

Town of Marcellus
PLANNING BOARD
22 East Main Street
Marcellus, New York 13108

Date: September 4, 2025

Present: Chairperson Jerry Wickett, K. Carroll, Chris Christensen, Ron Schneider, Scott Stearns, Mark Taylor, and Holly Tufenkjian

Absent:

Town Counsel: James Gascon of Costello, Cooney, and Fearon

Town Engineer: Joe Durand of TDK Engineering

Codes Officer: John Houser

The Planning Board of the Town of Marcellus met in regular session September 4, 2025 at 6:30pm in the Marcellus Town Hall located at 22 East Main St., Marcellus, New York.

SITE PLAN – MODIFICATION

Cherry Valley Development & Jeremy Randall

2532 Cherry Valley Tpk.

Jeremy Randall was present to continue discussions from the August ZBA meeting regarding his Special Permit application for a clay studio located at 2532 Cherry Valley Tpk. At the August meeting Chairman Wickett asked Mr. Randall to complete a Site Plan modification application to include hours and days of operation, class size, and exact dimensions of the wall sign. The Board will classify the application as an indoor recreational activity which was interpreted as such by the Codes Officer John Houser, and, this application will serve as the Site Plan modification and Special Permit for the clay studio. Chris Christensen noted that if parking is moved or expanded from the original site plan, the drainage plan may need to be modified to properly handle stormwater runoff.

Kathy Carroll made a motion to approve the Site Plan Modification as submitted and Scott Stearns seconded. The motion carried with the following vote:

J. Wickett, K. Carroll, C. Christensen, R. Schneider, S. Stearns, M. Taylor, H. Tufenkjian – AYE

PUBLIC HEARING - SITE PLAN MODIFICATION

Tim's Pumpkin Patch – Tim & Erica Leubner

2901 Rose Hill Rd.

A public hearing was held for a site plan modification for Tim's Pumpkin Patch. Tim and Erica Leubner were present to discuss the application. The modification includes the addition of a brew barn, future pavilion, future retail structure, deck on an existing barn, entertainment stage, future

restrooms, and proposed tent. Chairman Wickett asked the Town Engineer Joe Durand to give an update on their review. Mr. Durand summarized the latest review findings and stated he has worked with the Leubner's and their team to clean up some of the administrative items needed. They are still waiting for the final septic approval from the Onondaga County Health Department to finalize the survey and site plan. The shared access easement with the adjacent lot will be added to the survey. Chris Christensen noted that trees should be added to the North end of the parking lot for screening and the details listed in the driveway permits should be followed with regard to traffic flow.

Chairman Wickett asked Town Counsel James Gascon to add his remarks prior to opening for public comments. Mr. Gascon thanked the Boards and the community for their attendance at the meeting. Following is a summary of the comments:

This is a particularly challenging project from a legal standpoint. New York State Agriculture and Markets have passed a number of statutes that indicate that the state of New York strongly supports agricultural use of property. Under section 301 of the AG & Markets law, they afford farmers the opportunity to expand their farms to include agritourism. The expansion of the farms to include agritourism is to help promote and support the farm from a financial standpoint and give the farmers an opportunity to expand what it is that they offer to the local community. In juxtaposition to the Ag & Markets law is the authority that the local Town or Municipality has to enforce its zoning rules and regulations. Those two goals do not always harmonize and are, at times, in conflict. We have attempted to harmonize these two important legal principles so that the applicants can accomplish their goals while at the same time, the Town ensures the safety of the patrons who visit the facility as well as the health, welfare, and safety of the nearby residents. I was asked why the Town shut down the Leubner's Pumpkin Patch and their outdoor concerts. I, as the attorney for the Town of Marcellus have been appointed the local prosecutor for code violation. I first became aware of the use of the old barn whereby alcoholic beverages were served to the general community and the general public was permitted into the barn. The barn is old, and had not been modified for public occupancy. In my opinion, there was a potential for a fire hazard, and I encouraged the Town Code Enforcement officer to issue a notice of violation. To the credit of the Leubner's, they cooperated with our requests. In fact, they have cooperated with the Town and all of the Town Boards in every way that they possibly can. As a result of the cooperation, we withdrew the notice of violation, and the Leubner's agreed to not use the barn for public occupancy until the proper modifications could be made. To my knowledge, the Town Code Enforcement Officer indicates that the Town and State building code requirements have been satisfied, as well as a life safety code review has been done. I would like to reiterate that this was not the action of any of the Town Councilors or the Planning Board or the Zoning Board of Appeals. The Leubner's plan as you can see is complex. They submitted a comprehensive site plan, and their original application was for a Planned Unit Development, a PUD. The Planning Board reviewed their application for a PUD and denied the application with the recommendation that the more appropriate application would be for a Special Use Permit. The Planning Board felt that a PUD is more accurately designed for multi-ownership, multiuse purposes. A perfect example of that would be Township 5 in Camillus that has residential, has medical, has restaurants, has a gas

station and has Costco. Again, the Leubner's agreed to comply with the Town's request and have now submitted a Special Use Permit application.

