

**Ancram Zoning Board of Appeals
June 21, 2011 7:00PM
Meeting Minutes--DRAFT**

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

Board Members Absent: none

Clerk: Samantha Langton

Others Present: Jerry Peele, Tom Borgeson, Wendy Borgeson, John Petrucci

Chair Wilcox opened the meeting at 7:00pm.

TRAINING

CCPB is offering a 4 hour training session at Columbia Greene Community College on 6/22/11, 5:00-9:00, Introduction to Planning and Zoning and SEQR; Chair Wilcox will be driving.

5/3/11 MINUTES

Ms. Bassin suggested some changes for clarity that were emailed to the Clerk. The members of the ZBA agreed with the changes to the minutes. Ms. Bassin motioned to pass the minutes as amended, Mr. Waldorf seconded, all approved. The approved minutes will replace the draft minutes on the Town's website.

NEW BUSINESS

ZBA and PB Clerk Position Opening

PB and ZBA Clerk Samantha Langton is resigning as of 7/20/2011 to begin a postdoc position at RPI. Notices for the position opening have been sent to the Columbia and Register Star papers. Please inform Chair Wilcox if you know of someone who might be interested in the position. Job descriptions are available in our office. Ms. Langton will have the opening posted to the website.

Application 11-1

Jeffrey Baker

408 Pooles Hill Road

Tax Parcel #s 213.-1-89 (barn) and 213.-1-90 (driveway)

Chair Wilcox announced that she is a board member of the Columbia Land Conservancy (CLC) and learned on 6/18/11 that the CLC assisted Mr. Baker in the Farmer-Landowner Match program to find a farmer (Walter Wesarg) to grow the grain for his distillery.

This application was presented on 4/14/11. There was a public hearing held on 5/3/11 at which time the ZBA reached a consensus to approve the application with conditions. A resolution was drafted and read by all board members. No additions, changes, or corrections were suggested. Mr. Waldorf motioned to approve the resolution, Ms. Bassin

seconded, all voted individually in favor of the resolution for the Special Use Permit. The applicant, town clerk, and building inspector will be notified.

The resolution was passed with the following conditions (the complete resolution is included at the end of the minutes):

- a) At least 5 off-street parking spaces including one handicap parking space shall be provided for customers as depicted in the plot plan provided by applicant, the parking area is to be constructed of pervious material such as gravel; separate parking shall be provided for employees;
- b) Ingress and egress shall be by the existing driveway on parcel #213.-1-90
- c) One sign no more than six square feet in size indicating the distillery shall be located no closer than 10 feet to any property line and not more than 10 feet above the ground.

Application 11-2

Mr. Jerry Peele, Herondale Farm Store

90 Wiltsie Bridge Road, R (3 acre) district, Columbia County Ag District 1

Tax map parcel #197.-1-21-200

Special Use Permit application for a farm store in an already existing barn. Special Use Permit applications on farms are exempt from County Planning Board approval. The Town Planning Board recommended approval and suggested that there should be adequate space for parking. Notices for the public hearing tonight were printed in the Register Star and Columbia newspapers on June 9th. An Ag use is a Type II action, and therefore, SEQR is complete. Mr. Peele paid the application fee and brought in certified mail receipts for notices sent to abutting property owners.

Chair Wilcox asked if any board members had any reason to recuse themselves. No board members had any conflicts. A denial was received from the Building Inspector stating that a Special Use Permit is required for a farm store. In addition, the barn does not meet setback requirements for a road stand

Mr. Peele approached the Board and explained his application. Herondale Farm wished to utilize the existing barn as a farm store. Its prior use was for a dairy operation, storage, and the back half was used as a run-in shed for bulls. The front part of the barn that faces the road currently contains a walk-in cooler and refrigeration and freezers to display products from Herondale and Sol Flower farms. Herondale Farm sells meat products (chicken, pork, lamb, and beef) and baked goods from Camphill Village, while Sol Flower sells cut flowers and vegetables. The barn does not currently have an outdoor light, but plans to install one above the front door (example photo was shown to the Board).

