

**TOWN OF SCHUYLER FALLS  
ZONING BOARD OF APPEALS  
REGULAR MEETING 08-15-2022**

The regular meeting of the Zoning Board of Appeals was called to order at 6:30 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:

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

| Roll Call                   | Aye | Nay | Absent |
|-----------------------------|-----|-----|--------|
| 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 22-003, a use variance by Mr. Brian Millett. Mr. Dorrance explained that there are only four board members present and the applicant is entitled to a full board. The applicant would need three out of the four positive votes today to approve the requested variance. He explained that if the applicant decided to wait for a full board it would be three out of five votes to approve the variance. He explained that it is the applicant's decision whether to go forward with the application today and proceed or wait until a full board can convene. Mr. Millett elected to proceed. Mr. Dorrance requested that the applicant or the Zoning Officer tell us about this particular application. Mr. Dorrance summarized that the applicant is looking for approval of a mining use in an RR1, this is currently not a permitted use in an RR1 so that takes a use variance. Kyle Coss from Fuller Excavating gave a brief overview/summary on behalf of the applicant. A permit has been secured from the DEC to harvest some topsoil out of the field. They are looking to remove about a ten-inch layer of topsoil out of the field from the back sixteen acres of the property. Mr. Carlsen asked for an explanation of the back sixteen acres of the property. Mr. Coss approached the board. Brief discussion took place with board members and Mr. Coss. Mr. Dorrance expressed that back is assumed

to be away from Salmon River Road. Mr. Coss explained via a map the limit of the mine that they are applying for. Further discussion took place with the board members and Mr. Coss related to the application. Mr. Dorrance questioned if they were going to clean up the rubble from the old barn as part of the application. That is indeed the case. Mr. Coss gave a further explanation that there is currently 12 inches of topsoil on the property, so they would be taking 10 and creating a windrow around the perimeter of the property. Discussion took place about the windrow. Mr. Coss explained that it would be the mounded-up topsoil creating a berm. With the two inches that remain under the DEC permit and regulations they would be required to re-establish turf. It is a ten-inch strip of turf reestablishment with a stockpiled windrow. Mr. Dorrance questioned if the windrow is harvested over time. This is indeed the case. Mr. Coss explained that there are some requirements from the DEC. No processing within 250 feet of a residence. Questions occurred from the audience/general public. The audience/general public approached the board for clarification. Mr. Coss and the ZBA discussed/clarified things with the general public as needed. Mr. Dorrance explained briefly that they are going to strip off the top X number of inches leaving two behind then stockpile that around the perimeter and then re-seed the area you are stripping. Further discussion/explanation took place. Mr. Dorrance asked the permit applied for with DEC how long in anticipation to harvest etc. Mr. Coss expressed that the bond is open for five years. Further discussion took place regarding the bond. Mr. Dorrance questioned whether or not SEQR needed to be completed. Mr. Murnane explained that SEQR does not need to be completed because the DEC took lead agency status with a negative declaration. Further discussion took place regarding SEQR and other matters. Mr. Murnane gave a brief explanation of SEQR. Further discussion took place with regard to the application SEQR and other matters pertaining to the application/project. Paul Wight addressed the board with various questions. He asked, as topsoil is taken off and sold, in terms of the water in the back corner, Mr. Coss explained his requirements for drainage needed after the project is done. Further discussion took place on this matter. He explained he has owned his property for almost 50 years and has put a lot of money and sweat equity into it. He is here to understand and protect his assets. The board and Mr. Coss seemed to give a good explanation and he was able to understand the scope of the project. Further discussion took place on the matter. Mr. Carlsen expressed that he would like the general public/audience to ask questions/seek clarification as it is needed. Marcy Greenwood expressed, a question about the berm, is it possible that the water from the berm will come down and settle in his land? Further discussion took place to answer the question. Mr. Coss explained the watershed, etc. to answer the question. Further discussion took place. There was a question about the road going down the middle of the lot. Mr. Coss explained the plan for this. Mr. Dorrance asked if there were any further questions from the audience/general public. Discussion took place as needed. Mr. Dorrance then proceeded to the four points in the application for section 940. He explained that the board must look at four criteria and the applicant must meet all four criteria. He proceeded to go through the criteria and discuss each one. Questions were answered and discussion took place as needed. Marcy Greenwood expressed that she disagreed with the fact that the property will be returned to its natural state. Discussion took place on the matter. Mr. Carlsen made a motion to approve the variance request for 22-003 with all stipulations that the DEC has required for mining purposes. Discussion took place on the setback requirement and a few other questions that came up. The motion was seconded by Mr. Dorrance.

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

Motion passed.

Mr. Carlsen feels that the four criteria have been met.

Mr. Dorrance feels that the requirements have been met. Criteria one, they have tried over the last 17 years to make things work with the criteria for a RR1 area and it hasn't worked. Criteria two, it has no house on it, no wetlands on it, has a DEC approved mining permit and abuts an RR2 zone, is not located in the middle of an RR1 zone where this would have been a permitted use anyway. Condition three, it is currently a hayfield that when the operation is complete to DEC requirements, it will be a grass field. Criteria four this has been worked on since 2005 and is not a self-created hardship.

Mr. Aubin feels that the four criteria have been met and agrees with Mr. Dorrance on all counts. The applicant has tried multiple ways to find a reasonable return to no avail and it is therefore not a self-created hardship.

Mrs. Russell feels that the four criteria have been met. I agree with Mr. Dorrance on conditions one and two. Condition three, it will not alter the essential character of the neighborhood. It is not a self-created hardship for condition four because you have tried other options.

An audience member questioned how to get copies of the information from tonight's meeting. Mr. Dorrance explained that a FOIL request would need to be done.

Mr. Carlsen introduced our two new potential full time board members. Discussion took place on the matter. Mr. Carlsen would like to step down to an alternate board member at this time.

Old Business: Mr. Murnane requested that a copy of the decision document be sent to Mr. Bouharevich on his appeal. The decision document was filed with the town clerk. A copy will be mailed to the applicant and his lawyer on August 16, 2022. Mr. Murnane explained that the applicant has 30 days to appeal their decision if interested. It is a common courtesy to send a copy to the applicant and all applicants from this point forward, as a common courtesy. Mr. Murnane explained the scope of a letter that the ZBA has received.

New Business: Mr. Smith and Mr. Emde will be recommended to the town board to be appointed as board members. Mr. Carlsen will step down to an alternate. Discussion took place among the current ZBA members and newly appointed members. Emails will be sent if there is nothing on the agenda for the month. The board has requested the Zoning application will be sent via email and hard copies will be available the Thursday prior to our monthly meeting. Mr. Murane has requested a paper copy be mailed.

Mr. Carlsen made a motion to adjourn the meeting. The motion was seconded by Mr. Dorrance.

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

The August 2022 Zoning Board of Appeals meeting was adjourned at 7:40 PM.

Respectfully Submitted,

Kelsi Russell