

Town of Cazenovia Planning Board

Meeting Minutes

October 3, 2024

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

Members Absent:

Others Present: John Langey; John Dunkle; Thomas Lampros; Maria DiElsi; Alexandra Shaw; Paul Curtin, Esq; Mary Beth Carmen; Andy Ramsgard; Christian Freeman; Adrienne Drumm; Sandy Holmes; Peter Muserlian; Chris Montonte; Sheila Fallon; Gail Woods; Sam Woods; Jo Anne Race; Bruce Race; Jeff Busch

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, November 7, 2024.

The next deadline day will be Wednesday, October 23, 2024.

The next regularly scheduled work session will be Thursday, October 31, 2024.

Motion by A. Ferguson, seconded by T. Clarke, to approve the September 5, 2024 meeting minutes was carried unanimously.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

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

No one was present to represent the application.

R. Ridler informed the Board there were two (2) items relating to this application. The first was to address clearing of trees and undergrowth the Kennedys performed along the shoreline earlier this year. The Kennedys were asked to provide a plan to remediate the removal of the trees and vegetation. He spoke with Mrs. Kennedy today and she provided him with recent photographs of the shoreline in the disturbed area, and it was her opinion that the vegetation has grown back to almost the same condition as it was before the work had been done, with the exception of the trees that had been removed. He passed his tablet around the table so the Board members could view the photos.

A. Ferguson asked the caliper of the trees that had been removed.

R. Ridler did not know.

T. Clarke asked if a letter of reprimand would be sent to River Rock Dock, who cut the trees.

J. Langey answered the Code Enforcement Officer would be the one to send that, if one were sent, since it was a violation of the Code.

R. Ridler said the second item was renovations the Kennedys were considering to do on the house. He said they have not developed their plan for that and do not expect to have that ready until after the first of the year.

R. Ridler said the Board would consider the shoreline activity as soon as that was ready.

D. Bowers responded there was not a site plan application submitted for the work on the house, so the Board would consider that when that was submitted. The Board would only be addressing the shoreline remediation at this time.

L. Cushman asked if all the photographs displayed were current pictures, wondering if there were any of the shoreline before the trees and vegetation were removed.

There were no photographs of the shoreline prior to when the unauthorized work was done.

R. Ridler said Mrs. Kennedy invited the Board to visit the site at their convenience. The Kennedys do not live on the property, but the Board was welcome to visit.

A. Ferguson asked if there were any pictures taken from the lake.

Photos from the file were produced showing the lakeview in May of 2024, but again there were no photos from the lakeview prior to the unauthorized work.

A. Ferguson asked if any planting was proposed in addition to what was now growing.

R. Ridler answered Mrs. Kennedy thought it looked like it did before with the exception of the deciduous trees that had been removed.

The majority of trees removed was dead ash.

A. Ferguson believed the Board has requested a planting plan, and so far, the Applicants have not provided one. She felt the least the Applicants could do was document what has been removed. She wondered if the Cazenovia Area Conservation Commission (CACC) could provide guidance.

A. Ferguson asked if the Board still wanted a planting plan or if Mrs. Kennedy thought the photographs submitted supported an opinion that a planting plan was unnecessary.

R. Ridler affirmed he would still like a planting plan and believed the Kennedys were still in the process of creating that, but Mrs. Kennedy submitted photographs to show how the area has grown (since spring). He said they would look to the CACC for guidance.

Paul Curtin, the Chair of the CACC, who was present for another agenda item said the CACC would be happy to review this and make recommendations.

Motion by D. Bowers, 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 reported there was nothing new in the file and Mr. Hoffman was experiencing exasperation with the Army Corp of Engineers (ACOE). He asked Mr. Dunkle if there was any way to hasten the ACOE's response.

J. Dunkle indicated there was not.

D. Bowers commented that work previously done had led to this situation, and he believed the Board was justified in what they were asking Mr. Hoffman to provide from the ACOE.

Motion by A. Ferguson, seconded by T. Clarke, to continue the file was carried unanimously.

*Lampros, Thomas & DiElsi, Maria — Site Plan Review – 2157 Rippleton Cross Road,
File # 24-1550 (Robert Ridler) Cazenovia*

Thomas Lampros and Maria DiElsi were present to represent the file.

M. DiElsi recounted this was their third time before the Board for the building of their new home. She said the first time they were approved to build a small, straw bale cottage, but as time progressed, they had decided the cottage approved was too small, so they then designed a larger structure than the 850-foot approved house. She said they hired an architect/engineer to create those plans, but unfortunately when they "went to do a take-off," they were informed those plans were not complete. The architect/engineer claimed the plans were complete, and that "went back and forth for months and months." She said finally in the spring of this year they gave up on that design and were now submitting a modified plan from the original Applegate straw bale cottage designer. She expressed her satisfaction with their interaction with this architect and said they were pleased with these plans. In this proposal there would be 1200 square feet on the first floor with a 200-square foot loft.

