

MINUTES OF THE TOWN OF WAYNE
ZONING BOARD OF APPEALS
January 4, 2021

The meeting opened at 6:38 PM with a roll call of the members. The meeting was held via Zoom Web conferencing and in-person at the Town Hall.

	PRESENT	ABSENT	LATE
MEMBERS: Wayne Hand, Chair	<u> X </u>	<u> </u>	<u> </u>
Bill Feinstein	<u> X </u>	<u> </u>	<u> </u>
Candy Dietrich	<u> </u>	<u> X </u>	<u> </u>
David Westcott, alt.	<u> X </u>	<u> </u>	<u> </u>
Jon Serdula alt.	<u> X </u>	*voting member	<u> </u>
Gill Harrop, CEO	<u> </u>	<u> X </u>	<u> </u>

ALSO PRESENT (via Zoom and In-Person): Pat & Maggie Bennett, Charlie Frysinger, Bruce Petrie, Mary Bennett Petrie, Elizabeth Bennett, Jeff Martin, Lulu Martin, Barbara Kyrillos, Greg Blessing, Laurie Howell

Mr. Hand made a motion to approve the minutes of the December 7, 2020 meeting minutes. Mr. Serdula seconded; minutes approved.

NEW BUSINESS:

Mr. Serdula will act as a voting member in Ms. Dietrich's absence.

1. **Appeal No. 31V20: Charles and Sharon Frysinger.** Property located at 9499 Crystal Beach Road, Town of Wayne. Seeking approval for expansion of existing dock and relief of water rights setback requirements. Sec Section 5 D and Section 6 A Docks and Mooring Law.

Mr. Frysinger outlined the plans for the dock and boat lift. He explained because of a new boat he needs a new lift and would like a permanent lift. In addition, there are issues with water depth and set back. The dock was built before he purchased the property. The zoning board members asked questions about the water rights setback, and whether or not alternative plans were considered. Mr. Frysinger indicated he wished to install a permanent lift so he did not have to install and remove a portable lift each year. He also indicated that he was trying to create a solution that minimized impact on neighbors.

Public comments opened. Several owners of a neighboring property sent in letters objecting to the proposed plan. Bruce Petrie spoke on behalf of the family, saying that any setback relief granted to Mr. Frysinger's dock would negatively effect the value of their property and their ability to use and enjoy their property. Placement to the north would also negatively impact their view shed of Keuka Lake. He felt this build was not in

conformance with pervious neighborhood builds and in his mind the project if built would significantly impact the value of their property. Public Comments were closed.

Board members deliberated on possible solutions including placement of a portable lift on the south or on the north side as the existing dock is already oversized. A conversation ensued about cutting the existing dock to fit a portable lift in that space.

Mr. Feinstein said that the Docks and Mooring laws were crafted to try to ensure fair access to the lake. He went on to state that there appears to be reasonable alternatives for Frysinger to moor his new boat that could include decreasing the size of the existing dock and using a removable lift. Mr. Hand agreed - indicating that the small size of the lot limits alternatives, but they do exist. Mr. Sedula agreed with these sentiments.

Mr. Hand made a motion to deny the appeal for relief put forward by Mr. Frysinger. Contributing to this is: a) the small size of the lot, and b) the existing oversized dock structure which does not adhere to Docks and Mooring laws, and c) the negative impact on the neighbor's property and view shed. Further, the issue is self-created and reasonable alternatives exist.

Motion to **deny** the appeal passed.

Unfinished Business

On the matter of appeal no.27v20, Richard Morrison, Keg and Barrel, Mr. Feinstein suggested that the project needs to be reviewed by the county as it fronts a state road. The board agreed to send the project to the county for review. The matter was tabled pending a response from Steuben County.

Discussion

Adjournment The meeting adjourned at 7:34 PM.

Submitted by: Amy Gush, Board Secretary.

Please pass to the Zoning Board of Appeals.

