

Town of Cazenovia Planning Board

Meeting Minutes

February 6, 2025

Members Present: Robert Ridler, Chairman; Anne Ferguson; Linda Cushman; Dale Bowers; Thomas Clarke; Mary Margaret Koppers; Jerry Munger, Alternate Member

Members Absent: Roger Cook, Alternate Member

Others Present: John Langey; John Dunkle; Susan Kennedy; Timothy Kennedy; Matthew Vredenburgh; Doug Jarvis; Eric Jerabek; Peter Muserlian Jr; Chris Montante; JoAnne Gagliano; Rick Ruggaber; Adam Walters, Esq; Brody Smith, Esq; Charles (Sam) Woods; Gail Azeredo-Woods; JoAnne Race; Bruce Race; Nancy Frisbey; Robert Cowan; Berta Keeler; Brian Keeler; Thomas Anderson; Marc Schappell; Keith Frisbey; Glen Edelstein; Jonathan Brodock; Sharye Skinner; Sarah Webster; Sheila Fallon; Kelli Johnson

R. Ridler called the meeting to order at 7:30 P.M.

Roll was taken. Jerry Munger was a voting member for the proceedings.

The next regularly scheduled meeting will be Thursday, March 6, 2025.

The next deadline day will be Wednesday, February 19, 2025.

The next regularly scheduled work session will be Thursday, February 27, 2025.

Motion by A. Ferguson, seconded by M. Koppers, to approve the January 2, 2025 meeting minutes was carried unanimously.

R. Ridler asked that everyone sign the attendance sheet. He also asked that during the time for the public hearing, anyone wishing to speak would approach the Board, give their name and address for the record, and that comments would be to the point. He also asked that those wishing to comment would avoid repeating comments that have already been stated by previous speakers.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

*Kennedy Enterprises 1, LLC – Site Plan Review – 3172 West Lake Road, Cazenovia
File # 24-1528 (Robert Ridler)*

Timothy and Susan Kennedy were present to represent the application as was Matthew Vredenburgh.

R. Ridler asked Mr. Vredenburgh to report on the status of their application.

M. Vredenburgh explained that at the Planning Board work session they had reviewed the letter that was received by the Cazenovia Lake Association Executive Committee which expressed concerns about vegetation that was removed near the shoreline in a wet area at the Kennedys' residence last year. The Kennedys received a cease and desist order which they obeyed and they began the process with the Planning Board to determine what mitigation would be required.

M. Vredenburgh elaborated that he had met with David Miller of the Cazenovia Lake Association Executive Committee and they discussed some mitigation options and Mr. Miller agreed with the following items proposed:

1) Eight (8) trees were proposed at the shore and 14 grey dogwoods, all container grown. The plants would be located in the spring, after the snow has melted.

M. Vredenburgh reported that 47 trees remain within 100 feet of the water, and they wanted to make sure everything will be “properly coordinated.” He offered to elaborate on the items he was listing, but he would summarize the proposed actions.

2) A site visit would be scheduled in the spring with a representative from the Lake Association and anyone else wishing to go. The Lake Association was concerned that

there might be impact to the stream from the removal of the dead and dying ash trees. The visit would assess whether stream restoration would be required.

A. Ferguson asked if Mr. Vredenburg anticipated returning to the Planning Board with a plan specific to the stream in the spring.

M. Vredenburg assured her he would if restoration were necessary.

R. Ridler believed the New York State Department of Environmental Conservation (DEC) would also be meeting on site.

M. Vredenburg responded that was correct. He said he would invite the Lake Association, the DEC, the Cazenovia Area Conservation Commission (CACC), and the Cazenovia Town Planning Board the end of March or beginning of April. He mentioned he had spoken with the DEC this week about this project. He elaborated that Thad Yorks would be involved as a biologist and Melanie Kukko was the DEC agent in the office.

3) During the site visit, they will assess the emergent vegetation in the wetland to determine to what extent they should supplement and if the number of plants proposed would be sufficient. If they needed to supplement, they would install bareroot seedlings in the wetland – 30 – 60, or however many are found to be necessary.

4) Because they are planning a house addition, there may be impacts to the small drainage ditch that runs through the property, so they would provide an erosion and sediment control plan to ensure sediment does not impact the stream or lake as a result.

5) The DEC will be contacted (as he previously mentioned) to be involved in the process (and any necessary permits will be obtained prior to the start of work).

6) The Applicants agreed with the Lake Association's request that no fill will occur in the wetland and no portion of the wetland will be converted to lawn.

A. Ferguson asked if the items mentioned were in response to the letter Mr. Miller wrote on behalf the Lake Association Executive Committee.

M. Vredenburg replied, "That's right."

A. Ferguson asked if Mr. Vredenburg would provide a document showing Mr. Miller's concurrence with the listed items.

M. Vredenburgh offered to have Mr. Miller sign the document he prepared as a submission to the file.

D. Bowers asked if there might be a reason the Board would not agree with the Lake Association's letter, pointing out the Lake Association was not a Town-sponsored organization.

