

Ancram Zoning Board of Appeals
April 14, 2011 7:00PM
Meeting Minutes

Board Members Present: Chair Leah Wilcox, Sheldon Waldorf, William Lutz (alternate), Alyson Kozlowski, Fred Schneeburger, Sue Bassin

Board Members Absent: none

Clerk: Samantha Langton

Others Present: Michele Haab, Jeff Baker, Cathy Franklin, Bryce Birdsall, Malcolm Kirk, Gary Delemeester, Jeff Daly, Susan Roth Cohen, Matt Cohen, Art Bassin, Dennis Sigler, Bonnie Hundt, Bob Wilcox

Chair Wilcox opened the meeting at 7:00pm.

MINUTES FROM PREVIOUS MEETING, 1/25/2011

Mr. Waldorf motioned to accept the meeting minutes, Mr. Schneeburger seconded, all were in favor, none opposed.

TRAINING

All board members have gone to a training session on the new ethics laws and all will receive 1.5 hours credit.

The Zoning Revisions Committee meets with Consultant Nan Stoltzenberg the first Monday of each month. Attending this meeting will count as 1 hour of training.

The Dutchess County Planning Board will hold training course on Tuesday, April 26, in Millbrook. \$5 to register, online or over the phone. Sandwiches will be served at 5:30. This counts as 2 hours of training. The topic is ZBA basics.

Chair Wilcox handed out new training hours logs for each board member to keep, fill in, and return at the end of the year.

NEW BUSINESS

Application #11-1

Jeffrey Baker

408 Pooles Hill Road

Tax map # 213-1-89

Special Use Permit for retail sale at a road stand.

New Business

11-1 Jeffrey Baker

408 Pooles Hill Rd

Tax map parcel 213.-1-89

Application is for a Special Use Permit for “retail sale of agricultural product grown principally on the same lot from the road stand,” which is permitted in the R (rural residential) district.

Chair Wilcox asked if any board member has a reason to recuse themselves from the decision making process for this application. No board members recused themselves.

The Building Inspector has denied the application citing the need for a special use permit. However, the BI has issued a building permit for the establishment of the farm distillery as an agricultural use. The application was referred to the Planning Board as required by the zoning regulations: at the April 7 meeting, the Planning Board recommended approval stating that the proposed action “seems to have little impact on roadway as the parking will be quite far off the street. Supports local agriculture and business. Driveway may need to be improved due to increased usage of personal vehicles and delivery trucks.”

Referral to County Planning Board: This action, “Any variance, site plan review or special permit required to establish a second or subsequent business entity, not exceeding 10,000 square feet, operated by the owners of and located on an active farm operation” is exempt.

Public notices appeared in the Register Star and the Columbia Paper on Thursday, March 31.

SEQR: This is a Type II action, specifically “Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming.” Therefore, the SEQR process is complete.

Mr. Baker mailed notices to the abutting property owners. Some felt they should have been mailed notices and yet did not receive them. This will be discussed further on.

Mr. Baker addressed the Board with regards to his application. He showed the survey map of the property. Mr. Baker added that this is not an application regarding the distillery operation but rather the direct sale of his product. He explained, “the project will be a micro-distillery within an existing barn that was constructed a few years ago. A new building permit was issued for the distillery. The County and Town gave overwhelming support for this project as it is an agricultural use, like producing milk or beef. Production levels will be approximately 1 barrel per day as compared to Jim Beam, who produces about 1,200 barrels per day. The product will be made from grain produced on our property. We feel it is connected to agriculture. It is a value added product and we want to sell direct to customers. As an addendum, the farm distillery license in NYS allows you to have direct retail sales from the distillery. We asked the town for a permit, it was denied because although it is permitted, a special use permit is required.”

Chair Wilcox added, “This is something the town does permit, but it needs a special use permit.”

Mr. Baker added that they will be allowed to sell anything the farm produces.

The Board asked Mr. Baker to address the conditions required by the zoning regulations for a “farm stand...”

1. There will be 5 parking spaces.

Chair Wilcox explained that 5 off street spaces are required, but 1 handicapped space should be included, as well, since the zoning requirements were written prior to handicapped parking was required. Mr. Baker stated that there was plenty of room and it would not be a problem. Ms. Bassin asked if the parking lot would be on an impervious surface. Mr. Baker said that it would be gravel.

2. The second requirement would be “ingress to and egress from such use shall be so arranged to provide minimum interference with through traffic on the street.” Mr. Baker explained that the existing driveway would be used. The barn is at least 800 feet from the nearest neighboring building and there is a large hedgerow between the barn and that property, which belongs to Mr. Chaleff.

3. Lighting: There will be limited exterior lighting mostly for safety. It will be down-lighting.

4. Signage: Mr. Baker does not intend to have any material signage; there is already a small sign that is about 1.5 square feet that says “Hill Rock Farm.” Chair Wilcox inserted that the ZBA might put in size requirements for a sign. Mr. Baker said that he would comply. Also, any sign must be at least 10 feet from a property line.

5. Setback: The required setback for the barn is 50 feet from the street right of way. The building is over 1,000ft from the road.

Ms. Bassin asked how visitors would know to go to the correct lot instead of the private house since both use the same driveway: would there be other signage? Mr. Baker said there will probably be a sign where the driveway leads to the house indicating private property. Mr. Baker owns two separate parcels, both accessed through the same lot. He does not foresee many visitors or retail activity; he expects visitors would mainly be a part of community interested in tours of the still in operation. 3 to 5 people will be employed at the still.

