

**TOWN OF SCHUYLER FALLS
ZONING BOARD OF APPEALS
REGULAR MEETING 07-18-2022**

The regular meeting of the Zoning Board of Appeals was called to order at 6:45 p.m. by Chairman Frank Dorrance.

Roll Call	Present	Absent
Frank Dorrance (Chairman)	X	
Tom Carlsen (Vice-Chairman)	X	
Rick Hazen	X	
Tim Aubin	X	
Kelsi Russell (Alternate)	X	

Others Present: Ryan Smith, Sheridan Garner Jr., Keith Tyo, Dorothy Tyo, Sheridan Garner Sr., Peggy Garner, Sheryl Supernault, Josh Liberty, Bill LaCount, Donna Scarborough, Jennifer Ocasio, Linda Riley, Richard Donah, Deanne St. Yves, Erin LaDuke, Heidi Bombard, Jay Grillo, Reggie Facteau, Regina Facteau, James Masswick, Steph Demaris, John Demaris, Steve Shipman, Deanna Shipman, Gretchen Comfort, David Comfort, Michael Mintz, Gary Cederstrom, Barbara Zielinski

Mr. Dorrance moved on to the second item on the agenda. Approval of the June 2022 meeting minutes. Mr. Carlsen made a motion to approve the June 2022 minutes as written. The motion was seconded by Mr. Hazen.

Roll Call	Aye	Nay	Abstain
Frank Dorrance (Chairman)			X
Tom Carlsen (Vice-Chairman)	X		
Rick Hazen	X		
Tim Aubin	X		
Kelsi Russell (Alternate)	X		

Motion Passed

Mr. Dorrance moved on to the next item on the agenda Appeal 22-002. Mr. Bouharevich and his attorney Jamie Maswick addressed the board regarding this appeal. Yuri Bouharevich, owner of White Rainbow Farm addressed the board. Mr. Bouharevich explained that his counsel Jamie Maswick will be addressing the board about the four criteria for his use variance. Mr. Bouharevich gave some personal background on himself and his family. Mr. Bouharevich is originally from Montreal, Canada. He came to the states when he was eighteen years old. He expressed that this is why they moved to this area, because it is like a suburb of Montreal, about an hour away. He and his family have lived across the country for the last 10-15 years. He explained that they settled here about a year and a half ago because they started a family and that's why we care deeply about family and roots and they want to have

grandparents close by. We specifically bought this property because when I was looking for a property I was looking for a property with some income on it meaning it would compensate for our expenses. He has always been a business owner. He explained that he started from zero ten years ago and everything I've done it has been self-funded and he is doing his best to make a business in this area. The idea was that when we bought the property my wife and I we are both yoga instructors and are very passionate about giving to a community and helping it grow, this was a prime opportunity for us we thought. We came here thought it would be great because there were no yoga studios in town, maybe one in town but in this area, there wasn't one and also having a farm we thought it would be very interesting to do. We bought the farm it was communicated to us by the realtors and the previous owners about what they were doing for the last ten years as far as events weddings were part of their what they were already doing previously. We jumped all in and in my proposal, I showed that our annual amounts are to cover our basis our mortgage, property tax, and insurance and we really thought that weddings would be something that would be a backup to keeping us to pay our bills basically. Last year we tested a couple of events. At that time and previously there were no one came to us knocking at our door complaining, previous owners the same no formal noise complaints for there. When we started to do the proposal obviously things changed but to be perfectly honest up until last month, I didn't know there was any complaints. Last month when we came to this meeting and there was opposition it was a little bit of a shocker initially. I didn't know that there was this type of opposition. We have a farm that's about community. We literally have a CSA it's called community supported agriculture. We are about the community we have a not-for-profit yoga studio we are about wanting to help this community; we didn't know there was opposition up to that point. That's why we changed our proposal up because I started to listen to the community. Last meeting, my attorney at the end of it asked to if anyone wanted to talk to me, we came outside, nobody wanted to talk to me during the whole process, nobody came to my door and asked questions or details about it, because I'm all ears, I'm willing to be flexible on what we are trying to do, because this is not just for our own benefit, we want to have this for the community, we thought it would be great for the area. Last month, I was really saddened because I didn't know the opposition was there and I don't want to ruffle feathers. That's why I really shortened down our proposal and really put controls on we were asking because I wanted to listen to people and when I listened to people, I heard that their were three main concerns that I heard.

1. Noise disturbances
2. Number of people at the property
3. Alcohol consumption during events and how people would respond to that

In our proposal we have taken out live music events. I think that hits all those three pretty hard, we also took out campsites because we really wanted to focus on what we really started this process for which was to have weddings on our property. We put even more controls on that. At the end of the day what we are trying to do here ladies and gentlemen is we are a farm and yoga studio first that wants to do a few weddings a year. When I say a few weddings, to me we are not a wedding venue where we are having Friday, Saturday, Sunday, asking for events all year long, you know that's just not what we do, we have a tent that's limited to five months of the year and we only wanted to do Saturday's, that's what my proposal is saying is that we limited it to 150 people max capacity, we only serve beer and wine, there is no liquor. I actually have in our proposal, a letter from the owners of Ausable Brewing Company because they have a very similar type arrangement as us, they have a farm, they only serve beer and wine, they have an outdoor structure, they usually have on their weekends maybe 100-200 people there and they have barely had any sort of issues with what they are doing there, it was controlled, it was contained with beer and wine, we would be limiting our time to 9pm for serving drinks. We would be stopping the whole event, wedding at 10pm. We have a lot of controls for the alcohol consumption, and then the last one which I didn't put in my proposal was that we actually

