

Jeffery Schmitt, Planning Board Chair  
Michael Harris, Vice Chairman  
Chris Parslow, Town Planner  
Carol Sowycz, Clerk  
Teresa Bakner, Board Attorney



TOWN OF DUANESBURG  
SCHENECTADY COUNTY

Elizabeth Novak, Board Member  
Joshua Houghton, Board Member  
Matthew Hoffman, Board Member  
Michael Walpole, Board Member

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Town of Duanesburg  
Planning Board Minutes  
May 18, 2023  
**Final Copy**

**MEMBERS PRESENT:**

Jeffery Schmitt- Chairperson, Michael Harris- Vice Chairperson, Elizabeth Novak, Joshua Houghton, Michael Walpole, Matthew Hoffman, Teresa Bakner- Planning Board Attorney, Chris Parslow- Town Planner and Clerk Carol Sowycz.

**INTRODUCTION:**

Chairperson Jeffery Schmitt opened the meeting and welcomed everyone to tonight's Planning Board meeting and stated the agenda for the meeting.

**OPEN FORUM:**

**Harris/Walpole** made a motion to open the open forum at 7:00 pm.

Harris yes, Houghton yes, Hoffman yes, Houghton yes, Novak yes, Schmitt yes. **Approved.**  
Resident Lynne Bruning on Zoom. No comment.

**Schmitt/Novak** made a motion to close the open forum.

Schmitt yes, Novak yes, Houghton yes, Hoffman yes, Walpole yes, Harris yes. **Approved.**

**SKETCH PLAN REVIEW:**

None

**PUBLIC HEARINGS:**

**Schmitt/Harris** made a motion to open the public hearing for Tyler Hewitt special use permit.  
Schmitt yes, Harris yes, Novak yes, Houghton yes, Hoffman yes, Walpole yes. **Approved.**

**#23-05 Hewitt, Tyler:** SBL#43.11-1-12(R-2) located at 8554 Route 30 Delanson NY is seeking a Special Use Permit under 8.4(10) of the Town of Duanesburg Ordinance. Mr. Hewitt stated that he wants to turn his garage into a public garage. Chairman Schmitt asked if anyone has any comments. Kathleen Kosinski, 8554 Rt. 30 Delanson NY stated that she and her husband live directly across from the applicant's property. She stated they have an extensive list of concerns to share. Please see attached. Chairman Schmitt stated that Mr. Hewitts business plan identified

the business as owner/operator, hours of operation would be 9AM -5PM Monday thru Friday with 5-10 cars for repair per day.

Board members had questions concerning:

- Is there a gate to restrict access to the property?
- Is there a sign indicating the street address?
- Exactly how many vehicles are going to be on site at one time?
- Is there intent to put up a permanent fence?
- Was Mr. Hewitt aware that there's a limit of 1 RV per property?

Mr. Hewitt responded that there isn't a gate, and he has no intentions of putting a permanent fence up at this time. He also stated that he placed 2 fence posts with his address in both directions showing he is at 8554. He stated that he would have no more than 15 vehicles on the site at one time. Mr. Hewitt also stated that he was not aware of the restriction of one RV per property. Chairman Schmitt then asked Mr. Hewitt to prepare a revised business plan that addresses the concerns of the planning board defining the maximum numbers of vehicles, limitations on RV's, limitations of unregistered vehicles, and signage.

**Novak/Walpole** made a motion to close the Tyler Hewitt public hearing.

Novak yes, Walpole yes, Schmidt yes, Houghton yes, Hoffman yes, Harris yes. **Approved**

**Novak/Houghton** made a motion to table the Tyler Hewitt special use permit.

Novak yes, Houghton yes, Schmitt yes, Hoffman yes, Walpole yes, Harris yes. **Approved.**

**Harris/ Walpole** made a motion to open the public hearing for Salvatore Fusco, 756 Wells Road a major subdivision in the Town of Duanesburg.

Harris yes, Walpole yes, Hoffman yes, Houghton yes, Novak yes, Schmitt yes. **Approved.**

**#23-06 Fusco, Salvatore:** SBL#25.00-1-6.11, (R-2) located at 756 Wells Road is seeking a Major Subdivision under section 3.5 of the Town of Duanesburg Subdivision Ordinance. Luigi Palleschi P.E. with ABD Engineers stated that the property is approximately 75 acres with most of the frontage on Wells Rd. He explained that the proposed subdivision is for 5 lots with single family homes. Chairman Schmitt asked the audience if they have any questions or comments. Bonnie Wilson, 1116 Wells Rd. Duanesburg stated her questions and concerns. Please see attached, revised statement included. The board pointed out that the lot sizes are substantial in size and there should be minimal impact on the area with only a few more houses and that zoning would allow a lot more homes. Also explained by the board was the wetlands delineation process. The public also had concerns regarding road traffic, construction vehicles and power outages.

