

**Town of Nichols  
Zoning Board of Appeals Meeting  
October 28, 2021**

*Stephen Lounsberry brought meeting to order at 7:00pm in the Nichols Town Hall located at 54 E river Rd, Nichols NY*

**ROLL CALL;**

*Stephen Lounsberry (present), Rose Cole (present), Ray Thetga Jr. (present), Marcy Hill (absent) and Ryan Middleton (present).*

*Others present;*

*Robert McKertich (Town Attorney), the Kersten Family and Karen Hall (acting secretary).*

**NEW BUSINESS**

*A request for a zoning change is before the Board from Bob Murphy, Inc. to rezone property tax map number 149.00-1-4.1 from AR (agricultural residential) to IBAR (industrial business agricultural residential) to mine sand and gravel from the north side of said property that is approximately 20 acres. S. Lounsberry asked the Town attorney to explain what the Board is obligated to do and then told the Board that they will have to decide if they want to take any action on this request.*

*R. McKertich addressed the Board and told them that the Town Board has the ultimate authority to rezone but the process is that the request has to go to the Zoning Board of Appeals first. The Zoning Board of Appeals is in an advisory position to advise and give a recommendation report to the Town Board if it should or should not approve a request for rezoning. R. McKertich went on to explain that if the property goes to IBAR zoning then any type of business allowed in the IBAR could be there. He went on to tell the Board that they should look at the general philosophy of how they want the town to look in that area, consider any adverse impact on the neighboring properties and if there will be an impact on the community, whether good or bad. Also, while the Town doesn't have a written comprehensive plan, they should think about the vision or the goal for the Town at least in this area.*

*R. Cole asked which property they were discussing and it was pointed out to her on a map (see attached). R. Cole asked who was currently farming that property. S. Lounsberry said Kevin Engelbert was. Discussion about how it is only being used for agricultural purposes now because it is only zoned for AR followed and if the zoning changes to IBAR any business upto and including an industrial plant can go in there. R. McKertich gave the Board a of the Zoning Law showing which types of businesses can go into a BAR zoned area and IBAR zoned area to review. S. Lounsberry opened up the floor for public comment.*

**PUBLIC COMMENTS -**

*Comment from one of the attendees is that he thinks the Board should not change the face of the Town of Nichols. One of the reasons they moved here is because it is a rural agricultural area. Another attendee had concerns about the noise, dust and damage to the roads it would create.*

*S. Lounsberry asked the Board members opinions on the request, discussion from each Board member followed and the consensus from each Board Member was that there is already a clear line drawn on the map for BAR and IBAR.*

*The recommendation to the Town Board from the Zoning Board of Appeals is that they should not change the zoning from AR to IBAR in that area because it would alter the character of the neighborhood, and additionally since the adjacent parcels are not zoned IBAR it could result in "Spot Zoning".*

*Motion to approve final recommendation and send said recommendation to the Town Board for their review made by R. Cole 2nd by R. Thetga Jr.*

*Roll Vote;*

*Stephen Lounsberry (aye), Rose Cole (aye), Ray Thetga Jr. (aye), Marcy Hill (absent) and Ryan Middleton (aye).*

*Carried 4 aye-1 absent-0 No-0 abstain*

**ADJOURN -**

*The motion to Adjourn meeting at 7:19 pm, made by R. Thetga Jr. 2<sup>nd</sup> by R. Middleton.*

*Roll Vote;*

*Stephen Lounsberry (aye), Rose Cole (aye), Ray Thetga Jr. (aye), Marcy Hill (absent) and Ryan Middleton (aye).*

*Carried 4 aye-1 absent-0 No-0 abstain*

*Karen Hall*

*Nichols Town Clerk*

*11/04/2021*