

TOWN OF CONCORD PUBLIC HEARING
Public Hearing – Burke Special Use Permit

November 14, 2024
6:15 p.m.

PUBLIC HEARING OPENED BY PHILIP DROZD, SUPERVISOR.

ROLL CALL: PHILIP DROZD, SUPERVISOR
CLYDE M. DRAKE, COUNCIL MEMBER
KENNETH D. ZITTEL, COUNCIL MEMBER
KIMBERLY S. KRZEMIEN, COUNCIL MEMBER

EXCUSED: KENNETH KASSEL, COUNCIL MEMBER

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk
BARRY A. EDWARDS, Hwy Supt.
CAROLYN ROBINSON, Dog Control Officer

GEORGE DONHAUSER MICHAEL SCHOELL

Supervisor Drozd opened the Public Hearing at 6:15 p.m. Town Clerk Schweikert had published the Notice of Public Hearing in the Springville Journal on October 17, 2024. The Public Hearing Notice was posted on the signboard at the Town Hall and on the Town's website: townofconcordny.com on October 14, 2024. The Erie County Referral packet was emailed to Erie County on October 2, 2024 and the County responded on October 22, 2024, noting, "No Recommendation; proposed action has been reviewed and determined to be of local concern." Said Notice of Public Hearing was mailed to neighboring parcel owners within 500 feet on October 15, 2024.

Supervisor Drozd asked if anyone in attendance wished to address the Board regarding the Burke's Special Use Permit application.

Sandy McNerney asked if there would be an overview of what exactly is involved in the Special Use Permit application. Supervisor Drozd advised that the Burkes want to amend their existing Special Use Permit for the purpose of adding a micro-tavern license to serve domestic beer at their winery and tasting room. The liquor license situation is not controlled by the Town Board; that's controlled by the NYS Liquor Authority. He noted that going back about ten years, there were two kinds of liquor licenses/beer licenses which were on-premises and off-premises. NYS has changed this and there are many different kinds of licenses out there for NYS wines, NYS beer, domestic beer, spirits-if they're made in NYS or outside of NYS or if they are made on premises. The Burkes want to comply with the law and the Town commends them for that. Council Member Drake is the liaison to the Planning Board and he advised that the Burkes are already serving beer at their location so this is just adding domestic beers. Mrs. McNerney noted that was in the Notice they received but she wants to understand that the initial request for this was spelled out as a winery and tasting room. That is not what is currently at the Still on the Hill. They are selling beer. People are not just going there to do wine tasting and purchase wine. She wants to make sure that she understands that the farm winery license that was obtained initially was specifically required to have only NYS labeled products. She is understanding that the Burkes want to deviate from that; does that not negate it being a farm winery and a completely different type of license? She wants to understand exactly what is in here. Council Member Drake noted that the Burkes told the Planning Board that the reason they wanted to get domestic beer was to get a light beer that they could serve. The initial Special Use Permit allowed them to serve beer as well. Mrs. McNerney questioned if this micro-brewing license would allow them to brew beer on site; Council Member Drake said no. Mrs. McNerney asked if they would be buying beer from somewhere else. Supervisor Drozd advised that the Burkes have to buy from a NYS wholesaler when you sell domestic beer. He had a liquor license for over 24 years so he knows a little bit of knowledge; he's not an expert but knows how it works. The Burkes have to buy from a NYS wholesaler which will have the Burke's license on file and the Burkes will have to pay the wholesaler every two weeks for the product whether they've sold it or not; they will have to pay the tax on it up front. It is a very hefty lift that they are trying to do; it is money out of their pocket before they even sell one bottle/can of beer. These are NYS changes in licensing. From what Supervisor

