a quarry.

**Gordon Dagnall,** is there anything else that is being done there other than crushing stone for aggregate?

**Rob Ambrose,** I don't know what you are asking you mean like commercial use? There is a snowmobile trail.

**Gordon Dagnall,** I have never been back there so I don't know but I did hear a rumor that other things come in there whether it's sand or tree stumps. Is there other product that comes into the Ambrose quarry that is not being quarried there.

**Rob Ambrose,** there has been some material that was brought in to fill a slope that we needed to stabilize but no, I think I understand what you're saying. There are other operations that are sometimes done at quarries, we don't do that but some quarries recycle cement or asphalt, but we don't do that there because we are not allowed per the town.

**Gordon Dagnall,** you don't do that now but is there a chance you may do that in the future?

**Rob Ambrose,** we are not asking for that.

**Gordon Dagnall,** I'm not sure you would ask permission to do those types of things.

**Rob Ambrose**, I think our track record of being respectful to the Town's Ordinance speaks for itself. I'm not looking to do that I'm just here to amend these conditions.

**Gordon Dagnall**, I think there was a study done about the impacts to towns with quarries. I think for Center Harbor to even consider this without an environmental study is extremely reckless. I am an abutter there plan shows they can do their operation all the way up to my property with a 200' buffer zone. Does anyone on the Zoning Board want to have that in their backyard and the decrease in their property value and if this was your property what would you do.

**Pat Curran, 88 Keyser Road**, my wife, Laura Curran, and I are direct abutters to this property. I know Attorney Fitzgerald spoke earlier about noise being minimal. It's not minimal, even, given the benefit of the doubt, if it was the 90 decibels they talked about, I don't think anyone wants to sit in their house and hear what they described as a mumble all day long in their own property. It is loud at our house; our house shakes when they blast. Truck traffic, every time a truck dumps we hear the tailgate slam shut, we hear the beeping etc. As far as complaints go and someone mentioned there have never been any complaints, I do not believe that is true. I know at least on one occasion someone went down and asked the road to be cleaned up on route 3. I am a retired State Trooper I also work for Center Harbor PD, I know there have been issues brought up before and most of the time, as people have stated, it's within the boundaries of their approval so we couldn't go forward with it. I would certainly hope someone would have kept track of trucks in and out of the property, there should be a record of that being kept by the property owner to triple that to 75 trucks is significant. There was a reference to signs on through traffic, I know several people in here can tell you that I walk College Road almost every single day. As I already stated, I am a retired State Trooper, I have written tickets for people that drive on College Road every day. I could sit here and list of people's license plate numbers of those vehicles that use that road all the time. I can tell you who drives College Road from end to end every single day, I can tell you when they are going to work where they are going to work, what time they are coming home etc. It's truck traffic. My last comment, you referenced you had to stabilize a slope on your own property so imagine what you are doing to all of us and our properties because we are not only trying to stabilize the noise but any other damage that may be impacting our properties. Thank you.

**Sandra Hart, 58 Keyser Road**, we bought our house in 2010 noise was minimal. A few years ago is when we started hearing the blasting, trucks etc. We realized after the sign went up, Ambrose recently purchased that property. We never called to complain because they had approvals to operate. Question is, do they have to go to Planning Board for any changes on this?

**Chair Bernie Volz**, no because they are not changing the use this is just changing the conditions from 2002.

**Sandra Hart**, I thought there was a mention of another use or something.

**Chair Bernie Volz**, I think you are referring to the property being in multiple zones. Light Industry Commercial and Agricultural Rural and this use is allowed in both zones. (Chair displays a map showing the zoning for the three parcels in question).

**Sandra Hart**, do they run this quarry in all three lots?

**Rob Ambrose**, states no it's mainly on the lot 25.

**Sandra Hart**, so I'm just wondering is the operation allowed on all three lots or just one?

**Chair Bernie Volz**, the approval is for all three lots. There are different phases, that's stuff that was worked out with the Planning Board a while ago. These conditions were placed on all three lots.

