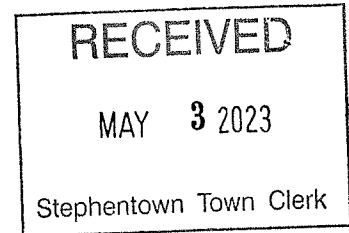


TOWN OF STEPHENTOWN
PLANNING BOARD



**IN THE MATTER OF MISTY VALLEY FARMS, LLC
(Hemlock Ridge Mine)**

**RESOLUTION
GRANTING SITE PLAN
APPROVAL**

WHEREAS, on or about June 16, 2021, Misty Valley Farms, LLC (“Applicant”) filed an application with this Board for both a special use permit and site plan approval to allow the operation and siting of a sand and gravel mine on land located on the west side of Route 22, south of the intersection with Hemlock Ridge Way; and

WHEREAS, it was mutually agreed that the review of the subject application would be commenced after NYS DEC (“DEC”) completed its review of the matter;

NOW THEREFORE BE IT RESOLVED THAT THIS BOARD MAKES THE FOLLOWING FINDINGS:

Additional Procedural History

1. As noted above, Applicant also filed an application with DEC for a permit, pursuant to the Mined Land Reclamation Law (hereinafter “MLRL Permit” or “Permit”). Submitted in support of that application was a mined land use plan, a noise impact assessment report, a traffic study as well as the other materials noted in the February 1, 2023 MLRL Permit that was issued by DEC.

2. On November 9, 2022, DEC determined that Applicant’s MLRL Permit Application was complete.

3. DEC, which has served as lead agency, conducted a coordinated review of the project pursuant to the State Environmental Quality Review Act (“SEQRA”). Applicant also filed an application with the New York State Department of Transportation (“DOT”) and was granted a Highway Work Permit, dated January 26, 2023, the terms of which granted it permission to “pave existing driveway at 16645 State Route 22, Stephentown, New Asphalt Driveway Must Match Existing Edge of Route 22 with minimal grade change, all work to be approved by the resident engineer.”

4. DEC issued a Negative Declaration under SEQRA, dated November 9, 2023. The Negative Declaration made a number of findings and determinations, all of which are incorporated herein by reference, concluding: “The New York State Department of Environmental Conservation, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and that a Draft Environmental Impact Statement will not be prepared.”

5. Additionally, as noted above, DEC issued its MLRL Permit on February 1, 2023. That Permit provides the following “Authorized Activity”:

This permit authorizes the operation of a 21.1 acre Life of Mine sand and gravel mine, pursuant to Article 23, Title 27 of the Environmental Conservation Law (Mined Land Reclamation), of which 11.9 acres are authorized to be affected during the initial permit term. The use of a portable crusher and portable screener is authorized at this mine site.

6. The subject MLRL Permit lists and incorporates therein all of the submitted mining plans. A review of the plan submissions evidences significant comments by DEC and responses to comments and revisions by Applicant. The Permit also contains several conditions, including conditions for “Pre-Construction Requirements,” “Operations,” “Grading,” “General Requirements,” and “Reclamation.” These detailed conditions set forth hours of operation of “7:00 AM to 6 PM on Monday through Friday and 7:00 AM to 4:00 PM on Saturdays ...” and noting special crusher hours of operation as “8AM to 4 PM Monday through Friday.”

7. Additionally, the Permit provides for the placement of screening berms in certain designated locations, all of which are to be “graded, seeded, and mulched in accordance with the approved plans” prior to the commencement of mining as well as the undertaking of dust control measures and the paving of the access road. Test pits are to be installed on the property and well monitoring is required to be conducted. In addition, an air permit is required per the terms of the Permit to be obtained from DEC if specified processing facilities are used.

8. The aforementioned Permit also provides detailed General conditions and sets forth an expiration date of January 29, 2028.

9. Following DEC’s issuance of the Negative Declaration and Permit, the matter was considered by this Board at the February 7, 2023 meeting. It was further discussed at the March 7, 2023 meeting. A public hearing was scheduled for, and held on, April 4, 2023.

10. All required notices and other procedures have been followed.

The Site

11. The site, as noted above, is located on the west side of Route 22, south of the intersection with Hemlock Ridge Way. Just down Route 22 from the site is another sand and gravel mine owned and operated by Applicant that has been permitted by both DEC and this Board.

12. The 21.1 acre Life of Mine is located on +/- 52 acres owned by Applicant. 11.9 acres of the 21.1 acre Life of Mine are authorized to be affected during the initial permit term. At the time most of the subject land is essentially a field, with most of the trees that are located on the property being in the rear.

