

**Town of Stuyvesant  
Zoning Board of Appeals Meeting  
August 31, 2022**

Members in Attendance:

Margaret Pino, Chair  
Kaitlin Handy  
Amy Abbati  
Steven Taylor  
Christian Sweningsen  
Steve Montie  
Bryan Rohrer  
T. Rappleyea, Town Attorney

Chairwoman M.Pino explains that anyone who would like to speak in the Public comment section will need to sign up.

Chairwoman M.Pino asks Secretary P. DeLong to take roll call for attendance.

Chairwoman M.Pino opens with the Pledge of Allegiance and calls the meeting to order.

Call to Order: 7:04 pm

**Motion:** to adopt the minutes from the July 27th meeting made by S. Montie; seconded by K. Handy. All in favor.

Application for area variance tax ID 11.0-01-9: C. Elliott introduces herself as the surveyor for the applicant. She explains they are proposing a 2 lot subdivision of the 4.34 acre lot and the 108 acre lot which is divided by Ridge Road. She continues that there will be no environmental changes or hazards, there is a potential mortgage on the house, and she notes two separate tax bills, it does not change the neighborhood as they are already two separate parcels. She asks if the Board members have any questions. One question is presented and they establish that this is on the house side of the road. C. Elliott asks to run this in conjunction with the Planning Board for review.

**Motion:** to accept the application for the Bradley Estate area variance as submitted, made by S. Montie; seconded by K. Handy. All in favor.

**Motion:** to send the application for the Brandley Estate area variance to public hearing on September 28th, made by S. Montie; seconded by K. Handy. All in favor.

Chairwoman M. Pino explains the next item on the agenda, the public hearing for the Rudolph family Farm project on Sharptown Rd. She adds before we begin, everyone who wants to speak tonight needs to sign the sheet. Secretary T. DeLong brings the sheet to the Chairwoman. She observes that the list is long and asks to keep comments brief, so everyone has a chance to get their thoughts out. It is also noted that the Town Clerk is having technical difficulties with the Zoom connection but, that we will move ahead.

**Motion:** to open the public hearing, made by S. Taylor; seconded by K. Handy. All in favor.

The first person who has signed up is Roberta Baldini. She asks to change her place with William Hurst. W. Hurst approaches the podium and introduces himself as the attorney for Young Sommer, here tonight for the most part on behalf of Paul Cassidy and Vernon Everson, who live at 63 Sharptown Rd. He observes this is the same road on which the family farm has been proposed. He continues his comments tonight obviously be limited to the zoning interpretation issue and if the use is not specifically allowed either as of right or by special use permit. He continues, the Rudolph family farm is located in an agricultural zoning district, and adds that obviously, agriculture is the principal, chiefly permitted allowable use in the agricultural district and agriculture is defined in the zoning code in sort of the usual and customary plants, vegetables, animals, those kinds of things. He adds the Rudolph family farm project has some of that, but it also has some short-term rental aspects. He asks to look deeper into the code dealing with agri-business and gives 3 examples of agri-business noting direct sale of agricultural products to consumers, ancillary activities which is not an ambiguous term but defined as meaning subordinate, and farm related enterprises very broad definition, but again qualify that has been ancillary. He adds, even if this board were to construe farm related enterprises as including short term rentals, we think that's quite a stretch and probably would still need to find that those particular aspects of the real family farm project were subordinate to ancillary or accessory. He continues, on a case by case basis of what he has seen in the code, it seems that it compels finding that this project has it backwards and that unless the board is able to find that the short-term rental activities, farm stores are absolutely ancillary to an accessory to a principal use.

R. Baldini reads her statement. A copy was submitted to the Board.

J. Johnson reads his statement. A copy was submitted to the Board.

R. Samuels reads her statement. A copy was submitted to the Board.

D. and Alix Becker read their statement. A copy was submitted to the Board.

A. McDermott reads her statement. A copy was **not** submitted to the Board. She notes she is trying to see the impact on her because this project, as a resident of Sharptown Rd for more than 40 years, she has enjoyed the benefits of an agricultural community. She speaks on preserving the beauty and tranquility of this area, states she looked at similar ventures and distilleries in the area that are not as large and do not have overnight lodging, except Kinderhook. She observes they are all on State highways. She voices concern over the effect of traffic on the structural integrity of her historic home. She asks about plans on water consumption and if it is a strain on local water sources.

E. Sylvester reads her statement. A copy was **not** submitted to the Board. She states she bought her house 14 years ago and was required to sign paperwork about living in an agricultural district. She adds this meant they were agreeing to tolerate without complaint occurrences associated with farms such as noises, large and slow-moving farm equipment using our local roads, and the smells from frequent applications, not excessive traffic, partygoer noise, commercial lighting, signage, and basically an invasion of vacationing tourists from downstate in my in my neighborhood. She voices concern over the amount of cars going past her door on a daily basis. She states she is for promoting agriculture and bettering the lives of the livelihoods of the hardworking farming community here, but this is not a project based on the European agricultural education model of WOOFING, which stands for working on organic farms. She adds these venues are little situated public draws and destroy those neighborhoods,

property values sink and will not sell, people living next to the vacation hotel party venues feel invaded and restricted, not to mention unsafe.

