

## TOWN OF WAYNE PLANNING BOARD

December 14, 2020

The meeting of the Planning Board opened at 7:00 PM

In attendance: Scott Hendershott, Richard Morrison, Greg Blessing, Lorrie \_\_\_\_ , Frank Borkowski, Jeff Martin, Lulu Martin, Alta Schellehn, Rachel Simmons, Wane Hand, David Westcott, Marty Castellana

	Present	Absent	Late	
Roll Call				
Stan Witkowski	<u>X</u>	___	___	
Nancy Gabel	<u>X</u>	___	___	
Donna Sue Kerrick	<u>X</u>	___	___	
Chris Mooney	<u>X</u>	___	___	
Jon Serdula	___	___	<u>X</u>	___
Shonna Freeman	<u>X</u>	___	___	
Jeff Martin, alt.	___	___	___	(present, but as concerned citizen)

### **MINUTES:**

Ms. Gabel made some amendments to the minutes of November 9, 2020 correcting the date of the meeting date from November 11 to November 9. Mr. Mooney made a motion to accept the minutes as amended. Second by Ms. Gabel. The minutes were approved.

A roll call vote was taken.

<u>VOTE RECORD</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Stan Witkowski	<u>X</u>	___	___	___
Nancy Gabel	<u>X</u>	___	___	___
Donna Sue Kerrick	<u>X</u>	___	___	___
Jon Serdula	___	___	___	<u>X</u>
Chris Mooney	<u>X</u>	___	___	___
Jeff Martin, alt.	___	___	___	___

The Borkowski case was added to the agenda to be the first order of business.

### **NEW BUSINESS:**

**Borkowski Subdivision SA92-20** Preliminary review of application. Motion to consider was made by Ms. Kerrick, 2<sup>nd</sup> by Ms. Gabel. Mr. Borkowski explained that the proposal is to subdivide the existing plot into two parcel conforming parcels. Mr. Borkowski submitted an informal survey defining the proposed plots. Mr. Witkowski began the review of the application packet and declared that the Town of Wayne Planning Board would act as the lead agency for SEQR review. He then led the group through the SEQR short form review. The determination was that the subdivision will not result in any adverse environmental impact.

The application is considered complete, and if Mr. Borkowski can produce a survey by December 22<sup>st</sup> a public hearing will be scheduled for January 11, 2020 at 6:30 PM. Mr. Borkowski was directed to bring at least eight (8) copies for official approval.

Mr. Serdula joined the meeting by Zoom.

**Schallehn Subdivision SA90-20** Preliminary review of application. Motion to consider was made by Mr. Mooney, 2<sup>nd</sup> by Ms. Gabel. Ms. Schallehn explained that the proposal is to subdivide the existing conforming plot she owns into two parcels and transferring ownership of one of the new parcels to her relative who would then add that acreage to his current lot which is smaller than the five (5) acre minimum defined for the Corridor District in the Town's LUR. Mr. Simmons lot would then become a conforming 5 acre plus lot; Ms. Schallehn's lot would then be non-conforming in bulk. The action was reviewed and approved by the Town of Wayne Zoning Board at their December 7 meeting. Ms. Schallehn submitted an informal survey defining the proposed plots.

Mr. Witkowski began the review of the application packet and declared that the Town of Wayne Planning Board would act as the lead agency for SEQR review. He then led the group through the SEQR short form review. The determination was that the subdivision will not result in any adverse environmental impact.

The application is considered complete, and if Ms. Schallehn can produce a survey by December 22<sup>st</sup> a public hearing will be scheduled for January 11, 2021 at 6:30 PM. Ms. Schallehn was directed to bring at least eight (8) copies for official approval.

**Keg and Barrel, Richard Morrison, preliminary review requested by the Town of Wayne Zoning Board.** Mr. Morrison explained he was seeking to build a roof over an existing deck and expanding the deck to spread patrons apart in a safe manner as mandated by current COVID-19 health standards.

The building is a pre-existing non-conforming structure on a pre-existing non-conforming lot (1.38 acre) in the Corridor District.

Mr. Witkowski reminded those present at the meeting that this was a public meeting, not a public hearing, and the Board was not required to take public comment.