**Sandra Hart**, but they are only operating mainly out of that one lot?

**Chair Bernie Volz**, today they are only operating mainly out of that one lot.

**Vice Chair Jean Meloney**, all three lots are part of their business and the use is allowed on all three lots.

**Rob Ambrose**, be we are confined to the actual pit it's not like we can go anywhere on the lots. It's very specified in phases.

**Sandra Hart**, have you visited the property recently?

**Chair and Vice Chair** state they have not done a site walk.

**Chair Bernie Volz**, anyone online want to speak?

**Allison Toates 180 Keyser Road,** I wanted to follow up on Sandra Hart's question about operation on the three lots. I went into the town office and reviewed the files and there were indeed several phases of the operation. Phase IA, IB, 2A, 2B I'm pretty sure there was a 3A and maybe a 3B. All of which showed then proposed areas of excavation, additional retaining walls, ancillary roads which did then show to extend to the Vsidifaris property in Meredith and the entire boundary of the AR line that runs along the Keyser Road alley for lack of a better word. It does sound like Mr. Ambrose is saying they have no intention on moving into those areas but if they intend to expand on this operation, this will also expand construction and truck traffic as they expand the sourcing of material within those three lots. That will then amplify the noise and vibration as they move closer and closer to the abutting lots. As people on College Road are noticing, a significant we feel it quite dramatically. We have concerns about our water supply, 1800-year-old wells. Concerns of fracking, so if Ambrose is concerned about shoring up his property, what about the underground water supply. I think there should be more of an explanation of what are the plans for further excavation which has gone from what once was a mom and pop to a fully commercial industry. Other concern, I've written letters of my concerns which have been much better articulated by some of those in attendance tonight, I wanted to restate that any changes to a special exception exemption, go with the land not with the owner. Attorney Fitzgerald acknowledged that there is no guarantee, and there is no sign right now that Ambrose will choose to sell out, but any changes made will that extend the operational options for this huge lot of property will affect Center Harbor, the neighbors, the activity within that property forever. It is very easy to give an allowance, but you can't ever go backwards. There have noticeable changes in the community with the structures, regretfully but with an understanding, it is what it is. The thought that those protections could be eliminated whether it is 6 months or 10 years down the road, if that latitude is allowed, our property values sink, our quality-of-life sinks, our foundations are at risk our wells are at risk. It is a far-reaching problem, and I implore the board who have listened to us that are in close proximity to this operation, to consider what the original intent of those special exemptions were for and to honor that so it can go forward as a good use as local resources but also as a good community mantra. Thank you.

**Mark Anastasio, 121 Keyser Road,** I strongly agree with the gentleman with the construction background. There has been no environmental study done on this property and I myself have been involved in major construction projects for 35 years. I can tell you 75 trucks coming in and out of there is like standing at Logan Airport on Thanksgiving eve. I think it needs to be reviewed quite a bit more, you cannot turn the clock back once you're not happy with the result. I hear the blasting; my wife has called me at work saying someone is shooting at the house it's so loud the windows are rattling. I understand, I operate a business and when we purchased this house we knew of the current situation and it wasn't bad we visited the site several times, met the neighbors etc. I can hear the trucks backing up and dumping all day long along with everything else others have mentioned, and I could not agree more with everything that has been said. I'm not trying to deter a business, I don't know the Ambrose Brothers, I don't have anything bad to say about them I just know that from being in construction my whole life the environmental impact and carbon footprint alone of having trucks coming in and out of there for the town is devastating enough. I am comfortable with the way things are now, I know it will be a severe impact overall and that's all I have to say. Thank you for your time.

**Chair Bernie Volz,** anyone else on the zoom call that would like to say anything? Hearing none Chair asks if Attorney Fitzgerald or Rob Ambrose has anything to add in response to any of the comments?

