

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
December 22, 2016**

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 or 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 meeting to order at 7:00 PM.

**MEMBERS PRESENT:** Chairwoman, Judy Breselor  
Geraldine Burger  
Scott Bendett  
Jeb Bond  
Melissa Toni  
Lawrence Howard, Esq.

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Buster Hunt, Ed Davidson, E. Foley, Anthony Montello, Kevin Shufelt and Monica Ryan

**RECORDING CLERK:** Karol O'Sullivan, Clerk for the Planning Board and Zoning Board of Appeals

**Special Exception Applications**

(Applicant) Rifenburg Construction Inc.  
159 Brick Church Road  
Troy, NY 12180

(Property Owner) Elizabeth Foley  
128 Springer Road  
West Sand Lake, NY 12196  
A-1 Zoning District

**Tax Map #147.-3-25**

Lot Size: 30 acres

(Property Owner) Melva and Harry Olsen  
159 Springer Road  
West Sand Lake, NY 12196  
A-1 Zoning District

**Tax Map #147.-3-26**

Lot Size: 60 acres

Special Exception Applications seeking a special exception for commercial excavation in an A-1 Zoning District.

Judith Breselor (JB) explained that the ZBA had left the Public Hearing open from November, 2016 for the Rifenburg Special Exception Applications associated with the mining permit Rifenburg is asking for. JB invited anyone from the audience wishing to make additional comments, for or against the subject. Mr. Anthony Montello approached the ZBA stating he was the brother of Mrs. Foley. He said he was there in support of his sister. He said he had sat in on many of the ZBA Public Hearings and did not hear

any substantial issues raised. He stated he heard one resident express concerns, but thought she was satisfied with the answers provided to her. Mr. Montello said Rifenburg was a first-class operation and he saw no impact on the area. With no further comments from the public, JB and Lawrence Howard (LH) discussed closing the Public Hearing. LH stated the public had enough opportunity to be heard and JB stated that all comments made at the Public Hearing will be incorporated into a letter to be sent to DEC. JB motioned to close the Public Hearing at 7:05 PM. Melissa Toni (MT) seconded the motion and all approved. LH advised the public that the Town is waiting until DEC approves the mining permit and the 30-day period for comment ends on December 29, 2016. LH asked Ed Davidson from Spectra Engineering (representing Rifenburg) if they had heard anything from DEC and was advised no. LH said the ZBA could not act on the Special Exception Applications at the December ZBA meeting and the ZBA will incorporate all DEC conditions into their approval if they decide to approve the applications. Mr. Montello referenced seeing the Public Notice in the paper and all discussed that the Public Notice gives the public the opportunity to make comments before the ZBA.

**Area Variance Application**

Kevin Shufelt  
State Route 43 and County Route 69  
Sand Lake, NY  
R-1 Residential Zoning District

**Tax Map #146.-4-10.112**

Lot Size: 23 +/- acres

An Area Variance Application for Lot 1 of minor subdivision which has deficient lot frontage.

Kevin Shufelt (KS) presented before the ZBA. JB explained her confusion regarding the location of the property under discussion. She said she knew County Route 69 is in North Greenbush and was trying to figure out the scenario of what he is doing. She confirmed that the property being discussed (Lot 1) was in Sand Lake and KS has an easement through North Greenbush property to get to his minor subdivision property. JB asked KS to look at her copy of a county map and asked him to circle on the map where his easement was located, which he did. JB confirmed that KS did not have appropriate road frontage for the property but did have an easement and he said yes. JB then confirmed that he needs access to the property in the Town of Sand Lake and was told yes. JB asked him if he already owns the property and was told yes. KS stated he owns one lot in North Greenbush which is approximately nine acres and has the 23+ acres in Sand Lake. KS stated that he worked with the State of New York and National Grid to gain their approvals. Scott Bendett (SB) asked if the properties were adjacent to each other and was told yes. MT confirmed that he had DOT approval. JB asked if a 239 review was submitted to Rensselaer County and came back with no issues and Karol O'Sullivan confirmed yes.

Monica Ryan (MR) stated that in 2002 an easement was approved by the ZBA and Planning Board (PB) for a lot frontage variance for this property and the property to the north of Lot 1 which is owned by the McDonalds. She said the easement serves both lots. The ZBA viewed the location of the easement for the two properties on the map (each having 25' of frontage). MR provided some history of the property stating that a seven-lot subdivision of property was created (2002) prior to KS purchasing his property. She said most of the seven-lot subdivision lots were in North Greenbush and several were in Sand Lake. She said both towns had approved the seven-lot subdivision. At that time, in order to create the lots located in Sand Lake, an easement through the North Greenbush property was necessary and the variance was approved by the Sand Lake ZBA and PB approved in 2002. Now that KS has purchased the bottom three lots of the seven-lot subdivision, this issue has come up again. She explained the bottom two lots of KS's subdivision are served by Route 43 and the top lot (#1) needs to use the same easement

as the McDonald's lot above. She said because the seven-lot subdivision considered the property under discussion as one lot and now the conditions have changed and it has become two lots, in essence, they have to go through the approval of the variance again. MR pointed out that KS's deed for his property reflects the easement and this would carry forward. The ZBA and MR discussed the history of this property and the fact that all legal documents on record reflect a "proposed right of way" from County Route 69. The ZBA clarified after the historical discussion, that they were only addressing at the meeting the three-lot subdivision owned by KS and the fact that Lot #1 again needed the variance for the easement off County Route 69. MT asked about the timing of the subdivision and the ZBA was advised by LH that the Planning Board had recently approved the three-lot subdivision conditionally upon the ZBA's approval of the area variance under discussion. SB again verified there was access for the subdivision from Route 43 and was advised by KS that the bottom two lots would access from that road.

JB motioned to open the Public Hearing at 7:14 PM and with no comments from the public, the Public Hearing was closed at 7:15 PM. JB asked the ZBA if there were any other questions and then asked if someone wished to make a motion regarding SEQR. Geraldine Burger motioned Type 2 SEQR, SB seconded and all approved. JB motioned to approve the Area Variance Application, MT seconded the motion and all approved. KS was advised he was fully approved to move forward and he would receive a call from the Planning Board Clerk once his maps were signed.

#### **MINUTES**

JB asked if the ZBA had a chance to review the November 17, 2016 minutes. LH had one correction to the minutes. JB motioned to accept the minutes, Jeb Bond seconded the motion and all approved.

#### **ADJOURNMENT**

JB motioned to adjourn the meeting at 7:20PM.