

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

March 9, 2023

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday March 9, 2023 at 7 pm by Chairman Rodgers Williams.

The meeting opened with everyone standing for the pledge to the Flag.

Roll Call:	Rodgers Williams	Present
	Earl Makatura	Present
	Lynn Overgaard	Present
	Steve Schmidt	Present
	Randy Rhoads	Present

Alternates	David English	Present
	Donald Wright	Present

Others present included: Daryl Jones-town board liaison. Bill Gerhardt-Code Enforcement. Sarah Purdy, Kathy & Robert Staunton, Brennan Mark- Marks Engineering, Jane & Dan Nielsen, Mary & William Fletcher, Susan & Will Knepple, Paul Donaldson, Brandi Long & Matthew Long, Mark Davis, Vinny & Helen Scarpechi.

A motion was made by **R.Rhoads**, seconded by **S.Schmidt** to approve the February Zoning Board minutes as written. The motion was carried unanimously.

**COMMUNICATIONS:**

Tree Tops application **#22-2022** Interpretation appeal rescheduled to April 25, 2023.

**AREA VARIANCE/SPECIAL USE PERMITS:**

Area Variance request from Jane and Dan Nielsen. **App #4-2023**. 2231 W. Lake Rd. Applicants are present.

Property owner **Jane Nielsen** tells the board they are requesting a park area/pad. The safety features on the road are off the side of West Lake Road, and are unsafe due to narrowness. They prefer to be able to put in a parking pad, to be off the road.

Also requesting a dwelling variance, proposed bigger than the zoning guidelines. They have lived in the area all off their lives, and it is their dream to live on the lake. Their engineer Ron Stanley was not able to make it as he is ill.

Chair **R. Williams** asked if there is already a retaining wall on the property.

**J. Nielsen** says yes, down lower. There is a retaining wall from the lake for highwater.

**R. Williams** said it looks like it is higher than that.

**J. Nielsen** responded - no it is just the slope of the area; it is a steep area. It is 9ft for the retaining wall parking pad.

**R. Williams-** There is quite the drop off, no question about it. About 20 feet, asks if 9 feet will be sufficient.

**J. Nielsen** says it is tiered; it is a double terrace lot. It is not 20 feet; the first tier would not be 20 feet. The first tier is 9 ft, says **D. Nielsen** then it elevates out 10-12 feet drops, and flattens again. That is just the landscaping correct, says **R. Williams**. He continues stating that it is indicated the applicants would need steep slopes. **J. Nielsen** confirms.

**R. Williams-** the other concern is that this very same lot back in 2014 went to the Zoning Board. They were granted a variance very specifically to not exceed 20% lot coverage. The board was adamant in the minutes, and the variance that was granted. **Nielsens** are now requesting 24.86%.

Board member **E. Makautra** – states that is too small of a lot, a nonconforming lot. **R. Rhoads** agrees, a lot of these lots along that section are on the order of .11 acres, generally a small lot, and houses are tiny. **J. Nielsen** agrees and said that is their desire to have a small home.

**R. Rhoads** asks applicants if there is anything the board should know. **J.Nielsen** states the biggest concern is the parking, being off the street because of safety features. They bought the lot back in 2017. **R.Rhoads** inquires if they have used the property since then. **J. Nielsen** answers, yes, they have as a recreational lot. They have a shed on it currently that was previously there, and a dock. Are there two sheds asked **R. Rhoads**. **J. Nielsen** says there is one shed, and one porta potty.

**R.Rhoads** states that it looks like some of their neighbors services are on their lot. **J. Nielsen** responds, yes that would be the neighbor's the Staunton's. Their grinder pump is on the Nielsen's property, there is an easement. **R. Rhoads** states that with an easement that further restricts the size of the building that you can build. **J. Nielsen** says they are still in the setback range. **R. Rhoads** says it is not the setback range, but the area coverage they need to worry about.

**R.Rhoads** states that on the survey of the lot coverage he did not see the easement called out and how big it is. **D. Nielsen** says it is just the septic tank, that is all. It is a pump. It is a 2-foot circle. **E. Makatura-** states that the lot coverage is the main thing, not so concerned about the retaining wall. Just one retaining wall for the parking pad is on the site plan. **R. Rhoads** says it looks like a fairly large culvert on the North side of the property, asking applicants about it. **D. Nielsen** answers that they are working with Ron Stanley, and Rick Ayers from Yates County Water and Soil.