**Schmitt/Harris** made a motion to close the public hearing for Salvatore Fusco.

Schmitt yes, Harris yes, Novak yes, Houghton yes, Hoffman yes, Walpole yes. **Approved.**

**Novak/ Harris** made a motion to determine the Fusco Major Subdivision a SEQRA type 1, negative declaration and approve the preliminary plat plan.

Novak yes, Harris yes, Walpole yes, Hoffman yes, Houghton yes, Schmitt yes. **Approved.**

Chairperson Schmitt stated the next public hearing we have scheduled is Spiro Kagas. He submitted an application a couple of years ago for the development of a third bay, accessory

parking lot and a food truck. A couple of things for the board's convenience and proper procedures, at the last meeting we had held, the day of the meeting the consultant was unavailable. We proceeded without him because the public hearing had been notified 10 days in advance that it was on the agenda, so there was no way that we could cancel it and have all the public show up. We got a submission dated May 16<sup>th</sup>, just 2 days ago so were not going to talk about that. We can talk about that later, but tonight's public hearing is going to discuss what we had received to date and has been reviewed by our town designated engineer.

**Schmitt/ Harris** made a motion to open the public hearing for Spiro Kagas.

Schmitt yes, Harris yes, Novak yes, Houghton yes, Hoffman yes, Walpole yes. **Approved.**

**#22-10 Kagas, Spiro:** SBL#53.00-1-29.21, (c-1) located at 9938 Western Turnpike is seeking a site plan approval for the accessory parking under section 5.2.2 of the Town of Duaneburg Zoning Ordinance.

Chairman Schmitt stated that he believes there are several people in the audience that had come specifically tonight to hear some concerns about the prior design. The board decided to allow the engineer for the Spiro Kagas to proceed with a new proposal. Mr. Bianchine PE. then explains to the public and the board what the newly proposed concept would look like. The board asked questions concerning:

- 1.- Where the water would be pumped to.
- 2.- The process of lowering the pond.
- 3.- If this would be a continuous process.
- 4.- What the level of the pond is.

Mr. Bianchine answered that the water would go to the ditch on route 20 and be done during dry periods and answered the questions that were presented to him. There was much discussion about the new proposed concept, permitting, and runoff. Mr. Zee, the attorney for Spiro Kagas explained to the public and to the board that the hold-up is with the lack of communication with DEC, as it is quite hard to get a hold of anyone. Chairman Schmitt asked that the public speak so that they can have their comments on record. Patrick Wren, 9866 Western Turnpike expresses his concerns. See Attached. Heidi Krietzer, 9848 Western Turnpike stated that Mr. Wren summed up her concerns as well. Bill Snyder, 9973 Western Turnpike stated that the music does go off at night and that water is constantly a problem due to the ditching along the road. Mr. Wren stated that the music had just started being turned off. The board stated that they still have concerns about the design of the new proposal and wish to see if the DEC approves the design. The board also wanted to address the concerns of the public, being dust, the use of the parking area, keeping the gate shut and moving dumpster and equipment from the property line, as the permit was revoked. A verbal confrontation involving Mr. Kagas and Mr. Wren followed. Mr. Kagas removed himself from the meeting. At that time Mr. Wren stated "That he was glad there was a bunch of people to witness this, that I feel threatened by that guy. I really feel threatened by that. I want that to be on the record." There is more discussion concerning the proposed engineering design between the board and the applicant's consultants.

**Schmitt/Harris** made a motion to keep the public hearing open.

Schmitt yes, Harris yes, Walpole yes, Hoffman yes, Houghton yes, Novak yes. **Approved.**

## **NEW BUSINESS:**

**#23-08P Chandler Jr., Robert:** SBL#44.00-1-8.21, (R-2) located at 2978 Duanesburg Churches Rd is seeking a Major Subdivision under section 3.5 of the Town of Duanesburg Subdivision Ordinance. Mr. Blackstone representing Mr. Chandler states that they are proposing 3 lots. There is discussion about possible wetlands and Mr. Blackstone stated that they would get a private delineator instead of waiting for DEC to be available. **Novak/Harris** made a motion to SEQRA review and table until June 15<sup>th</sup> meeting. Novak yes, Harris yes, Walpole yes, Hoffman yes, Houghton yes, Schmitt yes.

