

Town of Claverack
Zoning Board of Appeals
Minutes of June 21, 2023
7:30 p.m.

Chairman David Graziano called the Town of Claverack Zoning Board of Appeals to order at 7:30 p.m. Chairman Graziano led members of the Board and audience with the Pledge of Allegiance. Members in attendance were: Chairman David Graziano, John Porto, Steven Melnyk, George Schmitt; engineer, Rob Fitzsimmons; attorney and Jodi Keyser; secretary.

Absent with regrets: Chris Post

Chairman Graziano informed the Board that he had received a resignation letter from August Abatecola. Chairman Graziano thanked Mr. Abatecola for his service to the Town of Claverack Zoning Board of Appeals.

Review the minutes of the May 24, 2023 meeting. Motion to approve the minutes of May 24, 2023 with minor corrections was made by John Porto with a second from Steven Melnyk. All members were in favor. Motion carried.

Mossman, Malia, Trustee Joan Preusser Living Trust No. 1 of 2014 Area Variance: Tax Map #133 . – 2 – 58 Located at 44 Preusser Rd. Area Variance of 2.547 acres within the a 5 acre zone.

Dan Russell, Malia Mossman and Chris Preusser were present for the application. Mr. Russell submitted the answers to the questions for the Area Variance.

Motion to accept the application as complete was made by Steven Melnyk with a second from John Porto. All members were in favor. Motion carried.

Chairman Graziano asked Mr. Russell if a sign was posted for the public hearing. Mr. Russell answered yes. Mr. Russell explained the application for the Board and audience. Mr. Russell introduced Malia Mossman as the trustee for Joan Preusser Living Trust who owns the parcel at 44 Preusser Rd. consisting of 4.569 acres. Mr. Russell continued that a portion of this parcel contains a shared roadway to access a couple of parcels on a subdivision and does not have any impact to the 44 Preusser Rd. parcel. Mr. Russell continued that the Trust is seeking a Boundary Line Adjustment to remove the roadway and add it to the parcel owned by Chris Preusser at the top of the roadway. Mr. Russell stated that at some time that is unknown when or why this driveway parcel was added to the 44 Preusser Rd. property but it doesn't serve any purpose to this parcel. Mr. Russell continued that the Area Variance is required because the boundary line adjustment will make two pre-existing non-conforming parcels into one conforming parcel and making 44 Preusser Rd. more of a pre-existing non-conforming lot more non-conforming. Mr. Russell stated that both parcels are located within the 5-acre density zone. Mr. Russell continued that the Trust is planning to sell the 44 Preusser Rd. property but the roadway will be an issue for a sale hence the reason for the boundary line adjustment. Mr. Russell continued that the next step would be to apply to the Town of Claverack Planning Board for a Boundary Line Adjustment if the Area Variance is granted. Chairman Graziano stated that if he understands correctly the parcel at 44 Preusser Rd. will become smaller non-conforming but the other parcel will become a conforming parcel from the current two non-conforming pre-existing parcels. Mr. Russell answered correct, making two pre-existing non-conforming parcels into one conforming parcel and one more non-conforming parcel.

Chairman Graziano opened the meeting to public hearing at 7:40 p.m. No comments received. Chairman Graziano closed the public hearing at 7:41 p.m.

Chairman Graziano reads the 5 criteria for granting an Area Variance. Chairman Graziano reminded the Board and audience that unlike a Use Variance the applicant is not expected to meet all 5 of the criteria to be approved. Chairman Graziano continued that he can justify four of the criteria except the self-created hardship.

Motion to approve the Area Variance of 2.547 acres as presented was made by John Porto with a second from Steven Melnyk. All members were in favor. Motion carried.

Mr. Russell paid fees of \$11.34 for the abutter notices.

Klocke Estate Holdings LLC Interpretation: Tax Map #(SBL) ????????????(not provided)

Zoning Code Interpretation to amend the approved Site Plan/Special Exception use of an approved tasting room into a full-service restaurant with table service. Code Clarification is requested to determine whether the approved tasting room use change to a full-service restaurant with table service falls under the definition of “facilities” of an agro-tourism use as defined in Town of Claverack Zoning Code §2.16 Agricultural Tourism.

John Frishkopf was present for the application. Chairman David Graziano informed the Board and applicant that there were a few housekeeping items that needed to be addressed before proceeding. Chairman Graziano continued that the applicant submitted a complete application as requested at the May meeting as well as an EAF although it is not required but it might be an issue going forward. Chairman Graziano stated that EAF #2 should be answered yes because the Zoning Board is a government agency. Chairman Graziano continued that #3 answer to the question is the action permitted, winery yes is permitted but a restaurant is not permitted so this use depends on the interpretation. Chairman Graziano stated #8 answer to a substantial increase in traffic should be answered yes. George Schmitt stated that the Zoning Board is not reviewing the SEQRA which was already reviewed and approved by the Town of Claverack Planning Board when the original Site Plan was approved. Chairman Graziano stated that the site will now have increased business. George Schmitt stated yes that is possible but not to the level of requiring another SEQRA review. George Schmitt continued that the Town of Claverack Planning Board reviewed and approved the Site Plan and SEQRA including handicapped parking, lighting, seating, driveway, etc. for this project and engineering is not changing and the Town of Claverack Zoning Board is only being asked to interpret the additional use nothing else is changing. Rob Fitzsimmons stated that the Town of Claverack Planning Board approved the distillery with seating allowing for some food as required by the NYS Liquor Authority and now they are requesting to serve full meals which is not a substantial increase or should it create any significant increase in traffic. George Schmitt stated that the traffic study was for 100 trips during peak travel times.

