

TOWN OF ROSENDALE

Zoning Board of Appeals

Final Minutes

Tuesday, March 15th, 2016

Rondout Municipal Center

1915 Lucas Ave.

Cottkill, NY 12419

Chair, Ann Houghtaling called the meeting to order with the Pledge of Allegiance at 7:05pm.

ROLL CALL:

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| Ann Houghtaling, Chairwoman | Present |
| David Soman | Present |
| Richard Hermance | Present |
| Frank Klepeis | Present |
| Kelleigh Mckenzie | Present |
| Michael Camargo (Alt.) | Present |
| Stacy Lipari, Town Board Liaison | Absent |
| Brisa Casas, Zoning Board Clerk | Present |

Minutes:

Motion made by Ann Houghtaling, seconded by David Soman, to accept the minutes from the February 16th meeting.

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, David Soman- Yes

Kelleigh Mckenzie – Abstain

Motion carried.

Old Business:

2015-7- Use Variance- Matt Igoe

Location: 127 Binnewater Road

Mr. Igoe is present on behalf of his application.

The board reviews and discusses the following with the applicant:

- The Ulster County Planning Board referral response regarding this application.
- Short Environment Assessment Form submitted by the applicant.
- Support of reasonable return vs. unreasonable return with financial documentation.
- Applicant will provide the board with financial documentation such as home assessment, proof of initial investment amount, mortgage information, comparable parcel information etc.

After review of the applicant's information the board drafts the following resolution.

RESOLUTION # 1 - 2016

WHEREAS, Matt Igoe (Applicant) submitted application #2015-7 for a use variance to utilize property located in Zoning District A and A1 for a farm and distillery. The property is located at 127 Binnewater Road Kingston, New York 12401, tax id # 55.4-1-1; and

WHEREAS, the variance was referred to the Ulster County Planning Board for its review and at its meeting on March 2, 2016 the Ulster County Planning Board recommended the applicant clearly prove each and every one of the criteria in order for a use variance to be granted. The applicant is also required to go through a site plan review process; and

WHEREAS, the ZBA conducted a public hearing on February 16, 2016 in regards to the above referenced application where all those wishing to be heard were heard; and

WHEREAS; the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application; and

Whereas, the ZBA has reviewed the Environmental Assessment Form submitted by the applicant, stating there is no environmental impact;

NOW, THEREFORE, BE IT RESOLVED, that the ZBA hereby determines that the application meets the requirements of the Zoning Code as set forth below.

1. The applicant cannot realize a reasonable return on his property – this inability must be substantial as shown by competent financial documentation. At just 9.26 acres this property would not be able to realize a reasonable return as an agricultural business as defined by the Town of Rosendale Code. Based on supporting documentation including comparable home assessments and proof of the applicant's initial investment, the lease or sales process of the property would not produce a reasonable return.
2. The alleged hardship is unique and does not apply to a substantial portion of the neighborhood or district. The small size of the property makes it unsuitable for agricultural operations as defined by the Town of Rosendale Code.
3. The requested variance will not alter the essential character of the neighborhood. Other farms and farm related businesses have operated in the area. The addition of a farm related distillery will not increase traffic flow any more than the

operation of a farm stand which is an allowable use by permit. Members of the community, including neighbors of adjacent properties, present at the public hearing unanimously expressed their support.

4. The alleged hardship is not self-created. The applicant has previously applied for a use variance for the same operation in 2011 at an alternate location in the same Zoning District and that application had been approved. The applicant had no reason to expect that a similar application would be denied.

BE IT FURTHER RESOLVED, that the ZBA therefore grants the requested use variance subject to the following conditions:

1. This approval is strictly for a variance to operate a farm distillery and does not encompass any other use or area variances that may be required including but not limited to those required due to lot size, building size, setbacks, etc.
2. The applicant will be required to complete a site plan review in front of the Town of Rosendale Planning Board.

Duly adopted this 15th day of March, 2016 by the following vote:

Chair Ann Houghtaling - Yes

Richard Hermance - Yes

Frank Klepeis - Yes

Kelleigh Mckenzie - Yes

David Soman - Yes

Roll Vote – Yes

Motion made by Chair Houghtaling, seconded by Kelleigh Mckenzie, to accept Resolution #1 of 2016, as written, in the matter of application #2015-7-Use Variance-Matt Igoe.