**Attorney Fitzgerald,** I've never been in a hearing with going back and forth and back and forth saying the same thing over and over makes it any righter than it did before. I will try and stay away from that but what I heard tonight have nothing to do with this particular proposal and I say that with respect to the people that bring it forward because I know they are trying to raise concerns and get heard on this thing. For example, the fact that the quarry that supplied the stone for the White House doesn't clean up after itself has nothing to do with this proposal and I think the Board recognizes that. There have been issues raised, just a few moments ago with a potential impact on water quality which you can't raise an issue with no (inaudible\*). This property is regulated by both the Town of Center Harbor and the State of NH. There has been no argument made that the activities that we are seeking to modify, will in anyway, reasonably be expected to affect water quality in the area. I think in some cases people are raising arguments for the sake of argument. As I said before, it's understandable but the Board has to separate the wheat from the chaff here and what is in front of you is modification of three



conditions. We modified those proposals from last month and are willing to have a discussion to whatever degree you find appropriate, but we can't have this degree of horrible and I say this last comment with true respect to those who live in the area, there is no issue of blasting in front of you tonight. Blasting as I understand it takes place in a matter of a second or two and it occurs how many times a year now Rob?

**Rob Ambrose**, twice.

**Attorney Fitzgerald**, listening to these conversations you would have thought blasting occurred every day several times a day and it's just not the case. We are willing to engage to discuss the conditions with you and so forth, but we are not willing to talk about problems with blasting that don't exist, problems with water quality that are just pure speculation, this has to be judged on the facts and I feel confident you will do that so we will once again put forward our modified proposal to you and ask for a affirmative vote on that. Thank you for your time.

**Rob Ambrose**, thank you for your time.

**Chair Bernie Volz**, anyone else?

**Gordon Dagnall**, Mr. Fitzgerald states there is no evidence regarding the water quality now I have no way to say what happened at our house had anything to do with the blasting, but we purchased our home in 2014 moved here in 2015. When we bought the house, we had the water tested, everything was fine it was about 2 or 3 years later we had the water tested and it came up with high levels of arsenic this is after there had been blasting done. I don't know if it's connected or anything and I will just reiterate and implore this Zoning Board get an environmental study done. It would be reckless not to request that study be done. Yes, you only blast twice a year now but you want to increase the operation three-fold now we are going to blast 9 times a year? I don't know.

**Laura Curran, 88 Keyser Road**, Attorney Fitzgerald, I think it's highly unfair to bring about we haven't complained. I'm telling you, it may not happen often, but I dove to the ground literally thinking someone was bombing. We directly about Ambrose, my question is stone crushing is happening, do you need more product? Do you need more product to stone crush?

**Chair Bernie Volz**, Rob would you mind answering that question.

**Rob Ambrose**, what do you mean?

**Laura Curran**, if you need more product where does that stone come from?

**Rob Ambrose**, I think what you're getting at is would we need to blast more.

**Laura Curran**, yes what he is saying is that is not what we are here to discuss tonight but if you're asking to do more stone crushing then you are asking to blast more.

**Rob Ambrose**, not really because we are not restricted on blasting.

**Laura Curran**, but you are saying twice a year and I hear you that you are not restricted but you are asking to increase production which means you are going to be blasting more? Correct? So, I think that is really something to consider. I didn't complain when it happened, we do not have any problems with Ambrose we appreciate their business however, we live right there our house is there, our pool is there I walk my dog along there so, I don't know the situation with the water but I do not know there is a whole process on how water gets filtered and you are removing that stone out of the ground how does that filtration work. It would make some environmental studies done before it's approved to go forward. Thank you.