Motion to accept the application as complete was made by John Porto with a second from Steven Melnyk. All members were in favor. Motion carried

John Frishkopf reviewed the application for interpretation for the Board. Mr. Frishkopf explained that this is an approved Site Plan for a farm distillery with an 88 seat tasting room and commercial kitchen. Mr. Frishkopf continued that the Site Plan did not contain full dining table service which he thought was part of the approval. Mr. Frishkopf continued that he is requesting an interpretation to add table service as an accessory to the agro-tourism definition under the Town of Claverack Zoning Code. Mr. Frishkopf continued that he is thought that the original site plan was approved with a full restaurant but when he approached the Town of Claverack Building Department he was told that this was not an allowed use. Mr. Frishkopf continued that he had not planned in advance but would now like to operate as a full-service restaurant in conjunction with the distillery. Mr. Frishkopf continued that this will not increase the traffic but will decrease the number of trips because people will stay longer to dine instead of just having a tasting and then leaving which would mean more people in and out. Steven Melnyk asked if there is a plan to have outside seating. Mr. Frishkopf answered yes. Steven Melnyk stated that this site could never be a stand-alone restaurant and he understands that there was substantial money invested into the property but should something happen to the distillery the restaurant would not be an allowed use and would have to cease operating. Rob Fitzsimmons answered yes that is correct, the restaurant works in conjunction with the distillery use and if the distillery ceases to continue then so will the restaurant. Chairman Graziano stated that the NYS Liquor Authority requires that any business serving alcohol must also serve food but it is not up to the Zoning Board of Appeals to tell a business what types of food they have to serve. Rob Fitzsimmons stated that is correct just like Cooper’s Daughter distillery has food trucks that are there every weekend but that is another issue. Chairman Graziano stated that as long as the use is attached to the

distillery then it isn't an issue.

Chairman Graziano opened the meeting to the public hearing at 7:55 p.m.

Chairman Graziano read an email letter from Margaret Williams a neighbor from Millbrook Rd. that is not in favor because of increase in traffic, noise and she currently has an issue with noise from the farm especially at night.

Jenny Post a neighbor from NYS Rte. 9-H stated that the use would require increased traffic from suppliers for the restaurant. Mr. Frishkopf answered there might be a slight increase in deliveries to the building but not much. Mrs. Post asked if the 88 seats is the total and limited to only 88 seats at all times. Chris Kanel asked if the 88 seats is including outside seating. Mr. Frishkopf answered he isn't sure.

Chris Kanel of CC Rte. 27 complimented Mr. Frishkopf for the extensive and expensive upgrades that have been accomplished at the property with plantings of the orchards to fencing, and a world class building and the restaurant ship sailed with the Town of Claverack Planning Board approved the Site Plan so why not allow the this to become a world class restaurant and destination as he is in favor of happening. Mr. Kanel continued that his only concern is with the stretch of roadway along the entrance to the distillery and the hazardous conditions along with the speed, dangerous blind curve and radius of the roadway. Mr. Kanel continued that cars run off the road all the time and have hit a one ton bolder sending it across the driveway and he has replaced several mailboxes. Mr. Kanel would like the county to review the speed limit and roadway conditions and they could take as much of his front yard as necessary to make reduce the tight turn. Mr. Kanel continued that the time for worrying about using the beautiful new building as a restaurant has sailed and Mr. Frishkopf should turn it into a jewel of the area and a destination just concerned with the roadway.

? Concerned with noise and hours of operation, would suggest guardrails around the curbs.

Chairman Graziano asked Rob Fitzsimmons if the application would go back to the Town of Claverack Planning Board for review after the interpretation. Rob Fitzsimmons answered no. Chairman Graziano asked if the application is complete with the engineering review then who would the neighbors speak to regarding the roadway concerns. George Schmitt stated that he will reach out to the County DOT. Steven Melnyk asked if the main entrance is on NYS Rte. 9-H or County Rte. 27. Mr. Frishkopf answered that the entrance to the distillery is on County Rte. 27 by the stone walls and the other entrance on NYS Rte. 9-H is just to the maintenance barns. Steven Melnyk asked if the farm is organic or do they use pesticides. Mr. Frishkopf answered organic and they use all organic sprays.

