

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
March 17, 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
Melissa Toni
Jeb Bond
Lawrence Howard, Esq., ZBA Attorney

OTHERS PRESENT: Monica Ryan
Ed Patanian
Emma Paolino
Cindy McMahon
Dennis Tremont
Michael Groff
Ingrid Young

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

ITEM 1. Special Exception Application

EJP Inc. /Edward Patanian

Tax Map #158.-2-2.1

Lot 11R Pond Hollow, 13 Garner Road

Averill Park, NY 12018

An Application for a Special Exception for commercial excavation as part of a site regrading in an A-1 Zoning District.

Judith Breselor (JB) described the Application and invited Ed Patanian (EJP) to speak to the Board. JB stated that she and Geraldine Burger (GB) did a site visit to the property and offered pictures to other Board members. JB explained that since the February 2016 ZBA meeting, the DEC notified the Town that EJP's application was complete which opened a 30-day window for

comments on the application. Judy asked the Board if they had any new questions which they did not. EJP explained that he has been mining this parcel since 1988 under an exemption for site grading from the DEC. Other Town residents complained to the DEC that EJP was mining without a permit and the DEC contacted EJP stating he could no longer reclaim the land under the exemption and would need to apply for a mining permit. (DEC advised EJP that they no longer grant exemptions for long-term projects.)

Jeb Bond (JB) asked how large the reclamation parcel is and EJP explained it as 3.8 acres with the majority of the reclamation already completed. EJP described the project as “low impact” and was asked to elaborate. EJP stated it was a one-truck operation on an as-needed basis; no activity at all to possibly several trips per day. JB shared pictures of the site with Board Members and then read from the DEC Completed Application which provides a description of the project, availability of application documents, SEQR Determination, SHPA Determination and Coastal Management Determination. JB reminded everyone of the 30-day comment period and then suggested some conditions that could be considered by the Board as part of a Special Exception Permit:

- Proper erosion, sediment controls shall be kept and maintained in place continuously until stabilization is achieved per recommendations contained in the mining plans and/or narrative or SWPPP (Storm Water Pollution Prevention Plan) if applicable. EJP commented “fairly normal conditions.”
- No more than 2 acres of land shall be opened up to mining on this site at any one given time and ongoing and concurrent reclamation shall take place. JB stated he would be required by DEC to have a reclamation plan and EJP confirmed yes, expressing his desire for a 10-year term.
- Removals shall take place during weekdays only from 7:30 AM – 5:00 PM, excluding the following holidays: Christmas, New Years, Thanksgiving, Independence Day, Memorial Day and Labor Day. EJP commented his agreement.
- All equipment and vehicles associated with the operation shall be equipped with exhaust systems that limit decibel output to the same or lower levels than that of original equipment factory exhausts of same. EJP commented his agreement.
- Truck trailer combinations shall not be used to transport sand or gravel from this site over Town roads; straight trucks only shall be utilized. EJP commented his agreement.
- Vehicular trips hauling sand and gravel from this site over Town –controlled roads shall be limited to an average of 1 trip per hour, and a maximum of 6 trips per hour, with an annual cap on sand and gravel removed of 25,000 cu.yds./per year. The Board discussed DEC’s average trips per hour/annual cap rational with EJP and then EJP commented his agreement.

JB asked the Board if there were any other questions or recommendations and there were none. EJP reiterated his desire to mine the property in a “low impact” manner over many years-better for his needs and lower impact on neighborhood. JB reminded EJP that the ZBA could not act on the Special Exception Application until the 30-day window was up. Town Attorney Lawrence Howard advised that Town Supervisor Fasoldt would respond on behalf of the Town to the DEC and could include the conditions listed above. DEC could, but doesn’t have to, incorporate all of the Town’s conditions into their mining permit. It was confirmed

that the ZBA will wait until DEC responds to the Town or acts on the EJP permit prior to acting on the Special Exception Application.

ITEM 2. Area Variance Application and Public Hearing

Emma Paolino/Lou Morizio

49 Eastern Union Turnpike

Averill Park, NY 12018

Tax Map #159.00-1-67-152

An application for an Area Variance related to lot frontage to develop two single family dwellings (Lot 4B subdivision).

JB described the Application and invited Emma Paolino (EP) to speak. The Board discussed the location of her parcel and looked at the subdivision map for clarification of particular parcel. Road frontage is 190 feet. JB confirmed EP's desire to build two dwellings on the parcel; a main 1,700 SF single family house and 750 SF guest cottage. EP explained her rationale for the use of guest cottage and confirmed that she would reside in the main house. JB asked EP to explain the placement of the two dwellings on the parcel while the Board viewed the hand-sketched map EP provided. EP explained that the layout of the two dwellings would be modified a bit to shift the main house over to allow for a driveway to run along the side of the garage of the main house to the cottage at the back of the parcel. EP proposed that the driveway, well and sewers would be shared. Creating two separate driveways for the property was discussed, as well as the resale value of the proposed structures (the property would always remain a package deal). JB acknowledged the 239 Review.

JB asked if there were any other questions and there were none. JB opened the Public Hearing at 7:32 PM. Cindy McMahon, Realtor for EP spoke to the Board. She confirmed the project would have excellent resale value. She stated that separation of the two structures for resale would not be feasible due to insufficient frontage. She said the project was good for the Town as the property has been for sale for quite some time, is a progressive design and would generate additional tax revenue. JB closed the Public Hearing at 7:35 PM.

JB asked the Board if there was any additional discussion. JB cited the Area Variance criteria to base Board decision upon: whether benefit can be achieved by other means feasible to applicant; is it an undesirable change for neighborhood character or a detriment to other properties; whether request is substantial; whether the request will have adverse physical or environmental effect; and is alleged difficulty self-created. The Board acknowledged the answers to the criteria as read and did not believe the proposal failed the criteria.