M. DiElsi said the Board has been provided the approved septic plans and she and Mr. Lampros are working with Shutes to create a second well since the original is very close to Rippleton Cross Road, and the location of the new house will be some distance from there. No problems are anticipated in the creation of the new well.

T. Lampros added the new well location would be about 200 feet from the septic system.

M. DiElsi said the land was delineated to locate wetlands and a land disturbance permit had been issued for the creation of the driveway. She said the placement of the septic system and the well has already been approved.

R. Ridler noted the General Municipal Recommendation Report (GML) from Madison County had been received and saw that no adverse county-wide impact would result from this project. The GML was dated October 1, 2024.

A. Ferguson saw that Ms. DiElsi's signature was needed on the site plan application.

M. DiElsi signed at this time.

A. Ferguson asked if the site plan showed the location of the new well.

Drawing A001 drawn by TML dated 11-Aug-2022 entitled *Maria DiElsi & Tom Lampros Residence & Farm 2157 Rippleton Cross Rd. Cazenovia, NY 13935 (sic)* showed the proposed well location.

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

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

*Morgan Qualified Per Res Tr – Line Change – 4400 Syracuse Road, Cazenovia
With Hugo, Aaron & Michela 4398 Syracuse Road, Cazenovia
File # 24-1551 (Dale Bowers)
Morgan Qualified Per Res Tr – Site Plan Review – 4400 Syracuse Road, Cazenovia
File # 24-1552 (Dale Bowers)*

Alexandra Shaw was present to represent the files as was her attorney, Paul Curtin, Esq.

D. Bowers said the Board would discuss the line change first and asked Mr. Curtin to describe the proposal.

P. Curtin said when the property was listed for sale it was advertised to have 190 feet of lake frontage, but when Michael McCulley surveyed the property, there was only 175

feet. It was agreed by the Buyer and Ms. Shaw that a lot line adjustment for 16 feet would be done as shown by the drawing created by Michael J. McCully Land Surveying, PLLC dated 09-02-24 entitled *Lot Line Adjustment on Lots Two, Three and Four of Lessen Estate Subdivision. Map #2154. Known as No, 4398 & 4400 New York State Route 92, Town of Cazenovia, County of Madison, State of New York.* This will result in Lot #4 having 191.6 feet of lake frontage.

P. Curtin said both lots are conforming now and will be conforming after the conveyance of land from Lot #3 to Lot#4. The section of land is wooded.

J. Langey led the Board through Part 2 of the Short Environmental Assessment Form (SEAF)

Motion by D. Bowers, seconded by L. Cushman, to appoint the Planning Board as Lead Agency for the purposes of the SEQR, and to move the application to a public hearing at the next Planning Board meeting was carried Unanimously.

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

Instructions regarding the public hearing notifications were given at this time.

P. Curtin pointed out that in the description of the proposed action on page 1 Part 1 of the SEAF there was a typo in which it was stated 15 feet would be conveyed when it will actually be 16 feet.

J. Langey responded they would make sure that was noted.

D. Bowers said the next file for the Applicant was a site plan review for a garage addition. He displayed a photograph of the garage and explained where it was oriented in relation to Route 92, a pond, and the lake. The house would be between the proposed structure and the lake, closer to Route 92 than the house.

A. Shaw said the garage was not visible from Route 92.

D. Bowers believed the addition would be used as space for a shop.

A. Ferguson asked what kind of shop it would be.

A. Shaw answered a work/wood shop.

A. Ferguson confirmed it would not be for a commercial or industrial use.

R. Ridler asked about electricity for the building.

A. Shaw said the structure currently has no electrical service, but they would install that for the addition. She elaborated that it would be run underground from the house. She talked about where there was service already located partway around the pond and how that would be extended.

A. Ferguson asked about the size of the addition in comparison to the existing building.

A. Shaw said the addition would be the same size as the existing garage, 22' X 22'.

R. Ridler asked if it would be added to the south side.

A. Shaw answered it would because of that location's elevation, saying the land disturbance would be minimalized there with only three (3) trees needing to be removed.

A. Shaw showed a photograph she took from the road showing how the garage was not seen from the road during this season.

A. Ferguson asked if once the addition was completed would the same condition of the screening remain.

A. Shaw answered it would remain. She said they would not be removing the growth between Route 92 and the structure; only vegetation for the new footprint would be removed.

R. Ridler asked if the color of the addition would match the existing shed.

A. Shaw affirmed it would and said it would be dark gray, which will also match the house.

R. Ridler asked if it would have garage doors.

A. Shaw answered it would have French doors so they could get a boat inside if Jeff wanted to work on a boat.

D. Bowers asked if having the structure between the road and the house were an issue.

A. Ferguson responded the structure was existing.

A. Shaw asked what side of the house was considered the front – the road side or the lake side.

A. Ferguson answered the lake side.

A. Shaw said she received the GML from Madison County.

D. Bowers replied that the Board had seen that the County raised no issues.

J. Langey said this would be a Type II Action regarding SEQR.

Motion by D. Bowers, seconded by A. Ferguson, to approve the site plan for the addition of a 22' X 22' addition to the existing garage/shed was carried unanimously.

