

Minutes of a Regular Meeting held by the Planning Board of the Town of Shawangunk, County of Ulster, State of New York, at the Town Office Building, 14 Central Avenue, Wallkill, New York, on Tuesday, 3rd day of September 2024.

Those present were: Sal Patella  
Rich Barnhart  
Todd Widmark  
John Szarowski  
Ryan Reid  
John Leonette  
Mark Watkins, Chairman

Also Present: Rich Hoyt, Esq., Town Attorney; Bonnie Franson, AICP CEP, Town Planning Board Consultant, Rich Blazeski, Highway Superintendent, Kathy Ebbrell, Court Clerk, Ken Ronk, Jr., Town Supervisor. Please see sign-in sheet for rest of attendees.

Meeting location: Town Hall, 14 Central Avenue, Wallkill, NY 12589

Open Regular Meeting: 7:00 pm

Emergency Exits Announcement

Pledge of Allegiance

Approval of Minutes of August 6th, 2024

**A motion was made by Todd Widmark and second by Ryan Reid to approve the Meeting Minutes of August 6<sup>th</sup>, 2024. Vote: All Ayes: 7, Abstain: 0, Absent: 0**

***CONTINUATION OF A PUBLIC HEARING:***

**Mr. Joseph Russek - Third Generation Homes (Applicant No. 2023-14):**

SBL: 104.1-3-27, 2.3 acres, Address: Corner of Weed Road and NYS Route 52 in Walker Valley, Commercial Site Plan 4,800 sq. ft. for a restaurant business with three entities and one apartment above with parking. Property Class: Vacant, SB (Small Business), Pine Bush School District, Walker Valley Fire Company

Entered into record:

- Site Plan Map (10 Pages) from Arden Consulting Engineers, Mr. Morgante, P.E. dated August 3, 2024.
- Memo received September 3, 2024 from MHE Engineering, Mr. Shawn Arnott, P.E.
- Property Photos from Ms. Bonnie Franson, AICP CEP, Town Planner Consultant
- Property Photos from Mr. John Calaca, Building Inspector

Mr. Joe Russek stated the following: Proposing a 4,800-square-foot commercial project with one apartment above on the corner of Weed Road and Route 52 in Walker Valley. Mr. Russek stated he received the Engineers comments from Mr. Shawn Arnott, P.E. Mr. Steven Green, client's Land Surveyor, had a family emergency and was not able to attend. Mr. Michael Morgante, client's Engineer, had a family matter to take care of at the last minute.

**Lead Agency:**

Mr. Watkins informed Mr. Russek that he will be on the Ulster County Planning Board Meeting for Wednesday, September 4, 2024. Last month, we sent out the letters for the Town of Shawangunk to claim Lead Agency. Mr. Russek understood.

**Project Status / Land Disturbance / SWPP:**

Mr. Barnhart questioned if we foresee this project moving forward to bring to a conclusion. Mr. Watkins stated he would also like to conclude and see business in Walker Valley.

Mr. Ryan Reid questioned the disturbance area; outside of the activity of the millings that Mr. Arnott wrote and addressed to you regarding landscaping plans; is there any other way in the area already there, going to exceed over? Mr. Russek stated the majority of what is in the parking lot, is what the property is made of. Nothing else on the site needs to be touched.

Mr. Szarowski stated the disturbances goes to the edge of the parking lot and the site plan shows abandonment on the entrances that are there and needs to be accounted for in the disturbance area. You need to figure out how to do that under an acre, otherwise, you are going to end up having to do a SWPP.

Mr. Reid questioned Mr. Russek if his Engineer would be able to come up with any type of response to Mr. Arnott's comments? Mr. Russek stated Mr. Morgante and Mr. Arnott were on the phone for a couple hours today going back and forth. They had an agreement to the work being done and there were no further details. I was expecting both of them to be here this evening. Mr. Watkins questioned if the building can move closer to the road? Mr. Russek stated that was also discussed and would not make a difference to me where it goes in that space.

Mr. Russek pointed out the 100' wetland buffer was incorrect and not where the DEC marked it. Mr. Watkins stated if you move the building closer to the road and make the area the parking lot, this will resolve a lot of problems and I think you will be at 28 spaces.