A. Ferguson asked if the CACC had opined regarding Mr. Vredenburgh's proposal.

R. Ridler had spoken with Paul Curtin, the Chair of the CACC, and he asked Mr. Curtin to have his committee evaluate this plan. Mr. Curtin agreed and said he would provide the Board with a letter after reviewing it with Mr. Curtin's board. He said the Board would certainly keep the CACC involved in the resolution of the mitigation.

D. Bowers asked Mr. Vredenburgh how many trees would be replaced.

M. Vredenburgh repeated there were 47 trees remaining in the area and eight (8) new trees would be added.

D. Bowers asked the size of the eight (8) trees.

M. Vredenburgh answered, "Definitely large." He said they would be river birch and swamp white oak.

A. Ferguson asked if that would be done in the spring, at the same time as the stream work would be proposed, noting Mr. Vredenburgh would need to return to the Board for that plan.

M. Vredenburgh responded they would visit the site with the items proposed in hand, and if this plan meets everyone's satisfaction, they would proceed as proposed, or if it was determined additional measures would be needed, those would be added.

A. Ferguson asked if she understood correctly that only eight (8) trees would be planted by the lake, and everything else was dependent upon the site visit in the spring.

M. Vredenburgh affirmed that was accurate but offered to "lock into a number of bareroot seedlings right now, if that would make people happy." He said they could reduce that number if it were found the agreed number was unnecessary.

R. Ridler said that would be based upon the analysis at the site.

M. Vredenburgh replied, "Right." He explained they would not want to remove wetland vegetation to install wetland vegetation.

R. Ridler expressed agreement.

T. Clarke asked if trees would be planted along the northern boundary where trees were removed. He noted there were no plantings for that area of the site on the plan submitted for the nine (9) trees that were cut.

M. Vredenburgh understood those trees had been in a wooded area.

T. Kennedy responded that those trees were unhealthy and “pretty far from the lake.”

S. Kennedy believed those were approximately 100 feet from the lake.

M. Vredenburgh described the location as an upland area where there was already “a lot of vegetation.” He explained views were not improved by any of the tree removals. He said the work was to remove the dead and dying trees and the other litter that was in the area.

T. Clarke believed a letter should be sent from the Code Enforcement Officer to the company who had cut the trees. He asked how would the Board know if only dead trees had been removed. He believed the company that had been used mainly put in docks and was not a company of arborists.

S. Kennedy said River Rock Dock was the company used.

T. Clarke added the trees were cut before they had leaves, so perhaps the company had cut some that were not dead or dying. He explained this company does a lot of work around the lake he did not want them to routinely cut trees at every site.

The Board agreed to have Mr. Ladd write a letter.

D. Bowers asked that consideration of the *Lakefront Development Guidelines* also be given regarding trees removed in the first 20 feet, as well as 40 feet from the lake. He noted the *Guidelines* were that three (3) trees replace every one (1) tree that is removed. He felt those numbers were created for a reason and thought those *Guidelines* should be considered regardless of whether the Lake Association felt that number was not needed.

A. Ferguson asked what was the Board being asked to approve this evening.

R. Ridler answered the Board was allowing the Applicants to move to the next step which would be meeting on site with the DEC, with a Lake Association representative, and with Planning Board representation to develop and implement the final plan.

M. Vredenburg said they would also be allowed to move forward with the house addition (beginning with a proposal with the Cazenovia Town Zoning Board of Appeals [ZBA]).

The Board expressed understanding and agreement.

Motion by T. Clarke, seconded by M. Koppers, to continue the file was carried unanimously.

*Hoffman, Tyler – Site Plan Review – 5649 East Lake Road, Cazenovia
File # 24-1547 (Dale Bowers)*

No one was present to represent the file.

D. Bowers said he left a voicemail for Mr. Hoffman informing him the Board still needed the Army Corp of Engineers (ACOE) approval (for remediation work in the wetland) and informed Mr. Hoffman he need not attend this evening (since that was still pending). He had not received a response from Mr. Hoffman, and Mr. Hoffman was not in attendance.

Motion by D. Bowers, seconded by A. Ferguson, to continue the file was carried unanimously.

*Duke, Spencer & Danielle – Site Plan Review – 4310 Route 92, Cazenovia
File # 25-1565 (Robert Ridler)*

Doug Jarvis of Landscape Authority was present to represent the file.

R. Ridler asked Mr. Jarvis to explain the details of the application.

D. Jarvis explained he was the contractor this property which he described as “a wet spot.” He said they have a plan to remedy that condition with a few steps. He elaborated that many trees were removed already, and their plan was to properly “clean up” the site.