bought a school bus and we converted it into a shuttle bus. We will offer complimentary shuttle services so that we would avoid a lot of people driving to our property. We were hoping that only maybe 20-30 cars at the property max, I know that was an issue too that was brought up about people driving out of there. So, we limited that, well the other control too was the number of people that we have obviously done with the max capacity and the last one was noise disturbances. When we had a letter in there from a company called Chimera Integrations, they do smart technology and we would be putting decibel readers at different points of our property so that when the event was going on if it hit past a certain decibel reading, I would be notified and I would lower the music at a certain level. We are trying to make sure that neighbors barely hear this, that was one the other one is security cameras so that it would notify us when people would cross a line if they were ever going to neighboring properties so that would avoid anyone going to neighboring properties. The other thing about the music is a couple weeks ago we did a music test we brought a professional engineer in, a music guy who has done all the music events in Plattsburgh really for outdoor events and he sets up the sound board and put it at a level that we wanted to do it. What we are trying to do here is we are not trying to blast music, the difference between an outdoor music venue is where the music, sound is blaring out to 500 people, this is inside a tent with 2 speakers at background level we are really looking to make this a farm to table experience. People come here early in the day, its an afternoon event to have some farm to table, we give them some of our food it's background music and conversation That's the vibe we are going for and we are open to talking to the community more about how to make more controls or make it any disturbance to you. We want to be there where you guys won't even notice that we are there when you are staying at your house but yet we are there, happening and that's what we did, a couple weeks ago we had a live sound test, we did it 20 percent louder then we would normally do just to compensate for people talking and there was a letter written from a neighbor who was there and testified that they were there seeing it and then they went to their property, they did not hear it on River's Edge. They spoke with a couple other neighbors, they conferred you could not hear it from that point, other neighbors who are on Mason and 22B, it was very faint at 40 decibels which is basically a whisper level for the noise levels. Mr. Bouharevich apologized to the people in the room who are here in opposition of this use. Our intention is not to offend you guys in any way we are here to have a conversation about how do we make this work for both parties involved, that is what we wanted to do from the beginning. Our door is always open. I'm here to talk, I'm willing to bend. I want to help this community out and I really think this would be a great thing for the area. Mr. Bouharevich's lawyer James Maswick with Flint Maswick Law in Tupper Lake/Lake Placid then addressed the board and community members. He explained he will go through the four points of law and discuss those. The first one is that the applicant cannot realize a reasonable return provided that lack of return is substantial and established by competent financial evidence. Yuri's proposition to the board, he submitted the tax returns for five years prior of the farm. Tax returns show the farm is making 30-40 grand a year. It's not going to be substantially viable to run this farm making that kind of money. With respect to profitability of RR1 which is where we are, we know it's super restrictive in there, and Schuyler falls has a lot of RR1 in it. So what could he do potentially, maybe subdivide and sell pieces of the property to make it financially viable, I think that everybody wants to maintain the rural characteristic of the area and if he were to subdivide and sell off lots then you have got an entirely different situation, more neighbors, more homes, more traffic in there as well. I think that would change the characteristic of the neighborhood. Mr. Dorrance questioned that we are talking about financial viability here, his question was if he subdivides can he sell parcels off to offset? Mr. Dorrance expressed that is not impossible, but that is has been expressed as

undesirable. Mr. Maswick explained that he does not feel he has to say that it is not possible as that is not the standard. The standard is that you can't receive a reasonable return on an investment. Mr. Dorrance expressed that it was on things that are allowable for RR1 in the area. Mr. Maswick expressed that there is a supply chain issue right now, it is very difficult to get homes built, housing everywhere in the North Country is an issue. Just read any sort of newspaper on a regular basis. There is a reason it's difficult, because its expensive to do and it becomes substantially difficult to establish. You have to pay a surveyor, pay for property development, a roadway and then that does change the characteristic and affects number three. This use that Yuri is proposing here, ten weddings a year, this is the 2022 use of a farm on a part time basis. This is what farms do to supplement their income at this point to remain viable as farms. If you ever happen to check out June Farms in the Albany area, check it out, it's a brand-new wedding venue that is a situation where this is how the person is making their money. That is a venue, this is a ten time a year-ish not greater than time to supplement income as a farm. People want to get married on farms. He mentioned Asgard Farm in Ausable Forks has hosted weddings before because it's so beautiful. This is what farms do to stay in business right now. There is not much else you can do in RR1 other than farm. I think its important for the board to take into consideration the Dollar General proposal. Their answer was that they were looking to make a significant economic investment to bring Dollar General into the community, and that this intersection on Military Turnpike and Irish Settlement presents the best optimum return on investment, with no other areas allowed on the county highway corridors allowing a retail use, the applicant can find no other location to receive a substantial return on their investment. They didn't even own the property yet; they were trying to say that we can't even come into your community without it. Here we have somebody that has put down roots and owns the property, wants to be a member of the community and can't find another substantial return on his investment. Yoga isn't paying the bills CSA (Community Supported Agriculture) isn't paying the bills. I think that Yuri didn't say this, and I didn't ask him for his permission to say this so maybe I'm out in front of my skis if you will but I don't know if he affords the farm, if he's not permitted to be able to do weddings a few times a year there moving forward. Mr. Dorrance expressed, before you move on from farming, I've been to the property multiple times, it appears very little of that is actually under till or agriculture, it also appears that the greenhouses have not been used for a while, its kind of hard to determine whether its not viable for farming, if you're only farming out of 30-40 acres one or two and you're bringing in revenue, what would happen if you farmed more of it and figuring that I've driven by a lot, there is not a lot of labor going on, on those parcels all the time so the farm labor could be spread across a larger set of parcels so can we talk about why icapats not viable as a farm, when it obviously isn't being used to its full capacity as a farm. Mr. Maswick expressed that the proof is in the pudding for the last five years of the tax returns. Mr. Dorrance expressed that, that was known prior to purchase so nothing has changed making that a self created hardship. We are not talking about a farm that was viable that became unviable, we are talking about somebody who was farming one or two acres bringing in a known income, he purchased it at double the assessed value, and the fact that didn't change makes it self created by definition. Mr. Maswick expressed that he thought we were talking about criteria number one, Mr. Dorrance expressed that he was just following up, if he would like to talk about the revenue for the last five years. Mr. Dorrance expressed that's great and its in your documentation and when we get to number four it will directly apply because its documented by the applicant. Mr. Maswick expressed that in any property transaction he has been a part of, it is absolutely rare that a seller of property is going to turn over their tax returns as part of a situation, that's not a typical situation so if that was available, we didn't have it before then that's news to us. Mr. Dorrance expressed that in