**R.Rhoads** states yes, they wouldn't want to put a large investment in a home, and it not be able to handle the water. **J.Nielsen** stated that it is their understanding that the previous highway superintendent started a water study on the velocity through that one pipe. Engineer **Ron Stanley** is currently trying to get that information. **D. Nielsen** adds that for sizing, and the proper piping coming down. He has proposed a catch basin, and a pipe system.

Board member **L. Overgaard** says that she has noticed a lot of houses on either side that have no parking and those people have managed, leaving them to park along the road.

**J. Nielsen** responds, yes managed but unsafely. There are a lot of homes along that route that do have the parking pads to the north and south of the property.

**L.Overgaard** says her biggest concern is the lot coverage, board member **S. Schmidt** agrees. He has read all the application and that is his biggest concern.

**D.Nielsen** says yes, but they still maintain all the setbacks. **E.Makatura** says correct, you do not meet the lot coverage, that is the only thing. He understands the parking, and does not have a problem with it.

**R.Rhoads** make a motion to open public comment, reminding the public to please limit comments to 3 minutes each. **R. Williams** seconds.

Neighbor **Robert Staunton** asks to speak. He sent a letter to the board in previous weeks listing his concerns. His biggest concern is the parking pad, it would jut out of a bank and be an eye sore. It will be an eye sore for them, and block the view from the lake. It will adversely affect their property. Everyone currently parks on the road including them, and it has never been a problem. If they are to park perpendicular to the road that could cause other issues. If they park something too long in there, it will stick out and potentially block plows for the road.

Most of their concerns are already in the letter sent to the board. The one thing he would like to elaborate on some of the comments by the **Nielsens**. It had been stated it would only affect .03% of the lot, no it will affect the entire property. There is a huge culvert down the north side of the property. Also, in 2014 Cam Sutherland had applied for a variance for this property. The conclusion of that was they had to meet all set back requirements, plus the 20% lot coverage.

**Nielsen's** have demonstrated a lack of respect for the town's building codes, and the D.E.C. They have built a monstrous 7 foot retaining wall, that is well within the required 15 ft setback from the mean high-water line. This wall was built without a permit and the required variances.

The size of this wall is well within 10 ft of the property's sidelines, this wall was not there. It would never have been allowed if they had applied for a variance. The one side wall close to the Staunton's is less than 7 ft from the side property line and less then 10 ft from their house. The back fill for this retaining wall is maintained by rototilling into a steep bank, removing several yards of soil.

This also required a steep slope permit, there is currently a large section of exposed dirt, and tree roots. **R.Staunton** refers to the pictures he provided. He states they have a problem with the parking area that is not required and will jute out of the hill. It will affect the natural beauty of the area. They have already chopped down every tree in the lot, including trees 3 feet in diameter that helped to hold the bank.

**R.Rhoads** relays that the retaining wall down by the lake is not part of the variance request, and will be dealt with aside from this application. Code Enforcement **Bill Gerhardt** will address that variance.

Vice-chair **R.Rhoads** asks if any other residents would like to speak.

Neighbor **Helen Scarpichi** whom lives across the street asks to speak. Their issue is the parking, there is space for 3 cars however at times there is 8 or 9 cars there. At one time they had used the **Scarpichi** property for parking without their permission to park in their yard. The entrance way had been blocked. One time they had them as far up the pine trees. They have had 6 cars parked up there. They are taking advantage of her, and her age as well as her husband being passed. She took it upon herself to call her

insurance company. They said the **Nielsens** are not to park there. If they do and anything happens, they could not sue them. The company said to put a ribbon up with a sign and two posts. That was run over from an anonymous person.

Another sign went up and an animal chewed it, they got it back up. They even moved the line across so people can turn into that park. Years ago, a neighbor put a sign-up stating do not block turn around. People turn around, and face north on that side of the road, which is the proper way to park. Being with the flow of traffic.

They know of a woman that was killed because of that. As someone approached there was lights on and the person was not aware of the way the road. Went around that, they hit her and killed her.

She had seen the **Nielsens** pointing towards her house for their guests to park. They have not once asked if they could park there. Her concern is if they have a house, they will have more guests. They do leave open parking for people to turn around.

Resident **Vinny Scarphechi** said he is concerned about the character of the people. He asked them to move to a vehicle, said he had taunted him. One of his stepsons had to make a big deal of it. The stuff that they have previously done that has not been approved should be included in the decision. Whatever you allow them to do they will over do it.