J. Langey said he would include in the resolution that the Applicant has represented that they will keep the existing screening in place.

A. Shaw added that if there were an impact to that screening during construction, they would restore it.

D. Bowers reminded Ms. Shaw that she was to return to the next Planning Board meeting to complete her line change application.

*Carmen, Peter & Mary Beth – Site Plan Review– 1080 Tunnel Lane, Cazenovia
File # 24-1555 (Dale Bowers)*

*Carmen, Peter & Mary Beth – Line Change – 1080 Tunnel Lane with 1070 Tunnel Lane
With RSJT Holmes, LLC
File # 24-1556 (Dale Bowers)*

Mary Beth Carmen with Andy Ramsgard and Adrienne Drumm of Ramsgard Architectural Design were present to represent the file in addition to Christian Freeman of Keplinger Freeman Associates.

D. Bowers said the Board would address the line change first.

C. Freeman displayed the full-sized drawing he created dated 30 September 2024 entitled *L2.0 Site Plan Carmen Residence 1080 Tunnel Road, Cazenovia* which showed the triangular, hour-glass-shaped Carmen lot which jogs around the neighbors', RSJT Holmes, LLC, garage to the north. He explained they will be swapping equal amounts of property between that northern property line, conveying 953 square feet south of the Holmes' garage to the Carmens and conveying 953 square feet north of the Carmens' lot, to the east of the Holmes' garage, to the Holmes. He explained this will enable the

Holmeses to use their garage without having to go onto the Carmens' property to maneuver, and it will make the deed simpler. He said in return, the Carmens gain some forested area “on the uphill side of Tunnel Lane away from the lake,” that they will keep undeveloped. He said their construction will not impact the area.

D. Bowers expressed his approval of the swap.

R. Ridler asked how this would impact the overall impervious surface area.

C. Freeman answered the section conveyed to the neighbor has existing asphalt and the Carmens would be gaining pervious area from the neighbors, so this would be advantageous from an overall impervious surface area perspective for the Carmens.

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

Motion by D. Bowers, seconded by T. Clarke, to appoint the Planning Board as Lead Agency for the purposes of the SEQR, to move the application to a public hearing at the next Planning Board meeting, and to continue the files was carried Unanimously.

The site plan review was then discussed.

C. Freeman said he and Ms. Drumm attended the work session and a few issues had been raised. He said the first was regarding plantings within the Critical Environmental Area (CEA) and views from the lake. He said Ms. Drumm would address the issue of building height and character of the neighborhood,

C. Freeman said they developed a planting plan with 90% of the plants found in the *Cazenovia Lakefront Development Guidelines*, the *Finger Lakes Landscapes*, and *Cazenovia Lakefront Location Plant Materials*. He said they incorporated woody shrubs, evergreens, and plants that will hold the soil, fulfilling the intent of and being listed in the guides.

C. Freeman said in previous plans there were decks remaining in the CEA, those decks have been removed from the plan, with the exception of one area, and have been replaced with native plants “that will look nice from the lake front.”

A. Ferguson noticed the plant list specified the plant varieties, but she asked if it specified quantities.

C. Freeman answered it did not, but he could do that. He wanted to have the whole design, including the plantings in front of the house, discussed with the Owners before he assigned values, but he said they could easily submit the shoreline count.

R. Ridler asked if the design along the shore was more naturalistic than a grid.

C. Freeman displayed the drawing he created 30 September 2024 entitled P1.0 *Site Photoboard Carmen Residence 1080 Tunnel Road, Cazenovia*, which used drone photography to show the existing house, showing the hard-edged waterfront with a main deck and two (2) decks on the sides. He indicated where they now propose vegetation creating a soft edge, and where the decking to remain will be narrowed.

R. Ridler asked if the total impervious surface in that area would be 5% or less.

C. Freeman displayed the drawing he created 30 September 2024 entitled P2.0 *Site Photoboard II Carmen Residence 1080 Tunnel Road, Cazenovia* which illustrated the proposed condition with the new house. He pointed out the piece of deck to remain with stairs coming down to the deck from the yard with the added greenscape. He mentioned the use of bee balm plants and said that almost the entire edge will be planted creating a softer edge with roots that will hold and retain the soil.

A. Drumm said the existing hardscape in the CEA was 58.7% and the proposed would be 24.7%. She said the Zoning Board of Appeals (ZBA) allowed that with their area variances approvals. She said the overall property would be 20.6% impervious.

J. Langey explained the Applicants received variances for structures, but the ZBA does not approve impervious surface area. He said the Applicants have been approved for the placement of the proposed structures on the plans, now the Planning Board is doing their “normal job” of working on “the balance of the site.”