## **OTHER:**

None

## **Minute Approval:**

### **April 20,2023, PLANNING BOARD MEETING MINUTES:**

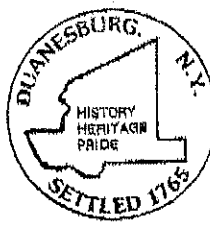
**Harris/Hoffman** made a motion to approve the April 20, 2023, Planning Board minutes. Harris yes, Hoffman yes, Walpole yes, Houghton yes, Novak yes, Schmitt yes. **Approved.**

## **ADJOURNMENT:**

**Schmitt/Walpole** made the motion to adjourn at 9:55 PM.

Schmitt yes, Walpole yes, Harris yes, Hoffman yes, Houghton yes, Novak yes. **Approved.**

Jeffrey Schmitt, Planning Board Chair  
Chris Parslow, Town Planner  
Carol Sowycz, Clerk  
Teresa Bakner, Board Attorney



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TOWN OF DUANESBURG  
SCHENECTADY COUNTY

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**NOTICE OF PUBLIC HEARING**

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING  
PLANNING BOARD  
TOWN OF DUANESBURG**

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PLEASE TAKE NOTICE, THAT THE PLANNING BOARD OF THE TOWN OF  
DUANESBURG, NEW YORK, WILL MEET AT THE TOWN HALL IN THE TOWN  
OF DUANESBURG, 5853 WESTERN TURNPIKE, ON **May 18, 2023 AT**  
**7:00 PM** FOR THE PURPOSE OF HEARING ALL PERSONS INTERESTED IN THE

APPLICATION OF:

**#23-05 Hewitt, Tyler:** SBL#43.00-1-12, (R-2) located at 8554 Route 30 Delanson  
NY is seeking a Special Use Permit under 8.4 (10) of the Town of Duanesburg Zoning  
Ordinance.

APPLICATION INFORMATION IS AVAILABLE DURING BUSINESS HOURS

BY ORDER OF THE CHAIRPERSON  
PLANNING BOARD  
TOWN OF DUANESBURG  
CHAIRPERSON

Join Zoom Meeting <https://us02web.zoom.us/j/86499746075> Meeting ID: 864 9974 6075

Passcode: 130214 Dial in by Phone: 1-646-558-8656 Meeting ID: 864 9974 6075

Passcode: 13021

Re: Application 23-05 Hewitt, Tyler SBL#43.00-1-12

Special use permit request for a commercial garage in R2 district

5/18/2023

This communication, verbally at this hearing and also submitted to you today in writing to be entered into the record, is to make you aware of the multiple concerns we, the property owners of 8557 State Highway 30 Delanson, NY 12053, located directly across from the applicant, have regarding this application.

We first would like to be clear that the larger building which houses the repair equipment was built, in its entirety, by the applicant including the installation of professional automotive repair lifts. This building was NOT the existing structure on the land when it was purchased from the previous owner. We acknowledge that the previous owner did use the site as storage for his portable toilet business and was a welcome and friendly neighbor for many years with no negative impact to the surrounding properties.

This current issue was entirely self-created despite the (now previous) UCEO repeatedly telling Mr. Hewitt prior to and during construction that he MUST submit for proper permitting and process if he wanted to have a commercial garage at the property in question. As a result of the applicant's absolute disregard for local and state laws, as well as general lack of respect for the existing surrounding property owners and property values, he failed to develop a proper and well thought out site plan and failed to meet the standard required in our Zoning Law. As a result of his determination to just proceed as he saw fit, we now have several safety concerns and additional negative impacts to the surrounding residential properties. Unfortunately, given the location of the land, the majority of the impact appears to have fallen on us, the property directly in line of sight across the street. The only "positives" related to this situation, have been solely to the benefit of the applicant.

We would also like the Board to be aware that we have had extensive dialogue with the current as well as former UCEO's dating back to a first email of July 2020 after our concerns had already begun to arise. I regret we did not document this more thoroughly; however, we were assured that the applicant's word had been given to the UCEO that his intent was purely for "personal garage use". As our time is limited in this forum, I offer that there is a UCEO file on this history and we are also happy to provide you additional details including photos, email and videos of incidences that I will reference. The applicant also applied for and was registered to operate a commercial garage at the property by New York State in January of 2022 despite his full awareness that he was not permitted to do so. It was after this proof was brought to the town, that he could no longer continue to provide incorrect information about his actions.

Based on current Zoning laws, we have the following concerns related to this Special Use permit application for safety and environmental concerns. But most importantly the preservation of the character of the neighborhood that has been in place since at least 1972 when I first moved there and where I have lived since then, and where my husband and later our daughters have lived for the last 32 years.

We respectfully ask the board to address these concerns as well as others. Should you ultimately feel the applicant meets the criteria to be given the privilege of a Special Use Permit, we demand our concerns are addressed and mitigated since, again, this is entirely a self-created situation.