A PUD is a change in the zoning law, and it requires the law to be changed through the legal process. The benefit of a Special Use Permit is that it is flexible. It can be modified without a change in the local law. It can be changed upon the application of the Leubner's and by a simple resolution of the Zoning Board of Appeals.

The Leubner's have stated that they have gone through a tremendous amount of expense hiring professionals, including architects and engineers, to design what they believe to be a state-of-the-art facility. I agree with that. There have been a significant amount of delays. Part of those delays is due to the cutting-edge legal issues that are involved in this particular project. To their credit, they have modified their Site Plan and their Special Use Permit on a number of occasions through the advice that they've received from their engineers, their architects, and from multiple reviews by the Town engineers. The latest Site Plan was submitted on 07/22/2025. The latest Special Use Permit was submitted on 08/21/2025. As the Boards know, the Town Engineer has also indicated that there are still some additional items that are required.

I am not on Facebook, so I was chagrined and disappointed to hear negative hyperbole about the Town Councilors, the Town Supervisor, and these two Board were posted to social media. I can tell you from the inside that the Town Councilors on this Board have since the inception of this project, been generally in favor of the project. It is everyone's right to criticize the Town Councilors and the Town Board and these Boards, but that criticism is not based on the facts as I know them. I'll close my remarks at this point.

Chairman Wickett opened for public comments on the Site Plan Modification application and stated the Town had received 76 emails in support of the entire project and are on file with the applications. The following spoke in favor of the Site Plan Modification; Dan Mathews from Solvay NY, James Baleno from Lakeland NY, Mark Olsen from Fairmount NY, Cynthia Pileski from Rockwell Rd. Marcellus, Chris Pollock from Rose Hill Rd. Marcellus, Art Gladstone from Syracuse NY, Vaughn Anna from 2940 Rose Hill Rd. Marcellus, Emily Duckett from 3319 Rose Hill Rd. Marcellus, Dave Gardner from 2866 Rose Hill Rd. Marcellus.

Chairman Stearns opened the ZBA meeting for public comments on the Special Permit for outdoor concerts. Erica Leubner stated they understand the difference between live music as part of their farming activities which is allowed under the AG & Markets Law and outdoor concerts which are not part of the farm operations. The following spoke in favor of the Special Permit for outdoor concerts; Steve Walker from 3930 Aquinnah Hts. Marcellus, Mark Olsen from Fairmount NY, Matt Wilcox from Rose Hill Rd. Marcellus, Eric Newman from Limeledge Rd. Marcellus, Adam Cole from Syracuse NY, James Baleno from Lakeland NY, Anthony Dubar from Marietta, Kendra Duggleby from Cleveland NY.

Chairman Wickett made a motion to close the public hearings and Kathy Carroll seconded. The motion carried with the following vote:

J. Wickett, K. Carroll, C. Christensen, R. Schneider, S. Stearns, M. Taylor, H. Tufenkjian – AYE

Chairman Wickett asked the Board to review SEQR-Long form. Changes are as follows:

- B.(c) – add Onondaga County Planning to the yes column.
- D.1.(g) – change from no to YES.
- D.2.(e)(ii) – add gravel to sidewalks.
- E.2.(h)(iv) – correct spelling from Westland to Wetland.
- E.2.(o)(i) – change no to YES and add Bats.

Chris Christensen made the motion that based on the information and supporting documentation the project will result in no significant adverse impacts on the environment, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued. Kathy Carroll seconded, and the motion carried with the following vote:

J. Wickett, K. Carroll, C. Christensen, R. Schneider, S. Stearns, M. Taylor, H. Tufenkjian - AYE

Mr. Gascon stated the Town must weigh AG & Markets law, and they must weigh that in association with local time, place, and manner restrictions. The Town is allowed to impose these restrictions as long as these restrictions do not unreasonably restrict farming activity and Mr. Gascon believes this resolution accomplishes this task. Mr. Gason added these restrictions do not apply to live music indoors, or live music outdoors as long as it's not a concert.

**AMENDED SITE PLAN
APPROVAL AND SPECIAL USE PERMIT
FOR TIM'S PUMPKIN PATCH, LLC**

**JOINT RESOLUTION OF THE
MARCELLUS PLANNING BOARD
AND ZONING BOARD OF APPEALS**

Dated: September 4, 2025

The Amended Site Plan Resolution was moved by Board Member Gerard Wickett, and seconded by Board Member Ronald Schneider.

