

Town of Richmond Zoning Board of Appeals Meeting Minutes

Tuesday, April 16, 2024

ATTENDEES:

Wayne Ohl	Chairman	Present
Mary Beth Sauerteig	Member	Absent
Jared Ransom	Member	Present
Mabel Storke	Member	Present
Andy Evenski	Vice-Chairman	Present
John Goff Jr.	Alternate Member	Necessarily Absent
Alycia James	Secretary	Present

Public: Kayleigh Schultz, David Richardson, Michelle and Bob Fredrich, Megan Basile, Wade and Kristin Woodward, Megan and Ian Boni, Jim Mattick, Brian Standla, David Boyers, Kate Deprez Ransom (Via Zoom).

Chairman Ohl called the meeting to order at 7:03pm with the pledge of allegiance.

Mabel Storke made a motion to approve the March 19, 2024, meeting minutes. Andy Evenski seconded the motion; All were in favor.

New Applications:

Area Variance for Robert and Michelle Friedrich for relief of 200' maximum of the greenhouse and place the greenhouse next to the dwelling and not in the rear at 8830 Sandy Bottom Road, Honeoye NY. Pursuant to the Zoning Code from Chapter 200 Article IV 200-12 C (2) and relief from 50' setback pursuant to Article IV 200-12F(1). Tax Map#149.08-1-4.122.

Mabel Storke made a motion to set this matter down for a public hearing on May 21, 2024, at 7:00pm. Andy Evenski seconded the motion; All were in favor.

Public Hearing:

- 1. Application to Re-open the Use Variance Modification** for Ian Boni and James Mattick of a Use Variance granted on February 15, 2000, and modified on December 21, 2004, to permit the applicant to offer live music on the existing outside deck, at 5226 East Lake Road. The parcel is located in the B Residential District, in the Town of Richmond, as designated in Article IV, Section 200-13 of the Richmond Town Code, Tax Map#150.13-1-24.000.

Mabel Storke made a motion to open the public hearing at 7:17pm. Andy Evenski seconded the motion; All were in favor.

A SEQR was filed by the applicant. Wayne Ohl determined that the ZBA was to be the lead agency in this matter and determined that this is an Unlisted type matter and does not require any further action.

Ian Boni stated that the restaurant with a bar is also a brewery, and that there is currently live music indoors. They want to attract more people and have entertainment outdoors. Live music would end at 9:00 or 10:00pm on Friday and Saturday and 1:00 to 4:00pm on Sunday, and Ian is hoping to have approval.

Chairman Ohl noted he spoke with the town attorney. There was discussion of what elements need to be established to approve. There is no requirement to re-approve the factors for a Use Variance, since the Use Variance had been previously granted and this was an application to modify the variance.

Chairman Ohl mentioned everyone's concern is how loud the music will be, and noted that there must be substantial compliance with the previously approved site plan in order to consider modification.

Wade Woodward said that at 80 decibels would be loud, he wants to address how it bounces off the lake changes the way it sounds. Wade mentioned they could sit on their front porch and not hear the music, if they sit on the back porch, it's really loud. The problem Wade has with amplified decimals would be loud, it was also mentioned that it's a residential neighborhood. Traffic will be more of an issue than they already have. Wade mentioned they have people turning around in their driveways constantly to go into the Marina. They have a sign saying private drive and people still use their driveway to turn around. He is concerned with more traffic with having outdoor music. Wade says the Marina hasn't been in compliance with the Area Variance. Policing and compliance are a concern. Wade thinks 80 decibels at 10:00pm is late and mentions that its in the Residential B neighborhood. Wade is passionate about this because he has lived this for 24 years and wants to be on his back deck at 10:00pm and have it quiet.

Ian Boni says he will have it open from May to October. This would occur during times from opening to 10:00pm. He will not have hard rock and metal bands playing, this is a family type establishment and wants to keep it that way. Ian understands the concerns and stated if it's too much of a problem that he is a phone call away and he will have things taken care of. He also indicated that the decibel meter would be installed on the building, as he does in his Canandaigua location, to make sure that the levels are within the permitted limits. Ian also mentioned they have been trying to get this approved for years now.

Kristin Woodward is concerned about what Ian Boni will do now. If they move to a different business and someone else buys, then they can bring in rock bands. Kristin says that if this is approved then it should be stated that this is only for the owners now.

Chairman Ohl indicated that he understands Kristin and Wade Woodward's concerns.

