

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
September 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

MEMBERS ABSENT:

OTHERS PRESENT: Theodore DeConno, Gene Coletti, James Pettit, Ed Davidson, William Hoffay, E. Foley and Monica Ryan

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

Area Variance Application and Public Hearing

Theodore and Maureen DeConno

17 Perry Way

Averill Park, NY 12018

RR-2 Residential/Recreation Zoning District

An Area Variance Application for construction of a detached garage in the front yard of property.

Tax Map #159.4-1-30

Lot Size: .38 acres

Theodore DeConno (TC) presented before the ZBA. As owner of 17 Perry Way, he explained his plans to build a two-stall, detached, 720 sq. ft. garage on the front side of his house. This is necessary because it is lake front property. Judith Breselor (JB) stated she had done a site visit of the property and other ZBA members confirmed they had done so as well. Since there were no questions from the ZBA, JB opened the Public Hearing at 7:02 PM. There was no public comment for or against the Area Variance Application. JB confirmed with Karol O'Sullivan that neighborhood letters had been sent to neighbors and she confirmed yes they had. JB closed the Public Hearing at 7:03 PM. JB explained to TC that his request for an Area Variance is common for lake property. She acknowledged the small lot size of .38 acres and said she did not feel his plans would have a negative impact on the lake. Geraldine Burger (GB) told TC he did a good job of leveling the site. TC offered that there would be no alaskan slab and there will be a 4 foot frost line to prevent washout. He said proper drainage is already in place and his contractor had advised that the majority of the cost of the garage was underground to ensure no massive run off. JB shared her concern about the garage casting any shadows on neighboring properties. TC explained that his neighbors' garages are in the same vicinity, so shadows on their houses would not be an issue.

JB asked for a SEQR motion from the ZBA. GB motioned a Type 2 SEQR and Jeb Bond seconded the motion. It was unanimously approved. JB motioned to approve the Area Variance Application, Scott Bendett (SB) seconded the motion and all approved.

Special Exception Application and Public Hearing

Genius Loci, LLC/Old Daley Custom Catering
2339 Rt. 43
Averill Park, NY 12018
RR-2 Zoning District

Tax Map #170.-1-12.2

Lot Size: 3.08

A Special Exception Application for use as an event space, restaurant and overnight accommodations facility.

James Pettit and Gene Coletti, representing the Old Daley (OD), presented before the ZBA stating they thought it was best to request for a Special Exception for the property to change it from the pre-existing, non-conforming status they have been operating under since they took over the property six years ago. They have exploratory plans moving forward to offer overnight accommodations at the facility and a new restaurant underneath it. GB asked about a new parking lot on the property and the OD stated yes they would put in a new parking lot if the restaurant goes in. OD explained their desire to make the facility more beautiful for the community and said the Crystal Lake Association was fully in favor of their future plans. JB asked the ZBA for discussion. GB confirmed that the ZBA was only giving approval for the Special Exception Application and any future plans would need to come before the Boards for further approvals. All agreed that the key to the Special Exception Application was the accommodations discussion. JB reminded everyone that the facility was once called the Crooked Lake Hotel because it had offered room accommodations and the request was to continue that option.

JB opened the Public Hearing at 7:10 PM and with no public comments offered, she closed the Hearing at 7:11 PM. JB stated the request was nothing different from what the OD was currently doing and the OD confirmed their understanding that any future plans would need to come back before the Boards for review. SB motioned an Unlisted Action under SEQR and Melissa Toni (MT) seconded the motion stating a negative declaration for the Application explaining the Special Exception would have no impact on the environment and lake. The ZBA unanimously approved. SB motioned to approve the Special Exception Application, MT seconded the motion and all approved.

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) Melua 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.

Ed Davidson (ED) from Spectra Environmental presented before the ZBA on behalf of Rifenburg Construction. ED explained that Spectra had submitted all plans for Rifenburg who wants to get more aggregate sand and gravel for construction projects. He said Mrs. Foley leases her land to Rifenburg on a weekly basis. JB asked for questions from the ZBA. MT asked for more specifics: site details; size; and life of mine? ED stated the life of mine is currently 122 acres on Olsen and Hoffay properties with a desired expansion of 22.3 acres more on the Foley property and northern end of Olsen property. ED explained proposed grades will remain the same as current site and equipment and processing will all be the same. It is just a 15 to 20 percent expansion of the area with no material changes to the process.