R. Ridler asked what was involved in the plan that has been created.

D. Jarvis answered the site suffers from major water shed issues from the road and currently, for the past two (2) decades, the driveway has funneled water to the garage and to the front door of the house, so they propose to install a trough drain in the driveway in front of the garage doors, as well as creating a step up before the front entrance to the house, changing elevations so the water will shed where they want it to go. He said they would also create a drainage retention pond, holding 2000 – 2500 gallons, that would accept the trough drain water and keeping it from flowing across the lawn.

A. Ferguson asked the diameter of the proposed pond.

D. Jarvis approximated it would be 10 – 15 feet. He explained there were structures there, so the pond would be “nicked in to what the property already has.”

L. Cushman said it was her understanding that the pond feature might not be done “right away.”

D. Jarvis affirmed that was “possibly true.” He said however, if the Board approved it, it might “move forward right away.” He added the pond would also have an overflow.

L. Cushman believed some drain tile was proposed in the rear section of the property.

D. Jarvis explained that was an area where it was “impossible to walk on,” as it now is. He said the trees have been removed in this area so it could be made into lawn. He said perforated drain pipe would be used there, 6 – 12 inches underground.

D. Jarvis said the property also suffers from property line swales that have not been maintained. He said that would “be tidied up as well.”

R. Ridler asked John Dunkle to comment.

J. Dunkle clarified that this was about manipulating drainage on one private property and explained the Board must be sure that whatever manipulation is done, it will not affect adjacent properties. He suggested an approval be contingent upon the site being inspected by himself and Mr. Ladd to ensure the proposals will not detrimentally impact the neighbors and before a permit is issued.

D. Jarvis agreed and stated Mr. Ladd and he had met twice on site to review the entire proposal, and Mr. Ladd had expressed his approval of the measures planned. He elaborated about the property swale conditions.

J. Dunkle spoke about the necessity of redirecting or concentrating water flow so it does not exacerbate the situation for surrounding properties.

D. Jarvis spoke about the benefits of the proposed pond area.

A. Ferguson asked if grading changes had been considered.

D. Jarvis answered there would be grading changes but explained there was slight slope already, but he felt the biggest grading issues were the swales because water was not draining to the edges of the property.

L. Cushman explained where this property and the swale were located in relation to a proposal reviewed by the Board at the last meeting, the Bargaboses' properties.

R. Ridler asked if Mr. Jarvis has talked to the neighboring property owners.

D. Jarvis believed the swale may belong to Mr. Silverman who is a member of the ZBA and described the condition of the swale and how that was affecting the movement of water and debris to that property. He offered to meet anyone at any time on the site.

T. Clarke asked if the Board intended to continue the file until Mr. Dunkle had a chance to visit it after the winter.

L. Cushman thought a conditional approval could be given allowing Mr. Dunkle and Mr. Ladd to visit the site when weather permitted prior to an issuance of a permit.

J. Langey said he would articulate that the approval would be conditioned upon a subsequent visit and sign-off by the Code Enforcement Officer and the Engineer for the Town in regard to this improvement. He repeated a permit would need to be issued before commencement of the work.

J. Langey said this would be a Type II Action in regard to the State Environmental Quality Review (SEQR).

L. Cushman noted the General Municipal Law Recommendation Request (GML) had not been received from the Madison County Planning Department.

J. Langey responded the Board could not act until the GML has been received or until 30 days have passed since it was requested.

Motion by L. Cushman, seconded by D. Bowers, to continue the file was carried unanimously.

R. Ridler explained that Mr. Jarvis needed to attend the next meeting to complete the process.

D. Jarvis assented.

HEARINGS

*EBAC, LLC/Owera Vineyards – Site Plan Review – 5276 East Lake Road, Cazenovia
File # 22-1428 (Robert Ridler)*

Adam Walters, Esq of Philipps Lytle, LLP, and Jo Anne Gagliano, RLA of Environmental Design & Research were present to represent the file. Peter Muserlian, Jr., Christopher Montante & Rick Ruggaber of Pemco Group, Inc, were also in the audience.

A. Walters said there was an extensive discussion during the meeting last month, and the Board had requested additional documentation for several issues, and because the application has been “pending for so long, the traffic letter was updated, the noise was confirmed to be incorporated,” so their submittal for January included that and other documentation. He said the Board now has an updated list of site plans, updated plans, and “confirmation from the Acoustical Engineer that all acoustical design elements from their analysis have been incorporated into the building design.” He stated there was also an updated storm water plan, confirmation there will be adequate water and wastewater capacity, and an updated traffic analysis. He said those were the supplemental items that had been requested and all those items had been supplied.

J. Gagliano stated there were no significant changes from the site plan initially proposed in the 2022 application, and those details were reviewed recently. She offered to review those items again if the Board wanted more information regarding the design components. She reminded the Board the project would include replacement of the tent with a building; walkways were designed to accommodate exiting from the rear of the building to help with the sound; there would be buffers from the parking lot with fencing; there would be buffers from the roadway with evergreen trees – both along the drive and along the front of the property; a new pump house for irrigation would be constructed near the existing ponds; and there would be lighting changes to replace the existing lights with current, dark-sky compliant lights as well as wall sconces for the building.