**Tim Nefores**, I have one quick thing, I think there was a comment made you are just hearing the same story over and over and I think that is what this process is all about. I think that the items you are looking to change 1, 3 and 4 what was exactly being addressed. You can see beyond the words; we know what more product means we know that the current is located in a specific spot and that is the quarry and that is the only thing they can quarry. However, when asking for these other things in 1 and 4, also going to change the rest of the property to support what is going on here which just makes it a bigger environment, it makes it way past the mom and pop that I believe in 2002 was the Board at the time, thought was very appropriate. If we have to listen to it 100 more times, I think it's well worth the discussion. As neighbors and as the Board, it sounds like only one of us has ever been to the actual property so this is a big question. You are asking us to allow a pretty big change and yet none of us have been invited to the property I don't want to trespass and maybe a wonderful site visit would give great insight and then as far as listening to things over and over, the more the documentation that was prepared for this

meeting the less questions there might be. Everyone has brought up environmental studies, I don't see that anything was put forth for these changes. Documentation on how many trucks actually do come in, how many tons of material are you looking to get out. All of those things are pertinent information I believe for the Board to make the decision so that is why I think you are going to hear it over and over again. Thank you.

**Steve Caney**, (in audible) I am a nonfiction writer so it is probably no surprise that I googled "living near a quarry". I came across an interesting article how to mitigate the problems of a quarry, one or two sentences and it essentially said, the only way to mitigate the dangers of a quarry is to lessen the amount of activity going on at the quarry. I found another article that said the same thing but worded differently, but that is the only way to mitigate. To me, there are danger flags waiving in the air regardless of the potential future problems, I'm concerned about the existing problems at the existing facility. Unless we heed that advice and mitigate what is now going on, we are asking for more problems. Thank you.

**Chair Bernie Volz states the Board will start its deliberations but not close the hearing so they can still ask questions.**

**Debra Tall** asks what the process is on whether or not emails that came in late this afternoon would be considered.

**Chair Bernie Volz**, there were some documents that came in. The Harts sent something on 6/1 opposing, Allison Toates sent something in on 6/9 opposed with additional arguments and they were distributed to the Board and I'm assume the Board and Attorney has already seen them.

**Debra Tall**, I'm wondering about any that would have come in today. Clerk states she checked the zoning email box at 6:30.

**Debra Tall**, the email could have come in at 6:50 I'm just asking procedurally, is there a time cut off.

**Clerk Aimee Manfredi-Sanschagrin**, we try not to accept documents right before a meeting, this wouldn't allow any time for the Board to review the documentation.

**Alternate Member Gregory Hime**, the Attorney and the requester also needs time to review that documentation and receiving them minutes before a meeting does not afford them that opportunity.

**Vice Chair Jean Meloney**, all of those letters are forwarded to us. We do read and listen and so we digest what we hear.

**Debra Tall**, so as of tonight when we close the meeting is that the end of the input to your process.

**Chair Bernie Volz**, correct when we close the meeting that is the end of the input. For now, we want to focus on our discussions where people stand, the issues and whether we want to explore further. I'm not sure we could do a site visit for example if that would have the crusher running and the trucks come and go, we don't necessarily know how it's going to be and that's also different being on site versus at one of the neighboring properties. The level is going to be much different if we are at the site. It is something to discuss, do people think a site visit is warranted assuming Ambrose would allow it.

**Alternate Member Gregory Hime**, my comment would be on that. It could have some benefit for the present circumstances but it's hard to forecast for any of us what the future circumstances will be. I think looking at all the factors I don't feel it's necessary at this point.

**Chair Bernie Volz**, I think we should take them as three separate requests. Let's talk about each one of them.

**Vice Chair Jean Meloney**, I disagree with you there though because they are all tied together.

**Chair Bernie Volz**, I'm not saying that we need to totally separate them but I think we should just talk about what we want to do about the trucks for example.

**Vice Chair Jean Meloney**, I'm flabbergasted they want to triple the number of trucks. I was taken back, that is an excessive request.

**Alternate Member Gregory Hime**, on that, that ends up being approximately a truck every 4 minutes with expanded operational hours from 7-6. It's quite a lot. Related to that, Mr. Ambrose, some of the terms of present

exception are the number of trucks presently going in and out would be surprised and managed, is that happening and do they keep records to see the present limit is being regulated?