**How does this Permit request meet the basic 3 Special Use standards of Section 14.6.2?**

- a) Currently there are 5 auto repair businesses in the Duaneburg area, 2 that are within 5-7 miles from this site. They are able to service cars with minimal wait time. There is no "repair shop desert" preventing town residents from having their vehicles serviced within the Town. There is no social benefit for the town to this use, nor does it promote public health. There is no economic benefit to anyone other than the applicant who has told us he "just always wanted to own his own garage" and has been charging money for the repair work done at this location.
- b) There is no water and septic/sewer. It is not "suitably related to transportation" as noted with the safety concerns of traffic that I will mention.
- c) The character of the neighborhood has, to date, NOT been reasonably safeguarded based on the following issues. Only the last 3 of the 52 years I have lived here have been significantly out of character, and on only one plot of land: 8554 State Highway 30.

Specific concerns:

**Traffic safety/Driveway Location Concern 14.6.2.4 (3)** Flatbed trucks consistently block the entirety of Route 30 when delivering automobiles for service. Often they attempt to swing wide to pull in, fail at the attempt once partway into the driveway, then back out and then turn around directly in the road to finally back in to the driveway. This blocks 1 or both lanes the entire time. Has DOT evaluated this concern for safety and appropriateness of this as it can happen multiple times/week? The speed limit posted is 55 mph, however traffic regularly exceeds this. State Police routinely set up speed patrols within 0.5-0.75 miles on either side of us because speeding is commonplace. The property sits on a reduced visibility sweeping turn with frequent tractor trailers, as well as bus and large construction vehicles that require prolonged braking distances. We have heard several brake slams even from passenger cars to avoid an accident when a flatbed delivery has been in progress. Traffic has been stopped consistently 30-60 seconds and as much as to 3.5 minutes with up to 5 vehicles stopped in each direction when flatbeds are delivering to the site.

We are asking that a full assessment be completed by NYS DOT related to safety with this current situation and not only the flatbed truck issues, but the overall volume of traffic. Pulling out of our driveway can be quite challenging at times even if you know traffic speeds because of the visibility issues. Customers are not expected to realize the visibility issues when they leave the location so line of sight issues and stopping distances are questions that need to be resolved.

If this permit were to be granted, we request that as a condition of approval that the applicant be mandated to use the abandoned town road directly along the Northern edge of his property located across from McMillian Road as the only access point for traffic. The use of the previously utilized road as the driveway would allow for the flatbeds to pull in and then maneuver into a main parking area but not block traffic completely along State Highway 30. The bed of that road surface appears in good structural condition and passenger trucks do currently drive in and out of it or park on it. The existing driveway access can be easily blocked off and replanted for noise mitigation as it is not paved. Mr. Hewitt had

initially assured us the driveway access change was, in fact, his plan once a neighbor removed a camping trailer that was blocking his access to that road. The trailer has finally been removed after several years. However Mr. Hewitt told us last month when we inquired about his intent that it is "too expensive" for him to alter the driveway as he had told us he planned, so he has no intent to mitigate the situation on his own.

He also told us in 2020 when we spoke that he was aware and had witnessed vehicles intending to come to his location but using our circular driveway as a drive through turn around because they could not find his property. Mr Hewitt admitted that he had told people after the fact that they were (stupid) for doing so, but made no attempts to clarify that his location was not the "yellow house across the street". In fact, he himself told us that GPS places his property waypoint at our driveway. Again, he made no apparent attempt to prevent his customers from utilizing our private property despite knowing this issue and the disruption it caused and continues to cause.

Related to driveway location issues, we have also had 3+ people park their cars at our home garage and bring their keys to our door to leave their cars for servicing. In one case last October, the customer came to our front door and asked if I was "Tyler's wife" so he could give me his keys because he was "dropping off my vehicle for the repair work". He stated the plan was to leave the keys on the porch and leave the car on the property if I had not answered the door. He clarified again when I asked that he was paying for these repairs. I do have video evidence of that vehicle leaving our house and going directly to the garage to park, with a second car accompanying him. I fail to see how this was a "friends and family only" repair work job as he neither knew the location nor the person he was to leave keys with. Shortly after this, at least a small 911 address number was posted at his driveway. But turn arounds and full drive thrus to turn around at our home have still not stopped. This has been over 3 years of weekly if not more episodes of disruption at our home by his customers. And we are tired of it.