With reference to the 5 ZBA SUP questions, Chair Wilcox stated that the Board is concerned about parking, lighting, signage, and setbacks. The existing barn is located closer to the road than the 50ft setback requirement. For the area variance the ZBA

considered the 5 questions. 1. Whether an undesirable change will be produced to the detriment of other properties – No, because the barn is already in existence. 2. Whether the benefit sought by the applicant can be achieved in some other way – No, especially to retain the farm store in the barn. 3. Is the variance sought substantial - Yes. 4. Will there be a change to the character of the neighborhood – no since the barn is already in existence. 5. Was the difficulty was self-created - yes. For the SUP, the parking area in front of the barn allows for 6 parking spaces and there is additional parking across the road. The busiest day is typically Saturday and there is a CSA pickup on Tuesday. Ingress and egress are fine. The signs is 8sqft and does not exceed the required maximum of 50sqft. There is no detrimental effect of this use since it is within an agricultural district. The structures are reasonably accessible for fire and police protection. The use meets prescribed requirements for the district.

Chair Wilcox opened the public hearing. There were no questions or comments from the public. Ms. Bassin commented that this is a great addition to the town and another step in helping our agricultural businesses meet the consumers more directly.

Chair Wilcox closed the public hearing.

With respect to the area variance to locate the farm store in an already existing barn which is nearer to the road than the 50’ required setback, the Board determined that the benefit to the applicant far outweighed any detriment to the community which was determined to be negligible. Mr. Schneeberger motioned to approve the Area Variance. Ms. Bassin seconded the motion. All board members voted individually and unanimously approved the Area Variance.

Mr. Waldorf motioned to approve the Special Use Permit allowing the parking plan, current signage and the proposed lighting. Ms. Bassin seconded the motion. All board members voted individually and unanimously approved the Special Use Permit.

The decision will be filed with the Town Clerk. The applicant was reminded that a Special Use Permit is not a building permit.

Application 11-3

Mr. Thomas and Mrs. Wendy Borgeson Area Variance, represented by Mr. John Petrucci
Tax Parcel Map #219.-1-37
554 Hall Hill Road, R (3-acre) rural residential district

An Area Variance was requested to build an addition closer to the road than allowed by current zoning. A denial was received from the building inspector stating that the plans do not meet front yard set back requirements. A letter from Mr. and Mrs. Borgeson was given to the ZBA to allow Mr. Petrucci to represent them. This application is exempt from County Planning Board referral. The Town Planning Board reviewed the application and recommended that the front porch addition be disallowed, but approved the other additions and stated, “Site plan needs to be more detailed including second

floor. Setback for addition will improve and be more compliant. However, front porch (new) will interfere with roadscape. Might want to make sure septic will be adequate for number of bedrooms. Good to stay near road to save land.” Chair Wilcox pointed out that the porch would not extend further than the existing patio. The Planning Board did not have the letter that explained that the porch was desired for aesthetic purposes.

Notices for the public hearing appeared in the Register Star and the Columbia Paper on Thursday, June 9th, 2011. A letter was sent to the Town of Gallatin (abutting property) on June 8th, 2011. Notices to abutting property owners were sent by June 10th, 2011. Mr. Petrucci sent the certified mail receipts to the ZBA after the meeting and were received on Wed., 6/29. Abutting parcel # 219.-1-28 on the Ancram tax map was not in the tax map records and the assessor did not have records of the property owners for this parcel. An area variance is a Type II action and SEQR is complete. An affidavit was signed by Mr. Petrucci and dated 6/10/2011 for notifications.

Mr. Petrucci brought a model and additional plans and explained that the addition to the original house was to accommodate Mr. and Mrs. Borgeson’s move to Ancram as full-time residents. The footprint of the porch will not exceed the existing footprint of the patio. Mrs. Borgeson explained that they would like to keep the existing house because it has been in her family for 4 generations and was built in 1892. Mr. Petrucci explained that the additions could not be set back further. A new entry and foyer will be added further back from the porch. The upstairs will contain a master bedroom suite. A true breezeway will be built to a 2 car garage with open area above. The extended eave on the existing house will be added to keep it in perspective with the new addition. The addition will be 2,600sqft, added to the existing 21 x 22 ft house.