Eric Munk resides in his home just north of the Marina's driveway. Eric said that they are promoting alcohol instead of a restaurant. He submitted in 2021 to the board that the boats

are supposed to be 5ft away from his property, and it has not been. Eric stated that the garbage dumpster is always overloaded and attracts animals. He also mentioned concern about the noise from the tractor moving boats. He mentioned if he were to play Jesus music really loud outside would it have to be approved. Eric says that why should he listen to other people's music if he likes listening to Jesus music.

Megan Basile lives across from the Marina. Megan wants to know when they will be having the bands, she also has issues with people turning around in her driveway. Megan says there needs to be something else that says there is parking for the Marina, so people aren't turning around in the neighbor's driveways. Megan hopes that things continue changing for the better and it will look good. The property hasn't been maintained and that's the biggest issue.

Jim Mattick (owner of the marina) stated that there will be a privacy fence installed around the dumpster.

Megan Boni said Live Music would be played on Friday from 6:00-9:00pm, Saturday would be 6:00-10:00pm, and Sunday would be 1:00-4:00pm.

Brian Standara, who previously leased out the restaurant, indicated that it now closes much earlier than previously. He says that the brewery isn't a late night hang out area. Previously, it was a restaurant during the day and a bar at night.

Wade Woodward says he went to the Tree house brewery in Massachusetts and they closed early around 8:00 or 9:00pm. Wades concern is playing music until 10:00pm everyone will stay until then and there will be a lot of traffic leaving and peeling out of the driveway that late.

David Richardson, Planning Board Chairman, stated that these are new people running this business and we should not focus on what was previously done with different owners. He asked if Ian's partner had retired. Ian said that he lost both of his partners. Ian has indicated that he and his wife will be at the premises more often now.

Chairman Ohl indicated that will respect to the variance there has to be a substantial compliance with the approved site plan, and that the Code Office is monitoring the situation. His concern is if the modification is approved, what will happen if there is a new owner of the marina and/or the restaurant. Can the Board require new application to re-open the variance and approval of new operator/owners. He will be reviewing this with the Town Attorney. The Chairman suggests that we adjourn the hearing until the May meeting to give time to review the matter further and obtain any additional input from the public or the applicants.

Wayne Ohl made a motion to adjourn the public hearing to May 21,2024 at 7:00pm. Mabel Storke seconded the motion;

Vote was as follows:

	<u>AYE</u>	<u>NAY</u>
Chairman: Wayne I. Ohl	X	
Member: Mabel Storke	X	
Member: Jared Ransom	X	
Member: Andrew Evenski	X	
Member: Mary Beth Sauerteig (Absent)		
Alternate Member: John Goff, Jr. (Absent)		

Jared Ransom asked why the music was limited back in 2001.

Wayne Ohl said there were are numerous minutes from numerous meetings where this was discussed. Some was relevant and some was irrelevant. He encouraged the Board members to review them as well. Code Officer Kayleigh Schultz went through the last 6 year of the minutes on the Marina and provided copies to the Chairman and are available to the Board members.

2. **Area Variance** for David Boyers for property located at 4801 Briarcliff Sq, in the Town of Richmond, New York. The applicant requests relief from the following Zoning Code Article: Chapter 200 Article IV Section 200-16F for an Area Variance for relief of 60' setback to add 4 more storage units to the southside of the existing units. Tax Map#135.20-1-13.112.

Mabel Storke made a motion to open the public hearing at 7:09pm. Andy Evenski seconded the motion; All were in favor.

David Boyers says he owns both properties that are connected. David says there is a cement slab there currently and wants to add more storage units.

Mabel Storke asked David Boyers if the 4 storage units would be on the existing slab. David Boyers said yes.

Wayne Ohl mentioned there are five factors in granting or denying an Area Variance, including change of character of neighborhood, substantial request, similar properties, and self-created hardship.

The variance request to add to a building that is currently a non-conforming pre-existing structure. The addition would be no closer than the existing structure.

Mabel Storke made a motion to close the public hearing at 7:14pm. Andy Evenski seconded the motion; All were in favor.

Mabel Storke made a motion to grant the application. Andy Evenski seconded;

Vote was as follows:

	<u>AYE</u>	<u>NAY</u>
Chairman: Wayne I. Ohl	X	
Member: Mabel Storke	X	
Member: Jared Ransom	X	
Member: Andrew Evenski	X	
Member: Mary Beth Sauerteig (Absent)		
Alternate Member: John Goff, Jr. (Absent)		

Mabel Storke made a motion to adjourn the meeting to the May 21,2024, meeting at 7:00pm, and to adjourn the meeting at 8:09pm; Andy Evenski seconded the motion; All were in favor.

The next meeting of the Town of Richmond Zoning Board Appeals will be held at 7:00pm on Tuesday, May 21, 2024.

Respectfully submitted,

Alycia James, Secretary