The applicant was also made aware of the noise impact when he removed most of the larger trees and the brush for the driveway/parking pad on the site. These had assisted with some noise mitigation. However now because of expense he is unwilling to make changes that would assist in restoring some of the prior character of the neighborhood as well as improve safety of travelers on Route 30. Use of the alternate access and adequately replanting the current driveway would prevent much the direct impact to us with glare etc into our home, in addition to improving traffic safety. We are also asking that whatever access would be used that an asphalt apron be made to widen the road access to his property to assist with flow of traffic in and out of the location.

We also demand that if the Special Use permit is approved, **appropriate signage** shall be placed to further deter his customers from continuing to use our private property as a turn around/pull through/car drop off. We deserve a reasonable expectation that there will be a stop to the trespassing on our property because customers do not know or can not find his location. We also expect that the delivery of his packages to our house from NAPA, UPS and Fed-Ex addressed to his location will be ended as well with this signage. (14.6.2.4 (#5))

**Glare:** As mentioned above related to Section 14.6.3.1(#6), glare may not be created past the property line. The current driveway is situated so the headlights in and out are directly shining into our driveway as we leave the house as well as into the main living room area of our home. In fact this light shines directly into my eyes as I sit in my chair. Vehicles that Mr Hewitt has parked facing our driveway have

sun glare from their windshields onto our property. Mr Hewitt has also been made aware of this concern by us in the past without attempting to make changes to mitigate this impact.

14.6.2.4 (#9) extends this to mean any glare from the property that negatively impacts the neighboring property and not just traffic. We request thoughtful consideration as it is again able to be improved with the previously noted driveway location change and mindful replanting of the current driveway. Such buffer for both glare as well as noise is also mandated to be done in 14.6.2.4 (#8)

**Noise:** with a hand held decibel meter, noise inside our living room has regularly exceeded spikes of over 70 decibels for prolonged periods of time, including with the windows closed. Routinely there is prolonged continuous noise of 55-64 decibels heard inside our home coming from the applicant's property. Based on specific performance standards set in section 14.6.3.1 there shall not be emitted "noise in excess of 70 decibels. dBA scale of a standard sound meter" past the property line. We have had to shut windows yet still increase the volume of our TV in order to hear it over the noise emitting from the applicant's property. Our house sits approximately 200' from the road edge across from the property of the applicant, so this level of noise extends well into our property. Noise includes but is not limited to: air tools, revving engines (car and motorcycle) with stop/start with the cars parked in the parking area. Cars that are regularly there routinely leave after starting up and revving the engine loudly several times as late as 10pm.

**Environmental factors:** Cars for repair and long-term storage are sitting on a dirt/rubble surface. There is no protection from fluid leaks into the soil as mandated in 14.6.3.1 (#8) and 14.6.2.7. We demand a paved or other DEC approved surface to mitigate expected contamination onto the soil and groundwater from leaking automobile fluids. The applicant does not have, nor we believe plans to, have a ground water source for drinking, so he would have no reason to be personally concerned for the state of the ground water. However, his neighbors drinking the water from our wells do have a high concern over water quality.

We also need to ensure that VOC emissions from painting etc are managed according to regulation. How are automotive fluids disposed of and how is this monitored? How is run off water managed from the large building that the applicant added to the property? How is general facility wastewater disposed of (toileting needs, handwashing etc)?

**Hours of Business activity:** The activity, including the owner's vehicle and 2 consistent others, has been routinely at the property every weeknight as well as the weekends – almost all day both days. There is never a break from the traffic or, most importantly, the noise created from this property during what most would consider normal "nonbusiness hours" of this type of establishment. This was an extremely quiet neighborhood for over 50 years, and this is sadly no longer the case since the property was sold to the applicant and he chose knowingly to violate the local laws and processes. When we come home from work, the activity is in full swing until essentially bedtime. There is no respite from this for the preexisting homeowners in what is zoned a Residential district where commercial noise is NOT expected.

If this permit is approved, we expect to see regular business hours be set and strictly maintained and enforced. These hours of business are requested to not be weekends and evening/night times when most of the neighbors are in their home, and often outdoors. We do understand that flatbed vehicle delivery may not be able to be reasonably limited, but the already requested change in driveway access

would limit the negative impact of this when it does need to occur on off hours. We also ask that schedule repair vehicle pick up and drop off hours also be mandated only during hours of business operation, again to preserve the character of the R2 district setting.

How many employees will there be expected to be on site at once?