R. Ridler acknowledged receipt of the responsive and extensive document prepared in response to the last Planning Board meeting and expressed appreciation for the information. He felt Mr. Dunkle needed some additional details for some items contained in the submission.

J. Langey believed Mr. Dunkle just needed to confirm information in the submission.

J. Dunkle elaborated there were some quantifications for water usage, sewer generations, and stormwater that were necessary when the project has advanced to the SEQR review process.

A. Walters expressed understanding.

J. Gagliano responded that the engineers confirmed with letters in the most recent packet and said to let them know if the Board needed anything more.

A. Walters said they had been given some letters from the public that the Board has received regarding the project, and during the public hearing this evening, they will hear more comments to which they will respond in a February submittal.

J. Langey reminded Chair Ridler that the Noise Consultant hired on behalf of the Town still needed to submit his report for the minor changes in the building design recently submitted.

J. Gagliano clarified that the Consultant for the Town was asked to confirm that the building and its latest details will be constructed in the way documented in his original report. Their Sound Engineer has submitted a letter regarding his assessment which was included in the latest packet of information, so now it was the Town's Consultant who still needed to respond.

A. Walters repeated that they will be happy to supply any other technical information needed.

R. Ridler explained the lengthy process this application has undergone so far for the construction of a building, stating several communications have been received from the public asking about issues that are not in the Planning Board's purview. Because of those inquiries, the Board must now obtain information from other sources and entities before a decision can be made. He showed the size of the physical file to illustrate the completeness of the record which included all the communications received from the public and which he said have been reviewed by the Board. He invited the public to review the record at their convenience as well.

Motion By T. Clarke, seconded by A. Ferguson, to open the public hearing was carried unanimously.

R. Ridler invited public comment at this time, requesting those speaking to come forward and to identify themselves and where they reside for the record.

The first to speak was Gail Azerado-Woods who read a letter written by her neighbors, Cindy and Glen Edelstein of 5490 East Lake Road, who live at the street level south of Owera. Ms. Woods said, "All the sound and activity from Owera comes to their back yard." She then read, "My family and I have been adversely affected by Owera since they opened for events years ago. This past summer offered us the reprieve in the disruptive noise we have been experiencing for so many years, but as homeowners in a residential neighborhood we deserve year-round. We have established the issues of

loud music, the booming base, the cars, the ridiculously bright lights. What I am also talking about is the lack of adherence to the concessions required by the Town, for example the tent flaps are never down during events; the sound system is also used for the officiant and vows and is quite loud. So loud we can hear the officiant and the vows from our deck, and I mean every word. We can also hear the toasts, along with the glasses clinking, and then of course the DJ, which is even louder. The music never stops before 10:00pm, and then the guests are never gone until after 11:00pm. With every event, the music and noise is even louder as the summer goes by. My family is forced indoors, unable to enjoy our yard or deck on the weekends due to the multiple events. But what I am stressing is Owera's lack of cooperation with concessions that is required of them and is never enforced by the Town. Two or three years ago our well ran dry in the middle of the summer. We were forced to replace our well pump. What I wasn't aware of was that same summer our neighbor Maggie Borio also had her well run dry, and she had to install water tanks in her basement because she did not want to drill for another spring. We are not the only ones, and we are pretty sure Owera is tapped into our spring. Owera clearly does not care about the adverse effects on the neighborhood, and giving into them more will create a new and even larger set of problems. Cindy and Glenn Edelstein." Ms. Woods then submitted the letter to the file.

R. Ridler encouraged others to come forward to share their thoughts with the Board.

JoAnne Race of 5320 East Lake Road read from her letter saying, "To begin, we very much appreciate this Board's time spent reviewing materials and listening to neighbor concerns. The neighbors collaborated to condense our comments, and I am one speaking on behalf of this wonderful group of people here tonight. It does not quite make sense why we are all here together. This public session seems premature. Zoning, which is a critical element of this building application, has not been discussed or analyzed yet, and leads us to wonder why this particular Applicant is receiving preferential treatment. As you know, some of the obligations of the Planning Board include: addressing safety concerns, properly analyzing required zoning; following State and local requirements; upholding an approval process in keeping with the Board's own precedent on prior decisions on similar applications. Just last week, and tonight as well, the Planning Board applied *Lakeshore Development Guidelines* to an application because the *Guidelines* were relevant and appropriate to the property site and application. Please apply New York State Agriculture and Guidelines to this site application, since they are a summary of law and policies that regulate farm wineries in New York State and are wholly relevant and appropriate."