P. Cassidy declares he is a resident at 63 Sharptown Road. He avows that lodging is not permitted as lodging is not agriculture. He continues that Mr. Mahalek has sold a false narrative and convinced the Town Board of it. He adds he is not sure why he is here and will stop with stuff that is not really permitted. He asks to use the chart on the building code, to change the code and address the Town Board to change the code.

J. Demarest affirms his question was already answered.

J. Asteinza states he lives at 458 Sharptown Road, a short distance from the proposed project. He predicates that he bought his house 20 years ago we were drawn to the quiet of the world, we're not farmers, but enjoy living near working farms, like the open space, and it's a great community and are grateful to be part of a vibrant community keeping farming alive because it's a vital asset to this community, and important to protect our farm. He continues the problem is a commercial development thinly disguised as agriculture, in fact the actual proposed use, which is transient lodging is explicitly defined in Section 2 of the zoning law under the category Bed Breakfast facility. He expresses concern about that doing the opposite without precedent and threaten sites and farmland. He maintains he would like to understand plans that work for the landowner, for the business, the same plan has to work for neighbors in the community and the comprehensive plan and encourages those neighbors to come up with a compliant plan.

F. Barringer states he has been a dairy farmer for 50 years. He declares he hunted for a place to retire for 2 years and wanted it to be farmland, if there is a brewery next to him, they need to shut it down at 9:00, people walking down the road with baby carriages and dogs and all that traffic, a bunch of drunks run up and down. He affirms he is against it.

H. Gurland conveys that he and his wife bought their place 5 years ago on Allendale Road and bought because most of the land was in conservation. He continues he did not know about the water problems, he had a little 1700 square foot house with one bathroom, two wells did not produce much and the water in the area needs to be filtered, problems with the septic system due to the soil in this area being very difficult. They could not build on their house anymore because of the water problem, could not water our crops if we wanted to grow vegetables. He voices concern about the clay in the area and asks if the aquifer has enough pressure to supply that much water.

M. Mahalek introduces himself as an attorney from Cuddy Feder speaking on behalf of his client, the Rudolph family. He states, on August 24<sup>th</sup> they submitted a supplemental application to the Zoning Board. He notes that instead of rehashing every point in that submission, he will instead respond to those comments pertinent to the Zoning Board, use permitted under the zoning code, and not at impacts that belong with the Planning Board. He maintains there will be discussions about the impact and potential conditions, adding that will never happen if they can not get through the process. He addresses Madame Chair and asks if it is ok if he responds to comments he heard.

M. Mahalek observes that the site currently contains mobile homes and they want to restore a lot of this prime soil for agricultural use, where in the plan a lot of the area currently not being used will be returned to that use, the existing farm will be expanded, and have a product with a land goal of preserving the community as a successful agriculturally oriented community. He continues, there was a discussion regarding the use not being ancillary, also known as accessory under the zoning code and

talks about the definition of, the zoning code and use in the same lot, the number of uses on the site with only one being farm stay units. He notes, 46 acres will be dedicated to the overall operation with possibly 20 percent dedicated to the accessory units. He adds, they listed out multiple references to , agriculture related tourism being promoted in the community in the 1996 Comprehensive Plan; many of these look at linking agriculture, encouraging commercial development, and that transient use is recognized in staying overnight on the property. He states the Building Inspector made a determination, describes section 301, 305A and 305B of the agriculture and markets law and notes that definition does not include finances. He observes the only time that would be relevant to this discussion is if they were asking the state for an agricultural tax exemption. He voices about one commentary that there is a definition of agritourism enhanced market law now that doesn't specifically cite overnight stays and speaks about the assembly bill jacket 995 chapter 600. He talks about farm stays, what is permitted, municipal compliance, customary use, and gives a list of farms that are like the proposed farm and shares a pdf. He gives history on the Town of Stuyvesant including a standard for the farmland in the Town of Stuyvesant. He adds the pool is for private use by a member of the family, the former property owners are not relevant to the ZBA discussion, the background of the applicant is not appropriate, and they have hired an agricultural consultant helping them with the plan as they want to ensure they are not working in the dark. He affirms that the question regarding this supposedly opening floodgates for the community is not true, and there will be a place for discussion of the impact on roads, water, traffic, specific color patterns, septic systems and all those items in the planning. He addresses this question of the meaning of the use table and if this use is permitted after tourism in the 1996 Comprehensive Plan. He concludes with under New York case law one cannot by implication prohibit a use in this situation, because it is the degradation of common law, property law and if there's any ambiguity on this point it is in the applicant's right.

The Board discusses keeping the Public Hearing open until they can review the submission.

T. Rappleyea explains the appeal from the Planning Board chairman is the determination of the CEO.

**Motion:** to close the Public Hearing, made by S. Montie; seconded by B. Rohrer. All in favor.

**Motion:** to leave the record open to submit in writing within 10 days, made by A. Abbati; seconded by B. Rohrer. All in favor.

**Motion:** to adjourn, made by S. Montie; seconded by K. Handy. All in favor.

Adjournment: 9:14 pm

Respectfully submitted,

Patricia DeLong  
Zoning Board of Appeals Secretary