**H. Scarphechi** had mentioned a previous board meeting years ago a property owner with more land was turned down according for something called green space. Where is the green space in this home? Is that not included anymore?

**R.Rhoads** said he believes that is included in the 20% lot coverage. **R. Williams** said that is a general term, stone and pebbles can be considered, it just the lot coverage they are concerned about.

**V.Scarphechi** adds that any addition there would take away from the neighborhood. The outlook, the quietness and the serenity. **H. Scarphechi** says it is the only place she can see the lake. She has lived there since 1965.

**B. Staunton** states that the shared utilities are not just a grinder pump, but also a utility pole. Plus, the drain pipe for their retention walls behind their house also have downspouts, and the sub pump behind. They pop out down by the shore. Since they pop out just over the property line, **D. Nielsen** broke them twice. They ran over the grinder pump with their lawn mower.

Resident **David English** reminds the board of the Zoning Code 160-30, Sub A 1 A. The plan of the town is to have 20 thousand sq. ft lots minimum in the R1 district. The town created a variance in the law that anticipated undersized lots. Because of that anticipation they created their own variance within the law. It should be a pretty compelling situation to further bury that variance that the town board put into law.

Zoning board alternate **Donald Wright** addresses neighbor **R. Staunton**.

**Staunton** had expressed concerns regarding the height of the parking lot, and the retaining wall. It is **D. Wright's** understanding that it is going to project above the surface of the road.

**Staunton** answers, no it is such a steep lot that they will have a big thing jutting out of the side of the hill. It will be more then 9 feet. At least 12 feet or higher.

**J.Nielsen** asks the board to refer to the architects drawings for the specifics. **B.Staunton** says they will walk out and see a big thing jutting out of the hill there.

**E. Makatura** says if they build a house there that is blocking that. **R. Rhoads** says the house plans to be 27 feet tall.

**E. Makatura** says you will not see the house from the road. **J. Nielsen** agrees, yes barely.

**L. Overgaard** confirms with applicants that they will need to dig into the slope to build the home, right?

**D. Nielsen**, says yes, they will a little bit. Engineer **Ron Stanley** is not present to answer further questions.

**E. Makatura** inquiries about the elevation, the seawall they currently have.

**D. Nielsen** answers, 722-ish feet. **R. Rhoads** says road is 750, roof will be a few feet above the road.

**E. Makatura** states that when you are standing at the road you will not be looking at the top of the road.

**D. Nielsen** answer says yes, it was done with engineered specs in mind.

**R. Rhoads** asks applicants if they have considered a build that will confirm to the 20% lot coverage.

**Nielsen's** answer yes. **J. Nielsen** says they had spoken to **Ron Stanley** about it. **E. Makatura** said the deck will get you on your square footage with the 20%.

**J. Nielsen** says they are looking to live comfortably. The way the house is situated it is even further back then Staunton's home. **E. Makatura** said he understands what she is saying, the coverage is a non-conforming lot. She adds she hears all the concerns of the neighbors in regards to the parking, but they truly believe the parking pad would eliminate parking issues.

**V. Scarpechi** asks for clarification from the board on a home being built on a lot that had not previously had a home. He was under the impression that you could replace foundations or cottages on a small lot like that.

**R.Rhoads** refers back to what **David English** had said earlier regarding the code. **D. English** states the zoning law says in R1 there will be 20 sq. feet's lots minimum, but the town board when they passed the zoning law there is a variance in the zoning law with a preexisting lot before 1974.

The town board says notwithstanding our desire to have 20 thousand square feet lots in the R1 district if it's a preexisting lot (which this is) and is smaller then 20,000 ft a person may construct a house on that lot but must be within all setbacks and within 20% lot coverage.

**E.Makatura** states it is up to the Zoning Board whether they want to give over the 20%.

Resident **V.Scarpechi** is concerned about the excess size. Vice Chair **R. Rhoads** explains that if is a preexisting lot before 1974 it can be developed but must meet setbacks and lot coverage.

In 2014 Cam Sutherland's daughter came for a variance request, the Zoning board at that time said you can build on the property but must meet setbacks and the lot coverage, 20%. It is not required if you have a preexisting building or structure there.