**Rob Ambrose**, presently we are closed we are not open yet. We don't do a truck count internally. Presently it's not being used to its capacity.

**Chair Bernie Volz**, last year, what were your procedures to count?

**Rob Ambrose**, in the past I would talk to Ken Ballance about it, Ken would monitor things on his own. We have done site and compliance visits with Ken. Mr. Ballance was very aware of our procedure.

**Member George Lamprey**, in prior years have you been maximizing the trips because I'm a little confused that it seems to me, although you correct me, what is prompting the request to change is that there is growth in demand at a level that hadn't been happening.

**Rob Ambrose**, no.

**Member George Lamprey**, so let me go back, in the prior year had you been maximizing?

**Rob Ambrose**, yes and strategically not trying to maximize the trips. Not bid on a job, not so much the procurement of aggregates for state and the town use that we typically do through the lake region, not bid on it through the use of that material from that quarry because of the restrictions, if that helps. The 75 trucks were meant to be something we would not reach, that is the intent of 75, a limit that we would not get to.

**Member George Lamprey**, you purchased the pit around 2013 with these restrictions in place. These restrictions came out in 2002 with the original approval and after lots of discussion, I believe, I was not there but I know you were (referring to Jean Meloney) so we have some history and knowledge of what happened and there was a lot of discussion. It seems to me there was an operator that just said I only need X, Y and Z and that fit in great with what the town was seeking in terms of restrictions. That was an agreed upon level of activity then that has changed, but you have operated within those restrictions for a half a dozen years or more so what's driving this change?

**Rob Ambrose**, I don't think since Tom (Tom Paquette previous owner), anything has changed so much as to what he was doing, I can't really speak to what he was doing.

**Member George Lamprey**, no but you accepted it in the purchase.

**Rob Ambrose**, yes but I just don't know what he was thinking or what he wasn't thinking, what his business plan was etc. He had a large paving company down in Florida and it wasn't mom and pop but I guess it depends on what you consider mom and pop. The restrictions there, I don't know what to say is driving it, it's basically the need to use the pit more effectively. Obviously, there is a demand for housing, we are in a bit of a flourishing market in this area. You can go after different markets with an aggregate source, like I mentioned, town project with the Town of Center Harbor, Moultonborough, Meredith for different materials. My feeling on it is, there is a section in the ordinance for amendment and we are seeking to amend the use of the property better.

**Member George Lamprey**, I appreciate the comment as to the uncertainty of cycles as to the use because if the state comes in with a highway project nearby, you can't predict that and it doesn't happen every year.

**Chair Bernie Volz**, like if they actually figure out a Meredith bypass or something like that.

**Vice Chair Jean Meloney**, we hemmed and hawed about light industry versus aggregate and we had a real hard time with it because aggregate is not light, aggregate is mining and mining is not light industry. I think that what we came up with was the best way to keep, not light industry, in parameters and we were having a hard time with it. That's why we settled on what we did. It is mining, aggregate is mining, mining is not light industry. You are in an area where it's commercial, but it abuts agricultural rural and yes, the agricultural rural zone does allow it. I used to have a gravel pit in my backyard where they used to take out aggregate and it's now a pond. Nothing is happening there any more, it was there 80 years ago that use was allowed and it was very small. This is no longer small when we go to 75 trucks, it's no longer light industry when we go to 75 trucks. I think we as a Board have to keep that in mind too, that we are dealing in a commercial district that is light industry.

**Alternate Member Gregory Hime**, relative to the request for 75 trips as we just heard Mr. Ambrose comment, I'm not sure of the exact words of the intent of going to 75 trips, yet we've asked for recommendations to the Board at this meeting of modifications of their request across the board whether it's crusher time, number of trips etc., I see here that they want to keep that as a large expanse and I want to be sure what we write is very specific and we could help mitigate some of the comments we heard. I would move for them to make further change to their request.