Dear Town of Wayne Zoning Board of Appeals,

My name is Daniel Hovey. I am an owner, along with my family, of 21 acres of land directly adjacent and north of the Keg and Barrel. I, along with my family, also own a cottage at 14221 Keuka Village Road. I am writing the board in reference to Appeal No. 27V20 Richard Morrison. I do not support the expansion of the existing outdoor deck for several reasons. I feel any expansion of customer capacity would be detrimental to our neighborhood and for the future use of my family's land. My concerns are as follows:

1. Parking – Parking is currently inadequate. Expanding customer capacity would only make the current situation worse. The Keg and Barrel's parking lot gravel currently goes beyond our property line. Before the Keg and Barrel opened we had the property line marked with rebar stakes and orange rubber toppers. Customers quickly destroyed these by parking their cars across the property line. Mr. Morrison attempted to remedy the behavior by putting in poles where the rebar stakes were placed, but they are now pushed over or gone. Mr. Morrison committed to stretching a line or wire between the poles to better define the border but that was never done. Customers also routinely throw their empty beer cans onto our property from the parking lot. If this establishment was operated as originally requested (micro-brewery/tasting room) I suspect a different customer base might be attracted to the Keg and Barrel. The Keg and Barrel has turned into a standard Bar. During mid to large events parking is a disaster. Customers park along both sides of Route 54, Hyatt Hill Rd. and Keuka Village Rd. It is very dangerous. Mr. Morrison may try to expand his available parking area by further excavation. He did this when he first bought the property without applying for the proper special use permit. He carved out a 90 degree 12 foot high cut against our property line that continues to erode to this day. He put up a partial retaining wall after the code enforcement officer intervened but is not fully effective and we are losing property.
2. Noise – Music and conversations from the outdoor deck can be heard in our cottage. This situation was created by his own action to take down an 80 foot long section of trees across Route 54 without regard to how it would affect the residential neighborhood. The greatest amount of noise is during live music concerts on Friday nights. You can't even relax in the cottage at that point. Expanding the deck 20 feet closer to Keuka Village Road will just make the noise worse. Although the Keg and Barrel is

located in the Corridor Zone it borders a fully residential zone. We should not be subjected to retail type environments.

3. Septic System Capacity – Increased customer capacity will require a septic system capacity review. Mr. Morrison's leach field which is in an open field behind the motel building is an evaporation leach field where a failure would flow onto our property.

4. Power Lines – There are power lines above the ground where the existing deck would be expanded. I do not believe this would be a very safe approach.

I request the Zoning Board disapprove this request to expand the outdoor existing deck.

Sincerely,

Daniel Hovey

Dear Town of Wayne Zoning Board of Appeals,

My name is Elizabeth Vaughan. My family owns 21 acres of land directly adjacent and north of the Keg and Barrel. My family owns a cottage at 14221 Keuka Village Road. I am writing the board in reference to Appeal No. 27V20 Richard Morrison. I do not support the expansion of the existing outdoor deck for several reasons. I feel any expansion of customer capacity would be detrimental to our neighborhood and for the future use of my family's land. My concerns are as follows:

1. Parking – Parking is currently inadequate. Expanding customer capacity would only make the current situation worse. The Keg and Barrel's parking lot gravel currently goes beyond our property line. Before the Keg and Barrel opened we had the property line marked with rebar stakes and orange rubber toppers. Customers quickly destroyed these by parking their cars across the property line. Mr. Morrison attempted to remedy the behavior by putting in poles where the rebar stakes were placed, but they are now pushed over or gone. Mr. Morrison committed to stretching a line or wire between the poles to better define the border but that was never done. Customers also routinely throw their empty beer cans onto our property from the parking lot. If this establishment was operated as originally requested (micro-brewery/tasting room) I suspect a different customer base might be attracted to the Keg and Barrel. The Keg and Barrel has turned into a standard Bar. During mid to large events parking is a disaster. Customers park along both sides of Route 54, Hyatt Hill Rd. and Keuka Village Rd. It is very dangerous. Mr. Morrison may try to expand his available parking area by further excavation. He did this when he first bought the property without applying for the proper special use permit. He carved out a 90 degree 12 foot high cut against our property line that continues to erode to this day. He put up a partial retaining wall after the code enforcement officer intervened but is not fully effective and we are losing property.