Mr. Waldorf and Chair Wilcox visited the location and Waldorf, Schneeberger and Lutz were all familiar with the house and property. Chair Wilcox said that the patio is close to the road, but the curvature of the road at the location appears to ease any problem. Chair Wilcox asked Mr. Petrucci how cars would back out of the garage. Mr. Petrucci said that it would not change from the current situation. The entrance could not be located behind the garage because of an existing shed. It is not in a dangerous location on Hall Hill road. Mr. Lutz added that he recalls a screened-in porch on the house at the location of the patio at some time in the past.

The ZBA considered the following 5 questions pertaining to area variances:

1. whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the area variance: The ZBA feels that the character will not be altered since this is a rural residential area and the house, which is near the road, is already there. Also, Mr. Waldorf and Mr. Schneeberger recall that at one time there was a screened-in porch where the front patio (and the proposed porch addition) is,

2. whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance:

The current design was settled to maintain the current entrance and exit, the same non-conformable issue would result no matter where the addition would be built. There is no feasible alternative in order to retain the existing house. The remaining land will stay open as the addition will be close to the road without building out. Ms. Bassin asked Mrs. Borgeson of her plans for land use. Mrs. Borgeson answered that she only plans to possibly keep chickens and a garden. Ms. Bassin added that this keeps the rural character of the houses on the road.

3. whether the requested area variance is substantial;

The new addition would be substantial because the porch would be 11ft from the road and the new addition would be 21ft from the road. Zoning regulations in the R district require a 50' front setback.

4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

There are no physical environmental issues and no adverse impacts on the neighborhood or district.

5. whether an alleged difficulty is self-created.

Since the existing house was in Mrs. Borgeson's family for 4 generations, the variance was not self-created. However, the variance was self-created because of the new addition.

The ZBA asked the applicants if they know their neighbors well and how long they have been visiting Ancram. Mrs. Borgeson answered that she knows her neighbors well and has been visiting Ancram her whole life either in this house or another house in the area. They have been coming up as a couple for 10 years.

Chair Wilcox opened the public hearing. Mr. Schneeberger asked if the roof line will be changed to the existing house on the porch. Mr. Petrucci said the line will be changed to conform to the addition. No further questions were asked.

Chair Wilcox closed the public hearing.

Ms. Bassin motioned to approve the Area Variance citing that the benefit to the applicant outweighed any detriment to the community. Mr. Schneeberger seconded the motion. An individual vote was taken and the variance was unanimously approved. The variance will be filed with the building inspector and Town Clerk. The applicant was reminded that an area variance is not a building permit.

Mr. Waldorf motioned to end the meeting, Ms. Bassin seconded, the meeting was adjourned at 7:56pm.

**TOWN OF ANCRAM
ZONING BOARD OF APPEALS**

**RESOLUTION APPROVING SPECIAL USE PERMIT FOR
RETAIL SALE OF AGRICULTURAL PRODUCT GROWN PRINCIPALLY ON
THE SAME LOT FROM A ROAD STAND/FARM STORE
ON THE PROPERTY OF JEFFREY BAKER LOCATED AT
408 POOLES HILL ROAD, ANCRAM, NEW YORK**

WHEREAS, Jeffrey Baker (hereinafter "Baker" or "Applicant") owns a 21.7 acre parcel of land, lot 213.-1.89 and a 59.4 acre parcel of land, lot 213.-1-90, both parcels located at 408 Pooles Hill Road in the Town of Ancram; and

WHEREAS, the Baker property is located in the Town's Rural Residential ("R") district; and in the County Agricultural District #1; and

WHEREAS, Baker has submitted an application for a special use permit for a tasting room and direct sales farm store in an already existing barn on lot 213.-1-89 (hereinafter "farm store"), the access to such barn is the driveway located on lot 213.-1-90; and

WHEREAS, the Town's Zoning Enforcement Officer/Building Inspector ("Building Inspector") has determined that the farm store constitutes "Retail sale of Agricultural product grown principally on the same lot from a road stand," as that term is used in the Town of Ancram Zoning Ordinance ("Zoning Ordinance"), and which use is permitted pursuant to the issuance of a special use permit by the Zoning Board of Appeals ("ZBA") in the "R" district; and further the Building Inspector has approved and issued a building permit for a farm distillery to be located in the same barn; and