Mr. Szarowski questioned if the DOT made him give up the Route 52 entrance? Mr. Russek stated yes, it is a traffic problem. Mr. Szarowski suggested keeping it a right turn out only and the one to the east undisturbed, as another possibility. With a general SPEDES permit for construction activity, you cannot have phases or segments on the property. If you move the building forward, you will be more into the existing area and have two entrances that can go out towards Route 52. The abandoned portion would have to be seeded so people do not come in from that side. This is not shown on the plans.

Ms. Franson questioned in regard to the SWPP, if you do include that area in the front, you are not at five acres where you have to put in stormwater basins or other things? Mr. Szarowski stated the commercial sites are one acre. If they cross an acre, they have to do peak mitigation, water quality, and the runoff reduction clearance. Mr. Szarowski stated this could be done with a basin or other ways. Anything residential is over five acres and anything commercial, industrial is one acre.

Mr. Reid questioned Mr. Russek in regard to the entrances shown on the Google photo from July 2024 that were printed for the meeting. Mr. Russek stated it is overgrown vegetation that is currently not being cut. It is the end of where the parking lot goes. Mr. Watkins questioned if the berm across on the Route 52 side was to keep the public out? Mr. Russek stated yes. People were using it to dump things, leaving their cars, tractor-trailers, and school buses going in and out on the property. Mr. Russek pointed to the location of the parking lot in the photo and described it as being rectangle shape and further back.

A brief discussion on the landscaping was addressed regarding the weeds to be taken out and a recommendation to plant grass to at least make it look attractive for the Town and customers.

Ms. Franson stated we agreed to the 2,700 Kelvin lighting. There was no note on it, but Mr. Morgante did a great job straightening out the plan. Ms. Franson questioned if there was any correspondence regarding the DEC Permit? Mr. Russek stated they have applied for it in case it is needed. Mr. Russek stated a survey was done to correct the 100' buffer and changed it to 200' buffer to correct the map.

Mr. Watkins questioned the excavator that was on the property? Mr. Russek stated that was for the deep test. Mr. Watkins stated until we receive comments back from the Ulster County Planning Board, we want to be clear there is nothing further to do at this time except for the applicant to come back with an updated site plan to avoid having to do a SWPP. Mr. Watkins reiterated to move the building closer to the road so we can incorporate the property in to the parking lot area and to update the site plan for the next meeting.

A reminder was made during the meeting in regard to Department of Transportation not allowing the entrance to be on the side of NYS Route 52.

Mr. Widmark questioned about putting a fence up; is that disturbance? Is it still disturbance if you are removing a pile of dirt? Mr. Szarowski stated unfortunately it is still a disturbance. Mr. Watkins stated it is disturbance because of the piles. If we move the building up, then we can incorporate that property into the parking area. Mr. Widmark questioned if the piles can be spread out? Mr. Watkins stated it is still classified as disturbance. I am making a suggestion to move the building up so the land is incorporated in the 0.99 disturbance because then it is not 1-acre. Mr. Russek stated it fits the 0.99 as it already had been done and I know it fits.

It was stated that there is no digging being done in the ground. There were statements being made that moving or spreading the dirt is a disturbance. Mr. Szarowski stated that there should be no activity at all while the project is in front of the board and part of the problem.

Mr. Watkins questioned is the picture of the building on the plan what you are planning to build? Mr. Russek stated yes. No one else addressed the appearances of the building. Mr. Russek questioned if there was anything else he should know about to avoid having to keep coming back in the future? Mr. Widmark questioned how close are you to get your 0.99? Mr. Russek stated it already fits within the 0.99, but not everybody agrees the 0.99 is the right number for a disturbance. There have been multiple conversations between the two Engineers over this and a bunch of numbers have been thrown out there and how we got to where we are. Mr. Russek stated if the board agrees, then I know it will fit. We already have 40 drawings. Mr. Reid stated I would hate to have you redraw your plans. I think that, as a board, we can come to some type of agreement.

There was a discussion on the number of drawings that had been provided. Mr. Reid questioned Mr. Russek how many times he has redone the drawings and Mr. Russek stated at least a hundred times. Mr. Watkins stated we do not have a hundred copies provided to the board and that he will check the file but believes there are less than 10 copies. Mr. Russek stated he had done a lot for the board too.