**Aesthetics:** We have multiple concerns related to 14.6.2.4 (#9). There has consistently been up to 3 large recreational vehicles stored for long term on site. These have been shown in numerous satellite maps as well as easily seen when drive by as well as from our front window and lawn. In addition, there are multiple licensed vehicles that have remained parked for long term in a consistent location on the property. These vehicles appear to be stored and not there for repair. This is excessive, considering there are no occupants living on the property. If this permit is approved, we request a limitation that only vehicles actively undergoing active repair are parked and allowed to remain on site to avoid the appearance of a parking lot, or in the case of the demolition derby cars that are often stored, a junkyard. The applicant has requested 10-15 cars be allowed to be "stored" on the property, which we feel based on our observation is excessive based on a realistic service volume with his current set up. The extra request appears to be for this storage and not his requested repair services and is not appropriate nor in character with the neighborhood, especially given there is no one living on the site to have need to routinely park overnight.

The applicant has also put up a "fence"-like barrier facing the main road consisting of upright rough wooden pallets stacked on end, multiple pallets deep. This sort of barrier is not noted anywhere else in the neighborhood and is extremely unsightly. It also presents a safety hazard in the current configuration. Visually it negatively impacts the character and value of the surrounding properties. We request that if a "fence" is to be installed that is be representative of standard residential fencing expected in a R2 district.

**Fire Lanes/Emergency Access:** Unfortunately, there have been 2 EMS and/or trooper response calls and subsequent follow up since this owner has built on this property. Unfortunately, one of these episodes involved a friend who we were told by the applicant was living on the property with his dog in one of the trailers at the time of the episode. The vehicles had difficulty accessing the property with the ambulance, the result of which was of several Trooper and first responder vehicles parked along the roadside creating a danger to the first responders as well due traffic which had to be stopped/slowed by 2 people because of the visual limitations of the roadway. This places these responders at risk and does not meet 14.6.2.4 (#10)

Lately, we request that the **public hearing remain open** through such date when final action is taken by the Board on this application. We do not feel that these concerns of ours can be given their due diligence by the Board in one session given the seriousness of this application request and the impact to the surrounding properties and travelers on the highway past this location.

Thank you for your time and thoughtful consideration,

Kathleen and James Kosinski

8557 State Highway 30

Delanson, NY 12053

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## **NOTICE OF PUBLIC HEARING**

**LEGAL NOTICE  
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PLANNING BOARD  
TOWN OF DUANESBURG**

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PLEASE TAKE NOTICE, THAT THE PLANNING BOARD OF THE TOWN OF  
DUANESBURG, NEW YORK, WILL MEET AT THE TOWN HALL IN THE TOWN  
OF DUANESBURG, 5853 WESTERN TURNPIKE, ON **May 18, 2023 AT**  
**7:00 PM** FOR THE PURPOSE OF HEARING ALL PERSONS INTERESTED IN THE

APPLICATION OF:

**#23-06 Fusco, Salvatore:** SBL#25.00-1-6.11, (R-2) located at 756 Wells Road is  
seeking a 5 Lot Major Subdivision under section 3.5 of the Town of Duanesburg  
Subdivision Ordinance.

APPLICATION INFORMATION IS AVAILABLE DURING BUSINESS HOURS

BY ORDER OF THE CHAIRPERSON  
PLANNING BOARD  
TOWN OF DUANESBURG  
CHAIRPERSON

Join Zoom Meeting <https://us02web.zoom.us/j/86499746075> Meeting ID: 864 9974 6075

Passcode: 130214 Dial in by Phone: 1-646-558-8656 Meeting ID: 864 9974 6075

Passcode: 13021

## **May 18, 2023 Planning Board Meeting**

**Ref: #23-06 Fusco, Salvatore SBL#2500-1.6.11 (R-2) located at 756  
Wells Road - Seeking a Major Subdivision**

### **Concerns, Comments and Questions**

## Concerns Questions & Comments

The following are concerns, questions, and comments in regards to Mr. Fusco's application:

- **Agricultural Data Statement:**  
#7. List all Farm Operations within 500 feet of your parcel

### Comments

- Although not in a NYS Certified Ag District - I'd like to bring it to the boards attention that:
- Land Parcels directly north of lot #1 are harvested annually of hay
  - The estimated distance between Fusco and Wilson 166.4 feet
  - The estimated distance between Fusco and Bejian 118.3 feet

- **Environmental Assessment Form**

Pg 5

**Section C: Will the proposed action use or create a new demand for Water?**

**Answer: NO**

### Question's

- Although the project operations themselves may not require a new demand for water the proposed subdivision of 6 lots and subsequent single family homes... will obviously require the drilling of wells to meet the additional need of water to be supplied to these homes.
- Has any consideration been given to the fact that all the existing homes on our road rely on Wells?

- Can you guarantee that the potential water requirements for these new homes won't impact/disturb the water table on this road and cause existing homes to lose their water supply?
- What recourse will the existing landowners have if this happens, and who will bear the liability?
- Are you aware also that the existing home on Mr. Fusco's property required drilling a 600 ft. well?

