

Town of Cazenovia Planning Board

Meeting Minutes

April 3, 2025

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

Members Absent:

Others Present: John Langey, Esq; John Dunkle; Chuck Ladd; Nolan Kinne; Magen Kinne; David Hazer; Penelope Hazer; Matthew Vredenburgh; Laurie Hopsicker; Doug Falso; Gerald Jones; Kim Jones; Jason Penoyer; Liam Gleeson; Jennifer Gleeson; John Alger; Peter Muserlian Jr; Chris Montante; Adam Walters, Esq; JoAnne Race; Berta Keeler; Brian Keeler; Nolan Kokkoris, Esq; Sheila Fallon; Eric Jerabek

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

Roll was taken.

The next regularly scheduled meeting will be Thursday, May 1, 2025.

The next deadline day will be Wednesday, April 16, 2025.

The next regularly scheduled work session will be Thursday, April 24, 2025.

Motion by A. Ferguson, seconded by D. Bowers, to approve the March 6, 2025 meeting minutes was carried unanimously.

HEARINGS

Slocum, David & Judy – Minor (1 New Lot) Subdivision – 2686 Route 13, New Woodstock File # 25-1568 (Anne Ferguson) & Kinne, Nolan & Magen

Nolan and Magen Kinne were present to represent the file.

J. Langey reminded the Board the State Quality Environmental Review (SEQR) needed to be done before the public hearing could be opened. He then led the Board through Part 2 of the Short Environmental Assessment Form (SEAF).

Motion by A. Ferguson, seconded by D. Bowers, to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF.

R. Ridler asked that everyone present sign the attendance sheet to register their appearance for the record.

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

A. Ferguson explained the application was for a minor subdivision in which the existing lot would be divided into a 16-acre parcel and a 9-acre parcel on Route 13 in New Woodstock. She invited comments at this time.

Hearing no comments, motion by A. Ferguson, seconded by T. Clarke, to close the public hearing was carried unanimously.

Motion by A. Ferguson, seconded by T. Clarke, to approve the subdivision creating one new lot as most recently proposed was carried unanimously.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

*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 reported that he had spoken to Mr. Hoffman recently reminding him the Board would like Mr. Hoffman to provide his paperwork from the Army Corp of Engineers (ACOE) so the Board could move forward with this proposal. He said Mr. Hoffman expressed his hope to be able to do that at the May meeting.

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

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

No one was present to represent the file.

L. Cushman asked Mr. Dunkle and Mr. Ladd if they had performed a site visit and if the Applicant understood what he needed to provide.

She was told that was correct.

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

*Hazer, David & Penelope – Site Plan Review – 5669 East Lake Road, Cazenovia
File # 25-1570(Mary Margaret Koppers)*

David and Penelope Hazer were present to represent the file.

R. Ridler explained the application was for a home construction.

D. Hazer reminded the Board at the last meeting there had been a question regarding the wetland issue which was resolved post-meeting. (John Dunkle confirmed the distance from the existing wetlands and buffers was more than adequate from the area on the site where disturbance from construction would occur.)

R. Ridler thought one other consideration was to ensure the location of the home met the required setbacks for the side yard and rear yard boundaries (the north and west boundary lines).

D. Hazer and P. Hazer responded they planned to situate the building at least 25 feet from the north property line and 50 feet from the west property line.

R. Ridler asked that the location for the house to be surveyed with the presence of the Codes Enforcement Officer to witness the location to ensure the setbacks were adequate.

P. Hazer replied, "Okay."

R. Ridler elaborated the whole site would not require surveying.

A. Ferguson explained only the corners of the house would need to be flagged.

C. Ladd added the Applicants would need to "reach out to me" when the Applicants were ready for the survey to be witnessed by him.

D. Hazer wondered if that needed to be done before they were approved.

R. Ridler answered he would make that a condition of any approval the Board gave this evening, reassuring the Applicants that would not "slow you down at all."

J. Langey said this was a Type II Action regarding SEQR.

Motion by A. Ferguson, seconded by T. Clarke, to approve the site plan for a new single-family home as most recently submitted was carried unanimously.

*Hopsicker, Michael & Laurie — Site Plan Review – 4507 Seven Pines Drive, Cazenovia
File # 25-1571 (Mary Margaret Koppers)*

Matthew Vredenburgh and Laurie Hopsicker were present to represent the file.

R. Ridler explained that Mr. Vredenburgh and Mr. Hopsicker had attended the work session and Mr. Vredenburgh was asked to create a revised planting plan.