2. Noise – Music and conversations from the outdoor deck can be heard in our cottage. This situation was created by his own action to take down an 80 foot long section of trees across Route 54 without regard to how it would affect the residential neighborhood. The greatest amount of noise is during live music concerts on Friday nights. You can't even relax in the cottage at that point. Expanding the deck 20 feet closer to Keuka Village Road will just make the noise worse. Although the Keg and Barrel is located in the Corridor Zone it borders a fully residential zone. We should not be subjected to retail type environments.

3. Septic System Capacity – Increased customer capacity will require a septic system capacity review. Mr. Morrison's leach field which is in an open field behind the motel building is an evaporation leach field where a failure would flow onto our property.

4. Power Lines – There are power lines above the ground where the existing deck would be expanded. I do not believe this would be a very safe approach.

I request the Zoning Board disapprove this request to expand the outdoor existing deck.

All the best,
Elizabeth Vaughan

ZBA Dec 7, 2020 minutes Attachment C

Please pass to Zoning Board of Appeals

14213 Keuka Village Road
Dundee, NY 14837

December 5, 2020

Town of Wayne Zoning Board of Appeals
Town of Wayne
9772 Silsbee Road
Wayne, NY 14893

Subject: Appeal No. 27V20: Richard Morrision

Dear Zoning Board of Appeals,

We are writing with serious concerns in reference to the proposed Keg and Barrel Brewing Company deck expansion facing St. Rt. 54, which would be in violation of the Town of Wayne Land Use Regulations. We are in opposition to the deck expansion only and not of the roof addition to the existing deck. My concerns are outlined below:

- a. Noise - When Mr. Morrision applied for a Special Use Permit to open this establishment it was presented as a start-up Micro-Brewery tasting room similar to other tasting rooms along the corridor zone (e.g. Ravines). He was asked to be a “good neighbor.” Since then, it has evolved into a full blown bar with live outdoor musical entertainment events. Permanent outdoor speakers are also installed above the existing deck. Shortly after the Keg and Barrel opened Mr. Morrision also had a 80 foot robust tree stand cut down to improve the view from the existing deck. This tree stand was across St. Rt. 54 and provided Keuka Village Road homes below with a noise barrier from the Keg and Barrel and associated highway noise. As a result, noise from the existing outdoor deck flows down the hill and disrupts the quality of life on KVR. Our house is directly below the Keg and Barrel. If our front door or windows are open, customer conversations and music from outdoor speakers can be easily heard in our lakeside living room. We have to close our doors and windows just to listen to the TV or our own choice of music. During live outdoor musical entertainment events, usually on Friday nights, sound reverberates through the house even with doors and windows closed. By expanding the existing deck bringing the noise 20 feet closer and increasing the number of customers I can only imagine the increased noise we would have to endure.
- b. Parking – This has been a problem and safety issue from the beginning. Although Mr. Morrision has attempted to expand parking, his solutions have been inadequate. His property is too small for even the current customer capacity. During certain events customers fill existing parking spaces, then overflow on to both sides of St. Rt. 54, upper and lower Hyatt Hill Road and Keuka Village Road. Customers have also parked on

private residential properties, even after the resident posted no parking signs. This chokes down lanes on normal St. Rt. 54 traffic and impedes the intersection at Hyatt Hill Road and also causes dangerous situations surrounding the boat launch. Turning onto St. Rt. 54 from Hyatt Hill Road is a hazardous proposition due to restricted visibility. Increased customer capacity that the outdoor deck expansion accommodates would exacerbate the current parking limitation, traffic conditions and overall safety of customers and area residents.