business operations you can when you are buying it ask for tax returns but that this is a residential parcel. He also expressed that in business transactions it is traditional to know what the revenue stream is for the business that you are acquiring, so if it was acquired as a business and he chose not to get that information that is certainly not the norm for a business transaction. In residential transactions, looking at the revenue capability of a piece of residential property in a residential district, involves saying what can I legitimately do in this location. Mr. Boharivich expressed that he wanted to address about the farm viability and the expansion of it and that's why I've got in my first proposal, a letter from the owner of Fledging Crow which is one of the biggest organic vegetable farms in this area, and basically what they communicated because I reached out to them because they started fifteen years ago, there about ten years ahead of what the previous owner started, and he is basically communicating in that, that if you continuously grow, it brings in more and more expenses and it really doesn't get to a point where its ever been a reasonable return. They are the owners there and you can look at them as being successful all over the place but the owner is in substantial debt and they are having a difficult time, that's why he left the business. He is a co-founder of that farm and that was, I can do the same I can grow and grow and grow but you need more and more labor and right now labor is short and expensive, and the cost to sell it's just not reasonable to make a profit at that level. You need a substantial investment, and the same to cover your labor costs on that. That's why I got his letter. Discussion took place about this letter and where it was in the application packet. Mr. Bouharevich expressed that at the first meeting that we had where we didn't do any voting on it, Tom the attorney was saying that the critical component of the first question was to answer with us with detail and hopefully some backing of all the potential uses that you can have in RR1 and that none of them would get reasonable return. I believe I addressed all those points which were allowed on our property which is either multi-family dwelling, boarding rooming house, nursing, adult care, residential cluster development, home occupation, day care center, commercial riding stables, golf course, agriculture business so I wrote down all of those describing why and I got letters for and from a few of them talking about why financially it wasn't a reasonable return in this market to attract for any of those. Mr. Dorrance asked for the applicant to continue with number one or move on to number two. Mr. Maswick expressed that, that was criteria number one so they would move on to number two. Mr. Bouharevich expressed that, that area on 22B is very commercial oriented its not like we are on the side of the road and we're trying to throw up commercial developments on both sides of me on 22B which kind of pertains to, I was trying to go off a little bit of what Dollar General was saying regarding the location of that area being very retail oriented and how that was applicable to my application of commercial use of my property. With respect to number two, that the alleged hardship relating to the property is unique and does not apply to a substantial portion of the district or neighborhood, its unique in that the town code doesn't provide for wedding venues specifically. Again, young people want to get married at farms and this venue provides a great use for this property on a part time basis. This isn't seven days a week, twenty four hours a day, this is ten nights a year that he's proposing, it's a unique property with unique characteristics. It gives the best opportunity for a farm to remain a farm with a part time usage. They have really struggled to make money there, but it's a unique property with wedding potential. With respect to the Dollar General proposal for instance, all they said was that the parcel was unique in its retail use potential. We would say that this property is unique in its wedding potential. Mr. Dorrance asked if this farm was different then several of the farms in town. Mr. Maswick expressed that it has structures on it, is a nice spot by the river, has greenhouses that can be utilized, its got some infrastructure as well and it provides a nice area for people to get married, that people want to get married at, I'm surprised more people aren't seeking to do these things.