**V.Scarpechi** asks what has the precedence been on that lot since it had been spilt from another lot.

**R. Rhoads** restates the is a preexisting lot and Zoning laws do allow for construction on that lot after you come to the Zoning Board for approval.

**E. Makatura** adds they would not have to come for a variance for the 20%, just the retaining wall you need a variance for. As long as he meets all the setbacks, and lot coverage for the home.

**R. Staunton** adds they need to meet the rear set back also. The code says you must meet all variances. Of the house asks **E. Makatura**, yes. The parking is a separate thing, the wall is a variance.

**E. Makatura** confirms there are only asking for 2 variances. The wall up top says 9 ft 10 inches, asking for a 2-inch variance. **D. Nielsen** said that can be moved over 2 inches, he is not sure why **Ron Stanley** wrote it up that way. They are not asking for that variance, that wall would be 10 foot off the line.

**R.Rhoads** says he can't read the number off the North side, and ask applicants to verify.

**D. Nielsen** says he thinks 15 feet. 15 feet to the retaining wall, how about the set of stairs asked **R. Rhoads**. The board looks at the site plan.

**E. Makatura** states you need to get the lot coverage down to the 20%. **D. Nielsen** said they can do that.

**E. Makatura** added yes, that will be a requirement.

**R.Williams** makes a motion to hold the property owners to the 20% lot coverage that includes all overhangs, deck and stairways. **R. Rhoads** seconds.

The motion is to deny the variance of over 20%. **E. Makatura** states if you stay with the 20% you do not need a variance. Denying the variance.

**R.Rhoads** explains they will vote on the questions separately. First on the house, then on the retaining wall for the parking is separate.

**R.Rhoads** makes a motion to close the public meeting.

**V. Scarpechi** asks if the property owners will have to come back to the board, will they have to bring the plans to the town for approval. **R. Williams** states yes, they will have to show the code enforcement officer, not the zoning board. **R. Rhoads** adds they will also have to go the planning board for steep slopes.

The board answered the 5 area variances questions regarding the home:

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance?**

R. Williams- yes, it too large for the lot.

E. Makatura-yes, same thing. If it stays at 24% too much.

S. Schmidt – yes.

R. Rhoads-yes, it's too much coverage.

L. Overgaard-yes.

**2. Can the benefit sought by the applicant by some method, feasible for the applicant to pursue, other than an area variance?**

- L. Overgaard-yes, they can make it 20% or less.
- S. Schmidt-yes.
- E. Makatura- yes.
- R. Williams- yes, they have some alternatives.
- R. Rhoads-yes, same as above.

**3. Is the requested Area Variance substantial?**

- R. Rhoads- yes, it is a small lot to begin with.
- L-Overgaard- yes.
- S. Schmidt-yes.
- E. Makatura-yes, almost 5% lot coverage.
- R. Williams- yes, it's almost 25% over limit.

**4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

- E. Makatura-yes, for the size of it. Too much disturbance.
- R. Williams- yes, same.
- L. Overgaard-yes, it will affect steep slopes.
- R. Rhoads-yes, large houses on tiny lots are a concern.
- S.Schmidt- yes, he agrees with Randy.

**5. In the alleged difficulty self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the Area Variance?**

- R. Rhoads- yes, they don't have to build a house. They knew the property and the constraints.
- S. Schmidt-yes.
- R. Williams –yes, they bought the lot knowing.
- L. Overgaard-yes.
- E. Makatura-yes, same reasons.

**R. Williams** does a motion to vote on the request.

The board was polled as follows:

- R. Rhoads – Deny
- S. Schmidt- Deny
- R. Williams – Deny
- E. Makatura – Deny
- L. Overgaard – Deny

**R. Rhoads** makes a motion to approve the setback of 20-ft (from the center of the road) and assuming they meet all other setbacks, and side property lines, and contingent on an approved steep slopes plan, and a drainage plan for the culvert on the North side. **E. Makatura** seconds.

Alternate **D. English** inquires that the board is approving a 20 ft variance, they are requesting a 24.75 variance. Yes, says **R. Rhoads**. It is a 44.75 setback from the road, center line. Their dimension is 24.75. **D. English** wants to confirm it is a 20-foot variance being granted. **R. Rhoads** confirms with applicant they are requesting to build something 24.75 feet from the center of the road, a 20 ft variance. Applicants agree. **R. Rhoads** thanks D. English for the clarification.