J. Race went on to say, "A wedding event center that is located in a dense – there are 34 homes within 500 feet of Owera – so a dense and highly desirable residential area negatively alters the very character of the neighborhood. Preserving a neighborhood's character is important because it maintains a sense of place, community identity, and aesthetic appeal, contributing to overall quality of life. I have experienced this firsthand since Owera stopped holding events. Our neighborhood is safer, quiet, and peaceful.

The *2030 Town Of Cazenovia Comprehensive Plan(Update)* has a section on safe and resilient neighborhoods, giving the example that, 'residents often walk or bike along East Lake Road because it serves as a connection to Town neighborhoods, the Village center, and recreational areas.' It goes on to state, 'However, the lack of pedestrian and bicycle infrastructure paired with high vehicle speeds makes this corridor dangerous. Efforts to reduce dangers for multi-modal users in the Town will improve Cazenovia's overall community health.' Additionally, the *Comprehensive Plan* has a Land Use Map with character areas section – one of those characters on rural agriculture, it lists lands to include 'Agriculture-related facilities, businesses, and operations as permitted by the New York State Department of Agriculture and Markets.'

J. Race continued, "The impacts of the last 12 years of repetitive, commercial events go far beyond amplification of music. There is increased noise from weddings held outside, noise from outdoor games and activities, people talking loud, yelling and screaming outside, obnoxious and disrespectful drivers peeling out, and excess heavy traffic, streams of lights from over a hundred cars all leaving at once, light pollution from Owera since they leave the lights on all night long during the event season. There are weekly visits by septic pumping trucks and commercial food vendor tractor-trailers to support the events. These intruding, disruptive, and repetitive factors have degraded my neighbors', my family and my own mental health. One very stressful impact was our home water well has run dry, periodically 2 – 3 times per year in years that Owera holds events, and interestingly since Owera has stopped holding events in the past 14 months, this has stopped happening to us.

J. Race concluded, "Having this year of respite from events has made it very clear that our neighborhood is not at all equipped to support the scale of business activity that Owera was conducting seasonally, and allowing Owera to be favored with a considerable expansion of non-farming, commercial activities year-round would hugely negate the character of this neighborhood and is unlawful. Owera was supported by the Cazenovia and greater Central New York community for eight years while they were supposed to be transitioning to a community farm. They received over \$2,000,000.00 in taxpayer support specific to farming activities that included withholding tax payments to our public schools, Town and County, and then they failed to uphold these agreements. This farm designation has come with many benefits for Owera, and Owera must be a farm to be sited at their current location. They certainly still have the option to pivot their operations to farming. Please collaborate with the Town enforcement systems and apply Ag & Markets law to require Owera to conduct farming activities at a scale that matches their own crop management and harvest each year, since it is your obligation to do so. Thank you very much."

J. Race submitted the letter which was signed by her and her husband Bruce, Thomas Anderson and Marc Schappell, John and Debra Richer, Robert and Kathleen Cowan, Jared and Hollie Loson, Bryan Wendell and Wendy Scinta-Wendel, Charles Woods and Gail Azeredo-Woods, Brian and Berta Keeler, and Glenn and Cynthia Edelstein.

Charles (Sam) Woods said they were trying to limit the number of people speaking and they were trying not to repeat concerns. He lives at 5211 East Lake Road, across the street from Owerá. He said as Ms. Race had stated, they were endeavoring to gather the thoughts of their community and the thoughts of their neighbors and present them as a consensus. He then read from a letter from him and his wife, Gail Azeredo-Woods, saying, "For more than ten years the neighbors of Owerá have been fighting the expansion of what we think is just an event business. In 2015 we already suspected that Owerá was primarily an event business, and we were concerned about the focus on building more and more spaces for entertainment versus actual growth of vines and making wine. While we have recognized that having a building would reduce the noise from music, it will also allow the expansion of events throughout the year, significantly impacting our neighborhood with traffic and crowd noise. It is this year-round expansion of their event business that we very much oppose.

C. Woods continued, "When Owerá came back in 2023 to the Planning Board with site plans for an event facility, we strongly suggested that the Planning Board use the template of that Supreme Court 2015 decision when thinking about approving this building for 2023. And we thought that there were many reasonable conditions with closing times at 5:00 pm on Sundays, 6:00 pm on Monday – Thursdays... was what was in that decision, and Friday and Saturday to 9:00 pm."

C. Woods was not sure how often the Board has read the decision, but he has read it at least eight (8) times, and he was amazed at the time and effort Judge McDermott spent on it. He commented that every time he read it, he discovers something new. He said there was a lot of factual information regarding Ag and Markets and other items.

C. Woods continued reading, "We supported the 2015 decision with the belief that Owerá was operating in compliance with New York State Ag and Markets laws." He said at that time Owerá was classified as a start-up winery. "During the process of review of this current 2023 plan, however, we have learned that Owerá cannot meet the guidelines for compliance with New York State Ag and Markets Laws. This included not only the grapes they are able to produce at their vineyard on East Lake Road, but also by their choice, not to buy or lease land elsewhere to meet that predominance standard." He said that was something the Applicants had stated at a Planning Board meeting. He continued, "Owerá should be held accountable to be in compliance with New York State Ag and Markets Law and be held to hosting only those events proportional to the grapes that they can produce."

