

**TOWN OF SARATOGA  
PLANNING BOARD DRAFT MINUTES**

**March 28, 2012**

Chairman Ian Murray called the meeting to order at 7:32 p.m.

Planning Clerk Linda McCabe called the roll: Chairman Ian Murray – present, Laurie Griffen – absent (arrived at 7:39 p.m.), Patrick Hanehan – present, Robert McConnell – present, Jennifer Koval – absent (arrived at 7:34 p.m.), Joseph Lewandowski – present, Brandon Myers – present.

Also attending: Kent & Jamie Daniels, Clarence Fosdick, Michael Muller, Michelle DeGarmo, Andrew Sheeran, Michele McClure, Walter & Lisa Taras, Gail Taras. (Sign-in sheet is on file in the Planning Clerk's office)

**Approval of Minutes: A motion was made by Patrick Hanehan, seconded by Joseph Lewandowski to accept the minutes of the February 28, 2012 meeting.** Chairman Ian Murray – aye, Laurie Griffen – absent, Patrick Hanehan - aye, Jennifer Koval – absent, Joseph Lewandowski - aye, Robert McConnell – aye, Brandon Myers - aye. **Carried 5 - 0**  
**Approved**

**Public Hearing for Special Use Permits**

**Walter Taras #11-07  
182 Co. Rd. 69  
Schuylerville, NY 12871  
S/B/L 182.-2-29 Rural**

Returning Applicant seeks a special use permit for his sand mining operation, located on Co. Rd. 69.

The Applicant appeared before the Board stating he'd been before the ZBA, he was granted the variance needed to move the haul road to the eastern side of the pond and 10' west of the residential property line.

Town Zoning Officer Gil Albert stated he would like the road next to the Sheeran/McClure hedgerow property line plowed under, removed.

The Applicant said it's been there for 50 yrs. and he will only use it for four wheeling or tractors; he won't stop using that road.

Chairman Ian Murray stated the Board doesn't want that road used for the life of the mine. It must be barricaded across the top and bottom of the road. The barriers are to stay in place for the life of the mine.

The Applicant handed one stamped map to Chairman Ian Murray, stating this is what the Board asked for last month, but a new map is being drawn up with the new location of the haul road and he will have them next month.

Chairman Ian Murray asked if there were any questions of the Board at this time; there were none.

**Proof of Notice having been furnished by newspaper, The Saratogian, on March 18, 2012, Chairman Ian Murray opened the Public Hearing at 7:43 p.m., asking those wishing to speak to please stand and state their name and address.**

**Andrew Sheeran, 178 Co. Rd. 69,** stated he vehemently opposes this project since it will interfere with his life and livelihood. It is 75' behind his property and he is extremely concerned with the noise impact, the visual impacts and the dust; especially on the backside of his property since the only screening they have is what they have planted. He recently has had to remove some of his screening plants in order to put in another greenhouse and feels that the Applicant needs to provide screening of this mine. He feels that 10 trips per hour could have a real impact not only personally, but on their small rural community out there. The dust from this mining operation has the capability of shutting down his business. He doesn't want to hear the noise anymore, he doesn't want to smell the diesel fumes and he doesn't want to deal with the dust anymore; he's listened and dealt with this for years and the Applicant hasn't mitigated any of these issues. He then asked if the Board has any strategy to mitigate those issues and Chairman Ian Murray stated they are not yet finished with the application or SEQR and when completed the documents will be ready for review. Mr. Sheeran then stated that both of the Applicant's roads to the west of his property have never had permits and although the Applicant says the road along the hedgerow has been there for 50 yrs, it was not there when they moved into their house; they've photos proving this. He stated if the Applicant was using that road for farming purposes he would have no issue with it, but history bears witness they haven't used it for farming. He'd like to see the mining operation shut down.