Mr. Patella stated the landscape and lighting plan should have a note regarding the area along Route 52. There is only an indication of the 12 plantings of trees and shrubs and a concern how it is going to be maintained.

Mr. Russek stated it will be maintained as we maintain our other properties and commercial buildings. We can maintain it so that it will continue to look nice. Ms. Franson stated there is a hard-packed area of gravel that has been there a long time and there are deposits that have been put down. Mr. Russek stated that is correct. Ms. Franson questioned can the

deposits be removed in a way that it is not disturbing the ground? Mr. Russek stated yes and that is the argument that everyone is making; whether it is being disturbed or not. Ms. Franson stated it is more about the piles than the volume. Mr. Russek stated he can clean it up at any time. Ms. Franson stated you know how you have the old truck in front of your other building? Could you use that area as a decorative location so you do not have to remove anything? Mr. Russek stated he could make it level right there, maintain it, and cut the grass.

Mr. Watkins stated I never said they had to remove anything. I said that area would be disturbed because they have to clean it up. This is a site plan and you cannot leave it looking like that. I am trying to get that area for Mr. Russek to do what he needs to do and incorporate that into the building and the parking lot so it is under an acre and not have to get a SWPP. With a commercial lot, you have this stipulation with one acre and a residential lot does not. I would like to see this in the footprint so it is under one acre.

Mr. Szarowski stated by landscaping with topsoil to plant grass or seeds, you are in disturbance. Mr. Widmark questioned the piles that were dumped, it is gravel base? From the older pictures it looks like there is a gravel base. Mr. Watkins stated he is guessing from the pictures from before to now, it is probably 6" to 8" high; maybe one foot. Ms. Franson stated the SPEDES permit it why we need a Stormwater Pollution Plan (SWPP), it regulates construction activities and construction activity means any clearing, grading, excavation, demolition, or stockpiling that result in soil disturbance. Clearing activities can include but are not limited to logging equipment operation, cutting and skinning of trees, stump removal, and brush roof removal. Construction activity does not include routine maintenance that is performed to maintain the original line and grades, hydraulic capacity, or original purpose of the facility.

Mr. Szarowski stated the new permit states if it was vacant for five years, it is considered a meadow. For a stormwater calculation, I try to keep it under an acre. Even though it has not been vacant, it is considered a meadow and grass is growing there.

Mr. Reid stated if they are going to go back to the original grade, based on what our town code has, based on maintaining the original grade, and its existing gravel, so long as you do not disturb the soil and go back to the original grade, I do not think what we are talking about is in existing gravel areas. Mr. Szarowski stated you had a disturbance in the existing gravel area; therefore, it is still disturbance.

Ms. Franson provided definition of routine maintenance activity to the client and Planning Board members stating some of the things that are considered to be routine maintenance activities. You mentioned millings and filling where it is replacement and you are not going below six inches. Mr. Szarowski stated that is specific to road construction.

Mr. Watkins provided Mr. Russek pictures near a telephone pole on the property previously taken on Google Maps of at least a foot of fill possibly. Mr. Russek stated that is incorrect and could be the angle of the pictures and a foot of fill has been put on the property.

Mr. Barnhart stated if you used a skid steer to scrap the surface off that is not regrading. Mr. Rich Blazeski stated the property is hard to get underneath and has been that way for years. There is freshly dumped soil there probably within a year's time. If you were to use a smooth cutting-edge machine or a skid steer and remove the soil, millings, and other material, you would have a hard time ripping up the hard surface if you were to try and shove a blade beneath. Can you use a smooth blade and gently scoop off the material to be removed? Mr. Watkins stated you will still have to bring in material and put topsoil down so that the grass

grows and this is considered a disturbance. See if you can move the building and if not, we will have to do something else.

Mr. Russek questioned under an acre of disturbance can you open up one section, close out a section, open up another section? Mr. Szarowski stated no as it is based on the total disturbance for the entire project. Even if you were doing a subdivision in phases, you would have to include all of the phases. The separation has to be more than five years, and you do not want to wait five years.