C. Woods asked, "Should the Planning Board be even considering approval of this site plan given the facts that have come out during this 2023 site Plan?"

C. Woods said regarding times, "In 2014 the Town Code Enforcement Officer...Roger Cook, reviewed the hours of New York State vineyards. Many of these were in the Seneca and Cayuga Wine Trail. He found the vast majority of those wineries closed

their operations between 5 – 6 pm at night, seven days a week. Of those 60 that he reviewed, 16 – only 16 held weddings. Of the weddings lasting until 10:00 pm, none were within a residential area.” He said these facts can be read in the Supreme Court decision. He continued explaining his wife Gail took it upon herself in 2022 to again research New York State vineyards’ hours of operation and those findings are in the current file. He read, “She found very similar results. Not a single vineyard hosting weddings was located in a residential district with an agricultural overlay, like what we have, but were in districts zoned either strictly agricultural or agricultural/commercial. Not only are the hours they are requesting above and beyond the majority of vineyards, but beyond what we have in our own community with Meier’s Creek and the Distillery both closing at 9:00 pm.

C. Woods continued, “In the 2015 Supreme Court Resolution, Judge McDermott clarified the Town’s right to require conditions to protect the neighborhood. Specifically under the conditions for compliance in Ag and Markets departmental policies and the further cultivation of wines, he wrote - and this is a quote from that Supreme Court decision, ‘It is only because Oweria wishes to engage in this type of commercial activity in an agricultural residential zoning district, that it faces the obligations (the conditions that this Planning Board had established), if Oweria finds the burden of these conditions intolerable, nothing prevents it from seeking to engage in this type of enterprise within an appropriate zoning district elsewhere in the town.’

C. Woods concluded, “For 12 years, with the exception of during COVID and this past summer, when they canceled weddings... Gail and I had our summers filled with noise from events. We were especially affected by the bass from amplified music which can be heard right through the walls of our house. Sitting on the porch during one of these events...it’s not even tolerable. We have tried to deal with this through complaints to the Town and also speaking with Peter, himself – I’ve probably spoken with Peter, as he lives right next door to me, ten times. He’d go and call up to the Vineyard, they’d turn it down a little bit, and probably within 20 – 30 minutes, it was right back to where it was before. Nothing has improved or changed the situation, and this past summer without weddings was a huge relief – it was wonderful this summer. What would we as neighbors like Oweria to be? Well, we would like Oweria to be a community farm vineyard with a tasting room, and that’s what was approved in 2011, not what they are trying to get now.”

C. Woods submitted his letter for the file.

Brody Smith of Bond, Schenck, and King, PLLC passed out two handouts, one being his comments, and one being the Ag & Markets guidelines to help the Board follow his discourse. He said he represents a number of the residents living near Oweria. He said the first page of his comments shows an aerial of the area illustrating how many homes were in close proximity to this business. He roughly calculated that within 600 feet of the property lines of this business there were over 30 homes. He contended that what was

found at Owera was an event center, a café, and a tasting room. He alleged that under any other circumstances, those could not be located at this site under current zoning. He stated the only way Owera was “allowed to do what they do is by asserting an exemption from the local zoning pursuant to Ag & Markets State Law.”

B. Smith said he looked at Owera's website which stated they grow Frontenac Gris, La Cresent, and Frontenac cold-varietal grapes on the property, but comparing that to the 20 wines they advertise for sale, only two (2) claim to contain those types of grapes. He said if the only entitlement Owera had for this business, which he claimed was essentially a bar, restaurant and event center, was the assertion that Owera was a farm business, then it was relevant to examine the assertion. He maintained under any other circumstance, if one were to propose “this use for a new building that didn't fit with the Code,” the Planning Board would send the applicant to the Zoning Board of Appeals to seek a use variance or to the Town Board to seek a zone change. He felt this situation should not be treated differently.

Referring to the second page of his comments handout, Mr. Smith pointed out a section of the zoning map illustrating the number of homes within close proximity of Owera as well as a section of the Code 165-17 with the permitted uses within the RA District which was essentially single-family and two-family homes. He stated this was a residential district. He asserted, “Critically, the property is not zoned to be used as an events center; it's not zoned to be used as a café; it's not zoned to be used as a bar or a tasting room,” which he said was listed on Owera's website and what has been happening, and what Owera's “proposing to do more of with this new structure.” He repeated the Applicants argue they are allowed to engage in these uses, notwithstanding the zoning, only based upon the exemption from local zoning pursuant to New York State Ag & Markets law.