**Michele McClure, 178 Co. Rd. 69,** stated she is opposed to this project. When the Applicant made application to the NYS DEC for this project, he ignored and omitted their parcel from the submitted map. A noise study should have been done, but due to that omission it has yet to be done. She is requesting a noise study be done and asked if one would be forthcoming. Chairman Ian Murray responded that he can't answer that question, but he will pose that question to NYS DEC because this Board is not issuing the mining permit itself; that falls to NYS DEC. She stated she is requesting a noise study be done since it is part of SEQR and because according to DEC law if the noise is above 60 decibels then the Applicant has to be 360' away from her property line and that would mean they won't be able to mine there due to that. She then questioned how the Board decides on hours of operation. Chairman Ian Murray responded they basically take the land mine plan, which was created by Tommell & Associates, material they receive from NYS DEC mining division and hours the Board feels is just and correct to operate that business. She reiterated she is opposed to the mine and that her family is most affected by this and it will seriously affect their business. She also said she doesn't understand why the Applicant has chosen to mine directly behind their property when he has 190+/- other acres he can mine. She feels the scales are tipped to the one who has the most property, the largest land owner and is wondering who will help her. Chairman Ian Murray stated he can't agree with her on that statement and will not argue or debate with her on that now; this is not the time or place for it. She asked the Board to please help her especially with the impacts of noise, truck traffic and dust. Chairman Ian Murray stated the Board is looking at the impacts that will affect her; namely the noise, dust control, truck traffic, everything. She added that Jeremy Baines of DEC said when this gets to DEC level they'll be considered a special party interest since they're most affected by the mining operation and at that time DEC will be able to help them. She is opposed to this mining project.

Chairman Ian Murray asked if anyone else wished to speak; no one came forward.

**Chairman Ian Murray closed the Public Hearing at 7:56 p.m.**

Chairman Ian Murray asked if the Board had any other questions; there were none.

Chairman Ian Murray stated another SEQR workshop is needed with the moving of the haul road. Chairman Ian Murray stated they are working with the state on a couple of things and are awaiting answers. He told the Applicant that the Board needs updated maps and an updated SEQR, completed by Tommell or himself.

\*The Applicant must be sure to bring 11 copies of each to the Clerk no later than two weeks before the next meeting, which will be held April 25th.

**Returning**

**Kent & Jaime Daniels**  
**Kent's Crazy Horse Mobile Food Vendor**  
**138 Jefferson St.**  
**Saratoga Springs, NY 12866**  
**S/B/L 180.18-1-30.1 Lake Commercial**  
**Location: 1458 Rt. 9P**

**Owner: Michael Nosal & Mary Nosal**  
**1458 Rt. 9P**  
**Saratoga Springs, NY 12866**

Returning Applicants seek a Special Use Permit to run a mobile food service business located at 1458 Rt. 9P.

The Applicants appeared before the Board explaining they are awaiting receipt of their permit from NYS DOH and will bring a copy to the Town for their file.

Chairman Ian Murray stated that was delayed because it was applied for a bit late since the operation hadn't yet started, but he knows it is forth coming. He added that the Board has received the lease agreement and the updated insurance papers for additional insurer and the town.

Chairman Ian Murray stated he will check with the Town's attorney, but he doesn't believe the Town needs to be an additional insured on their policy.

Laurie Griffen added perhaps the land owner should be on as an additional insured.

Chairman Ian Murray then stated the Board resolved site conditions and location at the last Board meeting as well as parking; reiterating there is to be no parking on Rt. 9P.

Chairman Ian Murray asked if anyone had any questions; there were none.

**Proof of Notice having been furnished by newspaper, The Saratogian, on March 18, 2012, Chairman Ian Murray opened the Public Hearing at 8:01 p.m., asking those wishing to speak to please stand and state their name and address.**

No one came forward; **Chairman Ian Murray closed the Public Hearing at 8:02.**

**Chairman Ian Murray read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact.**

**Laurie Griffen read the short form EAF, line by line, which was completed by the Board. Chairman Ian Murray made a motion, seconded by Laurie Griffen to accept the documents**

**as presented, to declare the SEQR review complete and to make a Negative Declaration.**

Chairman Ian Murray – aye, Laurie Griffen – aye, Jennifer Koval – aye, Patrick Hanehan – aye, Robert McConnell – aye, Brandon Myers – aye, Joseph Lewandowski – aye. **Carried 7 - 0 Approved**