JB asked the Board if they wished to make a SEQR determination on the proposal. Gerry Burger (GB) made a SEQR Type 2 determination and Scott Bendett (SB) seconded the motion. Board unanimously approved. JB explained that the Board believed the project would not have a negative impact on the environment. JB then motioned for a vote on the Application for Area Variance Application as submitted for road frontage. SB made a motion, Jeb Bond seconded the motion and the Application was approved. JB advised Emma Paolino that her project had been approved.

ITEM 3. Area Variances and Special Exception Applications and Public Hearing

Dennis H. Tremont/Michael Groff PLS

13 Orient Avenue

Averill Park, NY 12018

Tax Map #148.3-6-11

An Application for Area Variances related to lot frontage, lot size and setbacks to construct a two-family dwelling with attached garage and remove existing nonconforming dwelling and shed.

An Application for a Special Exception to construct a two-family dwelling with attached garage and remove existing nonconforming dwelling and shed.

Judy Breselor (JB) read the details of the Applications. Several Board members advised that they had driven by the 13 Orient Avenue property. Dennis Tremont (DT) and Michael Groff (MG) explained that this was the original site of the Tremont store built back in the 1960s. Half of one of the structures was built on the Town's right of way. DT explained his plans of removing existing structures from the property and building a two-family dwelling with attached garage. DT and MG mentioned the proposed new zoning would not require these applications, but JB reminded them that the new zoning is not in place. MG offered that this property is a "lot of record" predating Town zoning. The Board reviewed site plan maps for the 11,825 SF property. As DT walked the Board through the site map, JB recognized the property was extremely small. DT and MG explained that the foot print for the new dwellings would be 1,400 SF which is the same as a single family structure and fits in with the tight character of the neighborhood.

JB brought up the water issues in this area, citing a local restaurant's water issues. Scott Bendett (SB) mentioned his attendance at the Planning Board meeting on 3/16/16 where this same agenda item was discussed. SB researched the water requirements (2.75 gallon minimum/stated the property has a 360 foot well which would generate 1.50 gallons in reservoir/450 gallons in water pipe alone). SB stated Rensselaer County could approve the proposal based on those facts. It was recognized that showering would be an issue at these water levels necessitating the two 300-gallon tanks recommended by the Planning Board when addressing the Applications. Rensselaer County would decide whether the project would get a Certificate of Occupancy. DT stated he would cross that bridge with Rensselaer County prior to building. Geraldine Burger (GB) asked how much water a person uses per day. 100 gallons per person was the answer. JB read the Planning Board's recommendation and their concern regarding the water issue. The PB recommended the ZBA require the two 300-gallon water tanks as part of their approval.

Jeb Bond asked whether the proposed dwellings were two or three bedroom units. DT stated he originally had planned three, but was revising the plans to two bedrooms based on the water issues. Since there were no other questions, JB opened the Public Hearing at 7:45 PM.

Ingrid Young, 15 Orient Avenue, spoke to the Board. She was in favor of the plan, but also stated her concerns regarding the water issues on the street. Ingrid Young stated that she has a two-person household and cannot wash clothes/run dishwasher while showering. She asked

for clarification on how the proposed water tanks would be filled and was advised the water would come from the well and sit in reserve. Melissa Toni asked Ingrid Young if she was concerned about the capacity of the aquifer and she confirmed yes. Ingrid Young's well is 335 deep and the property also suffers from water purity.

DT mentioned that 335 to 360 feet wells are shallow for this area. The building on the corner of Route 43 and Orient Avenue has a well 750 feet deep and hasn't sold because of water issues. Other structures on Orient Avenue have multiple wells. MG and DT suggested the supplemental water tanks could help Ingrid Young with her property's water issues as well. Ingrid Young's husband asked for clarification as to how the new dwellings would be situated on the lot? DT showed him the plans and stated the building would face Orient Avenue and existing hedges would remain. This resident praised the plan for the new dwellings. JB closed the Public Hearing at 7:52 PM after there was no further discussion from the public.

Geraldine Burger once again confirmed DT's intent to reduce the dwellings from 3 bedrooms to 2 bedrooms. JB confirmed that the Board would act on the area variances together (lot size, lot frontage and setbacks). She read the criteria to base the Board's decisions upon: undesirable change in neighborhood (improving property); adverse physical or environmental effect (solution to water problem addressed); and alleged difficulty self-created. JB acknowledged this was self-created, but the new project would improve the neighborhood.

A SEQR Type 2 was motioned by Jeb Bond and seconded by Scott Bendett (SB). It was agreed that the project would not have a negative effect on the environment and Board was fully in favor. The Application for Area Variances for lot frontage/size and setbacks and destruction of existing structures was addressed. JB motioned to approve, SB seconded the motion and Board unanimously approved.

The Application for Special Exception to construct the dwellings and remove existing structures was addressed. It was agreed with Lawrence Howard that it was not necessary to reopen a Public Hearing. JB motioned for a SEQR Unlisted Action, Jeb Bond seconded the motion and the Board unanimously approved. A motion was made to grant a negative declaration and the motion was seconded and granted. The Application for Special Exception was motioned for approval by SB and seconded by Jeb Bond and unanimously approved.

MINUTES

December 17, 2015 minutes were motioned for approval by Jeb Bond and seconded by SB. February 18, 2016 minutes were motioned by SB and seconded by GB. Meeting minutes for both months were unanimously approved.

ADJOURNMENT

ZBA meeting adjourned at 8 PM.