Mr. Witkowski verbally reviewed the special permit conditions that were issued at the April 3, 2017, meeting allowing Mr. Morrison to operate a farm brewery at this location. The special permit granted at that time allowed the business to maintain the current 7 bedroom motel, allow brewing of beer onsite, and sell local goods. Mr. Witkowski also noted that in 2017 concerns were raised about potential parking, traffic, and noise issues. At that time Mr. Morrison indicated he had every intention of being a good neighbor.

Mr. Witkowski raised the issue of the small plot being able to host the number of parking spaces as defined in the LUR Page 3-4 1(b). Using the specifications defined in the LUR he roughly estimated a need for at least 32.5 parking spaces - if the expansion was to move forward. Mr. Morrison provided a drawing of a parking layout that would create 51 standard (9'x20') spaces.

The next issue raised was building the deck extension under existing NYSEG power lines. Mr. Morrison responded to the concern saying he had spoken with a NYSEG official prior to the meeting and indeed NYSEG would not condone building under the lines. Therefore, Mr. Morrison had modified the build plan for the deck extension, shifting the extension so that the deck would not be under any lines.

The conversation refocused on current neighbor's issues which repeated the concerns of 2017. The Planning Board received letters prior to today's hearing from neighbors citing parking, noise, and traffic safety on State Route 54 and Hyatt Hill Road. Mr. Witkowski also shared his concern that while the activities currently being conducted at the Keg and Barrel are allowed as a farm brewery the success of the enterprise and the crowds it sometimes attracts may be fueling the neighbors' concerns. Further, the issues raised by the neighbors are not unique to Keg and Barrel, these same issues can be

associated with other wineries and events hosted at said wineries – however they have conforming lots of five acres or more and can better manage a large clientele.

Mr. Serdula spoke the noise complaints saying that at present the Town of Wayne does not have a noise ordinance. Mr. Witkowski agreed, and added that any of the wineries in the district generate noise and music as part of daily operations or when hosting weddings, etc. Mr. Morrison pointed out that he closes the Keg and Barrel at 10 PM. There have only had bands there 4 times in 2020 and he endeavors to be a good neighbor and intentionally keeps these hours out of deference to the neighborhood.

A lengthy discussing ensued about previous observations that Keg and Barrel customers have parked on both State Route 54 and Hyatt Hill Road at such density that the parked cars potentially created hazardous conditions. Mr. Morrison stated that New York State DOT (NYSDOT) has replaced the missing and faded no parking signs on 54. Members of the audience shared stories of very hazardous situations at the Hyatt Hill/54 intersection. They also expressed concern for emergency vehicle egress on Hyatt Hill Road when an abundance of cars are parked on that road. The planning board members discussed the problem for some time noting that the town has tried in the past to have the speed limit lowered on that stretch of 54 - NYSDOT refused to lower the speed limit. Egress on Hyatt Hill and danger created by parked cars at the intersection of Hyatt Hill and 54 is a concern.

Mr. Witkowski wrapped up the discussion saying that the planning board's role is not to determine the business practices of any given enterprise in the town. Rather, the Board does recognize development and alterations in the local economy will cause change. The role of the Planning Board is to focus on compliance with the Land Use Regulations, and protect public health and safety. That drives the considerations and decisions of the board. This preliminary review was requested by the Zoning Board of Appeals. The Planning Board findings will be transmitted to the Zoning Board and Mr. Morrison can return to the Zoning Board to continue the appeal process.

Please note, letters from neighbors are filed as attachments to these minutes.

### **OLD BUSINESS:**

Ms. Gabel made a motion to adjourn, 2<sup>nd</sup> by Ms. Kerrick. Meeting adjourned at 8:32 PM.

Respectfully Submitted,

Amy Gush  
Board Secretary

Attachment #1

Received 12/4/2020 via email from Elizabeth Vaughan [vaughankelizabeth@gmail.com](mailto:vaughankelizabeth@gmail.com)

NOTE SAME CONTENT IN EMAIL SENT BY Dan Hovey Daniel Hovey <hovey.daniel@gmail.com> on 12/6/2020

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 Vaughan3

Attachment #2

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. Morrison 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!