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, David Soman- Yes, Kelleigh Mckenzie – Yes

Motion carried.

2015-6-Use Variance- Gerard Swarthout
Location: 311 Whiteport Road

Mr. Swarthout is not present at this meeting.

The board drafts the following resolution.

RESOLUTION # 2 -2016

WHEREAS, Gerald Swarthout (Applicant) submitted application #2015-6 for a use variance to utilize property located in Zoning District A for storage and wholesale sale of bluestone. The property is located at 311 Whiteport Road Kingston, New York 12401, tax id # 62.2-7-13; and

WHEREAS, the variance was referred to the Ulster County Planning Board for its review and at its meeting on January 6, 2016 the Ulster County Planning Board recommended the applicant provide documentation and provide proof that they meet each of the criteria in order for a use variance to be granted. The applicant is also required to go through a site plan review process that includes proposed location for any storage of materials and visual screening of said materials; and

WHEREAS, the variance was referred to the Town of Rosendale Highway Department for its review and a determination was made that the applicant meets all the criteria as far as distance to neighboring driveways and entrance width. An adjustment was made to the southwest of the current driveway to enable appropriate sight distance from the old bridge abutment. The Highway Department requests the applicant provide the Highway Department with "Trucks Entering Highway" signs to be erected by the Highway Department; and

WHEREAS, the ZBA conducted a public hearing on January 19, 2016 in regards to the above referenced application where all those wishing to be heard were heard; and

WHEREAS; the ZBA has reviewed, considered and deliberated about the variances requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT RESOLVED, that the ZBA hereby determines that the application meets the requirements of the Zoning Code as set forth below.

1. The applicant cannot realize a reasonable return on his property – this inability must be substantial as shown by competent financial documentation. The property cannot be utilized for agricultural uses due to the discovery of debris buried just below the surface of the property consisting of reinforced steel concrete and steel remnants such as grates

and girders which is the waste product of New York State Thruway bridge replacement project. A residential house construction would be cost prohibitive for the same reason.

2. The alleged hardship is unique and does not apply to a substantial portion of the neighborhood or district. The property is adjacent to the New York State Thruway and New York State Thruway overpass. Additionally, surrounding properties do not contain the waste debris found on this property.
3. The requested variance will not alter the essential character of the neighborhood. The applicant will be improving the condition of the site by removing litter and illegally dumped materials. In addition the property is in close proximity to the Town of Rosendale Transfer Station, an operation which regularly includes heavy truck traffic.
4. The alleged hardship is not self-created. Applicant did not learn about the concrete and steel waste debris located under the surface of the property until after the purchase and utilization of said property for uses allowable in an A district are drastically reduced as a result.

BE IT FURTHER RESOLVED, that the ZBA therefore grants the requested use variance subject to the following conditions:

1. Applicant will provide the Town of Rosendale Highway Department with the requested "Trucks Entering Highway" signs in the specifications required by the Highway Superintendent.
2. Applicant will submit a site plan to the Town of Rosendale Planning Board for review. Site plan shall include the proposed location for any storage of materials and the proposed visual screening of said materials so that visual impact can be evaluated.

Duly adopted this 15th day of March 2016 by the following vote:

Chairwoman Ann Houghtaling - Yes

Richard Hermance - Yes

Frank Klepeis - Yes

Kelleigh Mckenzie - Yes

David Soman - Yes

Roll Vote: Yes

Motion made by Frank Klepeis, seconded by Richard Hermance, to accept Resolution #2 of 2016, as written, in the matter of application #2015-6-Use Variance-Gerard Swarhout.

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, David Soman- Yes, Kelleigh Mckenzie – Yes

Motion carried.

Misc. Business:

The board discusses drafting a letter to the Rosendale Town Board to add a designation and definition for small farm and distilleries in Chapter 75 of the Rosendale Code.

Correspondence:

The board reviews a Memo from Rosendale Assessor, Mike Dunham, regarding Solar Farms

Adjournment:

Motion made by David Soman, to adjourn the meeting at 7:52pm

Respectfully Submitted,
Brisa Casas
Zoning Board of Appeals Clerk