Mr. Reid questioned can the landscaping design, based on definitions of routine maintenance, can a fence be put around the area of the existing gravel? I believe there is a way to work around it without having to move the building up. Mr. Russek stated we needed more distance from the entrance back to the stop sign for multiple cars going in and out. I want to know what we can do with the material that is there; clean it up, knock it down, level it off, or all of the above to find a way to build this building? Mr. Watkins stated if you take everything off of the hard surface, you will still have to put something back down. Mr. Leonette stated if you did an overlay, you will be able to see exactly how much is needed. Ms. Franson questioned were the Engineers close to getting what they think is under an acre? Mr. Russek stated yes.

Mr. Watkins questioned the public if they had any comments? There were no comments.

**A motion by John Szarowski and second by Sal Patella to continue the Public Hearing to next month, October 1, 2024. Vote: All Ayes: 7, Abstain: 0, Absent: 0**

**A motion by Rich Barnhart and second by John Szarowski to start a draft NegDec and Resolution upon paperwork returned from the Ulster County Planning Board to approve project. Vote: All Ayes: 7, Abstain: 0, Absent: 0**

**Ulster County Department of Health:**

Mr. Watkins questioned Mr. Russek who sent the project to the Ulster County Department of Health (UCDOH)? Mr. Russek stated there is conversation and is unsure what stage it is at. There was an application that was being mailed out last week. Mr. Watkins stated to see what you can get back from them. The board would also like to adjourn the Public Hearing on October 1, 2024.

**Ulster Farms & Materials, 1415 Albany Post Road, Gardiner, NY 12525  
(Applicant No.: 2024-12):**

SBL: 100.4-1-43 and 100.4-1-44.2. Approximately 96.8 acres occupying 5.5 acres. Zoning District: R-Ag 4; Wallkill Fire District, Wallkill Central School District

**Entered into Record:**

Site Plan/Special Use Permit application dated August 1, 2024

- Memo dated September 3, 2024 from MHE Engineering, Mr. Shawn Arnott, P.E.
- Memo dated September 3, 2024 from Ms. Bonnie Franson, AICP, CEP and Ms. Danielle Dreyer, Planning Analyst
- Town of Shawangunk Planning Board Special Use Permit and Site Plan Approval Resolution dated October 2, 2007.
- Department of Agriculture and Markets Certification Notice for Nursery Dealer Registration Certificate

**Project Description:**

Ms. Barbara Walch stated she is here for an additional special use permit for the Ag and Market nursery for landscape materials. She has reviewed the comments and stated she will need to come back with more paperwork and information. She would like to hear the boards comments and concerns to take notes and then provide the rest of the items to be addressed.

**Zoning:**

Mr. Watkins stated he looked at the zoning and it is not a nursery. Ms. Walch stated looking at Line 6, Section 177-65, on Page 2 of the comments provided, it states the definition of a garden center is a building structure and land used for the sale of lawn and garden equipment, landscape and bulk materials, and furnishing and supplies. A garden center shall not be construed to be a contractor's yard. Ms. Walch stated the current use on site has been previously approved to permit the mining of natural sand and gravel from the site to be sold, and is 95 acres away.

Ms. Franson stated garden centers are not allowed in the R Ag-4 District. They are allowed in the Route 52 Business Corridor. Ms. Walch questioned even though it is in the Ag and Market Garden Center? Ms. Walch handed the Nursery Dealer Registration Certificate to Mr. Watkins addressing the Ag and Market approval.

**Definition of a Nursery:**

Mr. Watkins was concerned about it being called a nursery because there is nothing growing. The definition of a nursery are plants growing for resale. Ms. Walch read the definition from Ms. Franson's comments stating it is a place where young trees or other plants are raised and transplanted for sale. Ms. Franson questioned Ms. Walch if she was raising plants? Ms. Walch stated no. Ms. Franson stated we are trying to figure out where you fit. Ms. Walch stated I noticed on Line 6, "*and therefore requires approvals*", although it is unclear what those approvals are.

**Mining and Permits:**

Ms. Franson questioned about the mining. Ms. Walch stated the mining is in the back end of the property. One of the comments stated, as far as electricity, roadways, driveways, parking, etc., has not been changed and already been there since 2007. When the McCord's owned it, it was Shawangunk Mining Materials previously. We took over the mining permit in 2016 and continued the purchase of the property in 2018.

