

**Village of Scottsville ZONING BOARD OF APPEALS Meeting**  
**Thursday January 12, 2023 at 7:00 pm**  
**Wheatland Municipal Building**  
**22 Main Street**  
**AGENDA**

**Call to Order:** Chairman Kevin Marks called to order the regular meeting of the Village of Scottsville **Zoning Board of Appeals** at \_\_\_\_\_ pm on \_\_\_\_\_ in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY 14546

**Pledge of Allegiance:**

**Roll Call:**

Kevin Marks  
Steve Cullum  
Patti Brandes  
David Domina  
Mark Smith

Also Present: Emily Clarke, Deputy Clerk  
Anne Hartman, Village Clerk  
Andy Fraser, Deputy Mayor

**Approval of Minutes:**

**Motion:** made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to approve minutes of the \_\_\_\_\_ Zoning Board Meeting as submitted.

**Vote:** \_\_\_\_\_ carries: ( - )

Kevin Marks  
Patti Brandes  
Mark Smith

Steve Cullum  
David Domina

**ADJOURNMENT:**

**Motion:** Made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to adjourn the meeting at \_\_\_\_\_ p.m.

**Vote:** \_\_\_\_\_ carries: ( - )

Kevin Marks  
Patti Brandes  
Mark Smith

Steve Cullum  
David Domina

**Village of Scottsville ZONING BOARD OF APPEALS Meeting**  
**Thursday December 8, 2022 at 7:00 pm**  
**Wheatland Municipal Building**  
**22 Main Street**  
**UNAPPROVED Minutes**

**Call to Order:** Chairman Kevin Marks called to order the December 8, 2022 Village of Scottsville Zoning Board of Appeals meeting at 7:05pm.

**Pledge of Allegiance:**

**Roll Call:**

**Roll Call:**

Kevin Marks  
David Domina  
Mark Smith

**Absent:**

Steve Cullum  
Patti Brandes

**Also Present:**

Andy Fraser, Deputy Mayor  
Anne Hartman, Village Clerk  
Emily Clarke, Deputy Clerk  
Henry Paszko  
Kip Finley  
Maggie Ridge, Mayor  
Kristy Brightman

**Attorney:**

**Approval of Minutes:**

**Motion:** made by Mark Smith and seconded by David Domina to approve minutes of the November 10, 2022 Zoning Board Meeting as submitted.

**Vote:** Carries: (3-0) ZB 12/8/22

Kevin Marks  
Patti Brandes  
Mark Smith

Steve Cullum  
David Domina

*Chairman Marks reopened the public hearing at 7:05pm.*

**PLEASE TAKE NOTICE**, a public hearing of the Village of Scottsville Zoning Board of Appeals has been scheduled on Thursday, November 10, 2022 at 7:00 pm at the Wheatland Municipal Building, 22 Main Street, Scottsville, NY to consider granting a Use Variance for the manufacturing, sales and distribution of Bears Playground at 39 Main Street, Scottsville, NY in the Central Business District.

All interested persons will be given an opportunity to speak for or against the above proposed legislation at the time and location set herein. Comments may also be sent via email to [villageclerk@scottsvilleny.org](mailto:villageclerk@scottsvilleny.org).

*Public Comment opened at 7:06pm.*

Public Comment:

No Public Comment

*Public Comment closed and Board Comment opened at 7:06pm.*

Board Comment:

The Board discussed the SEQRA Act 2 for 39 Main Street.

Nick Peral called the Village Office and stated that, “He is very much in support of new businesses coming into the village”.

The Use Variance for 39 Main Street will replace the Special Use permit filed for Bears Playground. Bears has also added a decibel (50-80) level for the dust collector into the Variance.