The board answered the 5 area variances questions regarding the retaining wall:

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance?**

- R. Williams- no, the retaining wall should be a benefit to the road.
- E. Makatura-no, same.
- S. Schmidt – no, same.
- R. Rhoads-no, because there seems to be a lot of issues around the parking and safety.
- L. Overgaard-yes, if you look at those houses along their and the slopes, putting a retaining wall will make a big difference on what it looks like on that road.

**2. Can the benefit sought by the applicant by some method, feasible for the applicant to pursue, other than an area variance?**

- E. Makatura- yes, they do not have to put parking, but it will be safe.
- L. Overgaard- yes, they can leave it as is and park on the road like everyone else.
- S. Schmidt- yes,
- R. Williams- no, limitation with parking if not parking pad.
- R. Rhoads-no, building a house that meets 20% lot coverage and that is a very steep slope. A retaining wall approved by steep slopes will make it much safer.

**3. Is the requested Area Variance substantial?**

- R. Rhoads- no.
- L-Overgaard- yes, 24 feet is substantial.
- S. Schmidt-yes.
- E. Makatura-yes, it is almost 50% variance.
- R. Williams- yes, it is almost half the requirement.

**4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

- E. Makatura-no, it would help the steep bank.
- R. Williams- no, the retaining wall will improve that section.
- L. Overgaard-yes, the wall will be sticking out and will make it quite different.
- R. Rhoads-no, if it does correctly. You can make it a well appealing retaining wall.
- S.Schmidt- yes, agrees with Lynn.



**5. In the alleged difficulty self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the Area Variance?**

- R. Rhoads- yes.
- S. Schmidt-yes.
- R. Williams –yes, they want to build it.
- L. Overgaard-yes.
- E. Makatura-yes, same reasons.

The board was polled as follows:

- R.Rhoads – Grant
- S. Schmidt- Deny
- R. Williams-Grant
- E.Makatura-Grant
- L.Overgaard-Deny

**AREA VARIANCE/SPECIAL USE PERMITS:**

Special Use Variance request from William and Mary Fletcher. **App #25-2022**. 2982 Guyanoga Rd. Applicants are present with Engineer, Brendan Marks.

**Brendan Marks** shows site plan for proposed farm distillery, site is existing 2400 sq feet pole barn. They are proposing to convert a portion of barn that is currently being used for storage. There is a driveway and power that serves the building.

What they are proposing is converting portion of pole barn into farm distillery facility, widening driveway, adding 9 parking spaces to the south side. There is a proposed septic system that will be downhill from the building towards the road, providing connection to the public water system on the road, Guyanoga Rd. A little bit of drainage, and grading for the new parking lot and new septic system.

It is a permitted use in the town with any special conditions this board would like to impose on it. It is a special permitted use in the Zoning Code because Zoning Code is based on the town comprehensive plan does encourage local business's, agricultural business, like wineries and other uses similar to this. The comprehensive plan has laid the framework for Zoning Code, and encouraging developments like this. They have been respectful to the neighbors closest to the building, north side of the property by locating the parking lot, and seating area to the south side, opposite of the structure. The structure will provide a screen between the activities that may take place on this property, and the closest dwelling on the north. It is a rural lot, very sensible for this development. It is somewhat flat. The area they are proposing will be easy to place parking lot on the septic system.

**R. Rhoads** inquiries about lighting. **B.Marks** states It will be code compliant for exit and entrance doors. No proposed after activities after dark.

**E. Makatura** confirms that the application was approve by planning board. **B.Marks** responds yes, under the conditions that is approved by zoning board.

**R. Williams** states the road is currently on North side of property. That puts them closer to the neighbor and the trees obscure the views to the north. Why not bring the road up the south end and bring it straight in and make a shorter distance.

**B. Marks** states the entrance is existing, this limits the disturbance, limiting improvements. There is also a 3-4 ft drop off the edge of the road, up top there is less. They need a location for the septic. It is the lowest part of the site; it will hold more water after rain events. The highest side of site will be the driest, that is the reason for the driveway.

**R. Rhoads** refers to site plan that has a box listing an area for future expansion next to Leech field.

**B. Marks** says that is required by State Health department to reserve 50% septic area for expansion. Required to be set aside.

**D. Wright** asks about storage, there is no long term outside storage. **W. Fletcher** states there is no plan for any outdoor storage. Presently there is a trailer, the storage component of the building now is for a boat and family furniture.