Mr. Hazen expressed that he is surprised people want to have a wedding there because of the noise up and down 22B, the venue isn't that far from the road. Mr. Maswick expressed that if the board were to give permission then the market would dictate that. Mr. Bouharevich expressed that, the other thing he wanted to say was, on a couple things to address, when I've talked to the previous owners this was something that people from town asked them about. They approached the previous owners and said hey we would like to get married. I think that's a pretty nice honor that they do that. He expressed that Mr. Dorrance was talking about a piece of land. People don't want to just get married on a piece of land they want to get married where there are flowers that are curated, vegetables in the ground that can be served as a meal, there is a yoga studio on the property, greenhouses that they can take pictures at, we have a sunflower field, our property is not just a field, there is a waterway in the back so there is something unique about the property. I also wanted to, I forgot to mention this in my first speech. Schuyler Falls spent I believe a sizable amount of money on a comprehensive plan for the next several decades of how to grow this community, literally it says the vision of Schuyler Falls is to become the number one place to live in the north country and on page six there is a picture of my farm, my greenhouses on this property. In this picture it says current zoning limits some opportunity by requiring special use permits for business operations. Revisions to the zoning code could better define allowable uses encouraging and streamlining entrepreneurship. There is a need to allow residents to build capacity for economic independence such independence can support town growth without sending resources to neighboring communities. This is exactly what the situation is here about an entrepreneur wanting to grow the economy of this area and honestly if it doesn't Jamie brought up before and I didn't think it was going to come up but like honestly if this doesn't go through there is a chance I would probably sell the farm. That's just a business decision because it doesn't work out and then I'll go somewhere where they will allow it. Its not a threat its just a reality. We didn't buy this with the ability to be able to pay fifty, sixty thousand dollars a year just to be able to have the mortgage property tax and insurance. The idea was to have it covered so you know the idea from the comprehensive plan, from consultants writing to showing the picture of our farm then that is the problems we are dealing with. And I also want to say on page ten there is another picture of our farm, Shady Grove Farm, that is what it used to be called. Schuyler Falls supports diverse small value-added farms. Supports farms, an ecohamlet scenario builds on the regions tourism economy and leverage of growth and tourism. What I'm trying to say is like this area obviously is very dominant in tourism. People come here in the summer, fall, they come from New York City, Boston, New Jersey. The type of people that, who have been knocking at our door to do weddings, I mean tourist people from out of state coming here specifically for that I mean I think that would be great for the town and the economy. And that's what its stating in this proposal about the ability to do tourism, so I just wanted to bring that up in the sense that I forgot to sidenote that, that was in the plans for the town. Mr. Carlsen expressed that as a member of that committee that produced that particular program, the group toured that area and the idea was that to sponsor it just like the area where the Dollar General is as a hub to expansion of some development that was going to produce a economic boost to the area. That was identified and I'm just to reassert that, I was on the committee, we went there and that's exactly what the intent was of the final decision of the master plan. Mr. Dorrance expressed that the master plan does not supersede the current zoning regulations. Mr. Maswick moved on to criteria number three that the requested use variance if granted will not alter the essential character of the neighborhood. Again, I think other proposed uses would alter the existing characteristic of the neighborhood greater if you were to subdivide the property and sell and put up a bunch of homes, if you were to put in a golf course and I can tell you about that being a hard business, I

represent a couple of golf course owners. Mr. Dorrance expressed that might take a permit as he isn't sure we allow a golf course. Mr. Maswick expressed, there just isn't a situation where there is going to be something that changes the neighborhood less than hosting weddings ten nights a year in the summer months on Saturdays. This causes the farm to substantially remain the same. Big greenhouses already are there and utilized for this. The other piece of this is that, to an extent, people are concerned about alcohol consumption for these ten nights a year. There is a social club in the vicinity about a quarter of a mile away so there is some traffic there on the evenings as well. Mr. Bouharevich expressed that, in terms of visually the look of the farm, I mean its on the, the tent that we invested in already before this is already erected and we have several buildings on our property already, we have a large barn, we have three greenhouses, we have two outbuildings, we have a house and the look of this tent looks very much like another structure and greenhouse. So visually we see it being similar. In terms of the noise situation, I think I addressed it with a lot of controls in the proposal to make it where its not affecting the genetic makeup of the neighborhood in terms of noise. We are well below the noise ordinance and we are in compliance with that. Mr. Maswick expressed, comparing again to the Dollar General proposal that was approved they just said that the retail store does not present an adverse effect on the neighborhood character. That's not even the standard, they didn't even address the standard itself, but that was, I think its fair to say that Dollar General plopped down on 22B or whatever road irts on in that vicinity is going to change the character much more than a farm whose presentation and visual situation is not going to change whatsoever. Then with respect to number four that the alleged hardship has not been self created. Yuri spoke to somebody at the town before he purchased, he thought he was purchasing a property where this could be done without a permit. He relied on his realtors as well. Public events had been done at the place for the last ten years or so. Look on the website, they had booked weddings ahead of time, so could we have done more digging, I think that's a fair thing to say if we are being honest with you. RR1 is heavily restricted and creates a hardship on a potential use of property throughout the zone, and you can't do much in that zone. Read the allowed uses, there is not much and there is other parcels in the area that have undergone transformations and what not, just like Dollar General did to then be permitted to utilize this property in RR1. Dollar General is open a heck of a lot more often, got brighter lights, got more traffic, its more popular then this will ever be and the situation that Yuri's proposal provides is much less impactful on neighboring properties then this would be. Mr. Bouharevich expressed that the only thing he would say in that is that when I read the Dollar General, this is our livelihood on the line obviously and when I read the Dollar General their proposal is within two or three paragraphs and all I'm asking for is some consistency in the boards and how you guys allow for special use permits because all they wrote for the hardship is that our lot is highly restricted and that in itself is the hardship. And so if that's its not self created and we are asking for the same. Mr. Maswick expressed that Yuri didn't create the RR1. Mr. Dorrance explained that Dollar General was smart enough to, not to buy the property until they had approval. They did the proper business research, applied for the approvals, they got them and then they purchased the property, so they didn't self create any hardship because they went for the approvals before they bought something in an intent to use it, and as far as the neighborhood, that particular Military Turnpike stretch is from the bridge all the way to the gas station, commercial properties with the exception of very few residences. A the time we looked at that proposal, someone enumerated the number of residences but it was very minimal, it was very commercial, the entire length of it, and their store didn't change the flavor of the community because it was already a heavily commercial strip including across the street and down to the auto body shop that was there so to put in a Dollar General didn't make a significant change to