Reading from L2.0 C. Freeman said, “No trees are being removed within 40’ of the shoreline.” He said that was an element found in the *Cazenovia Lakefront Development Guidelines*. He continued reading, “Over 75% of the proposed plant material is native.” He repeated they would be using 90%. He read, “70% of the coverage goal within 20’ wide Critical Environmental Area has been exceeded in design,” - 984 square feet is required and they propose 1121 square feet.

A. Ferguson clarified the Board was looking at impervious surface percentages.

D. Bowers said he was looking at the regulation found in the Code 107-7.1.(C)(2)(a) which said, “In the zone from the first 20 feet inland from the lake edge, the maximum impervious surface permitted shall be 5% (basically access to the lake by way of an impervious path or walk).” He concluded the regulation was not to provide for a deck. He said in the past, decking had been allowed, but he believed the Board was “looking at that a little differently now.”

C. Freeman understood. He said part of the impervious surface area in that area included an existing concrete retention wall which was not in disrepair.

D. Bowers replied the Applicants were proposing to have a deck in the CEA, where the intent was to have only a path or walkway to the lake. He said it was up to the Board if they wanted to vary from the regulation.

J. Munger asked about the decking in the rendition.

C. Freeman said it was existing and was to remain.

D. Bowers asked the size of the deck.

J. Langey repeated that it was already there, and thought the Board could view it as being grandfathered in if they so choose.

C. Freeman said the dimensions were 14' X 8'.

L. Cushman asked what the current condition was compared to the proposed, noting much decking would be removed.

A. Drumm answered decking was almost along 100% of the shore front.

C. Freeman responded it was “from tree to tree,” – “all the way across,” with varying widths. He said it was a wooden deck, so not as “monolithic or aggressive” as a concrete deck in terms of impervious surface area.

A. Ferguson noted the decking being removed in that area resulted in a reduction, even though the Applicants may still not be able to meet the impervious percentage goal. She asked about those percentages now as opposed to the proposed.

A. Drumm answered they have 58.7% in the first 20 feet from the lake and they were approved for 20+%.

A. Ferguson corrected the Applicants by saying they had not been approved for that amount of impervious surface area (by the ZBA); that was the amount the Applicants were proposing.

A. Drumm responded, “Yes.”

J. Langey said the Applicants also showed a depiction of the waterfront area, and their position was they would be remaining in the existing character of the neighborhood.

C. Freeman replied, “That’s the goal.”

A. Drumm pointed out that the existing home was only 15.5 feet from the lake, and they were proposing to move it back 31 ½ feet, so the new home would be placed significantly farther from the lake, and they would be adding a significant amount of plantings in front of that as well, to add more permeability and to improve the neighbors' views, particularly the Holmes' view.

C. Freeman added a shed would also be removed.

A. Ferguson asked where the shed was located.

A. Drumm answered it was near the south boundary on the Ritchies' side. It was only .1 feet from the boundary line. She said the current home is 0 feet from the property line to the north. The proposed location would have 15 ½ feet of setback on either side. She said they have letters from both neighbors in favor of the project.

D. Bowers asked if seeing what the condition was on either side of the proposal would help the Board.

A. Ferguson noted the development along the shoreline to the south was more intrusive than what was being proposed.

A. Drumm showed the Board pictures on her tablet of the existing conditions along the shoreline on either side of the Carmen property.

More discussion followed regarding the existing condition and the goal of having only a pathway to the lake.

C. Freeman repeated the existing wall, which was allowed according to the *Lakefront Development Guidelines*, accounted for a good part of the impervious percentage in the CEA. He said one would not be able to have a wall, which was beneficial to the health of the lake, if one were to adhere to the 5% regulation, depending upon one's lot and the square footage in that zone.

R. Ridler asked if the pathway to the lake would be impervious for this project.

C. Freeman answered, "Yes."

R. Ridler asked if the deck was part of the access to the lake.

J. Munger believed it was.

A. Drumm affirmed it was.

R. Ridler asked if it had to be impervious.

C. Freeman responded it was existing. He said there was a new deck which spanned around the existing house and steps down to the lake, but because it is in violation to the standard, they propose to remove that, so he felt strongly about the one remaining deck.

D. Bowers thought the Board needed to compare what was being proposed to what was there and what exists in the neighborhood. He understood they could not achieve what was set forth in the regulations, but felt the Applicants were moving toward the standard, and the proposal fit the context of the neighborhood. He said the deck could be shortened, but he indicated he did not think that was necessary. He expressed that the height was a greater issue for him. He mentioned there was a change in regulation before the Town Board involving lowering the allowed maximum height of houses to 28 feet on smaller lots.

R. Ridler asked if there would be any plantings in the expanse of lawn he saw on the renderings.

C. Freeman said the property slopes to the lake, and the rendition does not reflect the final planting plan, but the emphasis has been to create green space along the face of the property.