**B. Marks** adds that is the second half of the building. There may be a dropped pallet outside temporarily.

**W. Fletcher** asks if the board had a chance to look at the operating statement. That gives the idea of the kind of usage they are proposing. A very seasonal operation, May-September. Limited hours, 12-4 or 5 pm, Thursday, Friday, and Saturday. No intention for busses. They may at some point go to appointment only basis, at this point they are not proposing that. They may impose that on themselves to limit traffic. People may drive by and pester them or the neighbors. If they did go to appointment only that would solve that problem.

They have a year's worth of work to do before any visitors. They will be building out a small place/ bar area. Nobody can be sat in there, places like Antler Run do not have seating. Come in stand, taste their product, and head out.

In reference to lighting there is no need since it will be seasonal use. **R. Williams** adds they will need someone exterior lightening according to code.

**R. Rhoads** inquiries about signage. **B. Marks** says not at this time do they have a plan for signage.

**R. Rhoads** relays there is restrictions and they will need to speak to Code Enforcer.

**R. Rhoads** relays the proposal is based on the feedback the last time they were there to move everything to the south side other building to respect their neighbors on the north side.

**W. Fletcher** says there is a hedger as a natural barrier with a fairly deep ditch between the properties. They own the ditch. It does provide a natural barrier. During the summer months there is quite a bit of vegetation there.

**B. Marks** adds that there are 6 or 7 other facilities similar to the distillery that have already been permitted for this type of use in an agricultural use.

**L. Overgaard** asks if they grant this with no lightening or limited hours and they sell it what will happen.

**R. Williams** says they can put conditions on it. CEO adds that the special use follows the land not the owner. The new owners would have to follow it or come back to the board.

**B.Marks** says that is why they provided the statement of operations to make it simple.

**E. Makatura** reminds applicant they must stay within the conditions like hours of operation.

**W. Fletcher** understands and says if they want to vary it, they would have to come back to the board.

**R.Rhoads** makes a motion to open discussion to the public. **E. Makatura** seconds it.

Neighbors **Susan and William Knepple** are present to speak. **William Knepple** says they just bought the property to the North of the Fletchers. He grew up in Jerusalem, they live in Penn Yan now and want to get back into the country. They just purchase recently from Paul Donaldson. They want to be respectful to Bill Fletcher and his wife.

He is in agreement with people producing off the land, living in an agricultural area. He expects there to be farming activities. They bought the property thinking it would be remaining the same. They did not expect that something like this would be sprouting up next door. They would have thought twice about buying the property at they known.

They moved into the country to get away from people, seeing less people. He works with people 60-80 hours a week.

He does have the following concerns about living next to a distillery:

Will it get bigger. **W. Fletcher** has verbally informed them he plans to keep it as a small operation at least for now. However, the license and permit he is trying to get allows for a much larger operation. They can produce up to 75,000 gallons of liquor a year, you can imagine what that would require in order to produce. What will happen to the business after he sells it down the road? The permit and license would allow for a much greater capacity in what he is intending to do now. It is setting a precedent for the future.

The noise is a concern. On the weekends when they will be home, they will be in the presence of people drinking alcohol and getting inebriated. Everyone knows what that scene could possibly look like. If it is seasonal, and brief operation that is one thing. But there is the potential for this place to explode, music could be happening and eventually become an ongoing event, especially during the summer months when everyone wants to be outside. In Guyanao valley sound travels.

The smells are another concern. One of the main reasons they are moving out of the village and out to the country is because his wife has many allergies. She has a terrible allergy to shellfish, and fragrances. The license will allow Bill to serve food. If he has a clam bake, she will most likely not allow to be outside in her own backyard. She will get sick. Laundry detergents do the same. They are escaping town so that she can be outside, and have her health not be affected. The wind comes from south most of the time they will experience any of the emissions from Bill's property including diesel, the car, and motorcycles. Emissions from the brewing being done.

The lighting. It is not proposed that they are not open during nighttime hours, that could change. There is no privacy fence included in the plan either.

Having a distillery next to his property will devalue his property. This will make it hard to sell in the future. Nobody wants to live next to a distillery. He planned to spend hundreds of thousands of dollars to invest in his property, putting an addition on. Why should he invest in the property?

They plan to raise a family; they do not want to raise a family next a place selling liquor. He does not think that is a good example for children. Especially whiskey drunk, hooting, and hollering next door.