**Chair Bernie Volz**, I think that some of the statements earlier were that they went from unlimited to 75. We could push them down further maybe. It really comes down to we can also say no, it stays with the existing

approval; things stay as they are. We may end up somewhere in between or may end up at either extreme. One thing I would throw out, whatever we decide, they can always come back next year, five years from now and ask for something different. Certainly, they won't ask for something less, they want more flexibility. We don't have to go all the way to what they want because maybe we give them a little more and say we will see what happens or we just do nothing.

**Member Karen Ponton**, can we be more restrictive than the current conditions?

**Chair Bernie Volz**, I don't think that is possible we can grant them the changes they want or somewhere between what they have today to what they are asking for.

**Member Karen Ponton**, so regarding the hours of operation we could not change that from 6 p.m. to say 4 p.m. correct? I'm asking primarily for the people that are concerned and how it's impacting their daily life might know that we heard them and they will know that. We say, you can't start at 7 a.m. but rather 9 a.m. but you're saying we cannot do that.

**Chair Bernie Volz**, correct, we can be less restrictive not more restrictive. It is not in our purview to add new restrictions. As you said Jean, they are tied together.

**Vice Chair Jean Meloney**, can I ask what the hours of operation are they wanted to increase to because its 7 a.m. to 6 p.m.

**Chair Bernie Volz**, there is no change in the daily time of operation they want to eliminate the timeframe of operation which as it is allowed now, from March 15<sup>th</sup> to November 15<sup>th</sup>. They want to drop it that time frame be allowed year-round.

**Rob Ambrose**, I don't think that's correct.

**Chair Bernie Volz**, you want to be able to crush stone anytime during the year and not be held to this monthly time frame.

**Rob Ambrose**, correct I misheard you. Open ended time frame.

**Chair Bernie Volz**, they want us to remove the time of operation of March 15<sup>th</sup> to November 15<sup>th</sup> and be allowed to operate year-round. We can discuss that a little bit. In some ways that doesn't sound as terrible as other things because perhaps, there is a lot less activity off season but it also means it's really based on how much you want to change number 4 which is the crusher time frame. Increase of truck traffic, trucks backing up, sound of the crusher etc.,

**Vice Chair Jean Meloney**, they are all tied together I don't think you can separate one from the other.

**Member Stephany Marchut Lavallee**, I agree.

**Chair Bernie Volz**, number 4, feedback was they were willing to do 12 weeks a calendar year but not in consecutive months. Going from 2, 3-week periods in a calendar year to 12 weeks a calendar year potentially not consecutive.

**Vice Chair Jean Meloney**, they are doubling their crushing time.

**Chair Bernie Volz**, potentially yes. I don't think they would need the crushing period clause of 2 weeks in that case because they would have full flexibility.

**Alternate Member Gregory Hime**, going to a generic crushing time of 12 weeks can have a big impact too. As Mr. Ambrose stated, he would like to keep product available to replenish. Running the crusher in the summer would allow him to replenish going into the fall. I have a concern that operation in the current approval is very specific, hours and months but opening it up to 12 weeks wide open I think doesn't go along with the original intention of this property when these conditions were put in.

**Chair Bernie Volz**, I think as Jean indicated, this March through November time frame and the crushing was based on the previous owner was down in Florida for that period of time.

**Alternate Member Gregory Hime**, is that in the record? He didn't bring that up as a reason why, did he?

**Vice Chair Jean Meloney**, oh yes, he did. He wasn't going to be here. I believe he actually established these dates and the Board accepted them.

**Alternate Member Gregory Hime**, I think that is part of the consideration which is how this operation was established.

**Member George Lamprey**, certainly as much of a concern as the change of the months, I think the time frame that is set, is a set period that it's going to happen. That's probably gone a long way to having the harmonious relationship or as much as it can be. I think that's an awfully big change.

**Member Stephany Marchut Lavallee**, those additional 6 weeks will probably be during the summer time when everyone is outside and they are asking for us to allow them to crush whenever they want to.