- a. Existing parking spaces would also be reduced by the outdoor deck expansion. There are several parking spaces directly below the existing deck that would be covered up.
- c. Customer Behavior – The Keg and Barrel accommodates small tour busses. Last fall, a small Fitzgerald tour bus came down to Keuka Village Road and let off a very drunk couple. Then the tour bus turned around and went up to the Keg and Barrel. In the meantime, the couple walked over to the culvert next to our home and in full view, the female stepped down to the creek, pulled down her pants and urinated into the creek. Friends following in a car picked them up and they went up to the Keg and Barrel. Whereas we do not blame the Keg and Barrel for this incident it clearly is evidence of the type of undesirable peripheral activity neighbors must endure by young customers of our bars nearby. We don't need increased customer capacity of that kind at the Keg and Barrel.
- d. Septic Capacity – I would think that a septic system review should be conducted given the increase in customer capacity. A system failure due to increased use would be detrimental to nearby residents and Keuka Lake. As I understand it, the leach field behind the motel portion of the property is an evaporation leach field which can become laden with rain and could not be a solution for the parking issue.
- e. High Voltage Power Lines – Power lines are present above the proposed deck expansion. This is a recipe for disaster. High winds travelling up and down Hyatt Hill Road in the last several years have taken down large trees along the utility right of way. Does this proposal require NYSEG approval?
- f. Deck Construction – As a sideline concern, during live outdoor musical entertainment events, the deck is packed with customers shoulder to shoulder and possibly exceed load design limits. The deck expansion would be constructed above an area that slopes away from the current structure and would require even taller supports. A collapse might happen.
- g. COVID 19 – The applicant may try to justify this expansion due to social distancing requirements. This would be a red herring since he currently uses outside lawn areas in addition to the existing outdoor deck to achieve social distancing. The requirement for social distancing won't be here forever and with the advent of vaccines might be gone by next summer.

An expanded outdoor deck permanently increases customer capacity driving up neighborhood noise and parking issues. This is a public safety issue and would degrade the quality of life in the neighboring residential zone.

Regards, Jeff and Lulu Martin

DATE: DECEMBER 3, 2020

FROM: GREGORY H. BLESSING
10205 HYATT HILL RD.
WAYNE NY 14893

RE: VARIENCE # 27V20 Richard Morrison

Proposal # 1

Construction of a roof to cover existing deck.

I have no problem with the construction of a roof over the existing deck. It might actually cut down on the noise from the live music, outdoor speakers and the crowd.

Proposal # 2

Construction of a 34' X 20' deck facing State Rt. 54.

1. Parking has been an issue since the popularity of the establishment has increased. There have been numerous occasions where there have been up to twenty cars parked on the east side of rt. 54 both north and south of the Hyatt Hill intersection. Vehicles also park on the west side of rt. 54 again blocking the view for safe entry onto rt. 54. This has created a serious problem with trying to pull out of Hyatt Hill rd. safely. The state has had "No Parking Any Time" signs posted for over twenty years to help keep the intersection safe, but customers choose to ignore them. There have been times where cars park on Hyatt Hill rd. also causing a traffic flow problem. Where will the increased customer count park safely. I have had to call the state police on at least two occasions about this matter.
2. There is a 13,000 volt high voltage power line over the proposed location of the deck. Construction under a power line is NOT

PERMITTED. NYSEG has a twenty foot right of way to ensure the public's safety. Another safety issue.

3. Septic system capacity. The existing septic system was originally designed for a seventy five seat restaurant. The increase in the amount of customers could potentially cause a system failure with the increase in effluent. The motel is also connected to the system.
4. Noise! During the summer months, especially on the weekends, the noise levels can be annoying. I cannot sit on my porch to enjoy a nice summer evening without hearing every song, when they have live music, the outdoor speaker's cranked and loud conversation. Not to mention an F bomb every now and then. This proposal will inevitably increase the noise levels.
5. The original use was to be a small brew pub. Which I had no problem with. But it has come to be a party house!
6. Hardship! One of the requirements for a variance is for the applicant to prove a hardship. I see no hardship in this case. The applicant has plenty of space to conduct his business as originally proposed. The only reason for this variance is for the applicant to increase his revenue.
7. I request that the zoning board revisit the terms of the special use permit issued by the Town of Wayne Planning board. To the best of my knowledge this business was supposed to be a small micro-brewery with a tasting room, not a full blown bar/party house serving liquor, wine and beer.
8. I feel the approval of said variance will be detrimental to the community!