Ms. Franson stated the property was in front of the board previously for the mining of the special use permit and the New York State DEC issued the mining permit in 2007. Ms. Walch stated at that time, everything regarding the roadways, electricity, and well pumps, was all taken care of on the other piece of paper provided to me from the original meeting of the special use permit. Ms. Franson stated we are going to look at the plan, because there were certain things that you were allowed in front of the property. There was something about fuel, storage, and accessory uses to the mining that were approved. Ms. Walch stated that is correct and they are in double-wall containers inside of a conic box raised off of the ground as per DEC.

Ms. Franson stated we are trying to establish that what you are getting approval for is all the activity that is near the road, which was not part of that permit. The question again is, where does that fit from a definition perspective, or do you have to get another approval from another board to be able to do what you are doing? Ms. Walch stated she did not realize that she had to go before the Town and thought all she had to do was go before Ag and Markets to get an approval. Mr. Watkins stated what is in question, is you are bringing in and selling other materials from other quarries for resale. Where mining is on-site and taking it off-site.

Ms. Walch stated she is selling it, not reselling it. Mr. Watkins stated correct and you should not bring in items.

Mr. Patella questioned is the plan for a retail garden center? Ms. Walch stated correct. We are planning on doing just strictly landscape-type materials; straw, retention fabric, decorative stone, topsoil, compost, sand, fire retention, and retention clay that comes from the mine and prevents the ponds from watershed. Mr. Barnhart asked what would you be trucking in? Materials from other quarries such as pipe bedding, utility, and arena sand. Also, decorative multi-color, smooth, round river rock type of items, natural hardwood mulch only, and soil we make at the mine in the back. Mr. Watkins stated you are changing the use, it is different and we need to figure it out where to fit it in. Mr. Barnhart questioned if all of the aggregates are fenced? Ms. Walch stated they are behind concrete 2x4x6 mafia block barriers that interlock into place, and sometimes called bins.

**Hours of Operation:**

Mr. Reid questioned if we have the original permit from the DEC? Ms. Walch stated yes, the original permit and resolution. Mr. Reid questioned the hours of operation? Ms. Walch stated Monday through Friday, 9 AM to 4:30 PM and Saturday, 9 AM to Noon. I am allowed a 30-minute variance to warm up diesel equipment.

Mr. Reid questioned for the special use permit; they did not have to renew the permit at all? Mr. Watkins stated the Planning Board does not allow it, but the DEC takes Lead Agency on all mining. They are supposed to come back to the Planning Board every five years when they renew their DEC permit.

Ms. Walch stated that she had been to the Planning Board Office previously, many times before, and was told that she is good to go. I have been to the Planning Board Office every three years because it was initially a three-year renewal and I was told good to go.

Ms. Walch stated once my stamped packet is in for renewal and the DEC does not rebuttal within 60 days, I am good to go until I am handed my new renewal within a year or two. Last time took 27 months.

**Complaints:**

Mr. Watkins stated the Town has had numerous complaints and phone calls about trucks coming in at all hours and the noise. Ms. Walch questioned the number of neighbors complaining and Mr. Watkins stated he would have to look into this with the Building Department. Mr. Chris Wurster stated he is the person who has made most of the complaints.

**Public Comments:**

Mr. Wurster stated he has conversations with the DEC all the time and the quarry permit does not cover any of the operations that are happening on the property and has been confirmed by Ryan and Mike Grosso. There is no application for this operating facility with the DEC, which means there is no permit and they have not had an overall site plan, noise impact analysis, stormwater pollution prevention, and spill prevention, and constant violations of operating hours. Mr. Wurster stated he resides right across the river from this facility that is located at 1415 Albany Post Road (across the street from where Bruce McCord's farm used to be along the Gardiner boundary and the river.)

Ms. Walch stated the property runs from 1415 Albany Post Road through Shawangunk into Gardiner. It covers three tax lots. Gardiner is not affected due to the vacant lot on the very edge. Mr. Wurster lives on the other side of the river on Sand Hill Road.

Mr. Reid questioned Mr. Wurster when was the last time he made a complaint to the Town? Mr. Wurster stated this morning and almost every week since 2017 and I can provide a list to you. I have made calls to the Town and Shawangunk Police.

Mr. Watkins questioned if Mr. Wurster has gone to the Building Department? Ms. Walch stated he has gone there 47 times in the last 42 days. Most complaints are within 10 minutes of starting my equipment. This is done 15 minutes early to allow it to warm up because of the diesel. I have a 30-minute variance allotted to me. All equipment is completely shut off by 4 PM to prevent any additional complaints.