M. Vredenburgh reminded the Board the proposal was to remove a walk located along a side of the house and to install a new firepit/patio outside the Critical Environmental

Area (CEA – the first 20 feet from the lake) but closer to the water (than the walkway to be removed). He said at the last meeting he was asked to provide a planting scheme for the area between the proposed firepit and the shore, which had been planned (but had not been designed for the meeting). At the work session the planting plan that had been designed had been discussed and Mr. Bowers had requested more plantings. That plan had been updated to increase the amount of vegetation and he displayed the drawing he created entitled *L-102 Hopsicker Residence 4507 Seven Pines Drive, Town of Cazenovia, Madison County, New York Planting Plan – Planning Board* dated April 3, 2025.

M. Vredenburgh asked Mr. Bowers at the work session how many plantings should be included, but no number had been agreed upon, so Mr. Vredenburgh consulted the *Cazenovia Lakefront Development Guidelines* where it was recommended that 70% of the lakefront zone be maintained, restored, or reestablished to have natural or naturalistic character. He used that percentage to create the extent of his revised plan, leaving 30% lawn and access to the dock.

A. Ferguson expressed approval, asking what variety was chosen for a particular section she was viewing.

M. Vredenburgh answered it would be aromatic sumac.

L. Hopsicker explained Mrs. Hopsicker wanted to keep the vegetation there short to enjoy her view of the lake.

The Board expressed understanding.

D. Bowers asked to see the first and second plans in addition to the current one to illustrate the progression of the design and how it had improved from the initial request to the current proposal, all the while requesting the same firepit/patio feature. He felt the additional plantings for which he had persisted in soliciting not only improved the plan from the perspective from the lake, but also for the Owners' enjoyment.

L. Hopsicker explained the request was to extend the bluestone so as to no longer have a fire on the grassy area.

D. Bowers wanted it to be noted that because an approval could not be obtained in March since it would have required four (4) votes of approval among the four (4) attending members, a better plan could now be approved, calling it "a win for everybody."

Motion by D. Bowers, seconded by A. Ferguson, to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, to approve the lakefront

improvements with the accompanying planting plan as most recently submitted was carried unanimously.

J. Langey asked Mr. Vredenburg to email him the complete set of the approved plans.

M. Vredenburg expressed assent.

*Johnson, Paul/Falso, Kara – Minor (1 New Lot) Subdivision – 2540 Ballina Road
25-1574 (Robert Ridler)*

Doug Falso was present to represent the file.

R. Ridler asked Mr. Falso to explain the proposal.

D. Falso answered the proposal was to sell the buildings associated with the lumber mill (by means of dividing that section of the property from the remainder of the lot).

R. Ridler clarified that it is an 88-acre lot currently and the Applicants propose to carve out 16 acres for the parcel with the buildings.

A. Ferguson asked if the barn (across the street) was excluded from the subdivision.

D. Falso affirmed it was, saying it was not part of the subject parcel and owned by another family member.

J. Langey led the Board through Part 2 of the SEAF.

Motion by T. Clarke, seconded by R. Cook, to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, and to move the file to a public hearing, and to continue the file was carried unanimously.

R. Ridler explained the public hearing protocol to Mr. Falso and Mr. Falso was given instructions regarding the notification of his neighbors at this time.

*Jones, Gerald & Kim – Site Plan Review – 5701 East Lake Road, Cazenovia
File # 25-1575 (Thomas Clarke)*

Gerald Jones and Kim Jones were present to represent the file.

R. Ridler said he met the Mr. Jones at the Jones' residence and asked Mr. Jones to explain his project.

G. Jones replied they were seeking to place a 10' X 16' shed in the *northeast corner of their property, 50 feet from the back line and 25 feet from the north side yard boundary. (*Mr. Jones misspoke – the shed will actually be placed in the northwest corner of the property.)

R. Ridler attested that the proper dimensions were marked on the site.

T. Clarke asked if the location was buffered from the neighbors.

G. Jones answered pine trees line the north and west boundaries.

A. Ferguson asked if the shed would be made of wood.

G. Jones responded it would, saying it would be a cedar shed.

Motion by T. Clarke, seconded by R. Cook, to approve the site plan for the installation of a 10' X 16' shed as most recently submitted was carried unanimously.

*Burnett, Benjamin & Lisa – Line Change – 3174 Thompson Road with Thompson Road
File # 25-1576 (Dale Bowers)*

Jason Penoyer of Penoyer Builders, Inc. was present to represent the file.

D. Bowers explained where the site was located in relation to Thompson Road and other locales. He then explained that the Owners have a house located on a 1.8-acre parcel which they plan to raze and rebuild, so they propose a line change between the house parcel and their larger parcel, which encapsulates the house parcel, to enlarge the undersized lot to three (3) acres.

A. Ferguson informed the Applicant about the requirement to supply photographs of the existing house from the four (4) elevations prior to its demolition.

J. Penoyer expressed assent.

J. Langey led the Board through Part 2 of the SEAF.

Motion by D. Bowers, seconded by A. Ferguson to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, and to move the file to a public hearing, and to continue the file was carried unanimously.