the neighborhood, unlike possibly this one does where it's a residential area on the back side and a residential area across the street in our town, not the town of Peru and so using the Dollar General though it is a place where a variance was granted, it was granted on a totally different set of circumstances and in a geographic location that doesn't have the same feel as the neighborhood directly down the hill on the back side which is very residential at Yuri's place. Mr. Carlsen expressed he felt Mr. Dorrance wasn't being honest, the existing businesses were established long before Mr. Simpson's garage and before zoning came in. The Garrow situation was long before I got on this board. The bottom line is that the introduction of the Dollar General was a decision made by this board two years ago, based on the four criteria they never approached but one of the four. I think tonight what's happening is that we are saying you must address the four criteria. My real concern is as follows, we set precedent as a board when we said don't worry about the four criteria for Dollar General because its different, but you have to for this one, its not consistent, its not honest and I think that's the real issue at hand for me. I just think we are doing an injustice to people if we do not be consistent in how we apply the four criteria or require the four criteria to be applied. Mr. Dorrance expressed he felt if you went back to the decision document on Dollar General we discussed the four criteria and how they had met them at that time to our satisfaction and that is part of the decision document. Whether or not you agree with that at this point or not, we did not say we were ignoring parts of the variance at the time. We said we felt they met the four criteria and were willing to grant that. Whether or not you agree with how they met them or not, we did not set aside at the time, the use variance requirements, at the time we did the decision document and said we believe you meet these requirements and we have granted the variance based on that. We did not grant the variance saying we are going to ignore certain criteria. Mr. Carlsen's concern is that we are going to put ourselves in judicial jeopardy when we are not consistent. Legal cases have come up before the state courts where the ZBA has granted an application one case yes, others that are similar no, the court said the Zoning Board was wrong. I find that to be an issue at stake here more than trying to absolve anybody of any kind of concern about self imposed issues. We are not being consistent. Mr. Dorrance expressed that he does not see the comparison. I don't see that the two are similar. They are unique in their own cases and we are looking at those. Mr. Murnane expressed that the Zoning Ordinance and state law indicate that this board needs to apply those criteria, but they are not, how fully they are complied with, if you are talking about Dollar General, we need to apply those criteria in every application, and as long as I have been sitting here, I have indicated that and told the board that's the critical thing you need to do with respect to use variances. Apply those four criteria together not only outlined in our Zoning ordinance, but also in state law. Mr. Murnane expressed that we can argue about what happened before but we need to apply those standards tonight. In each application we should be applying those standards. We need to apply those standards uniformly in every application. That is the law. Mr. Bouharavich responded to Mr. Dorrance regarding the Dollar General area being very different than ours in the sense of being very commercial and to make sense of having it there and ours being different with respect to that, you know I believe right across the street from Dollar General there is residential homes, it's the same as ours. It actually right across the street they have this big sign that's on till ten o'clock or something. What we are proposing here is that there is no visibility from our property. We have trees all around us, nobody sees our property directly from their home, there are trees in the way in the summer at least there are. I believe with the changes I made to the proposal I believe that I have addressed the rest of the matters effecting my residential neighbors that you were referring to and behind me quite substantially to a point where they will not be impacted by the noises or people stumbling on their property, or being a nuisance. Mr. Maswick expressed that you have

a young man with a family looking to put down roots. You have got a situation where he wants to employ some people, make a living, continue to do some of the events that the farm has been known for and follow along with the bicentennial plan of the town. His farm is in the picture, is it binding, its not but its awful persuasive when the committee that looked at this thing, looked at the economic situation in this town to maintain its character but yet continue to grow, even suggested this property for this adept use. I think that this is the exact type of thing that the board should be encouraging when you maintain the old yet give some new life and revenue streams with a minimal impact on people.

Mr. Dorrance expressed that there were a lot of folks here and we want to keep this somewhat orderly. He asked for public comment at this time. John Demaris, who resides at 326 Irish Settlement Road spoke to the board. He expressed that he owns the property that his daughter runs Rustic Pines Wedding Barn out of. He expressed that listening to the presentation reminded him of a New York City Street game. He does not disagree with what Yuri wants to do as part of it, the yoga studio, the farm, the farm to table weddings sounds great and neat and he thinks he would love to have that, but that's not 150 person wedding on a road front and this is going to be your new front view. Shady Grove had a beautiful view and we haven't seen any of that since he has been there. That was a working farm. Whether or not they made money or not, I don't know that but what I will tell you is I don't think anybody here who is objecting to this would be concerned about a nice little farm who practices yoga and has a thirty, forty, even fifty people wedding in a barn like I think are happening there. And then he slowly kind of just throws out there 150 people wedding here and there. 150 people weddings, we have them at our location that's zoned properly for it, its not a small wedding, that's major and I learned this, I didn't know it before. I don't care if you're selling just beer and wine or alcohol, you aren't monitoring anything. They are moving, doing whatever they want to do and its happening. You might be able to do something about it once its happening, but what does that do for the neighbors. I'd like to ask the board if you lived next door to this how would you vote? You may want to consider that. I fortunately don't live next to it but I can tell you, my neighbors here they have a beautiful little farm, a giant field, are they next? I am in agreement with him that a nice little quaint thirty, forty people wedding on a farm, that will be great. And one last thing on the music, they did a test with no people in the tent, this is stuff that I've learned, when you have 150 people in the tent, that music can't stay at that level. It has to be up, and we found out, we hear it at our venue, I'm always telling them they need to turn it down, it seems awfully loud to me and we are in a building so it's definitely going to change the neighborhood. I just want to make sure its clear, I'm not against it, we have a wedding venue, but we did it a different way and our tax liability increased dramatically, so if this fails or maybe even now are you willing to listen to us so when we want to plant a couple rows of carrots in the parking lot, we get agricultural benefit? It just doesn't work like that. If you go into an area and you start a business and you didn't do your homework, and figure out exactly what you could do and whether or not you were going to be able to make it, you don't get the choice to try to change the neighborhood and have everyone else cater to you, that may be how it works in the big city but not in the smaller cities, that's not fair. He respectfully asked that the board take all that into consideration with all the rest of the people here. Erin LaDuke, who resides at 880 Route 22B, which is right next door to the property being discussed. She expressed that it is a lie when Mr. Bouharevich said no one can see his property because she can see his property through the tree line. The music being muffled by surrounding trees does not happen because I have heard it every single sound. In the end of May, the music was so high, my dogs were howling, and my husband couldn't sleep that night, so I am a neighbor I am not a hater, I apologize that I can see