Drozdz has read into it, his view, any place can be called a tavern or a bar, they're using words to describe it that are very broad and he thinks each person has their own take on how they want to run their business and what they want to sell or serve there but they have to be under the auspice of NYS; their broad description of the license. That is the most confusing part of this; the State should have made this a little clearer on their license types. Mrs. McNerney thinks that there should have been more transparency and been made more clear right from the start precisely what it was that was going up for that facility and when they received a letter stating that they are putting a winery and wine tasting room, it does not really set off alarms or concerns. What is there is a facility, as was stated, that is serving wine, beer and spirits and is doing large parties. She and her husband and others on the road, walk, bike, run and use that as a recreational spot from their houses because that is what they have; what is available. They are absolutely concerned now that they have large amounts of people coming to and from this facility. There is not a lot of shoulder on this road and now they have to worry; be concerned about their safety with people coming to and from that facility and drinking. That is what they are there to do; they are not just there to go and taste wine and buy bottles of wine. They are there to go for long periods of time and drink. No where was it stated that there would be live music, patio with outdoor seating. They have essentially lost their privacy and she knows this is outside the scope of what the Burkes are asking for but what is being asked here is to basically add to what they already have and what they already have is a safety concern, privacy concern. They moved to this rural area to have what you get in a rural area. They now have what is essentially a bar. The people coming and going has increased the noise and the safety concerns and they want to add more offerings to this particular establishment which is going to bring more people and then, she understands, that that is why they want to do this. Supervisor Drozdz noted that that is how you run a business. Mrs. McNerney continued that having people driving up and down the road which is already not a great road to begin with because it is hilly with turns and people have been there drinking for god knows how long. She does not want to add to that by offering more alcoholic beverages to be served. Council Member Drake noted that the Burkes have limited hours and limited days. People are not there until 1 o'clock in the morning drinking. James McNerney asked for the hours. Mrs. Burke responded that they are open Thursday 2 p.m. to 8 p.m.; Friday 2 p.m. to 8 p.m.; Saturdays 11 a.m. to 8 p.m. and Sundays 11 a.m. to 6 p.m. Mrs. McNerney commented that the weekend hours are smack-dab in the middle of the day and Thursdays and Fridays, her husband likes to do his activities after work. She questioned if these hours restricted? What if they decide they want to be open to 11 or 12 o'clock? Mrs. Burke said that this was discussed at the Planning Board; Mrs. McNerney noted that those details were never provided in the documents they received. How can they be sure when they don't know what is or is not allowed under the Burke's permit? Council Member Drake advised that if the Burkes want to change those hours they will need to come back to the Planning Board and then the Town Board. Council Member Zittel noted that another matter limiting the business is parking but it appears that the Burkes have been doing pretty well with that now; there has not been any more complaints. Mrs. Burke advised that another parking lot as been added. Mr. Burke said that they put another couple thousand into another lot to make sure people are not on the road. Mrs. McNerney said she hopes that the people pulling in and out of their driveway which has been happening; turning around in their driveway and running over their lawn. That has been an issue for them. She understands that she is probably missing things but she wanted to make sure that her concerns were out there about what they currently have and she does not think it is a great location for that type of a facility to be and she is absolutely not in favor of growing that by adding other offerings there. It is a safety issue waiting to happen. Council Member Drake advised that he thinks the Burkes are also serving more food than you would find at an average tavern or bar. It is not people just going there to drink and drink. They go there to have food and a drink. Mrs. McNerney asked if the license allows them to decide if they want to start serving full meals; lunches/dinners? Can they do that? And how many people can be on site between inside and the patio? And is any of that changing with this addendum to their license? Mrs. Burke advised that to add more food they would need to get a separate license from NYS Health Department which they have no intention of doing because it changes a whole lot of things. They do not have full kitchen and don't intend on doing that. The basic food that they have is what they have. Burkes would have to get additional licenses to do that type of things. Mrs. McNerney asked Mrs. Burke if this additional permit they are doing

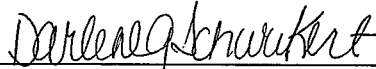
only allow four beers; Mrs. Burke, yes, four; that is the requirement of the Town. They will be four light beers that the Town Planning Board restricted; nothing on tap. Town Clerk Schweikert, who is also the Planning Board Secretary, noted that the Burke's original Special Use Permit application included beer, cider and distilled spirits, such as vodka, gin and rum and add berries, spices and juices to it. It wasn't just a winery and wine tasting room. What the Burkes are asking for now is to add domestic beer and when the Burkes came before the Planning Board, the Planning Board's recommendation was to limit the additional beer to four choices so they can't go out and add a large selection of domestic beers. It was capped at four additional domestic beer choices. Mrs. McNerney noted that she just wanted to go on record saying she is not in favor of adding things to this facility for the reasons she stated. It is a safety concern. This is not the area for this type of facility and she is concerned about it continuing to grow and morph into more than it already is.

There were no more questions or comments.

Motion by Council Member Drake, seconded by Council Member Zittel, to close the hearing at 6:30 p.m. Council Members Drake, Zittel & Krzemien; Supervisor Drozd, voting aye; Council Member Kassel, excused. Carried.

Mrs. McNerney asked, so she understands, was this just passed anyways? Supervisor Drozd advised that the motion was to close the Public Hearing; she had spoken and no one else was here to speak on this matter. Supervisor Drozd noted that he has had calls on this matter; everyone knew the hearing was tonight; maybe their calls to his office satisfied their questions. Mrs. McNerney asked what the next steps were. Supervisor Drozd advised that this matter is on the agenda for tonight's meeting and the Town Board will vote on it under New Business (#2). Supervisor Drozd noted that she was welcomed to stay for the Town Board meeting.

Mrs. Burke asked if they were needed to stay for the Town Board meeting; Supervisor Drozd, no, but the vote will be later tonight. The Burkes thanked the Board and left the meeting. The McNerneys also left at this time.



Darlene G. Schweikert
Town Clerk