B. Smith thought it was important to look at the New York State Ag & Markets law, so he had sections of that outlined on the third and fourth pages of his handout. He noted the Board looked at that when they formed the original approval 10 years ago. Quoting from AML 301 (11) Mr. Smith said, “a farm operation means ‘land and on-farm buildings, equipment...and practices which contribute to the production, preparation and marketing of crops...as a commercial enterprise...’”. He said further guidance is given in the fermentation of grapes to produce wine wherein it includes the “production of products that are ‘composed predominantly of ...grapes or other fruits produced on the farm.’” He further elaborated that “Predominantly” means 51% or more of a particular product needs to be produced from grapes grown on the farm in order to be considered predominantly a farm-produced wine. He said that applies to individual alcoholic beverages produced at the farm entirely from off-farm agricultural crops, at least 51% of the agricultural crops used to produce all of the farm's alcoholic beverages on an annual basis. He said that means “individually a bottle of wine, to be considered to be an on-farm wine produced bottle of wine, must have 51%.” He explained, “That does not mean that every bottle of wine needs to be produced from

on-farm grapes, but 51% of the gross on an annual basis does.” He stated that the Applicants on multiple occasions have admitted to the Board at these meetings that they cannot meet these requirements. He contended that Owera is not a farm operation according to the definition provided in the statutes; they are not a farm operation provided by the guidance of their regulator, the New York State Department of Ag & Markets. He said they have asserted they should not “be bound to follow the guidance of the rules,” because they have obtained a permit from the Alcoholic Beverage Control Law (ABC Law) and that should suffice. He read, “While the Department sets standards for the protection of ‘farm operations,’ the Alcoholic Beverage Control Law (ABC Law) provides standards which must be met for farm brewery, cidery, winery, etc licenses. Licensees must comply with the ABC Law standards to qualify for their licenses. While a license issued by the State Liquor Authority may allow for the sale of alcoholic beverages which are not made from crops grown by the farm, the Department does not consider such beverages to be part of a farm operation.” He said this footnote indicates a liquor license is needed to sell liquor, but the liquor license is not relevant to whether the endeavor is a farm operation exempt from local zoning. He said that was “an independent determination.” He pointed out that everyone who runs a bar needs a liquor license.

B. Smith read, “A farm may derive some income from marketing activities.” He said in this case that would be the food, the events, and the weddings. He stated the New York State Department of Ag & Markets requires the marketing activities be incidental compared to the income Owera makes from the production and sale of wine. He alleged the Applicants were making no effort to demonstrate that was true. He said according to the guidance given not more than 30% of total gross sales can be from non-wine business. He noted the proposal was for “a very large events center.” He also noted Owera was not proposing to increase its production.

In summation, B. Smith read, “‘Farm Operations must keep sufficient records to prove this requirement is met. Further, local governments can require the farm to submit an annual report to the locality showing that these conditions have been met.’” He said “Ag & Markets wants you to be the cop for this.” In answering the question of how this has gone on as long as it has, he said many have mentioned the start-up period for farms. He said, “The start-up period has long expired.” He said the argument that because Owera has “done it before” they should be able to be given another approval “to do it again...doesn’t track.” They do not have the leeway now that they had 10 years ago. He asserted the use was relevant and the Applicants have made their intentions for the business clear. As he saw it, the Board’s options included having Ag & Markets perform an audit. He said any municipality can request that audit. He said the Board could ask to see the accounting and make their own determination as to whether Owera was meeting the requirements. The Board could inform Owera they need to either seek a use variance from the ZBA or a zone change from the Town Board, since the Planning Board cannot address the “use problem.” He said there were

probably other options for the Board as well, but he felt the worst choice was to ignore the use issue.

Nancy Frisbee of 5332 East Lake Road read from a letter she submitted to the file, saying, "In the minutes from the Town of Cazenovia Planning Board meeting of November 2, 2023, Mr. Smith stated, 'All the residents were in agreement with the argument when it comes to the issues with Owera Vineyard,'" She said this was not the case, "and it is a dangerous exaggeration." She said she "has lived next to Owera since day one, for well over a decade and never experienced any problems with the vineyard." She said she does not have air-conditioning in her house and her windows are open in the summer, and she has a "direct boundary with Owera." She stated she "fully supports their proposal which has been presented to the Board for a building to replace the seasonal tent." She also said, "The winery has hosted many events, whether it's a fundraiser event, a wedding, the high school proms, and they are a valuable employer to our area. I appreciate the Muserlians' efforts to work with the community and the current application before the Board thoroughly and responsibly addressing the sound and light issue, and it will sufficiently mitigate the problem. This comes at a considerable expense to the Muserlians. Again, this is another example of the willingness that they have shown to be good neighbors. Sadly, a core group of rabid opponents refuse to be reasoned with. The issues they continue to drag out at every single turn is not central to what the application is for."

N. Frisbee said, "I also would like to point out that I recently pulled the tax roll records. I pulled 15 houses north of the winery driveway and 15 driveways south of the... winery. Thirteen of these homes were purchased after 2007 – that's when the Muserlians bought the land; and nine of those properties were bought after 2015 – they opened in 2013. How can you buy your property knowing there is a winery in your backyard and now, all of sudden, you're going to complain about it."