*Public Hearing closed at 7:10pm.*

**Motion:** made by Kevin Marks and seconded by Mark Smith to close the Public Hearing at 7:10pm.

**Vote:** Carries (3-0 )PB 12/8/22

Steve Cullum ABSENT

Patti Brandes ABSENT

Kevin Marks AYE

David Domina AYE

Mark Smith AYE

## **RESOLUTION**

### **(State Environmental Quality Review Act)**

**APPLICATION** by Bears Management Group, Inc. d/b/a Bears Playgrounds (the “Applicant”) for 39 Main Street, Scottsville, New York (Tax Map No. 200.09-2-30) (the “Property”), for a use variance in connection with the Applicant’s proposed acquisition and development of the Property for manufacturing, sales, and distribution of playground equipment (the “Project”).

**WHEREAS**, the Applicant has applied to the Village of Scottsville Zoning Board of Appeals (the “Zoning Board”) for a use variance in connection with the Applicant’s proposed acquisition and development of the Property for the Project; and

**WHEREAS**, in accordance with the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 NYCRR Part 617, as amended (collectively referred to as “SEQRA”), the Zoning Board must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

**WHEREAS**, the Zoning Board has completed its review of Parts 2 and 3 of the Full Environmental Assessment Form (“EAF”); and

**WHEREAS**, the Zoning Board has given consideration to the criteria for determining significance as set forth in 6 NYCRR § 617.7(c) and the information contained in Parts 1, 2 and 3 of the Full EAF.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ZONING BOARD AS FOLLOWS:**

Section 1. The Project is classified as an Unlisted Action as it does not exceed any existing thresholds of the Type I list as established through 6 NYCRR § 617, and each of the Whereas Clauses in this Resolution are incorporated by reference as specific findings of this Resolution and shall have the same effect as the other findings herein.

Section 2. The Zoning Board has considered the Project pursuant to the parameters and criteria set forth in applicable provisions found under 6 NYCRR §§ 617.2 and 617.3.

Section 3. The Zoning Board has considered the significance of the potential environmental impacts of the Project by: (i) carefully reviewing and examining the responses to the Short EAF, and completing the analyses for Parts 2 and 3 of the Full EAF, together with examining other information and documents concerning the Project, including the plans and other documents prepared by the Applicant, to identify the relevant areas of environmental concern with respect to potential impacts to land, geological features, stormwater and groundwater, wetlands, flooding, air, historic, archaeological and other recognized and/or protected resources, plants and animals, including threatened or endangered species, noise, odor or light, human health, critical environmental areas, open space and recreation, aesthetic resources, transportation, agriculture, community character and cumulative impacts, if any, and other potential impacts as required by applicable regulation; (ii) considering the criteria set forth in 6 NYCRR § 617.7(c); and (iii) thoroughly analyzing the identified areas of relevant environmental concern.

Section 4. Based upon a thorough review by the Zoning Board of the Short EAF and supporting information and documents concerning the Project, the Zoning Board hereby finds that the Project will result in no potential significant adverse environmental impacts requiring the preparation of an environmental impact statement for the Project. The Zoning Board thus issues a Negative Declaration for the action pursuant to 6 NYCRR § 617.7. The reasoning supporting the Zoning Board’s determination of significance for the Project is more fully set forth in the Part 3 Determination of Significance.

Section 5. The Zoning Board accepts the findings contained in Parts 2 and 3 of the Full EAF and directs the Zoning Board Chairperson to sign and date Part 3 of the Full EAF.

**Section 6.** The requirements of SEQRA have been satisfied and this Resolution shall take effect immediately.

**Motion:** made by Kevin Marks and seconded by Mark Smith to adopt the Resolution for SEQRA for 39 Main Street, Scottsville NY.

**Vote:** Carries (3-0 )PB 12/8/22

Steve Cullum ABSENT

Patti Brandes ABSENT

Kevin Marks AYE

David Domina AYE

Mark Smith AYE

## **RESOLUTION (Use Variance)**

**APPLICATION** by Bears Management Group, Inc. d/b/a Bears Playgrounds (the “Applicant”) for 39 Main Street, Scottsville, New York (Tax Map No. 200.09-2-30) (the “Property”) for a use variance in connection with the proposed acquisition and development of the Property for manufacturing, sales, and distribution of playground equipment.