13. The land is located in an RU Zoning District. In such zones commercial mining is allowed with a special use permit and site plan approval.

Standards For Grant of Site Plan Approval

14. Article VIII of Local Law Number 1 of the Year 2014, entitled “Amended Land Use Regulations of the Town of Stephentown” is entitled “Site Plan Review” and sets forth in subsection C(1) the following “General Considerations” for the grant of a site plan approval. Pursuant thereto, the following factors should be considered, at a minimum, the examination of which is set forth below:

(a) *The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces and traffic controls.*

As noted above, Applicant has been granted permission to pave the existing driveway at 16645 State Route 22 and will not be creating any new roads. This factor was considered as part of DEC’s SEQRA review. Notably, DEC’s Negative Declaration made the following determination as to “Impacts to Traffic”: “A 12-page traffic study dated May 16, 2022 was submitted by Creighton Manning. This traffic study assumed that a maximum of 50 round trip truckloads per day and found that there would be no significant impact to traffic as a result of this operation.”

(b) *The location, arrangement, appearance and sufficiency of off-street parking and loading, lighting, signs and general site compatibility of all buildings.*

There is no off-street parking, lighting, signage or buildings proposed. The internal truck travel paths have been reviewed by DEC.

(c) *Adequacy of storm water and drainage facilities, erosion and sediment control measures, water supply and sewage disposal facilities.*

There is no sewer system proposed. All storm water and drainage has been reviewed and approved by DEC. Moreover, this factor was considered as part of DEC’s Negative Declaration, providing the following the section entitled “Impacts to Ground/Surface Waters”: “The project site is adjacent to New York State Freshwater (FWW) SC-22, a Class 2 wetland. Prior to the applicant submitting their mining application, their consultant delineated FWW boundaries and the FWW regulated 100-foot adjacent area. DEC staff confirmed their delineation and the proposed LOM boundary will not result in impacts to an Article 24 regulated resources. Groundwater impacts will be avoided by the mine being required to maintain a 5-foot separation from the water table at all times.”

(d) *Adequacy of protection and preservation of the vegetation, topography, wildlife, aquatic life, and other natural features of the site.*

The mine will diminish existing vegetation and cause topographic changes to the property. However, the site is approximately 52 acres and less than half of it will comprise the Life of Mine. The approved plans provide for maintenance of existing topography and vegetation outside of the Life of Mine.

(e) *Adequacy of type and use of trees, shrubbery and other landscape elements, including the maximum retention of existing vegetation.*

See above response; there will be the preservation of the existing topography and vegetation outside of the Life of Mine area.

(f) *In the case of a multiple-family dwelling, the adequacy of usable open space for play areas and informal recreation.*

Not applicable.

(g) *Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.*

The Board agrees with and adopts the reasoning set forth in Applicant's February 7, 2023 submission, which states:

No lighting is proposed for this mine. As stated above, a noise impact analysis was prepared in compliance with the DEC noise mitigation policy, and a SEQRA negative declaration finds that there are no significant noise impacts from this mine operation. In addition, the record includes written consents from Mr. Matava, the closest adjacent property owner, stating that he is aware of the proposed mining operations and has not objection to the mine operation. Also as stated above, significant areas of existing topography and vegetation will be maintained around the life of mine area, providing a noise barrier as well as a visual barrier to mine operations."

(h) *Adequacy of emergency vehicle zones and water supplies for fire emergencies.*

There are no fire hazards that have been identified. There are no buildings or structures that are proposed. Moreover, on-site long-term storage of petroleum products is prohibited.

(i) *Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.*

See the responses to (c) and (d) above.

(j) *Compatibility of building designs with existing characteristics of area.*

As noted above, no buildings or structures are proposed.

NOW THEREFORE BE IT FURTHER RESOLVED, upon the motion of LEONARD, seconded by GARWIN that the Board hereby finds and determines that approval for the site plan as submitted to this Board (the "Site Plan") is

GRANTED, conditioned upon Applicant satisfying and complying with all conditions and requirements as set forth in the Mined Land Reclamation Permit and all materials submitted to the DEC and this Board and compliance with all approvals granted or to be granted by the Town and any of its Boards, by the following vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>
GARDNER	X		
PRESCOTT	X		
HALEY	X		
LEONARD	X		
LOBDELL ¹			X

Dated: May 2, 2023


Chairman Derrick Gardner

TO: Andrew Gilchrist, Esq.
Gilchrist Tingley, PC
251 River St., Ste. 201
Troy, NY 12180

¹ It is noted that Robert Lobdell recused himself from all matters relating to this application in that his brother is a member of Applicant. As such, he did not participate at all in this matter and did not merely abstain.