everything, and it actually is to me an eye sore on my street. Steve Shipman from 7 Rivers Edge Drive, addressed the board. I moved up here about ten years ago from long island and the north fork has become a rat race, you have vineyards, you have a lot of people, events, neighbors always calling the cops. We moved up here for the peace and quality of life and I understand you did the test but 150 people were not present. As soon as you do this then you are going to have other people wanting to do other things. I can see accidents already occurring. We had a limo crash in Schoharie, killed everyone but the driver, I'm not up for it. My wife is a nurse she works during the day and sleeps at night. She can hear everything. I'm sorry, you seem like a nice guy but I'm just not up for it. Mr. Hazen questioned, the event that Mrs. LaDuke was speaking about, back in May, could you hear the music? Mr. Shipman responded yes. Dave Comfort, who resides on Norrisville Road, addressed the board. He is not within ear shot but wanted to address a couple of things. Yuri is proposing a limited number of events until 9pm. I understand the noise can and will affect neighbors, I live right next to Macomb Park, if you want to hear noise, come to my place Friday and Saturday night. The proposal has been altered to be more reasonable, related to noise. I suspect you are talking maybe ten events but you might want to take into consideration, events the town sponsors at River Street Park, offering legal beverages and food, music till 9pm, not very much unlike this, and about half the number of times. Just something to take into consideration. I think at the present time, it's a very attractive place. If there is opposition with the tent then I guess that's something that needs to be addressed separately, but the family has been taking quite nice care of the property as I have seen. I've been there before they owned it and since. It appears to be a lovely little spot; they have improved the appearances and location. As a resident who does live next to an area where there is a fair amount of noise, I will acknowledge, I hear it and I hear dogs barking. I hear a lot more than just one family's dogs barking. Its an issue, I hear it but what does the town want to do going ahead. What does the town have to offer businesses coming in? As far as Mr. Dorrance's reference to maybe they should have bought a growing business, as a former businessman, a lot of people buy failing businesses with the idea that they are going to make a go at it. The Bouharevich's bought this business, which was marginally making it, with the intent to try to make it better. I don't argue with the folks that are concerned about noise but again if the controls are put in place and if they are held to those controls, seems to me particularly that the City of Plattsburgh, Keeseville, Schuyler Falls is sponsoring events with the same kind of noise or higher noise level, might want to consider how you take that into consideration when a final decision is made. Dot Tyo of 1 Rivers Edge Drive addressed the board, she read a letter in opposition of the project that has been submitted to the board. Keith Tyo addressed the board. He read a letter in opposition that has been submitted to the board. He questioned if the board would be voting tonight. Mike Mintz, who lives on Mason Street across from the Bouharevich's property, addressed the board. He had a comment and a couple questions. He asked Mr. Dorrance, he was led to understand you were going to read the letters into the record tonight. He has heard Yuri and his attorney mention several times about how they are following the Shady Grove Farm, and I just want to make an analogy, if a trooper stops someone speeding at 85 miles an hour on the Northway, and the trooper asks what's going on and the driver responds with I was just following th car ahead of me to keep up with them, what do you think the trooper is going to tell them? My second question is to Yuri and that is with these federal income taxes that you got from the prior owner when did you receive those? He questioned if they were received before the finalization of the property transfer. He expressed they were received about three weeks ago. He expressed that to him that is unfathomable because he is a business man and a real estate agent, its very common when you have financial involvement that before you get involved with it you go to the bank and they look at your returns to see what