WHEREAS, the Applicant has submitted a property plan to the ZBA demonstrating that the existing barn in which the farm store will be located meets all setback requirements; and

WHEREAS, the ZBA is the only involved agency in this action for purposes of the State Environmental Quality Review Act ("SEQRA") review of this project and the ZBA has designated this action as a "Type II action" pursuant to SEQRA which completes the SEQRA process; and

WHEREAS, the application has been referred by the ZBA to the Ancram Planning Board for its review and comment and the Planning Board, by memo dated April 7, 2011, recommended that approval be granted; and

WHEREAS, The State of New York Department of Agriculture and Markets has issued an opinion that "the use of land for the production of corn and rye, the distillation of such crops to produce whiskey and the on-farm marketing of the whiskey, is agricultural in nature" pursuant to AML §308; and further Ag and Market guidelines state that "Direct Farm Marketing should be allowed in all areas within a county-adopted State certified Agricultural district"; and

WHEREAS, the Town of Ancram passed a new Comprehensive Plan (2010) and an Agriculture and Farm Protection Plan (2011), both of which support and encourage agricultural activities beyond the 1972 zoning regulations; and further has appointed a

zoning revisions committee that is inclined to expand the definition of direct farm marketing to include not only farm stands, but also farm markets and farm stores; and

WHEREAS, a farm distillery license as defined in NY ABC Law §61 allows consumer tastings and retail sales of product upon the licensed premises subject to limitations; and

WHEREAS, the ZBA scheduled a public hearing for May 3, 2011, and caused abutting property owners of both parcels to be duly notified of the public hearing and duly noticed the public hearing in accordance with the requirements of the Zoning Ordinance; and

WHEREAS, the ZBA opened the public hearing on the application on May 3, 2011; and during the course of the public hearing, neighbors expressed concerns about additional traffic on the road, glare from lights, future expansion of the use, and hours of operation;

WHEREAS, the applicant addressed the concerns of the neighbors to the satisfaction of the ZBA;

WHEREAS, the ZBA with respect to the Special Use Permit has taken into consideration the public health, safety, morals and welfare of the community and the comments of the public, and the ZBA has assured itself that:

- (a) the farm store shall not cause any detrimental effect on neighboring properties or other uses within the "R" district;
- (b) the farm store will be in harmony with the orderly development of the "R" district and the location, nature and height of the building and parking area will not discourage the appropriate development and use of adjacent lands;
- (c) the farm store will be reasonably accessible for fire and police protection; and
- (d) the farm store meets the prescribed requirements for the district, including minimum yard and height requirements.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The ZBA hereby approves the Baker Special Use application for a farm store and tasting room located in the already existing barn on the Baker property as depicted on the property plan submitted to the ZBA, subject to the following conditions:

- a) At least 5 off-street parking spaces including one handicap parking space shall be provided for customers as depicted in the plot plan provided by applicant, the parking area is to be constructed of pervious material such as gravel; separate parking shall be provided for employees;
- b) Ingress and egress shall be by the existing driveway on parcel #213.-1-90;
- c) Lighting of the barn in which the farm store is located shall be provided by lantern-style light fixtures attached to the barn;
- d) One sign no more than six square feet in size indicating the distillery shall be located no closer than 10 feet to any property line and not more than 10 feet above the ground.

2. That a copy of this Resolution shall be provided immediately to the Building Inspector and shall be filed with the ZBA Clerk and with the Town Clerk, within five (5) business days of the date of this decision for good cause.

Upon motion of ZBA member Sheldon Waldorf and seconded by ZBA member Sue Bassin, the foregoing Resolution was duly adopted by majority vote of the Zoning Board of Appeals' full membership:

Leah Wilcox, Chairperson Yes

Sue Bassin Yes

Alyson Kozlowski Yes

William Lutz _____

Fred Schneeberger Yes

Sheldon Waldorf Yes

Dated: June 21, 2011

LEAH WILCOX
ZBA Chairperson