The Resolution approving the Special Use Permit was moved by Zoning Board of Appeals Member Scott Stearns, and seconded by Zoning Board of Appeals Member Ronald Schneider.

Historical Background

Tim's Pumpkin Patch began in 1986 when Tim and Erica Luebner planted pumpkins on the family farm. Since that time, the family owned and operated farm has become a locally popular facility offering integrated food, beverage, farm, and entertainment concepts. This agritourism farm has

flourished in the local Marcellus community and is on an approximate 36-acre parcel located at 2901 Rose Hill Road, Marietta, New York 13110, with tax map parcel No. 22-01-2.1.

This matter was originally presented to the Town of Marcellus by way of an Application for the establishment of a Planned Unit Development “PUD” dated September 22, 2022. Following several amendments, multiple appearances, and engineering review, the Town Planning Board issued a Resolution dated July 1, 2024 recommending to the Town Board that the PUD Application be denied and that the Leubners apply for a Special Use Permit to better achieve their stated goals. Said Planning Board Resolution is incorporated, in its entirety, herein by reference.

The Current Proposal

Through this Application, the Leubners desire to expand the farm operations to include a combination brewery facility and entertainment venue.

Accordingly, the Applicants submitted to the Planning Board an Application to Amend the Site Plan, last revised July 22, 2025, and Application to the Zoning Board of Appeals for a Special Use Permit, last received by the Town dated August 21, 2025.

Among other things, the Amended Site Plan and Special Use Permit call for expansion of the facility to include:

- A proposed brew barn of approximately 3,100 square feet;
- A future 60’ x 60’ pavilion;
- A future 45’ x 45’ food retail structure;
- The addition of a 20’ x 40’ deck on an existing barn;
- A proposed entertainment stage approximately 20’ x 45’;
- Future restrooms 20’ x 20’; and
- Proposed 20’ x 40’ tent.

The Special Use Application requests Town approval to permit periodic outdoor music events.

WHEREAS, the property in question is located in an A-1 zone; and

WHEREAS, the property is located in a New York State Certified Agricultural District as granted by the New York State Agriculture and Markets Department; and

WHEREAS, the New York State Agriculture and Markets Laws (“AML”) are designed to encourage marketing activities, such as parties and special events provided said uses are subordinate and incidental to the farm and brewery operation pursuant to AML § 301 (11); and

WHEREAS, the AML permits local municipalities to impose time, use and manner restrictions on said activities provided said restrictions do not unreasonably restrict the farming and brewery operation; and

WHEREAS, a public hearing was held on September 4, 2025 to consider the aforementioned Applications; and

WHEREAS, a long form SEQR was submitted, and a negative declaration was determined such that the Planning and Zoning Board of Appeals Boards found that there would be no adverse environmental impacts from this project; and

WHEREAS, this matter was referred to the Onondaga County Planning Board with a finding that no adverse county-wide or intermunicipal impact is likely to result from the proposed Applications; and

NOW, upon the careful review of the proposed Amended Site Plan and Special Use Application, upon engineering reports, and all documentation submitted to the Board, and upon due deliberation, it is therefore

RESOLVED, the Amended Site Plan, subject to satisfactory final completion, and Special Use Permit Application are granted with the following use restrictions:

- Outdoor music events are limited to no more than six (6) events per annum, between May 1st and October 31st, and no more than two (2) events in any single month. Outdoor music events are defined as outdoor concerts with amplified music or with three or more vocal or acoustical instruments.
- Outdoor music events are limited to no more than 1,000 guests with no more than 421 vehicles.
- The facility is to be operated at all times in compliance with the Town Noise Ordinance § 235-26 G (2) and the Town Outdoor Concert Law § 235-12 B (3).
- All outdoor music events are limited between the hours of 11:00 a.m. – 9:00 p.m.
- The special events conducted at this facility are to be subordinate and incidental to the farming and brewing operations so as to be fully compliant with AML § 301, et al.