? Asked if the restaurant/distillery plans to hold outside music. Mr. Frishkopf answered that if they had outside music it would be acoustic. Chairman Graziano stated that even acoustic music uses speakers so the answer would be yes but it is up to Town of Claverack to enforce the noise levels if there are complaints.

Mr. Kanel stated that music will be an issue for the neighbors especially for events like weddings and parties. Mr. Frishkopf answered that weddings are usually held on weekends and this would take away from the profitable distillery and restaurant so most likely would not hold events like that.

? Is outside seating limited to specific times of the year. Mr. Frishkopf stated weather permitting they would have outside seating.

Chris Kanel asked what days of the week would the restaurant be in operation. Mr. Frishkopf answered Thursdays through Sundays at first to gage the response.

Andy Howard of 2636 County Rte. 27 found the email interesting because he lives right across the street and doesn't hear any noise from the farm. Mr. Howard continued that he is highly impressed with the way the orchards and vineyards have been planted, the beautiful buildings and is in favor of the restaurant addition. Mr.

Howard continued that this meeting is about the venue not the traffic which the applicant has no control over. Mr. Howard continued that he would imagine that the clientele of the restaurant/distillery would not be the type of people that would drink to excess and then speed down the roadways. Mr. Howard continued that the problem is with the 20 year olds that drink and drive and speed. Chairman Graziano stated that whenever there is alcohol involved driving on a roadway is a concern for anyone.

Chris Kanel stated that one solution would be to move the entrance to NYS Rte. 9-H. Chairman Graziano stated that the Zoning Board of Appeals is not the agency that could make any changes to the approved Site Plan and would probably be even more dangerous with the proximity to the Rte. 27/9-H intersection which is also a dangerous spot.

Selha Graham of 26 Millbrook Rd. stated that she has lived in her house 15 years and is concerned with the increase in traffic on the roadways. Ms. Graham asked the applicant to please change the directions to the distillery from the south on the website to use NYS Rte. 9-H instead of all of the back roads. Ms. Graham continued that many of her neighbors walk, have animals, ride horses and a daycare in the area are concerns with increased traffic. Ms. Graham asked that the applicant put specific directions on their website to guide patrons away from the back roads like Millbrook Rd., Baker Rd. and Valley Lane. Ms. Graham continued that when you Google the directions it brings you all through Orchard Rd. to Water Street Rd. etc. when coming from the Taconic State Parkway. Mr. Frishkopf will add specific directions to his website but he cannot be responsible for Google map directions but will try to defray the increase in traffic over the back roads. ? Stated that Google Maps does not suggest that someone takes Orchard Rd. to Water Street Rd. to Millbrook Rd. those people are locals that know the back roads and Mr. Frishkopf cannot stop that. Chairman Graziano informed the audience that the concerns are legitimate however they are outside of the scope of the Town of Claverack Zoning Board review of interpretation.

Mrs. Post stated that the NYS DOT were previously reviewing the intersection to see if there is anything that could be done to make safer. Mr. Howard stated that if the traffic speed was reduced on the part of County Rte. 27 it would be a benefit. George Schmitt stated that he will speak with the CC DOT regarding the roads. Mr. Kanel stated that anyone can visit his property anytime to see the problems.

? stated that he feels like the noise and traffic impacts are water over the dam right now but he has noticed increased traffic on Millbrook Rd. ? Continued that hearing music until 10 p.m. causes impact and he hears a droning sound of machinery constantly, didn't know that there would be a tasting room just thought that this would be a distillery. ? continued that the views have changed which have impacted his property, increased traffic concerns with patrons and deliveries, workers, etc. are impact that have changed the neighborhood atmosphere. ? asked if supply trucks will be using the main entrance or the farm entrance. Chairman Graziano asked if the restaurant will be farm sourced. Mr. Frishkopf answered yes mostly from Grimaldi, Gulden and Bartolotta farms.

Chairman Graziano closed the public hearing at 8:25 p.m.

No further Board questions.

Chairman Graziano proposed that the applicant can operate a full service restaurant as long as the distillery is in operation but once the distillery ceases, even if it is for 4-months the restaurant can not operate during this time also.

Motion to interpret that the use is that of a distillery with table service with the condition that the food service cannot operate separately from the distillery. If the distillery ceases operation for any amount of time then the food service ceases during the same time was made by Steven Melnyk with a second from John Porto. All members were in favor. Motion carried.

Chairman Graziano stated that he knows the area very well and understands the traffic concerns and hopes that the County DOT and possibly the NYS DOT will get involved but this issue is out of the scope of the Town of Claverack Zoning Board of Appeals.

Steven Melnyk stated that the owners of the distillery could write out the specific directions on the website to help.

Motion to adjourn the meeting was made by John Porto with a second from Steven Melnyk. All members were in favor. Motion carried. Meeting adjourned at 8:40 p.m.

Respectfully submitted,
Jodi Keyser, secretary