

TOWN OF CONCORD PLANNING BOARD  
Town Hall

December 6, 2022  
7:00 p.m.

**ITEM # 1:**

The meeting was called to order by Planning Board Chairman Karl R. Lux, at 7:00 p.m.

**ITEM #2: Roll Call**

**Present:**

Karl R. Lux, Chairman  
Bruce Luno  
James Jozwiak  
Joseph Edbauer  
Julie Zybert  
Raymond Hilliker

**Also Present:**

Darlene Schweikert  
Clyde Drake, Town Council Liaison  
CEO Thomas Roberts  
Thomas & Michele Burke

**Not Present:**

Michael Cochran

**ITEM #3: Citizen Participation**

There was no one for Citizen Participation.

**ITEM #4: Michele Burke – Trevett Road Wine Tasting Room**

Michele Burke addressed the Board with regard to the proposed Winery & Tasting Room at 10219 Trevett Road. Members were provided documents prior to the meeting and some additional information was given to the Members at the meeting detailing their proposal, showing the proposed location of the building, parking lot and septic system. Mrs. Burke noted that their basic plan is to have a tasting room with local beers, cider. They will be obtaining a Rectifier's License from the NYS Liquor Authority which means they would take previously distilled vodka, gin, rum and add berries, spices and juices to it and sell it that way; no distillery license is required to do it this way. They qualify for a Farm Winery License. They would be open three days a week: Friday (3 p.m. to 7 p.m.) Saturday and Sunday (noon to 7 p.m.). They do not intend to be a bar; just a place to taste wine, hang out for the afternoon, have some food and enjoy.

Chairman Lux noted that the Town Code does not have a lot of information regarding this particular use. CEO Roberts informed the Board that a Farm Winery License is a license issued by NYS for NYS agricultural products. This License cannot exceed the Town's Zoning Ordinance with regard to occupancy load/parking/setbacks. The License itself has nothing to do with the Town. CEO Roberts has been on the property and there is more than enough property to do what is intended. Their closest neighbor to the left is approximately 78 feet from the property line. The front setback of 50 feet is also met. The parking lot is within the 50-foot setback but there are no buildings there so that will not be a problem. Chairman Lux asked if there

would be enough parking spaces; CEO Roberts said yes. The lot would be approximately 100 feet x 100 feet. The Town Code states that anything with food or drink is like one parking spot for five occupants so they would only need 20 parking spaces. The Burkes do not intend to install a sprinkler system so maximum occupancy load of 99. This would be for 1495 square foot of A2 Assembly area to make the 99-occupancy load. This would equate to 25 parking spaces. His one concern is buses. There is an upper parking lot. The owner would be putting in a driveway in front of the building for drop off, exit out and then come back out; they could park in the upper for additional parking. CEO Roberts noted that they need to make sure there is enough turn radius for school buses with any parked cars. The Town will not allow parking on Trevett Road because it would not be safe. Mrs. Burke advised that there is additional parking on top next to their fence company and overflow parking could go there. Chairman Lux asked the owners if they had talked to their neighbors about their intent. There have been discussions with the neighbors who joked that there should be a gate in the fence so that they could come in at any time. Mr. Burke informed the Board that the area will be 100% fenced in; this is required by NYS. The owners have discussed this with the neighbors and if they want trees planted for privacy or a six-fence privacy fence, the owners will work with them. Mr. Burke noted that if the neighbors want trees, he will put in trees and he could also put a guiderail in front because it does drop off; to make sure it is 100% safe.

Member Jozwiak noted that the packet received was helpful and he had no further comment. If the parking and fencing was all set, he was good. Member Hilliker asked if they would be producing wine. Mrs. Burke advised that with this license they would need to produce 50 gallons of their own wine every year. The rest would be purchased from other NYS wineries. It could be bottled either at this location or at the other NYS winery. Member Hilliker questioned if they would be purchasing the raw materials or growing their own. Mrs. Burke advised that for the NYS Farm Winery License, they have to grow 15 vines. That would not produce enough to be viable so they would be buying the juice. Member Hilliker noted that where he was going with that question was to verify if they would be growing some grapes to become a farm and they would be. Chairman Lux asked if they had space for that in this project; Mrs. Burke said yes. All that NYS requires is 15 grape vines; even if they are for decoration. She noted that their neighbor grew grapes every year to make his own wine; there are still three rows of grapes on his property. No one picks them, but they are still there. Member Zybert asked if NYS had a minimum acreage size to consider you a Farm Winery License; Mrs. Burke said no, there requirement is only the 15 grape vines. CEO Roberts said that as long as it is NYS made, it does not need to be made on their premises. Mrs. Burke stated that all the products they sell have to be manufactured or distilled in New York State. Member Luno noted that she basically goes out and buys and then resells; Mrs. Burke said yes, basically, bottle it, label it. Member Edbauer asked CEO Roberts where under the Principal and Uses of the structure what would this be under? A2 assembly is where restaurants, bars fall under in New York State Code. Member Edbauer questioned in the Town Code because the Town can be more stringent than NYS. What is being allowed in our Code? Then there's accessory uses in our Codes. Member Hilliker advised it would be under Section 150-47 (14)(b) with a Special Use Permit. At