Mr. Barnhart questioned how long they have been operating there? Ms. Walch stated since 2015 and the DEC stopped responding to Mr. Wurster's complaints in 2019. Mr. Reid stated you are still waiting to submit your DEC approval to the Town for the special use permit to keep running the business. Do we know the last time we have documentation for that? Ms. Walch stated the permit renewal was submitted to the DEC on January 12th of 2024 and fully stamped and received at 8.39 AM. Mr. Watkins stated whenever the DEC is communicating with the Town about a mine, they go through the Town Supervisor and I would be advised.

Mr. Watkins stated we have to try to get this into Zoning and to have Ms. Walch speak to the Building Department about the complaints. Mr. Hoyt stated he spoke with Mr. Calaca today and he should be asked for his opinion. The applicant did not put in the zoning section on her application that she thinks she has a right to operate under, but the **Town should fill in the blanks.**

We do not see this kind of retail use that fits into our R Ag-4 Zoning. Mr. Calaca has not put that in writing yet, but if asked, he would. Mr. Watkins questioned if Ms. Walch would have to go to the ZBA? Mr. Hoyt stated that is her right to appeal Mr. Calaca's ruling or seek a variance, but we are bound by the R Ag-4 table of uses, one of which is mining and excavation. Mr. Hoyt reviewed the mining rights and did not see any ancillary uses allowing the on-site sale. The item is dug up and trucked out.

The Building Department believes that most of the material being sold is trucked in, stored, sold, and trucked back out. He thought the actual mining was bank runs and maybe some stone. Mr. Calaca was not aware that the applicant was actually harvesting the crops they are selling from the property and it is in R Ag-4 where we are not encouraging this kind of use. As Ms. Franson points out, a garden center is allowed in a commercial zone in Walker Valley, Route 52 Corridor. Mr. Hoyt stated the fact that it is defined in the code is for that purpose wherever the code allows it, that is the definition. I do not see where it is allowed in R Ag-4 nor does John Calaca and his opinion is what counts.

**Permit Renewal:**

Mr. Hoyt questioned the DEC permit and an old one was dug from the archives dated 2007. Ms. Walch stated the permit expired on February 10, 2024. I gave a copy to John Calaca and another one a couple month's earlier to the Planning Board. The ones I have handy are actually older ones. As I mentioned, I did have everything stamped-in prior to 30 days of the expiration date, which, according to DEC code, they have 15 or 16 days to respond a rebuttal or a denial. If after that period of time, then I am considered to be clear, and as we all know, DEC likes to take their time.

Mr. Reid questioned Mr. Hoyt if they approve it, we have no say on renewing that. Mr. Hoyt stated we try to be true to the DEC requirements that they monitor the workings of the mine. Our jurisdiction is limited to certain issues listed in our code and states our permits are good

for five years. They can be extended for an additional two-year period. I do not recall the McCord Mine coming back for an extension. If it was approved in 2007, they were good until 2012.

Mr. Hoyt stated he does not believe the applicant asked us for a renewal as the board would have addressed it. It may have drifted away and reason to get the current, even the expired permit. I am not sure if the Town subscribes to the same process; *"if you do not hear from us in so many days, you are good to go"*. Mr. Watkins stated the Town does not have that policy and Ms. Walch was in earlier this Summer to speak to Mr. Calaca. Mr. Calaca referred Ms. Walch to the Planning Board to submit in an application and what is being reviewed today. Mr. Hoyt stated not on the mining, just the garden center. Mr. Watkins stated yes.

Mr. Hoyt stated mining is a tough thing. The state has proclaimed that it will handle most, but not all issues on mining. Municipalities have tried to be somewhat deferral. DEC does a good job of regulating and requiring reclamation. The fact that they have not renewed a permit is foreign to me. Mr. Szarowski stated they will often defer; after 60 days, let it go. Mr. Hoyt questioned the new terms because previous permits he has seen in the past have expiration dates and could be years out and it has no new term?

Mr. Szarowski stated if you are sending in your permit and they are not responding, they will eventually renew it and give you the new permit. They are not as good as they were before years ago. Mr. Hoyt questioned if the non-response could grant the applicant another three or five years? Mr. Szarowski stated yes.