R. Ridler did not believe any of the plantings proposed were tall trees.

C. Freeman responded they would be shrubs and plants specified for soil retention.

R. Ridler asked if the whole house would be viewed from the water without obstruction.

C. Freeman answered there were mature cedar trees on the site and only one (1) tree would be removed for construction.

R. Ridler asked if the area between the house and the lake could be visually softened.

J. Munger asked the width of the lot.

C. Freeman calculated it was 150 feet.

J. Munger did not think that could be considered a great expanse of lawn.

R. Ridler countered the house was not buffered from the perspective of the lake. He asked the maximum height of the plantings.

C. Freeman repeated it would look stepped. He said there would be tiers and levels that would break up the “verticality” of the view.

D. Bowers believed one would be seeing the height of the house, not the lawn from the lake.

T. Clarke asked the height of the proposed house.

It would be 33' high.

M. Koppers said the grade would make the house appear taller.

J. Munger asked if the proposed height of the house was within the existing regulation for the maximum height.

It would be.

L. Cushman asked about the appearance of the neighboring homes regarding height.

A. Drumm remarked that one of the neighboring homes was 41.1 feet tall.

T. Clarke asked about the mitigation of runoff.

C. Freeman explained the location of the new septic system and the treed area on site, as well as where there is an existing septic system. He explained how he thought the water would be infiltrated and intercepted before crossing Tunnel Lane. He said part of their proposal was a pea gravel diaphragm and he explained how that would work with perforated piping.

T. Clarke asked if there would be gutters on the house.

C. Freeman answered they will have gutters and three (3) downspout connections that will tie directly into the storm system.

T. Clarke asked John Dunkle his opinion regarding the storm water mitigation.

J. Dunkle responded, "What's happening at the end?"

C. Freeman said at the end there were connections with perforated pipe and then runoff will bubble out of the top of the structure overland into a planted area.

R. Ridler asked if there was an existing drain there now.

C. Freeman answered there was existing storm (drain) on site, but much of the runoff sits between the lots on the south side and has been getting into the neighbors' house. He said that was the motivation for the interception scheme.

J. Dunkle believed a more refined treatment was needed at the end – perhaps rain gardens or dry wells.

R. Cook said one of the neighbors has an entire disposal system beneath the grass, much like what would be put in for a septic system, to keep water from getting into the lake.

C. Freeman responded that they could add the soil medium to create a rain garden.

T. Clarke thought the Board should see a more detailed plan for that.

C. Freeman agreed he would provide that.

D. Bowers informed the Applicants the stormwater design would need to be approved by the Engineer for the Town.

C. Freeman said he would coordinate with Mr. Dunkle.

D. Bowers believed the Board was finished with the CEA issue, and Mr. Freeman has been given direction for what was needed for the development of any drainage issue which would then be reviewed by Mr. Dunkle.

C. Freeman responded he would provide a grading plan and the rain garden detail.

D. Bowers replied that the Board would be satisfied with Mr. Dunkle's blessing.

A. Drumm then discussed the proposed height of 33.6 feet. She said they performed a study of the local context, and the measurement was taken from the lowest point on the lake side to the highest point of the roof. She said every other house along the street with the exceptions of Holmes' were higher. Ritchies were 41 feet; Durkovics were 34.6 feet; Ports were 35.8 feet; and Baldwins were 36 feet. The Hugo house was shorter, but they did not include that because that structure was proposed to be demolished and rebuilt.

D. Bowers agreed with Mr. Munger, that the Board considers the neighborhood, and the proposed height was within the current regulation limits.

J. Munger felt the proposed height was comparable to the neighborhood.

A. Ferguson considered that the proposed revision to the regulation would decrease the height allowed.

J. Munger did not feel the change was imminent and the current standards were the approved standards.

A. Ferguson understood but opined it would have been preferable to set a precedent for a lower height.

D. Bowers asked the size of the lot.

C. Freeman thought it was about ½ acre.

A. Ferguson remarked it would be a big house for a small lot.

D. Bowers agreed, but said he was comfortable with a conditional approval based upon Mr. Dunkle's future satisfaction with the storm water design.

J. Langey noted the Applicants will need to return to the next meeting to finalize their line change, so he suggested both items be considered at that time, however he believed the Board was indicating that the project was headed in the right direction.

D. Bowers asked if the Applicants understood and if everyone was agreed with what was expected.

A. Ferguson reminded the Applicants of the need to take photographs of the existing house from each elevation prior to demolition.

D. Bowers explained this was a new requirement.

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

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

Peter Muserlian and Christopher Montonte were present to represent the file.

P. Muserlian reported they started this project in 2007 and reminisced about the business over the last 17 years, calling the endeavor “a legacy project” for himself, his family, and his kids. He was hoping to come to an understanding with the Board for constructing a permanent building. He said last fall the Board visited the site with a noise engineer and at that time he thought the Board was comfortable with the ability to stop the noise coming from the proposed building, with base musical notes being a problem for the neighbors. He said Joanne Gagliano also worked on the site plan to devise other methods regarding lighting and the location of trees to obscure headlights when patrons were exiting the property. He felt they were headed in the right direction

and felt the issue of hours of operation could be resolved as well. He asked Mr. Montonte to speak about a compromise with the Board regarding some other issues in an effort to resolve the whole matter.