is going on. He expressed he understands what he is saying. He also understands that there is a clause in the Zoning Board codes that says that if misrepresentation is made on behalf of the applicant that the variance if it goes through becomes void. Mr. Dorrance questioned where Mr. Mintz resides, he explained he lives on Mason Street, there are two properties that comprise White Rainbow Farm. He continued with a more detailed description of location. Mr. Mintz expressed that he has been there eleven years. Mr. Dorrance questioned if three, four, five years ago were there, he expressed that there were occasional music events that they could hear. He expressed that he knew Yuri said that this is proof that the neighbors are ok with this, in reality he is just trying to be a good neighbor. I won't make a stink over one or two sound events but more frequent than that and with all other things that are going on i.e., traffic and the nature and character of the property. Mr. Dorrance questioned if he knew if those were revenue generating events or were, they just a party? He expressed that he was unsure, he knows that is the case with White Rainbow Farm because he has read the proposal. Mr. Dorrance expressed he looked at what was supplied for tax returns and he didn't see anything splitting out revenue from events. Other board members questioned if the public could hear the events as well. The response was yes. Erin LaDuke addressed the board and read her letter she submitted in opposition of the project. Sheridan Garner addressed the board with comments in opposition of the project. He is former chair of the Clinton County Planning Board for 20 years. This gentleman has the right idea and the heart for it but I'm afraid that its not going to work for him. There is a lot to do in order to get the property up to standard for the health department. They are already looking at the place. He needs to have water and a number of different things in order to run a venue. Chances he will be able to afford all that and do what he wants is very unlikely. A use variance is a variance that is very hard to get because a use variance is saying that you cannot make a living off the land, yet if he has all these different venues, he is bringing in money and therefore really does not qualify for a use variance. He has a lot ahead of him. I have a feeling that its going to be very difficult, I appreciate the fact that he changed his ways but I'm afraid that it turned out to be a little bit too late. In terms of what's going on in town, it really won't happen because he's going to have to meet a number of things to overcome in doing this, but I appreciate that he changed his plan. Sheryl Supernault read a letter she submitted to the board in opposition of the project. Jay Grillo who lives at 5 Rivers Edge Drive addressed the board. He lives directly behind Yuri's property. He has lived there for about ten years and moved there specifically for peace and quiet. He has two young children who he won't allow to go to the back of his property alone with 150 people events. Mr. Grillo read his letter in opposition of the project as well. Mr. Hazen questioned how much of the last event that Mr. Grillo could hear? Mr. Grillo responded that he could hear it and the trees did nothing to mitigate that noise. Mr. Murnane began reading letters from general public that we have received related to this project. He read a letter from Donna Scarborough in opposition to the project. He then read two letters in opposition from Dr. Mike Mintz. Mr. Murnane then moved on to a letter in opposition from Lynn Mintz. Next Mr. Murnane read a letter from Steve and Deanna Shipman. This letter was also in opposition of the project. Mr. Murnane read the next letter from Kristy Shaw in opposition of the project. The next letter read was from Heidi Bombard in opposition of the project. The next letter submitted was a letter from Josh Liberty. Again, this letter was in opposition of the project. Mr. Murnane wanted to note for the record that there were a couple different petitions submitted to the board to oppose the rezoning of White Rainbow Farm. There is also originally a petition to support White Rainbow Farm that Mr. Bouharevich had submitted with his application. Mr. Murnane then proceeded to read letters attached to Mr. Bouharevich's application. He began with a letter in support of this project from Valerie Shuknect. He proceeded to read a letter in support from Mary Jean Shuknect. The next

letter he read was a letter from Kim and Tonya Mayer in support of the project. Mr. Maswick requested that Mr. Murnane read a letter in support from Dan Badger. He also requested a letter be read from the owner of Fledging Crow Farms, Lucas Christiansen. Mr. Murnane read a letter from Scott Tatreault of Century 21 Realty. Sheryl Supernault commented that the two letters that were read, one from Plattsburgh and the other from Keeseville, she questioned what their opinions have to do as far as relevance to this project. Mr. Carlsen expressed that you do not have to live in an area to think something is a good idea. She expressed that they can write a letter in support but it is not going to affect their property. Mrs. Supernault also expressed that she wanted the board to look at the maps she provided. Mr. Murnane then expressed that the board needed to complete the SEQR form. Mr. Murnane gave some background on the SEQR form needing to be completed. Mr. Murnane asked the applicant if he was willing to amend the SEQR short form to match the amendments to his application. The applicant expressed it was acceptable to amend his application just to accommodate weddings and not the other options he had asked for. Mr. Murnane also changed variance permit to use variance with the permission of the applicant. Discussion took place regarding part one of the SEQR form. Mr. Murnane moved on to part two of the SEQR Form. Mr. Dorrance made a motion that this is an unlisted action and that the Town of Schuyler Falls is the lead agency for the purposes of SEQR. The motion was seconded by Mr. Carlsen.

Roll Call	Aye	Nay
Frank Dorrance (Chairman)	X	
Tom Carlsen (Vice-Chairman)	X	
Rick Hazen	X	
Tim Aubin	X	
Kelsi Russell (Alternate)	X	

Motion Passed.

Mr. Murnane proceeded to question one, Mr. Dorrance feels it is in conflict with our current zoning and would be a moderate to large action. The board was in agreement.

Mr. Murnane moved on to question two and decided that it was a small impact in terms of intensity. All board members were in agreement with this

Mr. Murnane moved on to question three. The board felt that this would be a moderate to large impact as well. All board members were in agreement with this.

Mr. Murnane moved on to question four, the board felt that the answer was no. All members were in agreement.

Mr. Murnane moved on to question five, Mr. Dorrance expressed that it would be a small impact. The board members discussed this matter and agreed that it was potentially a small impact. Mr. Murnane moved on to question six, the board felt that this answer was no, all members were in agreement. Mr.

Murnane then moved on to question 7, brief discussion took place and it was determined that the answer was no. All board members were in agreement of this. Mr. Murnane moved on to question 8, the board discussed this briefly and determined that the answer was no, all board members were in agreement. Question 9, the board felt that this answer was no, all members were in agreement.

Question 10, Mr. Dorrance expressed that the answer was some, but minor. All board members were in agreement. Question 11, Mr. Dorrance expressed the answer was no, all board members were in agreement. Further brief discussion took place regarding SEQR between Mr. Murnane and the board members. Mr. Hazen made a motion to have a negative declaration for SEQR. The motion was seconded

by Mr. Dorrance. Mr. Murnane asked if we should require an environmental impact statement. The board discussed this matter and the consensus was no.

Roll Call	Aye	Nay
Frank Dorrance (Chairman)	X	
Tom Carlsen (Vice-Chairman)	X	
Rick Hazen	X	
Tim Aubin	X	
Kelsi Russell (Alternate)	X	

Motion passed.