JB cited the various documents provided to the ZBA: (1) Rifenburg Application Package; (2) DEC Letter Re: Rifenburg to Town; (3) DEC Letter to Rifenburg Re: Incomplete Application and (4) Town Response to DEC Re: Rifenburg. JB stated she did not see any response from DEC to the Town. ED said he was unaware of any DEC response. JB explained next steps to ED. The ZBA would ask additional questions, advertise for a Public Hearing, listen to public comment and incorporate those comments/questions into a letter back to DEC. JB asked the ZBA to continue to review the project and asked for their additional questions. GB stated she had reviewed the Spectra documents prior to the meeting. ED clarified that the Spectra document in front of the ZBA was a second submittal to DEC clarifying questions raised by DEC after their first submission. ED stated he understood the Town wished DEC to be the lead agency with regard to the Application. JB confirmed DEC would be the lead agency but thought the DEC would wish to hold a Public Hearing or possible joint Public Hearing on the subject. LH advised that the ZBA would be the lead on any Public Hearing and the DEC is not required to do a Public Hearing. Monica Ryan (MR) clarified confusion from the ZBA regarding the electronic documents submitted to them prior to the meeting and the Spectra documents presented in front of them at the meeting. The hard copy Spectra report (dated September 8, 2016) in front of them was to assist them with the large format maps and was the same report provided previously in an electronic format.

GB stated she had read the report and found some of the terminology confusing. She asked if a "definition page" could be provided to better understand the report. ED confirmed there was no definition page. There was discussion between the ZBA and ED about the technical language regarding grade/slope/pitch used in the Spectra documents. ED stated that he felt the ZBA was getting into SEQR process questions for the mining permit which is under DEC's review as "lead agency." He said he would be happy to answer any ZBA questions, but was more prepared to answer questions related to the Special Exception Application. GB again pushed for definitions page and ED stated he is not aware of any and offered that the language in the Spectra report is standard language used between regulatory agencies. GB asked for an explanation of Life of Mine. ED said it is defined by DEC as total area occupied by mining activity from day one to last day of mining in said area.

SB raised reclamation, asking if Rifenburg was going to adhere to the reclamation project as the letter from the Town to DEC addresses that this has not been the case. ED stated that DEC regulations govern reclamation. A portion of the site has been reclaimed according to DEC standards and more will be done by Rifenburg when possible, while keeping operational considerations in mind.

JB asked the ZBA to take a hard look at the Spectra documents and start developing their questions for the next ZBA meeting, where they will open a Public Hearing. The ZBA should understand the project and what is actually happening. ED suggested to the ZBA that they speak with Nancy Baker from DEC to

seek what role they plan to play and what interaction there will be between the Town and State. He said the State should be leading the environmental review process. JB said she thought the DEC would take the lead and the ZBA is just trying to understand the project. ED said he anticipated the DEC would come out with another document specifying additional questions/comments and it would be good if the State and Town questions could be packaged together. There was discussion between the ZBA and Lawrence Howard (LH) about whether Nancy Baker at DEC would attend the ZBA's Public Hearing. LH said the ZBA could ask, but everyone felt that her attendance was doubtful. SB said it makes sense that when the ZBA holds the Public Hearing for the community and the same questions come up, it would be best to have DEC present so when Spectra says the questions are a DEC issue rather than a Special Exception Application issue, the appropriate representation is present. SB said it would avoid a contentious evening of he said/she said, if the State could be present to answer questions and say what they will allow to be done. JB stated she was doubtful of State attendance at the Public Hearing. She suggested that possibly Nancy Baker would be willing to hold a workshop for the ZBA. LH suggested a coordinated effort by the ZBA to contact Nancy Baker with such a request. The ZBA agreed to create one ZBA list of questions to be coordinated by MR. JB stated a Public Hearing would be scheduled to hear the public's concerns and comments.

LH asked ED when he thought DEC would respond and he was told 30 days from the September 8 Spectra document which drives to October 8, 2016 which will be prior to the next ZBA meeting/Public Hearing. MT stated she doubted Nancy Baker's involvement and asked LH if a one-hour workshop could be held to go over the roles and responsibilities of the Town related to what is and is not allowed under a Special Exception Application. She said there is a lot of case law and background for the ZBA to absorb. It was agreed that any workshop would need to be published in order to be held. All agreed to move forward with the compilation of questions and the scheduling of a workshop. LH suggested the ZBA should review their schedules, communicate via email to schedule the workshop and then it would be published.

MINUTES

JB asked if the ZBA had had a chance to review the August 18, 2016 minutes. SB motioned to approve the minutes, GB seconded the motion and all approved.

ADJOURNMENT

SB motioned to adjourn the meeting at 7:36 PM, MT seconded the motion and all approved.