Mr. Barnhart stated even though her permit expired at the moment, the fact that she has been filing for renewals allows her to continue to operate. Mr. Szarowski stated yes specific to the mining. They only are concerned about the part that is in the reclamation plant.

Ms. Franson stated I would only add that the DEC has a mine data inventory, so you can read the inspections for the mine, etc. For your mine, there are three units total that can be mined according to the inspection records. It states two are not being used and one of them is. Do you recall what year it was from? Ms. Walch stated she did not have an inspection last year and will have to go back.

**Ground Operations and Business:**

Ms. Franson stated it seems the operations happening in the front of the property are not related to the back of the property? The mining is being done in the back with the sand and gravel, and in the front, the topsoil, the bluestone, etc. is from somewhere else. Ms. Walch stated in the back we have topsoil which gets stripped out. We are currently working in Section 3 right now. Section 1 is a staging area for the screening, scalper, and mining equipment. Section 2 has been reclaimed and signed off on mining back in 2022. Section 3, we are halfway through mining that, which the first layer is obviously topsoil. The second layer is overburden, which is used to make noise sound barrier and is over 8' high facing the Wallkill River.

Underneath that, we have the bank run gravel, which gets screened out to ice control sand, to gravel, to arena sand, pipe bedding sand, and different size stones and aggregates. Clay is located in the corner of Section 3; 6-foot area of straight yellow clay used for pond retention. This is within the original permit and site plan. We are in the middle of Section 3 and have Section 4, 5, and 6 left. Ms. Franson stated to Ms. Walch to check about selling the topsoil because the permit was for stocking topsoil to reclaim the land back to cropland. Ms. Walch stated there is a certain portion of the topsoil that is for reclamation. Ms. Franson stated it would be useful for the board to do a site visit so that they know where you are. Ms. Walch agreed.

Mr. Watkins questioned if Section 1 and 2 are closed out? Ms. Walch stated Section 1 is a staging area based on the permit where we have some of our screening plants. There are two screening plants; one is in Section 3 and one in Section 1. Both are on the permit. One is for bank runs and one is for topsoil and then we mine out whatever section we are in. We are not allowed to have more than two sections open at a time. Mr. Watkins questioned; I thought you were only allowed to have one 5-acre section open at a time? Ms. Walch stated it was amended back in 2017 to allow 10 acres. Five acres to use as a staging area for equipment. It is not opened but it is disturbed.

Mr. Barnhart questioned if the plant does filtering and washing? Ms. Walch stated they do not because they are too close to the Wallkill River. Mr. Szarowski questioned if they have a crushing process? Ms. Walch stated they have that in the renewal for crushing and a shaker. Mr. Barnhart questioned if it creates any noise? Ms. Walch stated yes, that is why we have the sound barriers in place. The screening plants do not start until 8:30 AM and shut down at 3:30 PM in the afternoon. Mr. Barnhart questioned if they shut down during the Winter. Ms. Walch stated we operate in the Winter and the full 30 minutes is used to start and warm up equipment in the cold. It is the best time to screen bank run in the cold to remove moisture. The bouncing removes the sand, or silt, off of the item. Mr. Watkins questioned you are going to submit more information to us? Ms. Walch stated yes.

**Public Comments:**

Mr. Wurster stated there has been a lot of discussion about this mining permit and discussion with the DEC. She needs to talk to materials to get a permit for what she is doing up-front. The mining is a separate issue and will not do anything on the front half of that property and it was made very clear. That is materials to be handled. Mr. Watkins stated correct. Mr. Wurster stated it is only supposed to be dry screening that is to happen over there. Which, according to the DEC, you should not even hear from my side of the river and I hear that processor running all day long and the warming up of equipment does not include the banging of tailgates and bucket loaders. There is no problem if she starts up a diesel engine. Mr. Wurster stated when I see her starting the tailgates and bucket loaders that are slammed at 7 AM, it wakes me up in the morning. I get annoyed and this has been going on for years. Mr. Watkins stated he understands and we are going to speak with the Building Inspector. Ms. Walch will resubmit her application and the items we have asked for next month. Ms. Walch agreed.