C. Montonte said the site plan presented at this time differed from the site plan for a building in 2015. He stated the proposed building now would be significantly smaller than the approved building from 2015. He said it would “have less functionality.” He elaborated there were a number of conditions tied to the 2015 approval, some of them still valid, but he felt the change in design might make a change in conditions appropriate. He pointed out this was a new application to essentially change their operating plan and to replace the footprint of the tent with a permanent structure as a remedy to reduce sound and impacts to the neighbors.

C. Montonte explained this proposal lacked the classroom, secondary function that was part of the former approval. He said some conditions included allowing only one (1) event occurring at the same time. He said, “Clearly things like that would not apply.” He said they had a bigger plan at that time, but now their “only reason to enclose the building was to mitigate the impacts to the neighbors.” He said they were comfortable with the seasonal facility, but felt a building was the only way to eliminate objections. As Mr. Muserlian had stated, they thought they were making progress with the physical components of the property and the plan, and after adjourning last fall, they started looking at the conditions that would apply, and they recognized the need to “tackle some of those and amend them.” They sought professional support from Adam, a partner of Phillips Lytle, LLP. He said Adam knows much about the agricultural markets and issues. He said they agreed with the spirit of all the conditions, but they were concerned about the wording of some of them, so they asked Adam how to influence the Board to consider amending those conditions for this new application. He thought Adam devised the clever idea of lifting the responsibilities of monitoring and evaluating the farm operation from the Planning Board if they were compliant with the State Liquor Authority rules, and all aspects of what they needed to be doing according to the State agencies that regulate them. He felt those State agencies were better equipped to evaluate the endeavor, to view the guidelines as “true guidelines,” and to reconcile those guidelines with their State Liquor Authority requirements. They felt those were the responsibilities of the State Agencies, who regularly and routinely “do these things.”

C. Montonte said some of the conditions took the details of the guidelines and put the burden of evaluating and monitoring onto the Planning Board. Adam thought one thing that could be done if there was a concern regarding adherence to New York State Agriculture & Markets (Ag & Markets) law was to make sure the winery was protected under Ag & Markets Law 305a. How farms obtain that protection is by applying for an ag assessment. The ag assessment ensures one is a farm operation, that one is compliant with the minimum standards of producing acreage with an income test to make sure one is operating sufficiently as a farm operation. He believed the ag

assessment “gets us there and gets us beyond some of the issues that were/seemed to be of concern regarding our integrity as operating as a farm/winery.” He repeated he thought that was a clever solution.

C. Montante said the other solution was being in compliance with the State Liquor Authority and all their requirements regarding a farm/winery operation. He said the only true laws were with the State Liquor Authority. He said they require one be a farm, and the ag assessment determines that; they require that one have income from one's farm-produced-products; and they require that 100% of one's grapes are sourced by New York State growers. He reported Ag & Markets goes a little beyond that for one's protection by saying if one aims to restrict a farm operation, in this case the Winery, Ag & Markets will let one do what one needs to do. He said if their winery had hundreds of acres of contributing vineyards, and one was to put those restrictions on the Winery, Ag & Markets might say, “Hold up – we want to review this.”

C. Montante said he explained at the last meeting as well as at the last work session that the Commissioner of Ag & Markets had at his disposal, and empowered by the Farm Bureau, the ability to look at things like the producing acreage on a relative basis. He said wineries in the Finger Lakes would have a standard due to their climate and their ability to grow the full portfolio. He said in other areas, with higher elevations like where they are, there was not the warming impact of the microclimate, and the vinifera grapes could not be grown. A different standard could be used since those varieties of grapes were necessary for the production of wines.

C. Montante said the conditions in the 2015 resolution from #23-26 copied and pasted those guidelines and “force-fit them years after we had built the winery and invested into it.” He said those were not the same requirements as the State Liquor Authority laws. He said they fought those requirements at the time, and did not win. He said they felt those conditions “were unreasonable, coming later in the game,” not being part of the original site plan approval, and “went a little bit too far”, even “further than with the Commissioner intended.” He (the Commissioner) came here and he (the Commissioner) “met with John and at that time, the Chair of the Planning Board.” He said the Commissioner couldn't provide more protection for Oweria because at the time Oweria was just a start-up with three (3) acres, but today “we are legitimately a farm operation, and we are going to go get that ag assessment with or without approval for this building,” which will get them the protections of 305a.

C. Montante repeated that they had Adam look at the conditions and Adam came up with what Mr. Montante believed “was a clever, meaningful alternative.” He said they asked Mr. Langey to weigh in on that.