J. Penoyer was given instructions regarding the notification of the neighbors at this time.

*Gleeson, Liam & Jennifer – Site Plan Review – 2958 West Lake Road, Cazenovia
File # 25-1577 (Anne Ferguson)*

John Alger of Martin Custom Homes was present to represent the application with Liam and Jennifer Gleeson.

A. Ferguson explained the proposal was for a new house on a currently empty lot on West Lake Road. She asked the Applicants to describe the material proposed for the construction of the house.

J. Alger answered it would be fiber cement siding with architectural asphalt shingles.

J. Gleeson said the windows would be black Pella windows.

R. Ridler asked about the siding color.

J. Gleeson said it would be blue.

J. Alger clarified it would be a nautical blue.

L. Gleeson said the trim would be white.

J. Gleeson repeated the windows would be black.

A. Ferguson explained where the house would be located along West Lake Road. She said the house would be situated more than 100 feet from the lake, and the impervious surface area would be 9% for the house, but the area for the gravel driveway had not been calculated. She informed the Applicants the driveway was considered impervious as well and asked that they correct the calculation page to reflect that.

While the Applicants calculated the square footage of the driveway, A. Ferguson noted the septic and percolation were provided and there was no problem identified by Madison County Planning Department in the General Municipal Recommendation Report (GML). She stated the New York State Historic Preservation Office (SHPO) had also identified no issue with the proposal.

It was also determined that being 100+ feet from the lake satisfied the New York State Department of Environmental Conservation (DEC) issue for the site.

T. Clarke asked if the septic system would be a conventional or a raised bed system.

J. Gleeson did not think it would be a raised bed system.

J. Alger estimated the driveway to be 1428 square feet.

A. Ferguson adjusted the impervious surface calculation page.

The overall impervious surface area was determined to be 12.5%.

R. Ridler asked about the lakeshore.

J. Gleeson answered it was how they purchased it, naturally contoured.

A. Ferguson explained it was lawn that went “straight to the water.”

R. Ridler asked if there was vegetation.

A. Ferguson answered there was no vegetation at all except grass and the Owners have no plans for the lakeshore at this time.

R. Ridler asked the Applicants if they were familiar with the *Cazenovia Lakefront Development Guidelines* regarding the naturalization of the shore.

A. Ferguson answered she advised the Owners to refer to the *Guidelines* if they were going to make changes in that area.

A. Ferguson had also asked Mr. Dunkle to examine a culvert “where water was washing out.” She believed Mr. Dunkle discovered the culvert would be covered by the septic system.

J. Dunkle elaborated that the drainage swale that comes down the fire road turns right and heads off the Gleesons’ property. The way the property is staked for the septic system, it appears the septic system will be over that swale.

L. Gleeson believed the general septic area was staked to show there was room for it, but he said the actual septic system would not cover the swale.

J. Dunkle said he only had the stakes to go by, and informed the Owners that whatever they do, they must maintain the drainage way that is there.

L. Gleeson replied, "Of course."

J. Alger said they would divert it around the septic area.

J. Dunkle asked if there had been flooding or some concern, wondering if the pipe was too small for the driveway culvert.

J. Gleeson answered she did not know since the culvert belonged to the Dwyers in the lot adjacent to theirs.

L. Gleeson clarified he had not "put that pipe in."

C. Ladd believed the culvert was installed when the Dwyers recently built the barn.

L. Gleeson agreed the culvert had been recently installed.

R. Ridler commented that a too-small culvert was a common problem around the lake.

J. Dunkle asked if a site plan with all the details would be forthcoming.

A. Ferguson showed the site plan that had been submitted with the application which showed the septic location and the well location.

J. Dunkle noted the swale was not located on the drawing.

D. Bowers asked if Mr. Dunkle was "comfortable with all that."

J. Dunkle answered if that was the only issue the Board had with the proposal, the Board could give a conditional approval.

J. Alger asked if the Board had the septic design.

J. Dunkle also noted the septic was staked over a portion of the driveway and asked if that was accurately located.

A. Ferguson did not believe the septic design plans were submitted with the application.

J. Gleeson responded they would locate the septic system where the engineer determined it should be.

J. Alger said he would provide the septic design when he applies for the permit and the septic design would show the swales.

J. Langey asked if the condition Mr. Dunkle would like the Board to consider was that the septic design be reviewed and approved by Mr. Dunkle.

The Board expressed their acceptance of that stipulation.

J. Dunkle answered, "We can make it work."

D. Bowers asked if the Board might want to ask that two (2) trees be planted since the impervious surface area exceeded 10%.

R. Ridler answered he was seeking "treatment of the actual lakeshore."

A. Ferguson responded the Applicants have no plans for plantings at this time and did not feel the Board could require it.