**Laurie Griffen made a motion, seconded by Robert McConnell to grant this special use permit as presented as a one year renewable permit.** Chairman Ian Murray – aye, Laurie Griffen – aye, Jennifer Koval – aye, Patrick Hanehan – aye, Robert McConnell – aye, Brandon Myers – aye, Joseph Lewandowski – aye. **Carried 7 - 0**

**Approved**

Laurie Griffen explained to the Applicants this permit will be reviewed next year and if the Town Zoning Officer has received no complaints it will be renewed at that time. The Applicants thanked the Board.

### Sketch Plan Conference for Subdivision

**Donald DeGarmo #12-02  
141 NYS Rt. 32 South  
Schuylerville, NY 12871  
S/B/L 169.-2-30 Rural**

**Owner: Estate of Herbert W. DeGarmo  
C/O Ifigenia T. Brown, Esq.  
1 East High St.  
Ballston Spa, NY 12020**

Applicant proposes a four lot subdivision of the Herbert W. DeGarmo Estate, located at 141 NYS Rt. 32.

Attorney Michael Muller appeared on behalf of the Applicant. He explained the property is owned by the Herbert DeGarmo Estate and the parcel of land to be distributed to the children of Herbert DeGarmo is approximately 65 acres. It has been in probate since 1994 and it is the obligation of the Estate to distribute these lands to the children, who are all adults. There is no sale involved, no construction involved, no roads involved, no change in usage involved. This estate distribution has been long overdue and has actually outlived three judges. All the land is one tax map parcel and they are only subdividing off 4 lots.

Lot 1 has the pond and with no improvements will go to a distributee, a son of Herbert DeGarmo.

Lot 2 has a trailer home and is occupied by a distributee, a son of Herbert DeGarmo.

Lot 3 has a house and out buildings and is occupied by a distributee, a son of Herbert DeGarmo.

Lot 4 is the largest lot which will remain in agriculture use and will be conveyed to a distributee, a son of Herbert DeGarmo.

Lots 2 and 3 will stay as is; Lots 1 and 4 will remain in agriculture use. No lot-lines will be moved Don DeGarmo and his family have been in the house since 1997, and they bear all taxes on all the property. They need to get the property into individual names, then each can support their own property and Don and his family can really work on their home.

After a lengthy discussion between the Board, Town Engineer and Attorney Michael Muller, it was decided no new survey is needed. The Applicant needs to see if the surveyor will update with the tie-arrows for properties across Rt. 32. Chairman Ian Murray stated Lot 2 is looked at as a substandard lot but this predates zoning, which means they allowed farmers to put four lots aside for their children to build a home on, which is exactly what this is. Chairman Ian Murray also stated that Lot 1 will not be a building lot in future due to DEC wetlands. The owner will not be able to build on it, even with an agriculture statement; it will never be a buildable lot.

Chairman Ian Murray asked if there were any further questions of the Board; there were none. Chairman Ian Murray stated we will advertise for a public hearing for the April meeting. Attorney Michael Muller thanked the Board.

**Returning**

**Old Business:** None

**New Business:** Chairman Ian Murray told the Board that Verizon Wireless will be coming before them with another cell tower application. He was notified they would be holding a balloon test on April 2, 2012; he had told Verizon Wireless they could go ahead with their preliminary test but they'll have to do it again once they apply for a special use permit before this Board.

**Patrick Hanehan made a motion, seconded by Laurie Griffen to adjourn the meeting at 8:30 p.m.** Chairman Ian Murray – aye, Jennifer Koval – aye, Robert McConnell – aye, Laurie Griffen – aye, Patrick Hanehan – aye, Joseph Lewandowski – aye, Brandon Myers – aye. **Carried 7-0**  
**Meeting Adjourned**

The next meeting will be held Wednesday, April 25, 2012 at 7:30 PM.

Respectfully submitted,

Linda A. McCabe  
Planning Clerk