Mr. Hoyt questioned if we will get the expired DEC permit to review. Ms. Walch questioned Mr. Watkins if he had the copy provided this Summer. Planning Board Secretary, Mrs. Longano, stated she will look in the file. Ms. Walch stated she gave a copy to Mr. Calaca too. Mr. Hoyt asked Mr. Wurster for his address and it was provided to the Planning Board Secretary to be put in file.

**One Stop Shop Supplies, Inc. (Applicant No.: 2022-07:**

(106.4-1-7.112) Proposed Change of Use Special Use Permit with Site Plan Review for light industrial use/E-Commerce business with repurpose existing 22,000+/- SF building located at 3050 NYS Route 208 in the SB District, Wallkill Fire, and Wallkill Central School District.

**Entered into record:**

- Updated Map Plans from Engineering & Surveying Properties, Mr. Andrei Lukianoff, P.E. and Mr. Ross Winglovitz, P.E.
- Color chart with cool earth tone for building.
- Deed / Easement document (Liber 1610 Page 0158).

- Memo dated September 3, 2024 from Ms. Bonnie Franson, AICP CEP, PP and Ms. Danielle Dryer, Planning Analyst from Nelson Pope Voorhis.
- Memo dated September 3, 2024 from MHE Engineering, Mr. Shawn Arnott, P.E.

**Project Update:**

Mr. Andrei Lukianoff stated he would like to see if there are any more comments and if not, would like the Public Hearing to take place next month. Mr. Watkins questioned Mr. Lukianoff if he spoke to the Building Inspector? Mr. Lukianoff stated not yet as we have been trying to set up at least a meeting. Two emails were sent out and no response received back. This is the same for the Wallkill Fire Chief, no response. Mr. Watkins stated he will work on that tomorrow because we are waiting on his comments regarding the wall issue as there are three different types stated in the law and we need to know which one is correct.

Mr. Lukianoff stated I would like to get the ball rolling whichever way we can and in reviewing the comments, I do not see anything that is a big factor and may need a bit of clarity. Overall, it is not that far off in any particular area. Mr. Lukianoff stated we are trying to coordinate with the DOT. Our contact person was Mr. Tom Riley but he is no longer in that position and we are trying to find out who has taken over that position. Mr. Lukianoff stated in regard to Number 3 from Mr. Shawn Arnott's comments, adding a note in regard to the removal of the tank is fine. I will look at whatever notation needs to be provided.

**Water Testing:**

Water has been used before for the Gear Up Sport Center that consumed a large population for the sports activities. They had a lot more volume of people using the water. One Stop Shop will only have 10 to 15 people tops working the whole day versus how many kids have been going in and out when it was a recreation area. Mr. Lukianoff will let us know the number of people.

Mr. Barnhart questioned Mr. Lukianoff to clarify the business use? Mr. Lukianoff stated it is more or less an E-commerce building that is going to have storage. There will be an office for online sales and supplies will be in the warehouse portion (supply and demand effect) for manufactured clothing. Mr. Watkins stated the way it was presented, it is manufactured clothing that would be shipped to One Stop Shop in bulk and as orders come in it would be distributed and packaged to order.

**Fire Prevention System:**

Mr. Watkins stated the fire rating was because of the clothes and the combustibility of items. They did not want to put in sprinkler systems because it is cost prohibited and instead to build a wall in between the two sections. The Building Department did not want any penetration through the wall and came up with items accepted by New York standards to have two or three penetration in the wall. Mr. Calaca was looking into that and will get back to us. Mr. Barnhart questioned if it is similar to a fire-resistant door? Mr. Watkins stated correct. If the alarm went off, the doors would close and seal one side from the other. Mr. Barnhart questioned by installing a wall and fire preventive devices, would that cost as much as a sprinkler system? Mr. Szarowski stated if they are on a well, they need storage tanks and pumps. Mr. Watkins stated sprinkler systems are very expensive. The Town is working on running sewer and water down along the building and tapping into the sewer. Mr. Hoyt stated they are working on the sewer, but not the water at this time.

**Fire Chief and Building Inspector:**

Mr. Barnhart stated on the August 15, 2024 memo, 2<sup>nd</sup> Page, under general comments, it states the Wallkill Fire District and the Building Inspector have been addressed. Previously you stated you have not met with the Fire Chief. Mr. Lukianoff stated previously we did but then since this new change in design, we have to re-meet with the fire department. Mr.