

**Town of Sand Lake
Zoning Board of Appeals, (ZBA)
December 17, 2015**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript of the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Chairwoman Judy Breselor called the meeting to order at 7:02 PM stating that all members are present.

MEMBERS PRESENT: Chairwoman Judy Breselor
Scott Bendett
John Bond
Geraldine Burger
Melissa Toni
Lawrence Howard, Esq., ZBA Attorney

OTHERS PRESENT: Lou Morizio, Dan Bell, Sue Bell, Catherine Bell, Gregory Brown, E. Foley, and Monica Ryan, Town Planner

RECORDING SECRETARY: Monica M. Hardy

Item 1. USE VARIANCE

Lou Morizio
80 Eastern Union Turnpike
Averill Park, NY 12018

Tax Map# 159.-1-67.11, 13, and 14
(3 Parcels)

Lou Morizio would like to use his property to farm. Under the old Zoning Code that was passed, he purchased equipment, fertilized, and bought chickens, which is somewhat of a hardship since that Zoning has changed. His property is the old Teal Farm. He would like to raise chickens, beef cattle and hay the fields. He has also been brush hogging the fields every year.

All board members did a site visit. The Planning Board and the Rensselaer County Bureau of Planning gave a positive recommendation.

dy Breselor noted the criteria for a Use Variance:

1. Cannot realize a reasonable return – Mr. Maurizio stated he is just using the land that is already cleared. The cattle will not be seen from the road. There is 460 ft. of road frontage. The drive is 1900 ft. and 900 ft. from the road.
2. Alleged hardship is unique and does apply to substantial portion of neighborhood – Melissa Ton agrees there is a hardship due to the fact he purchased equipment and fertilizes the fields.
3. Will not alter the character of the neighborhood – Mr. Morizio states you will not see the farming operation from the road.
4. Alleged hardship is not self-created – Mr. Morizio had a right to farm under the old zoning code.

Judy Breselor opens the public hearing at 7:14 PM.

Gregory Brown Sr. lives just below Mr. Morizio's land. He has no complaints. He has lived here for 40 years.

Judy Breselor closed the public hearing at 7:19 PM.

A motion was made by Scott Bendett, seconded by Melissa Toni and unanimously carried that this is an unlisted declaration under SEQRA and will have no significant impact on the neighborhood.

A motion was made by Judy Breselor, seconded by Scott Bendett and unanimously carried to APPROVE this application for a Use Variance to reestablish agricultural activities on three separate parcels, including the raising of beef cattle.

Item 2. AREA VARIANCE & SPECIAL EXCEPTION

Danial & Suzanne Bell
203 Sheer Road
Averill Park NY 12018

Tax Map# 158.-2-74.5

Suzanne Bell is asking for an Area Variance and Special Exception for a Home Occupation II which requires 10 acres, she only has 5.65 acres. Suzanne Bell started a mold remediation business approximately five years ago at her residence. Prior to her business her husband's family owned an asbestos abatement business for 40 years in Valatie.

In 2009 her daughter was exposed to mold and became blind. Suzanne Bell did a lot of research on mold, lead and asbestos. Her in-laws retired from the business in Valatie and Suzanne decided to move the business to her residence in Averill Park. The business has grown immensely and requires more equipment. They have a total of 14

trailers on site. Some of which are used for drag racing. Not all 14 trailers on the site at one time. When working, the trailers are moved to the working site and can be there for months. The trailers are all closed and have shower systems. Most job sites have dumping stations. They are all self-contained and meet NYS requirements. They are certified, licensed and fully insured.

Melissa Toni asks have there been any complaints from the neighbors. Monica Ryan replies, "no formal complaints, nothing on record."

Suzanne states the building inspector has been there several times and has approved the situation because the land is not buildable. Two-thirds of the property is wet lands. Judy Breselor asks if there is any other place to park the trailers. The Bells have looked into renting space and cannot afford it. Judy Breselor lists the criteria for the Board to consider:

1. Whether benefit can be achieved by other means feasible to applicant
2. Undesirable change in character of the neighborhood or detriment to nearby properties
3. Whether request is substantial
4. Whether request will have adverse physical or environmental effects
5. Whether alleged difficulty is self-created

Judy opens the public hearing at 7:45 PM. No one is in attendance.

Lawrence Howards explains that the Area Variance can be linked to the Home Occupation II, which means that new owners would not necessarily be able to open a Home Occupation II.

Judy closes the public hearing at 7:46 PM.

Melissa Toni talks about the visual impact this will have. Sue Bell explains that she planted 14 two ft. evergreen trees but the County came through and plowed them down. Judy mentions the fact that there have been several accidents on the corner of Sheer and Biittig. Scott suggests a wholesaler where you can buy trees in bulk. He says it is a residential area and they should mitigate an eyesore. He says according to the blue card it is a challenging lift and that they should definitely put up some kind of screening. Jeb Bond agrees an attempt has to be made to screen the area.

A motion is made by Melissa Toni, seconded by Jeb Bond and unanimously carried that is be listed as a Type II SEQRA and no further studies are needed.

Melissa Toni proposes this motion with four conditions:

1. Limit to 14 trailers on property
2. Prohibit any impact to wetlands
3. Use not transferrable to another Home Occupation II.
4. Property line on Sheer Road must be screened with 5 to 6 ft. balsam furs or something similar 5 to 6 ft. on center, back behind county line.

Jeb Bond seconds the motion. Judy Breselor takes a vote. Scott Bendett, Geraldine Burger, Melissa Toni and Jeb Bond are all in favor as long as conditions are met. Judy Breselor is not in favor. She says it will have a negative effect on the character of the neighborhood and that it is self-created. For the record her vote is "NO".

MINUTES

A motion is made by Scott Bendett and seconded by Jeb Bond and unanimously carried to accept the October 22, 2015 minutes as written.

ADJOURNMENT

A motion is made by Jeb Bond and seconded by Melissa Toni to adjourn the meeting at .40.

Respectively Submitted,

Monica M. Hardy
Secretary, ZBA