J. Langey interjected asking if Mr. Montante was going to relay what Mr. Montone believed Mr. Langey had said during a phone call. He asserted what mattered was what the Board says.

C. Montonte recalled Mr. Langey had advised that he had no opinion one way or the other.

J. Langey repeated that he was saying the decision belongs to the Board – to make a decision based upon the facts presented to them.

C. Montonte said they issued the letter directly to Mr. Langey initially so they could understand if it would be a reasonable approach. He said they “followed up on that because the messaging we got was that it’s a reasonable approach; come and direct it to the Board.”

J. Langey did not recall saying it was reasonable, he did agree he said it was to be directed to the Board.

C. Montonte said it was on the record that the decision was the Board’s whether they get counsel from their lawyer or not.

C. Montonte said they had hoped Mr. Langey “could weigh in at least a little bit in guidance, and that’s what the letter had initially stated.” He said they received no response whatsoever for a period of months. They “had to hand-deliver the letter here.” He said it seemed as though they were being evaded, and they thought they “had a pretty decent approach.”

T. Clarke asked if they had attended any (Planning Board) meetings (during that time) “after that initial meeting when you walked away and didn’t come back.”

A. Ferguson explained it was being asked if the Applicants attended any meetings after sending the letter.

C. Montonte said they attended the meeting two (2) sessions ago (August 1, 2024).

M. Koppers asked when the letter was sent.

R. Ridler answered the letter was dated March 22, 2024.

C. Montonte said those “were just details, timeline,” and repeated they understood the decision was up to the Planning Board. He concluded that they were agreeable with a number of conditions from the last approval, in a particular the dark-sky compliant lighting; noise monitoring; on-site security; restricted hours – although they ask that the current hours they have on Fridays and Saturdays remain, saying they can talk about that in later sessions; an annual review as has been done in the past, but they want a simpler test – “to be able to come in, show our books, and you know, one-on-one, informal, like we have done in the past, and show that our wine sales exceed our net event sales.”

C. Montonte said he heard a concern that perhaps the events overshadowed the winery operation, but he said that was only because the topic of the Planning Board meetings is the events. He said that was troubling to them because they know how hard they “work at the agricultural part of it – the wine-making part of it, the failures, the victories – we live that every day.” He asserted they were there to sell wine, which they can do three (3) different ways: retail tasting room, wholesale, and through the events. He said they “get so much boost from those events” for their wine sales. He said it was “a structure many wineries utilize” and that “it was always part of our business plan.” He claimed, “it was promoted that way, funded that way, and we operate within the laws.”

R. Ridler expressed understanding but said the things that drew his attention over this extended period of time, considering the Applicants’ position, the Board’s position, the Community’s position, and the neighbors’ position with regard to activities at the winery was that noise was one of the biggest concerns and the impacts of events on site. He felt they have worked through much of that with the building. He acknowledged the work that has been done by the Applicants, and said the Board has worked with the Applicants’ sound engineers as well as having their own engineers. He opined he thought the proposal for the building was “a good one.” He said they need to acknowledge that the building may not allow sound to escape, but the activity in the parking lot during the departure needs to be under control. Attenuated sound in the building did not make sense if everyone was in the parking lot making noise.

R. Ridler said regarding Mr. Langey, the Board has the utmost confidence in him and the Board will have him guide them. He said the Board will make a decision, but it would be with guidance from Mr. Langey. Mr. Langey has done an outstanding job, and the Board is pleased to have him. He felt that speaks for itself.

R. Ridler said the endeavor is a winery, that it was meant to be a winery. He understood Ag & Markets allows the Applicants to market their wine in various ways, including events where the product is marketed, and he understood the restrictions for what can be grown in our climate, and the need to use grapes grown within the State. The Board was being cautious that the endeavor is truly a winery and not an event center. The Board was trying to ensure the fact that the business remains a winery – growing grapes and making wine. He said how the Applicants market their product was their business, but the point was that events should not “overpower what goes on up there.” He said that was why he was fixated upon conditions #23 – 26 in the 2015 resolution addressing event sales of the farm’s winery and winery-related food products having to exceed fees charged for such activities, and the sale of the wine having to exceed the event fees.

C. Montonte believed they could address that, and asserted they were agreeable with everything Chair Ridler said. He said in terms of how they demonstrate that, the condition that was dropped into the last approval, was structurally okay, however they

would like to make it “a little bit more simple, a little bit more generic.” He said it seems to imply that they would have a Certified Public Accountant (CPA) do an audit of each event and make a representation 20, 30 times, maybe more per year, individually for all the events, which they would then have to review all together. He said they would rather show the Board at year end what the total volume of wine sales were and what their net revenue from the events was. He said the net event sales, even with the new building, would be far less than the wine sales. He asserted the event center would be there to promote wine. He said they would not be cooking for 200 people or doing things like that. He said they were looking to promote the winery and the brand. He repeated they would do that via wholesale – bars, restaurants, liquor stores; they use the onsite premises saying they were awarded a grant a number of years ago to bolster agritourism, which was not protected by Ag & Markets 305a, and was something the Town wanted. He said they had been elevated to the point where they could build the winery on the premise of economic development, creating jobs, that kind of thing – which they did.