Basically, Bill wants to turn a residential agricultural zone into a public place. **W. Knepple** does not want to live next to that. Bill does not live there, he does. If he does not want to deal with it, he can go home. He does not have a fence next to property. How is a fence not required in this zone? Good fences make good neighbors. Without a 6-foot-tall privacy plan as the plan he does not think Bill is a good neighbor.

Engineer **B. Marks** asks CEO **Bill Gerhardt** if there have been any violations for Antler Run distillery? **Bill Gerhardt** says no, not that he is aware of.

Alternate **D. Wright** asks the **Knepples** how far they live from the Valley Inn. **W. Knepple** answers about eighth of a mile. If there is music, can they hear it?

Resident **Paul Donaldson** speaks. He sold the property to the **Knepples**. He said his father would be flipping out, he did not drink or smoke and tried to avoid it. The property line on the south side extends past the gully line so if any of the people that are at his property and come over there getting into the gully, they are on 2966. Where the property line ends, and where the driveway starts is not very far away, just a couple feet.

Neighbor **Susan Knepple** shows the updated survey. Originally when they purchased the property **W. Fletcher** requested to have a straight line, and survey when he purchased the property. Their survey is based upon **W. Fletcher's** pins, preexisting pins. The driveway is very close to the pins.

**S. Knepple** is concerned about the placement of the driveway. Delivery trucks will cause dust due to the driveway being gravel, and it is within feet of their property. Or when there is snow, cars could go into the ditch. These concerns make her nervous to have the entrance of the public so close to their home. Is there a way to limit what could happen in the future. They plan to live their longer than they will own that property. They want to make sure they do not open Pandora's box, and a corporation to come in think it is a great location and start expanding.

**E. Makatura** says the board set the limits of what they can do. If that changes, they will have to come back in to the board. **W. Knepple** asks if there is a maximum capacity? Code Enforcer **Bill Gerhardt** responds that he will decide the capacity based on his occupancy calculation.

**S. Knepple** asks about production in regards to **Fletcher** being able to use his license to produce for someone else in NY State if they meet all the requirements. He may only be labeling a certain for himself but can outsource to others. What affect will this have on the public water usage and septic, the truck usage and palletizing stuff. Another limitation she would for, or be aware of it.

**R.Rhoads** asks applicant if he plans to age the product on site.

**W. Fletcher** answers yes, he address's the concept of patrons being drunk. Regulations under the license states no consumer can be provided directly or indirectly more than 3 samples of liquor per day, and exceed one quarter fluid ounce. That is why the servings are in teeny cups.

All the thinking that everyone will get drunk, it does not happen at Antler Run or this kind of facility. The licensee has to be present on the property.

**S.Schmidt-** He thinks the **Knepples** are concerned about the future. Will more alcohol be produced. The board is supposed based their vote on future use.

**R.Rhoads** asks what they plan to produce in gallons per year. **W. Fletcher** answer 1200 gallons, if they worked really hard on it. That is based on some certain amount of activity a day. The large volume will not be there.

Board member **E.Makatura** asks what capacity can they do now in storage facility, is that 1200 gallons?

**W. Fletcher** the capacity is determined by your still.

**E. Makatura** asks- can they expand that and do a lot more then what you are allowed currently?

**W. Fletcher** answers maybe but we would have to go back the Zoning board.

**E. Makatura** asks if they decide business is great, and they want to grow how much production can they do in that building? **W. Fletcher** answers again it depends on the size of the still.

**R. Rhoads** how big of a still can you put in and how many gallons could be produced in 1200 sq. ft.

**W. Fletcher** says they are industrial stills available that do large production but that is not what they plan to do.

**E. Makatura** is referring to the future use if a different owner comes in.

**R.Williams** reiterates saying the limitations that put on it stay with the property, if someone else comes in they will have the same restrictions. They have to go see the code enforcement, and the boards for any changes and or alterations.

**B. Marks** adds the best way to limit production or limit the size of the facility is just by the square footage used for the still. There is only so much you can do with that space.

**W. Fletcher** adds the distilling part is 15 x 40.

**R. Rhoads** asks if they have considered putting the driveway a little further to the south. **W. Fletcher** says it drops off the hill 3-4 feet.

**D. Wright** asks how long they have owned the property. **W. Fletcher** answers since 2018. **D. Wright** asks what motivated him to start this type of business in that location. **M. Fletcher** answers this what he wants to do in his retirement. **D. Wright** says he is not in approximate area to similar businesses.