Mr. Carlsen expressed he was in a quandary because of what we were voting on yes or no. Discussion took place on this matter. Mr. Murnane expressed that this current application is what we are voting on. Mr. Maswick expressed that the prior application as far as its relevance to the current thing. Glamping out. Mr. Murnane interjected that this current application is what is being voted on as far as the uses are concerned. Discussion took place on this matter between Mr. Murnane and Mr. Maswick. Mr. Murnane wanted to put on the record that this matter was referred to the Clinton County Planning Board, came back as a 239 referral and they had some comments which he read into the record. They were concerned about the necessary health department permits and they did not want to have any parking on 22B if the project was approved. Further brief discussion took place. Mr. Carlsen questioned what application we were voting on, Mr. Murnane expressed that it was the most current one received. Mr. Murnane expressed that we are at a point to discuss the application. A use variance note sheet has been provided. Mr. Carlsen expressed that his concerns are that he wants to assure that the constraints listed are going to be acted upon. Mr. Murnane expressed that the next step is for someone to make a motion to approve or deny the application, he asked that each board member go through the criteria notesheet and specifically comment as to whether or not you think the applicant has met or not met the four criteria listed. He expressed it is better to make a positive motion, a motion in favor and then vote from there as compared to a negative motion. He also reminded that the applicant has to meet all four criteria. Mr. Dorrance made a motion that we approve appeal 22-002 that the parcel would be approved to host events of a hundred or less ten times a year or less with other restrictions that might be put upon it as part of a planning review that this would need to go through the planning board for a site plan review. The motion was seconded by Mr. Carlsen. Mr. Dorrance asked Mr. Murnane that we vote but we qualify the vote with each of the four points.

Mr. Dorrance expressed overall he votes no.

1. It may be argued that this parcel can't generate enough revenue to afford current costs
Yes
2. That is not true, there are many parcels in the town that are large enough to have anchorage where a wedding tent could be put up on them and there are many residents in the town where the ground that the residence sits on does not generate enough revenue to pay for the residence off of that parcel and any one of those would have the same hardship.
No

3. The required use variance doesn't alter the characteristic of the neighborhood. I believe we have heard from a large percentage of the neighborhood that it would alter the character of the neighborhood from a peaceful quiet residential community. It would impact the essential character of that neighborhood.

No

4. The hardship I feel is definitely self-created. Information supplied by the applicant shows that the previous farm only generated 30-40 thousand in revenue. No significant change in the farm has occurred. The fact that Fledging Crow states that as of 2016 they were already seeing a decline in the farm revenue that could be had says that a business plan should have covered the fact that the agricultural portion was already seeing a decline so the hardship is self-created by purchasing the property and not having any reason to change the revenue potential from when it was purchased.

Mr. Carlsen expressed that overall, he votes yes.

1. It may be argued that this parcel can't generate enough revenue to afford current costs.
Yes
2. The alleged hardship is unique in a sense that it does not reflect the total RR1 area that we are talking about. The whole concept came out of the master plan, that area should be treated considerably different framework than it is, that goes along with the last one which is the hardship is not self-created. It wasn't because the previous appeal in the RR1 is unreasonably restrictive and creates a hardship for the land owner and not to be held against the landowner.
Yes
3. It will not alter the neighborhood if the site plan review that was referred to in the motion is indeed acted upon with due diligence. The concern I have is we need to maintain some degree of consistency as I said before.
Yes.

Mr. Hazen expressed that overall, he votes no.

1. It may be argued that this parcel can't generate enough revenue to afford current costs.
2. As far as the uniqueness, it was set up as a farm, I think now when I drive by its not even close to that anymore. If it is granted, I think it will affect everyone here very much. Im not anti-business in this town but this is not the correct place.
3. As far as hardship goes, I'm not going to say its self-created but I do know for a fact I have purchased two businesses before in both cases I looked at them very closely. I did not buy them until I was sure that it was the best fit. If he was lead in the wrong direction then I feel bad about that but we have to look at what's for the best of this town, and I don't feel that's it.

Mr. Maswick questioned Mr. Murnane, saying he didn't understand Mr. Hazen's criteria #2.
Mr. Hazen expressed that it was a no.

Mr. Aubin expressed that his overall vote is a no.

1. He agreed with all board members thus far.
2. He said no, I believe there are plenty of other properties around that are not making revenue from their property themselves, and I do believe, it will essentially change the character of the neighborhood. If you are going to try to play music at conversation levels when you are at the venue it's not going to work. You will have to turn the music up and its going to escalate. There is not any way you are not going to hear it. As far as

the hardship it is self-created. Mr. Bouharevich may have done due diligence but the documents are there as to how much revenue they were making so my overall vote is no.

Mrs. Russell expressed that her overall vote is no.

1. She agreed with all board members thus far.
2. She agreed with Mr. Aubin.
3. The variance would alter the character of the neighborhood no matter what you do, or what conditions you set.
4. The hardship is self-created.

Roll Call	Aye	Nay
Frank Dorrance (Chairman)		X
Tom Carlsen (Vice-Chairman)	X	
Rick Hazen		X
Tim Aubin		X
Kelsi Russell (Alternate)		X

Motion Denied.

New Business: None

Old Business: Mr. Murnane expressed that there was an application, Darrin Perotte that has to go back to the planning board. Mr. Dorrance expressed that it was approved with a bunch of restrictions. Mr. Carlsen asked for an update on the Gherke property. Documentation was received from Mr. Modular, Mr. Gherke has put a deposit down for a modular to go on that property.

Mr. Aubin made a motion to adjourn the meeting. The motion was seconded by Mr. Hazen.

Roll Call	Aye	Nay
Frank Dorrance (Chairman)	X	
Tom Carlsen (Vice-Chairman)	X	
Rick Hazen	X	
Tim Aubin	X	
Kelsi Russell (Alternate)	X	

The July 2022 Zoning Board of Appeals meeting was adjourned at 9:50 PM.

Respectfully Submitted,

Kelsi Russell