**Chair Bernie Volz**, right, once we relax these there is no going back.

**Alternate Member Gregory Hime**, we have heard from a number of abutters and neighbors both tonight and from our last meeting of the concerns they have moving forward. Some of them are not being addressed here like water and blasting things of that nature that can impact them, but I think this is a forum in which they can speak and they have. I see that as something we need to give consideration to moving forward.

**Member George Lamprey**, I do have a question for the applicant, there was some flexibility built in about an additional couple of weeks could be granted by the Board of Selectmen if needed because of weather. Was that called upon with any frequency?

**Rob Ambrose**, yes, we did do that more in the spring due to rough weather or just a longer winter extending into the spring months.

**Member George Lamprey**, I just wanted to raise that as a question because of time frames, in terms of getting inventory that is needed to stock pile, if it was 3 weeks, dependably 3 weeks, and you need 3 sessions spring, summer and fall that's 9 weeks. I'm not saying great go with 9 weeks, I'm just saying that is a potential refinement and I wanted to be factoring the degree of flexibility. Of the seasons, it sounds like the questionable one is the spring the others are pretty reliable over a 3-week period you could stock pile.

**Chair Bernie Volz**, right now it's only the fall but they wanted to have the summer.

**Member George Lamprey**, yes, I'm asking if you would be calling on that flexibility for any season other than spring.

**Rob Ambrose**, due to weather? No, I don't see that happening.

**Member George Lamprey**, that would be the only condition prompting you to ask the Selectmen for an extension is due to weather, correct?

**Rob Ambrose**, yes, I think that is the way it's written. March 15<sup>th</sup> there can be a foot of snow on the ground it can be the coldest time of year.

**Chair Bernie Volz**, that is for the operation of the entire gravel pit not just for the crusher that March 15<sup>th</sup> date. So really right now, they have March 15<sup>th</sup> to April 1<sup>st</sup> to do spring time crushing so that is the window they currently have.

**Vice Chair Jean Meloney**, so the residents have from June through September for peace and quiet.

**Chair Bernie Volz**, well at least no crushing yes.

Chair asks if there is any more discussion, asks if Susan Patz attending by Zoom had any questions, Susan responds no.

Chair asks for a motion.

**Motion: Vice Chair Jean Meloney makes a motion to deny the request for conditions 1, 3 and 4. Member Stephany Marchut Lavallee seconds the motion.**

**Voting Members: Bernie Volz, Jean Meloney, George Lamprey, Karen Ponton and Stephany Marchut Lavallee.**

**Chair asks for a vote on the motion, all those in favor of denying the application to amend 3 conditions say aye. Vote was unanimously in favor in denying the request.**

**Chair states the request was denied and that the applicant has 30 days to appeal.**

### **III. OTHER:**

**Governor's Order Virtual Meeting-** Chair Bernie Volz wanted to thank Member Karen Ponton for flagging that the Governor's order had expired and we could no longer meet virtually and thanks to Aimee, because when I got Karen's email, I was texting Aimee to see if we could get it noticed as an in-person meeting, this was on a Saturday so she was able to get that done in the time frame for noticing. If we waited until today, we would have needed to reschedule. Member George Lamprey asks if the notice was by way of the website. Chair responds technically yes; the website is our primary means of noticing.

**Submission of Documents for Meetings/Hearings** – Board had a discussion regarding setting a policy for document submission prior to a meeting/hearing. The Board moved to adopt the following policy.

**Motion: Karen Ponton motions?? any written submissions related to a ZBA case must be received by the ZBA Clerk by the Thursday at noon preceding the scheduled hearing. Seconded by Stephany Marchut Lavallee?? All were in favor of this addition to the ZBA Policies and Procedures.**

**ADJOURNMENT:**

No other business for the Board to discuss. Jean Meloney motioned to adjourn the meeting at 9:45 p.m. Seconded by Stephany Marchut Lavallee. All were in favor of adjourning the meeting.