this point, the Burkes have not applied for a Special Use Permit. J. Edbauer stated that with a Special Use Permit, the neighbors can be involved in the process and then the final approval would come from the Town Board. J. Zybert noted that she is familiar with Trevett Road and wonders where they would be putting the building. The drop from the parking lot to the building, how much fill would need to be brought in? Mrs. Burke advised that they have been filling it in though the years so it would not require that much. Council Member Drake asked if two bathrooms would be good enough for 99 people. This would be determined by the Erie County Department of Health. The application will be submitted to Erie County and they will tell Mrs. Burke if she needs to have any more stalls and they can do that if it is required. Council Member Drake noted that the diagram shows a septic system location; would a new one be put in? Mrs. Burke advised that a new septic will be installed. The current system cannot service both their home and this building; they must be separate. The parcel has public water through Erie County Water. There will also be separate services for the gas and electric. The Burkes have already started these processes. Chairman Lux asked for the timeframe; the Burkes would like to start construction in March and be open by September. The members agreed that a Special Use Permit application would be required and then the matter could be referred to the Town Board to set a Public Hearing date. The Burkes stepped aside to complete the Special Use Permit application.

**ITEM #5:     Comments from Council Liaison Drake**

Council Member Drake noted that:

(1) Supervisor Drozd had a Supervisor's Meeting today and Erie County Sheriff Garcia was in attendance. Sheriff Garcia is of the opinion that he should be able to get a copy of the Erie Cattaraugus Rail Trail Agreement because of security reasons. Aurora, Colden and Concord will be meeting to see where the Towns stand and how to proceed. New York State is closing down areas of snowmobile trails in NYS rights-of-way where snowmobiles will not be allowed to ride. Chairman Lux advised that bridges and signs are up near his home. The Members discussed bridge construction on the trail and whether permits are needed. These are repairs and not new construction. Chairman Lux noted that the new bridges are nicely constructed and beautiful; no permits were received. R. Hilliker thought there was a loop-hole in the Code for the snowmobile club because they build bridges all over the state. J. Edbauer thinks that if there is a structure on it, a permit would be needed. CEO Roberts noted that since the Town will be updating their Code next year, this is something that could be addressed and defined at that time. Maybe some type of permit should be required. The Town of Colden Code has a unique section that a change of use, by definition, requires a site plan review. Their Code is very aggressive; everything other than a single family or two-family residence, requires a site plan review. This could also be reviewed by our Members when the Code is updated next year. Colden Planning Board Chairman Walter Kammer would be available if any of our Members would like to discuss this further. His contact is (716) 537-3278.

(2) Supervisor Drake spoke with CEO Roberts with regard to Kevin Thie, the wood guy. CEO Roberts reported that nothing is going on at this time; there have been no complaints. CEO Roberts has been here a year now and this was an issue on Day #1; he is pro NYS Agricultural products. The Town does not know if the wood is coming from outside NYS. CEO Roberts noted that he has not had any complaints other than the Planning Board questions and asked the Board what they wanted him to do. Does the Board want him to write a compliance letter asking him to submit a Special Use Permit? Chairman Lux stated that the Board's concern is that he is running a business in a R-Ag district. J. Edbauer noted that Mr. Thie came before the Planning Board in 2018 and ignored the Board's advice and doesn't want the Town to drop this matter. R. Hilliker felt that something should have been done then. CEO Roberts said that if directed by the Town Board, he would have no issue in writing Mr. Thie giving him 30 days to submit a Special Use Permit application. R. Hilliker questioned how many pieces of wood would he have to grow on his property to be classified as NYS Agricultural; it is the same as the grape vines. J. Edbauer believes all the wood is being brought in and feels it would be better to have Mr. Thie submit a Special Use Permit just so the Town has some better control. CEO Roberts noted that the only concern that he was aware of from conversation with prior CEO Singleton was the lights shining visible from the 219 Expressway and he believes that that was addressed. J. Edbauer made the motion, seconded by B. Luno, to ask the Town Board to review this matter and direct CEO Roberts to send a letter of compliance to Mr. Thie requiring a Special Use Application be submitted; the Town would then have better control. A Special Use Permit could be made contingent on the ownership remaining in Mr. Thie's name; any future owner of the property would have to reapply for a Special Use Permit if this business were to continue. All in favor. Carried.