T. Clarke asked if the Owners would return for a planting plan in the future.

A. Ferguson thought they would, saying after the Owners build the house, they would decide if they wanted to make any changes along the lakeshore.

D. Bowers replied the Owners could also consider making no changes.

A. Ferguson responded, "Yes."

D. Bowers again wondered if the Board wanted a stipulation that the Applicants plant two (2) large trees since the impervious surface area exceeded 10%.

L. Gleeson responded planting two (2) trees would not be a problem.

R. Cook said in the past the Board considered how stormwater coming from the house would be handled, saying impervious percentage overages were allowed if under-surface areas were implemented.

D. Bowers clarified leaders going into a drywell were what Mr. Cook was describing.

T. Clarke asked the size of the house.

A. Ferguson answered the house would be 3000 square feet.

R. Ridler still felt treatment of the waterfront should still be considered. He asked if plantings should be designed to restore a naturalistic look.

L. Gleeson responded, "If you guys require us to plant a tree, we can plant a tree."

R. Ridler answered he was thinking of more plantings than one tree.

A. Ferguson repeated the Applicants do not know what they want yet.

R. Ridler responded the Applicants may not want any changes, and wondered if the Board should require a planting plan at this time.

L. Gleeson replied he had no problem planting trees and asked what the Board suggested.

A. Ferguson explained Chair Ridler was talking about plantings such as grasses and other naturalistic plantings along the lakeshore – something within the first 25 feet of the lake.

L. Gleeson asked if the Board meant landscaping.

R. Ridler answered, "Exactly."

L. Cushman added, "Not like rocks."

L. Gleeson responded, "Shrubs and stuff."

A. Ferguson added, "black-eyed Susans..."

R. Ridler asked if there were any structures between the lake and the proposed house location.

L. Gleeson answered, "There's a shed right there now."

R. Ridler asked, "Where?"

L. Gleeson answerer, "Right on the water – right on the edge, there was a shed there."

L. Cushman asked if the shed would remain there.

L. Gleeson answered he would like to keep it if he could.

R. Ridler clarified the shed was existing.

L. Cushman asked who owned it.

R. Cook answered Mrs. Greenberg followed by the Dellesees who were going to build, but did not complete their project.

More discussion followed regarding the lakefront and whether the need to encourage the Owners to present to the Board a lakefront development plan at this time was appropriate as well as the need to plant two (2) trees.

R. Ridler stressed to the Applicants the need to return to the Board for approval for any development they might want to do between the house and the lake in the future.

Both L. Gleeson and J. Gleeson asserted their understanding. They also agreed to include the planting of at least two (2) trees according to the *Guidelines* in their future plans.

D. Bowers encouraged them to read the *Guidelines* to understand the reasoning for the plantings as well as the varieties they could choose to their liking.

Motion by A. Ferguson, seconded by D. Bowers, to approve the site plan for the construction of a new single-family home as most recently submitted and conditioned upon Mr. Dunkle's approval of the septic system design and with the understanding that the *Cazenovia Lakefront Development Guidelines* should be followed during future development along the lake which may include the planting of two (2) trees in the future was carried unanimously.

*Marlyn Park Drive, LLC – Site Plan Review – Marlyn Park Drive, Cazenovia
File # 25-1580 (Dale Bowers)*

No one was present to represent the file.

D. Bowers explained he had met with Mr. Brown who discussed his proposal and then Mr. Bowers had met with some of the neighbors on Marlyn Park Drive who discussed their concerns, so he talked with Mr. Brown again suggesting Mr. Brown remove some arborvitaes and replace them (and the stone around them) with grass and use that replanted area as lake access, which would placate the neighbors and would allow Mr. Brown to place his dock without involvement from the Planning Board. He stated Mr. Brown was considering that option.

D. Bowers suggested Mr. Brown speak with Mr. Ladd about the procedure if Mr. Brown were to pursue that avenue.

D. Bowers and Mr. Ladd have spoken as well.

A. Ferguson asked if Mr. Brown was “stepping back from doing a boardwalk.”

D. Bowers thought Mr. Brown was no longer proposing the boardwalk.

C. Ladd explained he would only require Mr. Brown to obtain a land disturbance permit if Mr. Brown were to remove the row of arborvitae.

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

HEARINGS

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

Adam Walters, Esq. of Phillips Lytle, LLP was present to represent the file, and Peter Muserlian Jr. and Christopher Montante were seated in the audience.

R. Ridler said the public hearing was still open, but the Board would hear from Mr. Walters first regarding the follow-up from a conference call between the Applicants and New York State Department of Agriculture & Markets (Ag & Markets) arranged by Mr. Langey and witnessed by himself, Mr. Langey, and Mr. Bowers a few days ago.