#### Comment

- This seems to support the theory that an adequate supply of water may not be feasible.

- Increase In Traffic:

#### Comments

- The current amount of traffic on Wells road is quite low due to the fact that there are only about 15 houses the entire length of the road.
- The proposed addition of 5 or more houses, will equate to a 1/4 increase in the total number of houses. This could adversely affect the rural and cultural pattern of Wells Rd due to the increase in noise, speed, and traffic.
- The conditions of Wells Road are at best substandard and may not readily support the increased demand.
- Winter months often lead to Wells road being one that is only cleared after the main roads are.

- **Freshwater Wetlands within the subdivision:**

**Comments**

- **According to Mr. Fusco's application there is an area of wetlands that runs across the lower portion of the property to be developed.**
- **Based on the satellite image from the "National Wetlands Inventory" map, there appears to be a significant amount of Freshwater Forested/Shrub Wetland, and Emergent Wetland habitat totaling approx. 14 acres within Fusco's property and through other adjoining properties.**
- **It has been noted these wetlands have been created or modified due to the beaver population found in our freshwater wetlands. Continued dam building may very well increase the size of the existing wetlands causing future issues for the subdivision. *It should be noted that Beavers in NYS are a protected species.***
- **There also appears to be (2) Riverine habitats which include wetlands contained in a channel, which periodically, or continuously contain moving water, or form links between bodies of standing water. Riverines may include rivers, streams, ditches, and canals.**
- **With portions of Mr. Fusco's property upland from these freshwater wetlands, poor drainage due to the types of soil in the area, and downward slopes of the property may very well put in danger the Freshwater Habitats and Riverines. Some of his plan speaks to this issue as he's anticipating the need to install raised septic systems.**

- **Excerpts:**  
In reference to pg. 43- Duanesburg's Development Plan goal is to:
- **Minimize the risk to persons and property from natural or manmade disasters. This was suggested as a way to avoid significant increases in stormwater runoff from new development & prevent downstream flooding. The recommendation was to avoid construction on steep slopes.**
- **Excerpts:**  
**Pg.47 - Duanesburg Development Plan**
- **Steep Slopes Preservation Objectives: Preserve steep slopes and ridgelines.**  
**Development constraints increase as slope increases.**  
**Steep slopes shed more surface water at higher velocity; steep slopes tend to be covered by shallow soils which cannot filter septic wastes properly.**

### Question

- **What mitigation measures is Mr. Fusco proposing to avoid downhill spillage into the wetlands?**

### Comment

- **With the need of raised septic systems for each of these homes and the added removal of trees and shrubbery necessary to develop these building lots, possible erosion and spillage could be an issue.**

- Lastly in regards to page 12 of Mr. Fusco's Environmental Assessment Plan  
Section Q - Is the project site adjoining area currently used for hunting, fishing, trapping etc.?

Answer: No

### Comments

His response to this question appears inaccurate

- Species such as white tail deer, turkeys, black bears, martens, racoons, turkey vultures, a blue heron, coyotes, and an occasional bobcat, live and pass through our rural area.
- Many of these species are currently hunted where legally allowed, in and around the adjoining project area. Obviously, how the proposed subdivision process will affect that use is not known at this time.

### CLOSING

In closing I'd like to mention to all of you, one last excerpt that I found from the Duanesburg Comprehensive and Vision Plan:

- "The town of Duanesburg encourages the preservation and protection of the economic health of the agricultural community and the prime and important agricultural soils"

*Within the town's commitment to sustaining our valuable economic and natural resources, agricultural land use, open spaces, natural habitats, and fresh watersheds....*

*Please consider denying Mr. Salvatore J Fusco's proposed subdivision on Wells road.*

- *Let us continue to keep the peaceful and quiet nature of our current rural community!*

Jeffrey Schmitt, Planning Board Chair  
Chris Parslow, Town Planner  
Carol Sowycz, Clerk  
Terresa Bakner, Board Attorney



Michael Harris, Vice Chairperson  
Elizabeth Novak, Board Member  
Matthew Hoffman, Board Member  
Michael Walpole, Board Member  
Joshua Houghton, Board Member

TOWN OF DUANESBURG  
SCHENECTADY COUNTY

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## **NOTICE OF PUBLIC HEARING**

### **LEGAL NOTICE NOTICE OF PUBLIC HEARING PLANNING BOARD TOWN OF DUANESBURG**

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PLEASE TAKE NOTICE, THAT THE PLANNING BOARD OF THE TOWN OF  
DUANESBURG, NEW YORK, WILL MEET AT THE TOWN HALL IN THE TOWN  
OF DUANESBURG, 5853 WESTERN TURNPIKE, ON **May 18, 2023 AT**  
**7:00 PM** FOR THE PURPOSE OF HEARING ALL PERSONS INTERESTED IN THE

#### **APPLICATION OF:**

**#22-10 Kagas.Spiro:** SBL#53.00-1-29.21, (c-1) located at 9938 Western Turnpike  
is seeking a special use permit for the accessory parking under section 5.2.2 of the  
Town of Duanesburg Zoning Ordinance.

