

Ready to sue

Rivendell loses ZBA appeal, threatens lawsuit

In the wake of a denied zoning appeal, Rivendell Winery plans to file an Article 78 lawsuit against the Town of New Paltz, owners said last week.

It's safe to say that Susan Wine, who co-owns the winery with her husband Robert Ransom, believes that the Zoning Board of Appeals' (ZBA) decision was more than unfair.

A press release distributed by Rivendell last week said that the ZBA had "declared war on farmers" by upholding building inspector Tom Wiacek's original decision.

Wiacek decided the proposed New Paltz-relocated Rivendell would not constitute an agricultural use under town law. Zoning law says that a property must get a special exemption from the town assessor to be considered agricultural.

In November, assessor Michael Dunham wrote that "the land under the existing house, if used for retail and processing of crops... would not be eligible for the exemption."

Because Rivendell plans to make and sell wines, and run its main office out of a house at 507 Albany Post Road, Wiacek decided that town law wouldn't

(Continued on page 16)

allow it.

"Basically, the finding was that the building inspector had to base his decision on town code – and he did that," ZBA chairwoman Linda Donovan said.

Last week the ZBA voted unanimously to deny Rivendell's appeal of Wiacek's decision. However, those votes came with another solution for the vintners.

"Now we also felt that there were weaknesses in the code, and in order to correct them the appellant should go to the town board," Donovan said.

The ZBA chair said the press release's angry tone and the Rivendell owners' reaction was "very unfortunate," and she stressed that the legal changes needed to go through the town board.

While Wine said that Rivendell would also try to lobby the town board to change the law's definition of agriculture, she wasn't too hopeful about that process after the ZBA's denial.

"Do I have faith in it? I don't have faith in anything anymore," she said.

Wine also accused town officials of basically ignoring the substance of the testimony in support of moving the winery from Gardiner to New Paltz.

"This was a decision that could have been made on the first day," she said.

Three of the zoning board members had said they favored Rivendell's proposal on December 11, but all five of them ultimately voted to deny the appeal on December 18.

This turnaround left Wine confused.

"I left (on December 11) thinking, 'this is great – if they all vote 3-2, this is great,'" she said.

Wine called the sudden change of heart "pretty fishy." "How can five of them come in in lock-step?"

While the winemakers' press release accuses the ZBA of holding a secret meeting that changed the vote, Chairwoman Donovan said those charges were false.

"It's absolutely illegal," Donovan said. "That certainly was not done."

As of press time, Rivendell had not yet officially submitted an Article 78 challenge to the ZBA decision. However, Wine added: "Obviously, we're going to have to move on this immediately."

Wine and Ransom have maintained that their proposal meets state requirements for agricultural use under a law defining farm wineries.

Currently, town law does not mention the special wineries – which, with a special state liquor permit, can sell and make wine made from New York State-grown grapes from an agriculturally zoned lot.

– Mike Townshend