A. Walters said “...the goal for tonight is just to understand where we are and whether we worked our way through the issues.” He said, “The big issue, obviously from the Winery’s side, is the weather’s getting warm and we’re getting into season, so we’re kind of running out of time to keep going back and forth.” He thought they were moving forward in a direction the Board wanted to go. He said the last submittal provided two (2) weeks ago, included the Applicants’ return to the 2015 conditions specifically regarding the Ag & Markets 51% predominance standard, which was 2015 approval condition number 26, and the venue revenue condition, which was 2015 approval condition number 23.

R. Ridler asked if the revenue condition was 70/30 (70% of revenue is to be from the sale of the farm product and 30% of the revenue is to be from marketing sales).

A. Walters answered, “No, so the old condition in your 2015 resolution is revenue sales from the events cannot exceed revenue sales from the winery.” He said during the 1 ½ hour call last Wednesday with Ag & Markets there had been a long conversation -

about an hour was spent on the predominance standard and when they discussed the revenue, the Ag & Markets attorney said in 2017 new revenue standards were created which is the 70/30 rule. The Ag & Markets attorney believed that standard applied to Ower, saying there was no grandfathering for the revenue standard. Ower asserted that was incorrect, saying they were grandfathered.

A. Walters stated they followed up with Ag & Markets explaining if one reads the 2017 Ag & Markets Guidelines, there is a footnote that was specifically added for Ower which he asserted “says if you had an approved farm winery plan under the old Guidelines, the old Guidelines will apply.” He continued Ag & Markets “made a mistake during that meeting,” in contending there was no grandfathering for the revenue standard.

A. Walters repeated they submitted the information to Ag & Markets saying they “pushed hard” for Ag & Markets to render a decision prior to tonight’s meeting. He said about 5:00PM this evening they received an email from Ag & Markets which they sent to Mr. Langey that (Ag & Markets) “basically said, ‘we’ve looked at all your stuff,’ and they did the old Ag & Markets - what they do; ‘we don’t respond to hypothetical questions, and it appears you meet some, you have the footnote, you have the grandfath..., but we don’t, we don’t give advisory opinions.’

A. Walters said he took that as an acknowledgement that Ag & Markets was wrong to say there are no exemptions, no exceptions to the 70/30 rule. He stated Ag & Markets did not say, “‘Yes, it’s the 70/30 rule.’” He said, “They (Ag & Markets) did their dance.” He concluded he and his clients’ view was that Ower was grandfathered and under the prior conditions, the 2015 conditions, the conditions everyone wanted used for the current proposal, which were the Guidelines in affect during the time of the previous approval. He and his clients felt those conditions make sense. He said in that context, “Ag & Markets sets the limit of what you can do, you can go anywhere up to that line – you can’t go beyond that line.” He said for the past two (2) years his clients have been asking, “don’t go all the way up to that line,” saying, “that line is extreme.” He has been telling his clients he “is not getting the sense that the Board is going to go in a different direction; if we want to get this done, I think we got to go back to the 2015 conditions. We want to get this done.”

R. Ridler understood the Applicants’ opinion was Ower was grandfathered in, but Mr. Walters was saying Ag & Markets will not provide anything confirming that.

A. Walters responded, “No, I sent what they sent.” He explained Ag & Markets did send “a bit of an analysis.” He said Ower does have a grandfathering letter and a footnote in the 2017 conditions, repeating the footnote “was specifically added for us.”

R. Ridler asked if the footnote mentioned Ower by name.

A. Walters believed the letter references the condition.

J. Langey said he received the email at 6:21 PM. Indicating he had not had time to review it.

A. Walter acknowledged Mr. Langey needed time “to digest that.”

J. Langey said he and Mr. Walters can discuss the email over the phone.

A. Walters said putting that issue to the side, he and his clients responded to the Town engineering comments and thought Owera was good with those details but were looking for some feedback. He asked if they answered and addressed all the issues.

J. Dunkle answered the Applicants have provided all the information that was needed for SEQR. He said, “All the facts are out there now.”

R. Ridler said regarding the 51% predominance standard, it was his understanding that the winery needed to lease or own land. He asked if documentation could be provided for the lease/ownership.

A. Walters said he would be happy to document compliance with the 51% standard. He said in their latest submission they requested the Board make it a condition of the certificate of occupancy. He assured the Board Owera would be in compliance of that 51% standard by the time the Events Center opened. He asserted the 51% standard was not a rule now. He reminded the Board that the site plan conditions from 2015 did not apply to Owera at this time. He said Owera was a farm under the (Town's) definition of a farm. He repeated there was no current 51% rule. He understood some people would disagree with that, but if the Board were to make it a condition (of a current approval for the new proposal), it would then become a condition of the operation.