**ITEM #4: Michele Burke – continued**

The Burkes completed the Special Use Permit and paid the filing fee. Copies were provided to the Members for their review. Some of the Special Use Requirements are not yet available (insurance and NYS Liquor License) until the building is up. Mrs. Burke noted that they will not be cooking anything; they will be using a food truck. The Erie County Department of Health will oversee this. There will be kitchen. There will be serving chips and salsa, crackers. Once their liquor license is obtained, a copy will need to be provided to the Town. Mrs. Burke noted that the intended hours of operation would be Friday 3 p.m. to 7 p.m., and Saturday and Sunday noon to 7 p.m. Wednesday she would like to do Paint Nights, from about 6 p.m. to 9 p.m.; this would be once a month. Possibly have a Trivia Night as well. More and more places are closing earlier in the evening. The owners would be working at the winery Monday, Tuesday and Wednesday but it would not be open to the public. CEO Roberts questioned the cooling system. Will it disturb the neighbors? Mrs. Burke stated that they do not need anything huge because they are not a restaurant. They just need a small cooler for their 6-tap beer system. Other than that, they just need a refrigerator to keep the wine cold and food (cheeses). In the actual production area, where they will store the wine, it is not going to be some on the roof type of AC; it will be a window unit that should not disturb the neighbors. CEO Roberts questioned after hours noise such as

forklift operation. They do not intend to do that at night; it would be during regular hours. The Board had no other questions. J. Jozwiak made the motion, seconded by J. Edbauer, to send the application for the Special Use Permit forwarded to the Town Board. All in favor. Carried. Chairman Lux explained the Special Use Permit process to the Burkes including the Notice to neighbors, Notice publication in the Springville, and the Public Hearing process. The Burkes thanked the Board and left the meeting at 7:49 p.m.

**ITEM #6: Approval of Minutes**

a) November 1, 2022– J. Jozwiak made the motion, seconded by J. Zyberty, to approve the Minutes as presented. All in favor. Carried.

**ITEM #7: Business from the Members**

a) J. Jozwiak questioned if Secretary Schweikert had received any of the renewals of permits for Mobile Home Parks, Mining and Junkyards; some have been received but not all. It is nice to have all the Permits at one meeting for approval. The Mobile Home Park renewals for 2022 have not been approved by CEO Roberts and have not yet been reviewed by the Planning Board. CEO Roberts noted that he is satisfied with the two permits for 2022 and will sign off on Year 2022 for Perkins and will do a final inspection on North Street and if nothing has changed, he will sign off on Year 2022.

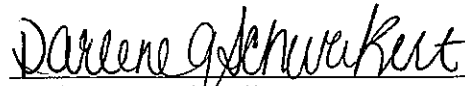
b) Chairman Lux reviewed training hours. J. Jozwiak needs .5 hours and J. Edbauer needs 3 hours to complete 2022 Training. The other Members are all set. R. Hilliker noted that he has been researching Affordable Housing. There is a big push to add accessory dwelling units, attached apartments, finished basements, houses of the garage, second units on the property. Multi-family, multi-generation families are living together. Rural America is the fastest growing area of population because people can work from home and find cheaper housing and property taxes. This is something that may need to be addressed by the Town in the future.

c) CEO Roberts noted that the Town's Zoning map was updated and will be discussing options with the Town Board hosting of the GIS digital map for online use. Council Member Drake thinks that someone from Erie County will be coming to the January Southtowns Planning meeting to discuss GIS hosting.

d) Council Member Drake informed the Members that J. Edbauer's son was selected from his battalion to represent the Color Guard at the Veteran's Day ceremony in Washington, DC and congratulated him on this honor.

**ITEM #8: Motion of Adjourn**

J. Jozwiak made the motion, seconded by R. Hilliker, to adjourn the meeting at approximately 8:01 p.m. All in favor. Carried. The next meeting will be January 3, 2023. The Members agreed that if the annual renewals are not all available for review, this meeting will be cancelled. Secretary Schweikert will advise as December goes along. R. Hilliker will not be in attendance; he will be on vacation.



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Darlene G. Schweikert  
Planning Board Secretary