**WHEREAS**, the Applicant has applied to the Village of Scottsville Zoning Board of Appeals (the “Zoning Board”) for a use variance in connection with the Applicant’s proposed acquisition and development of the Property for manufacturing, sales, and distribution of playground equipment (the “Project”); and

**WHEREAS**, the Property is located in the Central Business District where manufacturing, sales, and distribution of playground equipment is not a permitted use under Table 170-13.1 of the Code of Village of Scottsville (the “Zoning Code”); and

**WHEREAS**, the Zoning Board has examined the application, plans, and other materials filed by the Applicant as part of the application, including Part 1 of the Short Environmental Assessment Form, and all comments from the public, and other interested and involved agencies associated with the Project; and

**WHEREAS**, on November 10, 2022, the Zoning Board held a public hearing on the application, and during the public hearing all persons desiring to speak on the matter were heard; and

**WHEREAS**, the Project constitutes an Unlisted Action under the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 NYCRR Part 617, as amended, and the Zoning Board as lead agency has previously determined that the Project will not have a significant adverse environmental impact by adopting a Negative Declaration; and

**WHEREAS**, the Zoning Board has reviewed the Project based on the standards for the granting of an use variance under Section 7-712-b of the New York Village Law.

**NOW, THEREFORE, BE IT RESOLVED**, that after considering all the proof and evidence before it, and giving careful consideration to the facts presented, the Zoning Board hereby approves the Applicant's request for a use variance from Table 170-13.1 of the Zoning Code to permit the manufacturing, sales, and distribution of playground equipment at the Property based on the following findings of fact and determinations:

1. Section 7-712-b of the New York Village Law requires the Applicant to show that the zoning regulations have caused "unnecessary hardship" by demonstrating that: (1) the Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) the alleged hardship relating to the Property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) the alleged hardship has not been self-created.

2. The Applicant cannot realize a reasonable return as demonstrated by competent financial evidence. The Property is owned by The Rodwin LLC, which relocated its manufacturing and distribution business from the Property in 2016 because the Property was no longer adequate to carry out the owner's business operations. Since that time, the Property has been marketed for sale by various local real estate agencies, including CBRE beginning in May 2018. According to CBRE's submissions, the Property has been 100% vacant since 2018. Online marketing for the Property has been viewed approximately 1,900 times. A variety of potential uses for the Property have been actively pursued, including multifamily (utilizing the existing structure and new construction), retail, office, self-storage, entertainment, horticultural and industrial uses. The asking price for the Property was reduced on multiple occasions, but according to CBRE no sale or lease of the Property has ever been finalized for a number of reasons, including building design, building condition, site design, site condition, zoning constraints, and roadway access. According to financial information provided by CBRE on behalf of the Property owner, the Property does not generate any annual income and incurs \$117,000 in annual expenses. Based on the foregoing, the Applicant has demonstrated that the Property owner cannot realize a reasonable return from the uses permitted in the Central Business District.

3. The hardship relating to the Property is unique and does not apply to a substantial portion of the neighborhood. The Property is located in the Central Business District, which under Section 170-12(B) of the Zoning Code is intended to foster the development of a pedestrian-scaled, mixed-use business district that caters to the community's need for local retail, services, and entertainment in a manner that is consistent with the traditional, historic character of the downtown area. However, the Property is unique, both in terms of the lot and building configuration. The Property consists of an irregularly shaped 6.3-acre parcel of land containing 54,859 square feet of existing buildings associated with a prior non-conforming industrial/distribution use that

ceased operations several years ago. The hardship relating to the Property, which was developed over time for a use that is no longer permitted in the Central Business District, does not apply to any other property in the district.