A. Walters explained the goal was to put the Board in a position (to move forward), saying he and Mr. Langey would work on that issue and documentation, with the Board having “good resolutions in front of you.” He said Owera's goal was for the Board to vote on May 1st “up or down or whatever it may be.”

R. Ridler wanted Mr. Walters to know from his point of view, he would not vote in favor of an approval if there were only statements that “we'll get it; we'll have it” without the Board being shown Owera has it.

A. Walters responded if Mr. Ridler says Owera must be in compliance by May 1st, “we're not going to be, and we're not, we're not going to do it – a building – we're going to go back to a tent.”

A. Walters stated there would be no choice for Owera. He said this process has been ongoing for two (2) years and he has been working on it for a year himself. He said they have developed many variations for the proposal and the Board has “rejected all of that.” Now they “are down to go back to the 2015 conditions.” But he has been seeing in the last couple of weeks that “maybe the 2015 conditions aren’t good enough.” He declared, “That’s problematic. It is. So, if we’re going back to the 2015 conditions, let’s go back to the 2015 conditions. If we’re doing something else, we’re probably going back to a tent.” He recalled a couple of months ago the Board’s discussing if the Board wanted a building and everyone “voted unanimously you want a building. We all know the winery’s going to be much better, events are going to be much better, inside an acoustical building.”

T. Clarke reminded Mr. Walters that Owera “walked away for five (5) or six (6) months,” of this extensive review.

A. Walters denied he was suggesting “the Board has dragged its feet.”

J. Langey asked Mr. Walters to elaborate regarding the statement that Owera cannot reach the 51% standard by May 1st, wondering if he was saying they could not acquire leased land by then.

A. Walters explained that Ag & Markets requires the winery to have responsibility for the grapes. From Ag & Markets perspective, having the financial risk creates (legitimacy for) the “on-farm operation.”

A. Walters recounted that Mr. Montante on several occasions has stated Owera does not currently meet the 51% production standard. He said, “In our estate plan you start out at a very small percentage, and you grow over time. They’ve been working towards that; they continue to work towards that; they going to continue to work towards that. But I don’t think we’re going to be in a position to execute on a lease between - in the next three weeks.”

J. Langey asked if a lease could be executed that has contingencies, for instance, if for some reason Owera were given an approval but there were conditions attached that were untenable for Owera, there would be “a way out of” the lease.

A. Walters replied the risk of leasing was not the issue. He explained the process of getting a lease signed in the next three (3) weeks was the problem. He maintained that was the reason he and his clients suggested that it be a condition of an approval.

J. Langey asked if the Applicants were “working on getting a lease put together,” wondering if perhaps in six (6) or eight (8) weeks that would be accomplished.

A. Walters responded they are working with a number of growers of grapes currently, but identifying the specific fields, surveying, and other details makes leasing “a lot to pull together.” He claimed there was “no resistance on Owera’s side to doing that and to getting it done,” but he did not think it was possible to “get all that done in the next three weeks.” He assured the Board if Owera were not to comply to the requirement as a condition of an approval, they would not be able to operate.

R. Ridler explained he was not comfortable with having an already constructed building that isn’t given a certificate of occupancy if the condition were not met.

A. Walters said in that case the building could not be opened.

R. Ridler understood that, but he contended the building would be built.

A. Walters implied the implausibility of Owera making the financial investment to build the building and then not meeting the obligation to open – a condition he admitted that he and his clients had proposed to the Board, so he could not argue later he and his clients “didn’t know what we were getting into.”

A. Ferguson agreed she was not entirely comfortable with allowing a building to be constructed and the potential for not having leased sufficient land by the building’s opening.

J. Munger asked, “Why not?”

A. Ferguson was concerned if the property were sold and the current owners abandoned the endeavor and then new owners were to utilize the building for another use.

A. Walters implied the financial investment into the winery made that unlikely.

J. Langey responded that situation would be an enforcement issue for the Town Codes Enforcement Officer.

A. Walters encouraged the Board “to look at the big picture.”

R. Ridler replied the Board would take counsel from Mr. Langey.

J. Langey elaborated that if the building were used for something other than what the Board has approved for the site, it would be handled through Mr. Ladd via a notice of violation with an order to remedy, followed by ticketing, and going to court. He said whether that would be acceptable to the Board (as a condition for the current proposal) was the Board’s choice, he explained that he was just describing the procedure if that scenario were to arise.

J. Walters reminded the Board that the proposed building would be “tremendously expensive because of all the acoustical and other designs that have been built in to really improve existing conditions.” He said of his clients, “Shame on them if they spend all this money on a new building and then don't have the execution of the leases to be able to operate it.”

A. Walters said there would be a host of other conditions to be met as well.

R. Ridler said speaking of other conditions, many times he has heard that if the building were not allowed to operate until 10:00PM, Owera would return to using the tent. He asked if that was still Owera's position.