Chair Wilcox addressed neighbors’ concerns about visitors having samples of whiskey. From the NYS Law: “A class D distiller’s license, otherwise known as a farm distillery license, shall authorize the holder of such a license to operate a farm distillery at the premises specifically designated in the license:

(i) To manufacture liquor primarily from farm and food products, as defined in subdivision two of section two hundred eighty two of the agriculture and markets law...

(b) (i) Retail sales by a licensed farm distillery may be made only to customers who are physically present upon the licensed premises and such sale shall be concluded by the customer’s taking, with him or her, of the sealed containers purchased by the customer at the time the customer leaves the licensed premises

(ii) Such retail sales shall not be made where the order is placed by letter, telephone, fax, or e-mail, or where the customer otherwise does not place the order while the customer is physically present upon the premises of the licensed premises...

(iii) No consumer may be provided, directly or indirectly: (A) more than three samples of liquor for tasting in one calendar day; or (B) with a sample of liquor for tasting equal to more than one quarter fluid ounce...

(f) No holder of a farm distillery license shall manufacture in excess of thirty-five thousand gallons of liquor annually.”

Mr. Baker added that $\frac{3}{4}$ fluid oz, the permitted maximum serving/tasting to an individual, is approximately equal to $\frac{1}{2}$ shot glass and this requirement is heavily policed. It is not possible to have a farm distillery license and a retail sale license beyond the restrictions previously stated. There will not be a bar at the distillery. A custom made copper-steel drum with a capacity of 250 gallons is being made for the production. If it ran every day, this would produce about 10,000 gallons a year. Therefore, the permit is for a higher capacity than is possible for this operation. The state law allows for production of 35,000 gallons or approximately 15,000 cases annually, but this distillery will produce about 6,500 cases annually. If Mr. Baker intends to produce more than this amount in the future, he would use a farm at a different location. The traffic produced from transporting the product would not be in excess of 1-2 pallets a week.

The Board asked Mr. Baker to address the 4 questions pertaining to a Special Use Permit:

1. That there shall not be any other detrimental effect by the establishment of such use on other uses within the district.

This is a terrific use that fits in with the new comprehensive plan as part of our intention to help farming. After 6 years of pesticide removal, the land is being reintroduced to farming. The only impact will be having additional people come visit.

2. That such use will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, fences, and parking areas will not discourage the appropriate development and use of adjacent lands.

There will not be any material changes made to the barn. It is a traditional looking barn that fits in with the character of the neighborhood.

3. That all structures, equipment and materials shall be reasonably accessible for fire and police protection.

The barn is a legally built building. All of the structures are accessible by emergency vehicles.

4. That the use meets the prescribed requirements for the district in which located, including minimum yard requirements, including maximum height, required off-street parking, and sign regulations.

Yes.

Chair Wilcox asked the Board if the definition of a road stand includes direct sale to customers in a barn. The town law states, "retail sale of agricultural product run principally from a road stand..." and the definition of a road stand is "a light structure with a roof... selling local produce to the public..." Chair Wilcox commented that the Town's zoning was created in 1972 and did not anticipate how agriculture would change in the 21st century, how agricultural products are now produced. She further commented that the Town passed a new comprehensive Plan (2010) and an Ag & Farmland Protection Plan (2011), both of which support and encourage ag activities beyond the 1972 zoning regulations. Ms. Bassin, who serves on the Agriculture Committee of the Town, added that farm businesses need to extend the selling season of farm products in order to be more profitable. She went on to say that 95% of our town residents support agriculture. Also, using existing farm structures is ideal since it keeps them from going into disrepair.

The ZRC has not completed work on this issue. However, notes from their deliberations indicate that in addition to the definition of farmstand is “on-farm temporary structure,” they are considering a definition for farm market: “farm structure, where one or more farms can sell products on seasonal or year round...” Ms. Hundt, from the ZRC, explained that these are the current possible definitions. The idea would be to promote agricultural sales. There is no definition for farm market in current zoning.

Chair Wilcox opened the issue of notification of abutting property owners. Some of Mr. Baker’s neighbors believed they should have been notified, but were not. Mr. Baker owns two parcels. The distillery will be located on the southern parcel, but the driveway used to access the parcel goes through the northern parcel and out to Pooles Hill Road.

Ms. Haab was representing Mr. Gregory Long, whose property is located north of the driveway on the northern parcel. Ms. Haab expressed that she believed that both parcels should be on the application and that owners of property that abuts both properties should have been notified by certified mail.

Chair Wilcox explained that although growing would occur on both the northern and southern parcels, the building in question is located only on the southern parcel. The special use permit is only for the structure in which the sales will occur and does not include the growing area of the grains or agricultural product sold within the barn. However, since access to the southern parcel is through the northern parcel, those properties will be affected.

The Board agreed that property owners that abut both parcels should be notified and the public hearing was rescheduled to Tuesday, May 3, 2011 at 7:00pm in order to allow 10 days to resend letters to the abutting property owners, including those who abut the northern parcel (213.-1-90) and to submit notices to the local papers. Mr. Baker agreed to send new letters out by 4/22/11 and notices will go to the papers by 4/21/11. The public hearing will be rescheduled and opened at the following meeting. Minutes from this meeting will be posted to the website.

Mr. Cohen asked when he could come in to the ZBA office to see Mr. Baker’s file. Ms. Wilcox told him that he may come to the office during regular business hours on Wed., 10:00am – 12:00 noon.

TRAINING

New forms were passed out to record 2011 training, and number of hours of training required for each ZBA member was discussed.

Mr. Waldorf motioned to adjourn the meeting at 8:07pm, Ms. Kozlowski seconded the motion, all carried and the meeting was adjourned.