APPLICATION INFORMATION IS AVAILABLE DURING BUSINESS HOURS

BY ORDER OF THE CHAIRPERSON  
PLANNING BOARD  
TOWN OF DUANESBURG  
CHAIRPERSON

Join Zoom Meeting <https://us02web.zoom.us/j/86499746075> Meeting ID: 864 9974 6075

Passcode: 130214 Dial in by Phone: 1-646-558-8656 Meeting ID: 864 9974 6075

Passcode: 13021

Two years ago, we started this process by granting a permit to build a parking area for tractor trailers on the car wash property according to the board approved engineered plans. Neighbors expressed their concerns to the board in the form of a petition opposing the plan and the board attempted to address these concerns by writing conditions into the permit. You did try to address these concerns with a list of simple conditions on the permit. These approved engineering plans were not followed, and the board was not notified of the changes to the design by the property owner.

Also, the conditions requested by the board included;

1. The screening plan shall be undertaken at the same time as the construction, NOT DONE— construction began in June and after the lot was constructed in October, there was a screening attempt made by planting some trees along the property line which did not screen anything and now 4 of the trees are dead and have not been replaced.
2. The professional engineer for the project shall submit a certification to the town that the overflow parking lot and screening was constructed in accordance with the approved site plans and the stormwater drainage is functioning as designed – we all know that never happened.
3. A gate be placed at the entrance of the parking area to ensure vehicles are not parked there overnight. Gate is there but over the last two years has been left open 90% of the time.
4. The existing car wash shall place signs per the design attached to the letter from Zee 5/14/21 indicating that trucks may not idle or park at the facility overnight – no signs have been put up and over the past two years there have been several occasions trucks were parked overnight at the wash.
5. The existing car wash shall remain in compliance with all NYSDEC requirements with respect to stormwater and treatment of effluent from the car wash – Hazardous waste permit has not yet been renewed by the state.
6. The carwash shall ensure that any music is turned off between the hours of 9pm and 9am and that dust is controlled on the access roads so that dust does not leave the property and go on to neighboring properties. Music or talk radio is regularly playing beyond 9pm. The dust problem has never been addressed and has gotten so bad we can't even open the windows on the end of our house because every time a truck pulls up the driveway there is a dust storm that blows across my property and onto my deck. There is no person here that would tolerate this happening to them. This issue must be addressed. I don't think this is unreasonable.
7. All local, state and federal permits shall be obtained that are required for the project. More than 1 acre was disturbed in contradiction with the engineered plans stating .9 acres.

His failure to comply with these conditions and follow the engineered plans led to the permit being revoked.

When the permit was revoked the board instructed the owner not use the parking area and keep the gate closed to prevent any vehicles from entering the lot. The gate is always left open and he uses the lot to store equipment and a dumpster. Once a week a garbage truck drives into the lot to empty the dumpster. He originally had all the equipment on the far side of the lot but a few weeks ago he moved

all the equipment and dumpster over to my side of the parking area as close to my property as he could move it.

Fast forward to today and my self and my neighbor are inundated with water every time we have a heavy rain due to stormwater runoff. And we are just one superstorm away from my neighbor's basement being flooded which already happened back in 2012 before this parking area was constructed. The board has been provided with several photos and videos of this flooding evidence.

The privacy and security of my property along with the property value, has been negatively impacted by all of this. I am now forced to spend \$16k to put up a fence to protect my privacy, secure my family and preserve my property value.

I understand this is commercial property and he has a right to run his business, but he needs to follow the rules. A commercial property owner who operates under a hazardous waste permit is obligated to operate his business in a responsible way. I never had a problem with the previous owner. He was a good neighbor, he was always considerate to all the residents. He shut down at night and turned the lights off. The current owner has shown over the past two years he is not interested in following the conditions you placed on him or his business.

At what point does the Planning Board look at this and realize this is just a bad idea. Putting a truck parking lot in the middle of a field surrounded by homes with private wells and septic systems is a formula for disaster. This plan does not have any positive impact on the residents or the community. My fear is that it has done permanent damage to the surrounding area. We need to go back and fix the mess from the first proposal before we entertain any further proposals?