- Proper financial records must be kept to ensure compliance with the Agriculture and Markets Law, and the Town reserves the right, upon reasonable notice, to review said financial records to ensure compliance on an annual basis.
- All lighting is to be restricted such that motorists on Rose Hill Road, and neighboring properties are not adversely affected.
- The northern most driveway to the facility will be limited as a right turn entrance only.
- Prior to occupancy of the existing barn by patrons, the Applicants must establish to the satisfaction of the Town Code Enforcement Officer that said barn is in compliance with all Town and State building code requirements, and in compliance with a Life Safety Code review, and structural engineering review, filed with the Town Code Office.
- During and following outdoor music events, the Applicants are required to utilize properly trained staff and/or off-duty and/or retired members of law enforcement for traffic control and staff will wear clearly marked “staff” clothing, utilize “flashlight cones,” and have clearly marked signage positioned to direct traffic safely onto Rose Hill Road. Parking areas are to be well lit and night sky compliant, and appropriate fencing/roping is required to assist with directing traffic.
- Lighting in the overflow parking lot is limited to temporary lighting that is dark sky compliant.
- The staging for outdoor music events must be located southwest per the site plan and situated to direct music to the southwest, thereby minimizing sound impacts to neighboring properties. The stage must be three (3) sided and must be buffered by haybales, or an alternative equivalent, for sound deadening purposes, as per the submitted and approved Site Plan.
- Emergency ingress and egress routes must be developed to provide a clear and safe path for attendees to exit the venue in case of emergency and for emergency vehicles such as police, ambulance, and fire vehicles, to gain proper ingress and egress during outdoor music events. These routes and emergency plan are to be submitted to the Town Code Enforcement Officer for his/her review and acceptance.
- Adequate security personnel are required to patrol the parking areas, as well as throughout the venue during outdoor concert events.
- Only “Serve Safe Certified” employees are permitted to serve alcoholic beverages to patrons to ensure that alcohol is only served to legal age and non-intoxicated patrons.
- Applicants are required to provide the Marcellus Fire Department and MAVES with an up-to-date calendar of events, with a copy provided to the Town Code Enforcement Officer, to ensure availability for any potential medical assistance needed.

- Applicants are required to submit a sound engineering evaluation of sound levels during outdoor music events with estimated reduced sound levels at 1,500 feet and 3,000 feet from the point of source. This report must be acceptable to the Town Code Enforcement Officer, prior to any outdoor concerts.
- Applicants are to submit to the satisfaction of the Town Code Enforcement Officer plans for the adequate provision of toilets and bathroom facilities, prior to any outdoor concerts.
- Applicants are required to submit a plan for the planting and maintaining of buffer trees/vegetation to the north of the property, which shall be acceptable to the Town Code Enforcement Officer.

The approval for the Amended Site Plan Application is granted subject to the applicants submitting the outstanding deliverables as noted in the Town Engineer's Report of August 29, 2025, on or before September 18, 2025, was put to a roll call vote with the outcome as follows:

Member	Kathy Carroll	Voted	Yes
Member	Chris Christensen	Voted	Yes
Member	Ronald Schneider	Voted	Yes
Member	Scott S. Stearns	Voted	Yes
Member	Mark W. Taylor	Voted	Yes
Member	Holly Tufenkjian	Voted	Yes
Chairperson	Gerard E. Wickett	Voted	Yes

The foregoing Resolution for the Special Use Permit was put to a roll call vote with the outcome as follows:

Member	Kathy Carroll	Voted	Yes
Member	Chris Christensen	Voted	Yes
Member	Ronald Schneider	Voted	Yes
Member	Gerard E. Wickett	Voted	Yes
Chairperson	Scott S. Stearns	Voted	Yes

Resolution duly adopted.

Dated: September 4, 2025

SUBDIVISIONS – Preliminary

Jackie Clary	Anthony Dubar	Dean & Mary DeSantis	James Brown
2634 St. Rt. 174	2614 Abend Pt.	2620 Abend Pt.	2632 Abend Pt.
3-lot	1-lot	1-lot	1-lot

Anthony Dubar returned to continue discussions from the July 2025 meeting regarding the proposed subdivisions. Mr. Dubar submitted a preliminary survey and subdivision applications to proceed with the process to subdivide. Jackie Clary is subdividing three (3) lots from her property

which will then be added to the Dubar's, DeSantis', and Brown's current lots off of Abend Point. The following was discussed with Mr. Dubar:

- The survey should include a legend to identify all of the markings. Some of the dotted lines seem to fade in and out around the lake.
- Chris Christensen has concerns about the water coming off of the property. The map should include contours, pipes, streams, or water courses on the property and indicate where the water is being discharged.
- The dimensions on all of the houses and accessory buildings should be shown as well as the dimensions to the lot lines.
- The 30 foot right of way is written in all of the deeds.
- There is a hardship provision to the five (5) year moratorium that may be explored if needed.
- Chairman Wickett stated the subdivision applications can move to public hearing for October as long as the survey is updated as requested.

MINUTES

Chairman Wickett made a motion to approve the August minutes as written, Scott Stearns seconded. The motion carried with the following vote:

J. Wickett, K. Carroll, C. Christensen, R. Schneider, S. Stearns, M. Taylor, H. Tufenkjian – AYE

Chairman Wickett made a motion to adjourn the meeting and Scott Stearns seconded. The motion carried with the following vote:

J. Wickett, K. Carroll, C. Christensen, R. Schneider, S. Stearns, M. Taylor, H. Tufenkjian – AYE

The meeting adjourned at 8:45 PM.

Respectfully submitted,
Joanna Clarke
Secretary