4. The use variance will not alter the essential character of the neighborhood. The Project does not propose any new buildings or building additions, or modifications to the existing parking facilities. The exterior alterations are limited to exterior painting of a portion of the building, modification of the loading dock doors, and proposed log storage in the rear of the Property that will be sufficiently screened from adjoining properties. The Applicant estimates one third-party delivery truck or less per day, along with smaller truck deliveries by the Applicant that will decrease over time as product is transferred from the Applicant's Lima facility. The Applicant estimates hours of machine operation from 8 a.m. to 5:30 p.m. Monday through Friday, which will occur within the existing buildings. The exterior dust collection system will be centrally located within the Property and shielded by the existing structures and/or further barriers, as necessary, to reduce potential noise impacts on the surrounding area. The Applicant has also proposed to construct a playground off Scott Crescent Drive, at no cost to the Village, for the benefit of the residents of the area.

5. The alleged hardship has not been self-created. The Applicant has applied to the Zoning Board for a use variance prior to purchasing the Property, and thus has not knowingly acquired the Property for a prohibited use. The Property was developed over time by the Property owner for industrial/distribution purposes and in accordance with the zoning at the time of construction. The original purpose of the buildings eventually became obsolete, resulting in the Property owner discontinuing the non-conforming use and relocating its business outside the Village. The Property has remained 100% vacant since 2018. Under the circumstances, the alleged hardship has not been self-created by the Property owner or the Applicant.

**BE IT FURTHER RESOLVED** that the Zoning Board determines that the use variance granted herein for manufacturing, sales, and distribution of playground equipment only is the minimum variance necessary and adequate to address the unnecessary hardship provided by the Applicant while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community; and

**BE IT FURTHER RESOLVED** that the use variance granted herein is subject to the following conditions:

1. The Applicant shall obtain all other necessary permits and approvals required for the Project, including without limitation design review approval from the Village of Scottsville Planning Board.

2. The Applicant is required to comply with the applicable requirements of the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code, the Village of Scottsville Code.

3. The Applicant shall comply with all conditions of the design review approval granted by the Village of Scottsville Planning Board.

4. The Applicant shall obtain a building permit for the construction/installation of the Project from the Scottsville Building Inspector and pay the appropriate fee.

5. The proposed playground area shall be designed, installed, and maintained by Applicant, at its sole cost and expense, and located in the westerly side yard of the Property in the general area depicted on the plans submitted with the application. *The installation of the proposed playground shall be subject to the Applicant obtaining any necessary approvals and entering into a satisfactory lease or easement agreement with the Village to allow access and use of the playground area for the benefit of Village residents.*

6. Outdoor storage of materials shall be permitted only in the storage areas depicted on the plans submitted with the application. The Applicant shall utilize the primary storage area and unless and until the primary storage area becomes full, at which point the Applicant shall be permitted to utilize the secondary storage area. All outdoor storage of materials shall be sufficiently screened in accordance with the requirements of the Zoning Code.

7. The Applicant shall be permitted to install the exterior dust collection system only in the central area of the Property identified on the survey map submitted with the application. The exterior dust collection system will be shielded to the fullest extent practicable by the existing structures on the Property, and the Applicant shall construct further barriers, as necessary, to further reduce the noise generated by the exterior dust collection system. The exterior dust collection system shall comply with Section 117-1 of the Zoning Code.

**Motion:** made by Mark Smith and seconded by David Domina to adopt the Resolution for the Use Variance for 39 Main Street, Scottsville NY.

**Vote:** Carries (3-0) PB 12/8/22

Steve Cullum ABSENT

Patti Brandes ABSENT

Kevin Marks AYE

David Domina AYE

Mark Smith AYE

**New Business**

No New Business



**Old Business**

Henry Paszko and Kip Finley, 32 Main St options.

- File a Special Use Permit with the Village to change the use of 32 Main Street from Commercial to Residential.

**ADJOURNMENT:**

**Motion:** Made by Mark Smith and seconded by David Domina to adjourn the meeting at 7:40p.m.

**Vote:** *Carries (3-0 )PB 12/8/22*

Steve Cullum ABSENT  
 Kevin Marks AYE  
 Mark Smith AYE

Patti Brandes ABSENT  
 David Domina AYE

Respectfully submitted by,



Emily Clarke, Deputy Clerk