N. Frisbey continued, "I have heard many positive stories about the winery. I have been in town when people have come up to me loaded with shopping bags, they specifically came up to the winery for a tasting, not knowing anything about the Town, they said 'Go down to town, check out the shops, check out the restaurants.' I run a Bed & Breakfast, I've also had numerous guests write letters which I will submit to you, but I'm going to just read to you a few bullet points from the letters from my guests. 'As a supporter of the future growth of Cazenovia's economy, give Owera this building and all future ventures they wish to pursue. Broaden your minds and open your hearts.'

N. Frisbey read another, "'The venue has so much to offer and is a wonderful asset to the Town. Finding a great place that is locally owned and operated truly enhances the value to travelers looking for that unique experience and locals who want to support their own.'"

N. Frisbey said another wrote, "' It saddens me to hear that there is opposition to Owera Vineyards expanding their business. This vineyard not only provides a unique and welcoming experience for visitors but also plays a significant role in supporting the local economy. Businesses like Owera help Cazenovia flourish, drawing guests who spend time and money in the community ensuring its continued growth and vitality.'"

N. Frisbey said another commented, "'To deny them the opportunity to build their new structure is to stifle progress and discourage the entrepreneurial spirit that makes this town so special.'"

Lastly, N. Frisbey read, "'I would encourage the Board to look beyond the 'squeaky wheels' and consider the economic benefit to your community. If a McDonald's can exist in a community such as yours, there's room for everyone. Thwarting a successful business helps no one in the long run.'"

N. Frisbey also said, "'I went down and canvased all the businesses on Main Street. Many of them did support the building. Nobody's here. Nobody would sign the petition in favor of the expansion, not necessarily the expansion, but a building to replace the tent. The reason they wouldn't come, and the reason they would not sign the petition is because they're afraid of retaliation toward their business if anybody knew they were in support of this.'"

N. Frisbey concluded saying, "'In closing I would implore you to please consider only the facts as they pertain to the laws and codes of the State, County, and the Town, and take the rants of a bitter few for what they are worth. We need to put aside the outright hatred that has been shown to Owera and to support this business and all businesses that breathe life into Cazenovia.'"

N. Frisbey submitted her letter and the letters she read from her B&B guests.

Bob Cowan said Ms. Frisbey quoted a number of people who were not known by the Board or the audience nor did the Board or audience know where the authors were from, and he asked that their letters be submitted to the record.

N. Frisbey responded that those letters were submitted in conjunction with her letter.

B. Cowan of East Lake Road believed he was among those considered to be bitter neighbors, but he said he was not bitter and said they love the winery, calling it "a beautiful place." He said the winery was not the issue. He said the issues have been heard and they are about zoning, sound, and traffic. He said his semicircular driveway is in constant use from people who overshot the winery. He understood that attitudes change, recalling Ms. Frisbey signed the original petition "which did not come out before they wanted to be a winery because we were all in support of it." He said, "It came out after they were a winery and they weren't the good neighbors." He believed

that money drives decisions, and he asked the Board to consider that when they were reviewing support of the venture. He said he did not want this to become a litigious situation – as a resident for 33 years he said that was not what he wanted for the Town of Cazenovia.

Tom Anderson said he was a resident and he and Marc (Schappell) own the property that borders the back of Owera, and their house is located on Chard Road. He thanked the Board for giving the neighbors the opportunity to speak and he thanked the neighbors and Mr. Smith for speaking. He recounted that they bought their property 30 years ago and they now own a 250-acre farm in a residential neighborhood, and they remain respectful to the neighbors and the neighborhood. He recalled when Faith Knapp invited him to be a part of the Cazenovia Preservation Foundation Land Use Committee among the many stewards of the past who preserved what he said keeps Cazenovia special now. He again thanked the Board for listening and asked them to consider what was “going on” in this beautiful community among the amazing citizens, recalling Ms. Knapp’s thoughts about guidance for the future when “the land gets changed.” He said this land in question has been changed and it’s “hurting the neighbors and their peaceful enjoyment of their properties,” and as a community. He said they were grateful for the Board and asked that the Board help them keep and restore their community. He concluded, “Once gone – gone forever.”

R. Ridler felt the public hearing should be continued to the next meeting.

Motion by J. Munger, seconded by M. Koppers, to continue the public hearing was carried unanimously.

J. Langey commented on the respectfulness of all parties this evening.

R. Ridler reminded the public to sign the attendance sheet if they had not already.

Motion by D. Bowers, seconded by T. Clarke, to continue the file was carried unanimously.

Motion by D. Bowers, seconded by A. Ferguson, to adjourn the meeting at 8:44 P.M. was carried unanimously.

Sue Wightman, Planning Board Secretary – February 7, 2025