

TOWN OF MILAN ZONING BOARD OF APPEALS MEETING MINUTES – FINAL
WEDNESDAY, MAY 23, 2012

MEMBERS PRESENT:

Rocco Mancini, Chairman
Stephanie Fitzpatrick
Martin Otter
John Schneider
Phillip Zemke

MEMBERS ABSENT:

None

ALSO PRESENT:

The Chairman opened the meeting at 7:00 p.m.

Public Hearings:

1. **Samuel Lore – Request for Interpretation:** Chairman Mancini read the legal notice and opened the public hearing. Mr. Lore said he has been operating this business on this property for many years. He said they are not mining. They import raw materials and process it into landscaping materials. Mr. Zemke said so you are stockpiling material at this site that is delivered from your other operations and then process that material into landscaping materials such as screening top soil. Mr. Lore agreed and said they also may crush rock once or twice a year. Mr. Otter asked about the hours of operation. During the site visit, it appeared to be a very quiet site but he said he would be concerned about noise pollution if there are many trucks going in and out. Mr. Lore said about eight trucks go in and out in one day. He said this is a construction business so we start early and we quit early. Mr. Zemke said this Board can't regulate what happens on the highway as far as trucks and this use is allowed in A5A; we are being asked to interpret if this is the appropriate use. Mr. Zemke said this use involves material coming in and going out and is not a huge retail operation. It does not involve people driving to this site; he is not selling to the public. They deliver the material to job sites. Mr. Schneider agreed and said it was one complaint from a resident that inspired all this and Mr. Lore is here to settle the use. Mr. Lore said he has been doing this operation on this property since the 90's. When asked, he said his trucks do not use Milan Hollow Road, they use the state or county roads.

Chairman Mancini motioned to open the public hearing. Mr. Zemke seconded. All aye. Motion carried 5-0. The Clerk read into the record a letter received from Gary Sivulich, 390 Round Lake Road, in support of this operation. Mike Freedman, who resides at 17 Lamoree Road with Yael Romer, said he contradicts what's been said. He said there has been rock crushing on the property without a doubt. He said one weekend when he had an event planned at his home, he went down and talked to the person doing the rock crushing and asked that they not do rock crushing on weekends as it is very noisy and interferes with the enjoyment of his home. Mr. Freedman said the rock crushing is his main concern – he does not want to have that going on on weekends. Mr. Freedman said the person he talked

to at the site agreed that he would not do rock crushing on the weekends and it was a very friendly conversation with no animosity. However, Mr. Freedman said there has been rock crushing going on there in the past. He said his daughter got married on his property last summer and his concern that rock crushing would be going on during the wedding is what sparked his visit to this site. But, again, he said there was no resistance to his request to not do rock crushing on weekends. Mr. Lore said they do rock crushing one or twice a year. Mr. Freedman said this crushing was sustained throughout the spring, and there are trucks that go in and out on the weekend. Mr. Zemke said the Planning Board is the appropriate Board to discuss the details of the site plan approval with. This Board is strictly hearing a request for an interpretation as to whether this use is allowed in this zone. The Planning Board would discuss issues such as hours of operation, whether rock crushing should be allowed, etc. Mr. Sivulich, 390 Round Lake Road, who wrote the letter, said he is the closest neighbor to this operation, he has lived there for 43 years, and he has not seen any rock crushing going on. They do run the screener which vibrates and separates the rocks from the dirt. The machine runs a conveyor belt to a hopper which sounds like a crusher.

Hearing no further public comment, Mr. Zemke motioned to close the public hearing. Mr. Schneider seconded. All aye. Motion carried 5-0.

Mr. Zemke said it seems as though the consensus of the Board is that this is an allowable use. There is a fine line between processing rock and sifting topsoil. Rock crushing could be considered a nuisance. Mr. Mancini said all the material is being brought in. At most, it seems as if the applicant rents a crusher and uses it for a day or two. Mr. Zemke said we are here to define what the use is and we have all visited the site. Mr. Otter said his only concern is the rock crushing versus the sifting and if there is a nuisance factor involved. Mr. Mancini said that would be up to the Planning Board during the site plan approval process. However, his understanding is that as far as noise goes, the crusher is not any noisier than the machine loading top soil. But, this Board is only interpreting the use. The Planning Board will define the parameters.

Mr. Mancini read the proposed findings for the interpretation.

Mr. Zemke motioned that the Zoning Board of Appeals approve the Findings for this Request for Interpretation which states that the use of the property owned by Lore Land Development falls under the category “Commercial greenhouse and nursery, including office and sales yard*” in Table A, Schedule of Use Regulations of the Town of Milan Zoning Ordinance. Mr. Otter seconded. All aye. Motion carried 5-0.

This application must now go before the Planning Board for Site Plan Approval.

Administrative Items:

- Approval of Minutes: Mr. Otter motioned that the ZBA accept the minutes of April 25, 2012 as presented. Ms. Fitzpatrick seconded. All aye. Motion carried 5-0.

- The Board briefly discussed the Eiffert Use Variance ongoing application. The Board agreed that further clarification is needed regarding the SEQRA process, i.e. is a long form required, what is the time line. Along with DEC involvement in this application, should the Board require construction plan approval and industrial site plan approval given the nature of the materials being stored there and that the applicant stated he would be using the facilities to repair and maintain his fleet of trucks.

Ms. Fitzpatrick motioned to adjourn the meeting at 7:40 p.m. Mr. Zemke seconded. All aye. Motion carried 5-0.

The next ZBA meeting is scheduled for Wednesday, June 27th at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board