A. Walters answered, “We're still there. That hasn't changed.” He maintained the proposal has consistently been for the building to be open until 10:00PM on Fridays and Saturdays. He stated, “That hasn't changed and that's not going to change.” He asserted the Board has to decide (if that's acceptable).

A. Walters asked if there were any other issues he and his clients did not know.

A. Ferguson replied at the last public hearing an issue was raised about impacts on neighboring water levels.

A. Walters responded that issue has been addressed in the most recent submission as part of the engineering analysis and feedback on water and water usage, etc. He said there had been two (2) “rounds of back and forth between the engineers on that issue and it sounds like we're good.”

D. Bowers asked if the 51% predominance standard applies to the tent as well.

A. Walters answered, “... the 51% really is about the winery itself because it's winery production.”

D. Bowers believed what he has heard was that if the Board does not let Owera obtain the leases as part of the CO process of the building, Owera will return to using the tent. He questioned why the tent would not require the same predominance standard as the proposed building. He asked why the winery had not obtained the necessary leased land five (5) years ago.

A. Walters said it was his legal opinion that the Board created 2015 conditions which specifically said they would not apply if the building were not built. The building was not built. Therefore, those conditions do not apply to Owera now.

J. Langey countered that was not quite what was stated. He understood what Mr. Walters was saying, but he clarified it was not said, “These don’t apply.” He stated what was said was, “We’re granting this building – here are the conditions.”

A. Walters offered to provide the exact language, but he contended, “Those rules don’t apply to the operation of the farm, right – the winery.” He alleged, “Ag & Markets sets what I’ve called the furthest you can go to regulate a farm, but your Code doesn’t do that. Your Code doesn’t say, ah, you know, you’ve got to meet the 51% predominance standard if you are a winery operating outside of a permitted district.” He stated, “In fact your definition of ‘farm’ and ‘farm operation’ specifically refers to vineyards, and vines – you have a separate definition for ‘winery,’ it’s true, but ‘farm’ and ‘farm operations’ – if John and I were fighting about this in court – I would take the position that this is a farm, the winery itself, without the event center, the event center changes things – the event center is an overlay on top of ...an agricultural operation. And so, it’s a farm. It fits within the definition of your ‘farm’ and ‘farm operations’, and technically right now it’s perfectly legitimate the way it is. You can do a limited amount of marketing if you’re selling your product, right. You can sell your products under your definition.”

D. Bowers responded, “I appreciate what you’ve said, and we need to hear from John (Langey).”

J. Langey assured the Board he would give his advice “when we’re together.”

D. Bowers commented the Board would then make a decision. He expressed understanding of the Applicants’ desire for resolution.

R. Ridler reminded the Board that the Board still must determine the hours of operation that the Board would find acceptable, in addition to the other legal advice, and percentages to consider.

A. Walters understood and strongly urged that Mr. Langey and the Board draft conditions for the next work session so his clients can then decide if those conditions are amenable. He also suggested to Mr. Langey that he “would love to take a shot at the SEQR stuff.”

J. Langey responded the Applicants as well as the neighbors were “free to send anything they want.” He said the Board was “still wide open to receiving written comment and ideas from applicant and other folks.”

A. Walters asked if they were “able to work through these issues,” and the Board was in a position to vote next month, did the Board anticipate additional comment during public comment.

J. Langey answered once the public hearing was closed, the Board would only have 62 days to make a decision, so it was the Board's choice as to when they would be ready to do that.

R. Ridler asked about taking public comment at this time.

Motion by D. Bowers, seconded by T. Clarke, to open the public hearing at this time was carried unanimously.

Berta Keeler of 5737 East Lake Road submitted a letter to the file and then read and said the following, "I am directly across from the winery." She continued, "I've been through this with all of you since the get-go, since 2011, and I want to thank you for your continued efforts for finding a resolution that fits the needs of both Oweria and the neighbors. We have homes near Oweria. It's been a long process that should have ended in 2015 because there were compromises on both sides. Since Oweria didn't want to compromise with the hours and other issues, they took the Town to court, as you all know, and other than one traffic issue, the Court agreed that the Town can put reasonable restrictions in place. Oweria decided not to build and has since persisted in trying to get a building that has few restrictions. Neighbors be damned. As neighbors directly across from Oweria, our lives have been subjected to years of music harassment and bullying. Despite trying to get the music and lights under control, neighbors were told over and over by Oweria they couldn't control the loudness since that was the band or the DJ's job. I have spent many nights listening to music – I'm not young anymore. I'd like to be able to live my life in my home – I moved out there because it was quiet. We were told over and over by Oweria that they couldn't control the loudness. We were told they would keep the noise down, and one of the owners said she would be sure to have the lowered flaps, and they would always be present during the events. Needless to say, with the loud bass, it didn't matter if the flaps were up and down, or down.

