

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

MEMBERS ABSENT:

OTHERS PRESENT: Patricia Mallory, Dawn Hunt, William Hoffay, Taylor Lamb, Tony Montello
Tom Hatcher, Buster Hunt, Ed Davidson, Adam Schwartz, E. Foley, 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
(Property Owner) Melua and Harry Olsen
159 Springer Road
West Sand Lake, NY 12196
A-1 Zoning District

Tax Map #147.-3-25

Lot Size: 30 acres

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) stated that the ZBA was continuing the Rifenburg Public Hearing from the prior month. She explained the ZBA began the Public Hearing on October 20 with a series of questions and they are still accepting comments from the public. She said the ZBA has not heard back from DEC and DEC makes the final decision. JB invited Ed Davidson (ED) from Spectra Environmental, representing

Rifenburg, to explain their application. ED stated they have been before the Town for several months looking for a 20-acre expansion on the 120-acre mine site. He stated as far as an environmental impact, the expansion is quite minimal, well-hidden with significant setbacks and vegetative buffers around the site.

JB stated that the ZBA had all taken a site visit tour of the mine earlier in the month, walking the site and asking various questions along the tour. JB referenced a November 15, 2016 letter from Rifenburg to DEC which answered a lot of questions that had been raised by DEC and the ZBA. JB explained that she would not read the entire letter to the audience, highlighting a few of the Rifenburg answers regarding slopes at the mine, emergency hours of the mine and reclamation. JB asked the public if they wished her to read the letter further. No one requested additional information from the letter. ED stated that Rifenburg/Spectra had addressed all questions from DEC and the ZBA as a "good neighbor." He assured everyone about extended hours of operation, nothing changing with truck traffic, sensitivity about not using Springer Road for hauling, stating Rt. 150 would be used. The expansion objective is to increase inventory only. JB stated Rifenburg had provided new maps which reflected the change to a 50-foot setback. She invited the ZBA and public to review the new maps if they wished and then asked the ZBA if they had additional questions.

Melissa Toni (MT) asked about the watering plan for dust control stating a minimum of once per week. ED explained that it depends on the weather and operating season. Sometimes watering can be done once per hour and they are committed to watering as needed. MT stated the ZBA has received complaints about noise from generators on the site. She asked if Rifenburg would entertain a noise shroud for their generator stating they are cheap fabric covers costing approximately \$150 for residential generators. She added the shrouds are proven to reduce noise by 10 to 20 decibels. ED stated they would look into the shrouds. Jeb Bond confirmed that the new excavation would involve carrying the material to the existing conveyor belt and there would be no additional noise except for the excavation itself. ED stated they are already operating in that area and the product would be taken over to the conveyor in the center of the site. It is just a continuation of current operations and should not create more noise. Jeb asked if that is where the generator is and was told yes. JB confirmed that no new employees are planned for the mine site and was told no new. JB asked about average number of trucks. ED explained it depended upon the season with 12 round trips per day on the off season and 40 round trips during construction season. This has been the pattern of truck traffic for at least 15 years.

Geraldine Burger asked for clarification of the DEC Permit Number used on the Application documents. ED and Adam Schultz (AS), Attorney for Rifenburg, explained that the MLF #40137 refers to the entire mine site and not just the expansion. ED explained that if the 22-acre requested expansion was approved, the expansion would be included under that same #, but just as an amendment. The other numbers included in the DEC permit number (4-3840-00020/00003) reflect such amendments. AS explained further how someone would be able to search the DEC permit file using the permit numbers. GB continued to press how someone would be able to track the reclamation of the existing and expansion acreage. There was considerable discussion between the Rifenburg representatives, GB and JB regarding the expansion and reclamation plans. GB asked JB if DEC could come to the ZBA meeting and JB stated she did not think so. She said DEC had the final decision. AS showed GB a map of the reclamation plan and assured her that all reclamation would be consistent with reclamation plans previously approved by DEC.

JB reopened the Public Hearing at 7:22 PM. Patricia Mallory from 121 Springer Road stated she lives directly across from Foley property. She said her concern was how close would this expansion come to

Springer Road. She said she heard from the presentation that there would not be more noise, but stated she hears noise all day long. ED said the expansion would be several hundred feet at minimum. He said 300 feet from Springer Road with 6 to 7 acres of buffer on the Foley property and a setback left untouched on the east and south side of the property. He explained the typography of the land and vegetation control the noise. JB asked ED to explain further how typography helps to mitigate noise. ED stated that as the current excavation moves east, they are digging into a hillside. A 30' to 50' slope shields the neighbors to the north on Springer Road. He added noise modeling has been performed by Rifenburg. Ms. Mallory clarified with JB that the land was being rezoned from Residential to allow this mining expansion. JB stated there is no change in zoning; that the land is in an A-1 agriculture district and mining excavation is allowed there.

JB and LH discussed how to handle keeping Public Hearing open. They decided that since the ZBA needed to wait until DEC responds to the permit and the ZBA also needed to have a 239 review conducted by Rensselaer County, the Public Hearing would remain open to see if DEC grants approval of the permit. ED asked if ZBA could issue a conditional decision and JB advised no because the ZBA still needed the 239 review to be conducted by Rensselaer County.

JB explained the ZBA would meet again in December and was hoping to move the ZBA meeting from 12/22 to earlier in the month to avoid Christmas week if they could. Summarizing comments she had heard from the ZBA, JB stated they would be looking for Rifenburg to come back with answers to the request for a generator cover. Scott Bendett (SB) asked if there was any way to mitigate noise better. ED reiterated they have the screen burn, typography, vegetation and their noise model. MT stated the decibel levels are in the 70s and that would be equivalent to a chain saw which isn't that noisy. The requested shroud for the generator would help and SB commented that should not be very expensive.

JB stated the ZBA would suspend closing the Public Hearing and motioned to do a 239 Referral request to Rensselaer County. SB seconded the motion and all approved. JB explained the 239 Referral could not be submitted until all questions/issues had been raised and resolved. She stated Rifenburg had provided enough information to the ZBA, the public had their opportunity to comment and now Rensselaer County would have 30 days to respond to the 239 Referral request.

MINUTES

JB asked if the ZBA had a chance to review the October 20, 2016 minutes. SB motioned to accept the minutes, MT seconded the motion and all approved.

ADJOURNMENT

Jeb Bond motioned to adjourn the meeting at 7:31PM.