**B. Marks** says he thinks that is the model of the farm distillery or winery to be based in agricultural settings.

**S. Schmidt** states he wants to get back to the driveway asking if they can move it 3 feet to the south so it is not right next to the neighbor. Still staying away from the water service.

**M. Fletcher** says the driveway was existing, they did not put it there. The lot line had changed added **S.Knepple**, the Fetters changed the lot line.

**R.Rhoads** asks if they can move the driveway.

**P. Donaldson** relays that his brother-in-law lived near to Fox Run and at times during the Garlic Festival patrons would urinate on the property. People that hit up several places.

**W. Fletcher** answers that he will provide indoor restrooms. **P. Donaldson** does not think the distillery is a good idea.

**W. Knepple** adds especially if there is not a privacy fence. **S.Knepple** is worried about raising children and they can visually see things. Again, when it comes to buses and groups, they could have bachelor and bachelor parties come in.

**R.Rhoads** restates that is a permitted use for the property, confirming the neighbors realize that. With a permitted use there can put restraints on it. As a board they consider what the constraints are.

**L. Overgaard** asks neighbors if their number one priority would be a fence. **W. Knepple** answers yes, if he had the public on his property, he would to be courteous to his neighbors.

**W. Knepple** says he would have put one up as a liability at that point so no one falls in that creek because he could get sued, and where could he put the fence since the lot line and driveway are right there. He would need a setback for the fence. Why should he have to spend 10-15 k on fence?

**R. Rhoads** asks if **W.Fletcher** has considered a fence. He said he has not, there is a natural hedge row there, these folks have cut back some of that natural vegetation so you can see straight through to their trailer. There has been a natural barrier there. There is a big pile of brush. **Knepples** say that was existing.

**B. Marks** adds that this is special use permitted in this residential -agricultural area, any property in this zone could be a farm distillery so you will always have a neighbor. There are also benefits to the community, this board is in charge of outweighing the benefits to the community.

**S. Knepple** adds that they are business owners, they are currently in the midst of getting a business location in Penn Yan so they do not impact their neighbors.

**R. Rhoads** motions to end public hearing, **R. Williams** seconds.

**R. Williams** moves to grant the special use permit with the restrictions as the application states: the hours of operation 12-4 pm, Limit to one people, meeting all ABC requirements, no exterior lighting, 600 sq feet for your distillery, no buses, no music. Not a party house serves to educate people.

**B. Marks** adds to the granted motion clarifying the distillery is 1200 sq ft and the board is limiting the distilling space to 600 sq ft.

**E. Makatura** asks if it is possible to move the driveway down a little bit or put a fence in.

**W. Fletcher** says there is a power pole that is a bit of obstacle for driveway, but can move it a certain amount of feet. They can move it on the south side.

**R. Williams** says there will be limitations due to the septic field. That can be moved a little to the south to accommodate. He thinks they would have much happier neighbors if they did that.

**W. Fletcher** has no problem with that, he can fuss with the driveway. Move it south some. He does not know what good that would do there is a hedge row there.

**R. Williams** says that will help to improve visibility for his driveway. **E. Makatura** asks if the revision of the driveway would go before CEO Bill Gerhardt. Bill says yes and he pass along revisions to **Chair R. Williams** for approval.

**B. Marks** ask the board to quantify the number for the driveway's feet. CEO **Bill Gerhardt** agrees.

Can you put in on the other side of the poll asks **E. Makatura**.

Board members and engineer look at site plan and agree that 22 ft or more to the south. The only item made specific that was not in the operation statement is the 600 sq for tasting room, and 600 sq ft distilling. **R. Rhoads** seconds the motion.

The board is polled as follow:

E. Makatura- Grant  
R.Rhoads- Grant  
R.Williams-Grant  
L.Overgaard- Grant  
S.Schmidt- Grant

OTHER BUSINESS:

**R. Rhoads** distributed a Zoning board summary to members. Town board liaison **Sarah Purdy** reminds board of joint meeting on Thursday March 16<sup>th</sup> for Zoning, planning and town board members.

There being no further business, a motion was made by **R. Williams** and seconded by **R. Rhoads** to adjourn. The motion was carried unanimously and the meeting was adjourned at 8:43 pm.

Laura Swarthout/Zoning Secretary