"This is not about 'not in my backyard.' It's not about 'CazeNOvia,' as we have become known. I, for one, originally embraced the idea of the vineyard being across the street in the beginning. I bought the wine as soon as it was available, giving it to family, friends to encourage all to support this new business. I wanted them to succeed. I even went to the harvest events that they held. I looked forward to meeting neighbors and friends for a wine tasting upon completing, completion of the Tasting Room. Sadly, all of that changed when the tent went up, to the surprise of the neighbors, by the way, since there was never a public hearing on this addition to the property. The music started. Our windows started rattling, pictures fell off the wall, sleep was lost, and our pleas to turn it down fell on deaf ears. Our peaceful home life was being disrupted by a new neighborhood bully. 'Turn up the music so the neighbors have something to complain about,' 'You're lucky we didn't put in mall lights,' were some of the responses the neighbors got from the owners. This isn't a fight that any of the neighbors wanted. There was no talking with Oweria, no respect for our well-being. There has never been

any 'working with the neighbors' by Owera, or any outreach to neighbors. The noise, sadly, has proven not to be the only problem. Traffic increased significantly. Yes, the road was able to handle the increase in the traffic, as all the studies have shown, but that's not the only problem. The road is used as recreational by many people in Cazenovia, me included. I actually walk on East Lake Road. I've got dogs and I need to get exercise so I have to walk on East Lake to get to North Lake or Chard, and I have to say that 45 miles an hour that East Lake is supposed to be is merely a suggestion for most drivers, and is probably a minimum, for most drivers. I have been passed on East Lake Road numerous times. So that creates a problem with having more events. Turning around in our driveway is another problem that all the neighbors have, some even coming all the way down to our turnaround or going in the roundabouts of the neighbors' circular driveways. Traffic exiting the events consists of loud music, revving engines, honking horns, and yelling. One night somebody went by, 'Wake up, everyone!' That was about 10:30 at night. Traffic on East Lake Road is nonexistent at night when Owera isn't having events. I can even hear the owls; I can hear the screaming foxes, and the fishers. The added traffic on East Lake is a concern.

"As you deliberate how to best move forward with this application, please consider that your decision affects the neighbors and endangers the quiet enjoyment of our homes. We do exist, despite the many times Owera has tried to pretend we didn't. When they applied for a New York State Liquor Authority, their first time they applied for their liquor license, I wasn't sure why they needed a liquor license – they had a wine license, I went with a neighbor through a snowstorm to Albany to speak at the hearing of the New York State Liquor Authority. To my surprise, when it was Owera's time to talk, they put up a drawing, there was no neighborhood shown. It showed they were out in the middle of nowhere, and I thought, 'No, we exist. We're here. We're part of this neighborhood.' Fortunately, we were able to speak, and we brought testimonies from other neighbors that couldn't make the trip to Albany. So please take the neighbors and the neighborhood into consideration and know that we will be affected by the traffic, parking lot noise, lights, and even some drywells if this application should move forward. We would ask that you would limit the events, limit the hours if you decide they're approved the building. Thank you."

R. Ridler asked if there were any others wishing to speak.

Nolan Kokkoris, Esq. of Bond, Schoeneck & King explained his firm represents a group of the neighbors in the surrounding area. His colleague, Brody Smith, has spoken at previous meetings. He wanted to remind the Board that approximately 30 homes within 600 feet of the property (Owera), so it was a primarily residential neighborhood in character. As shown by other comments, the winery does have a disruptive effect on the residential character of the neighborhood when events are in use. He and his clients agree the Board needed a firm process in place to audit compliance with whatever conditions might be imposed on the property. He noted this was not a new use being proposed. It has existed and has a history wherein the winery has not always

been a “good actor.” He believed this was a time the Board could impose conditions in such a way that they would have a mechanism to ensure compliance with them. There needs to be something “with teeth if the conditions are violated.” He did not think it was “appropriate to just simply take the Applicants’ word on it that they’re going to follow through and obtain leases to meet their 51% threshold underneath the Ag & Markets law.” He believed the Board needed something more than “a wink and a handshake deal.” He felt the Board needed more firm evidence in place before the Board allowed any project to move forward.” He said he and his clients also request that the public hearing be left open to allow them to review the materials submitted and to provide additional comments for the Board's consideration.

Motion by R. Cook, seconded by D. Bowers, to continue the public hearing was carried unanimously.

R. Ridler asked Mr. Langey if they needed to address anything else at this time.

J. Langey responded that the issues had been framed and each side has competent legal counsel, and he encouraged both to feel free to continue to submit written material.

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

Motion by D. Bowers, seconded by T. Clarke, to adjourn the meeting at 8:49 P.M. was carried unanimously.

Sue Wightman, Planning Board Secretary – April 4, 2025