A. Ferguson asked if Ag & Markets has updated its guidelines since the Applicants' original approval in 2008.

C. Montonte said the guidelines that Mr. Brody presented to the Board in one of his submittals were the current guidelines. He said the guidelines were very similar, with “small, little changes in language.”

A. Ferguson asked if the guidelines specify a process for the accounting of sales – events versus wine. She repeated her question asking if the current guidelines specify a process that was different from what the Applicants were currently being held to.

C. Montonte did not believe the language regarding income had changed. He said it was a per event measure.

A. Ferguson believed that was what Mr. Montonte was saying was onerous.

C. Montonte replied they were proposing “a simpler measure that will accomplish the same thing.”

A. Ferguson asked if the measure being proposed was the process Ag & Markets uses. She asked what is the process that Ag & Markets now uses.

C. Montonte said the past and current language for the process Ag & Markets uses “is a little bit onerous.” He continued saying it would be easier to have a true measure of the whole year, rather than a per event accounting, by a CPA. He said that was not commercially feasible, having a CPA's report for every single event.

A. Ferguson asked if the Board was being asked to consider a process not consistent with Ag & Markets.

C. Montonte responded that it was entirely consistent. He asserted the Ag & Markets guideline was designed for the very purpose stated, ensuring marketing events do not “eclipse the larger, big picture of the farm winery.” He said Ag & Markets was “all about ratios.” He repeated the spirit of that guideline was captured in the proposal. They felt their proposal was “equivalent, and simpler to manage.” He stated their proposal would bring them in every year, reviews their operation, grievances could be aired, and if the Town did not like an aspect, they could make further restriction on the winery, if they felt that was necessary. He said if the Winery had a problem with that, they would then file a 305a, go to the State Liquor Authority to seek a review stating the claim that the restriction was unreasonable.

R. Ridler asked if Mr. Montonte was suggesting they would prefer to be under the State Liquor Authority versus Ag & Markets.

C. Montonte replied the State Liquor Authority has laws that must be abided by already. He said they understood that at the onset of their endeavor, and they also understood as a start-up farm operation, they would not yet have protections under 305a. He said they were now beyond start-up status. He noted one of the previous conditions was that the winery “needed to grow more vineyard.” He affirmed they have done that.

R. Ridler repeated his question.

C. Montonte answered that was an interesting question. He said a careful review of Ag & Markets Guidelines revealed certain responsibilities for compliance that fall on farms, footnoted for wineries and breweries will be superseded by the New York State Liquor Authority in areas related to alcohol.

R. Ridler wanted to see those State Liquor Authority regulations that the Applicants prefer to be their standard, so the Board can compare those to the guidelines upheld by the Court in 2015.

P. Muserlian emphasized the State Liquor Authority regulations were laws, not guidelines.

J. Langey explained the Board used the Ag & Markets guidelines to create an approval for the Applicants' (2015) project. He explained that once that becomes a condition of an approval, that becomes oversight by the Town. The Board took its cues from Ag & Markets, because “that was the place to take it from.” He said those conditions were upheld in court and were now “ironclad.” He said the conditions were fully vetted by the Court. He said the Board could change the conditions; the Board has that right,

and that was what the Board was being asked to discuss, but what the Board has now is the law. He repeated the Applicants can seek the Board's amendment of those laws.

D. Bowers asked if the conditions only apply to the previous application and not to the most recent application.

J. Langey said the previous conditions may be conditions for future applications if the Board so chooses.

J. Langey explained the Applicants are stating reasons why other conditions should be used instead.

J. Langey said the Board would have a public hearing to hear all sides of the request. He said as it sits now, the conditions are "good; they're solid; they can stay; or they don't have to stay."

R. Ridler explained that was the reason he wanted to compare the accepted conditions to the laws enforced by the State Liquor Authority.

A. Ferguson asked if that would be specific to the auditing and accounting of sales, or broader.

R. Ridler answered as would compare to conditions #23 – 26.

C. Montonte said the Board has the power to set the bar and they, the Applicants, invite that. He said they, the Applicants, have been to Albany several times since the Ag & Markets guidelines were being used beyond guidelines.

R. Ridler stated the Board can use guidelines to formulate their own conditions.

C. Montonte responded that was what they would like to have happen; that the guidelines would be used as a basis to help them move forward in a way that would be mutually more agreeable, that they can sustain over time, that doesn't require hundreds of thousands of dollars of accounting fees. He said they will show the Board how many bottles of product they sell, saying it was significant. He said regarding net event income, they are really "selling the wine, and we get a little rental fee."

M. Koppers noted earlier in the discussion Mr. Montonte referenced 20-30 events per year, if they operated 52 weeks per year with two (2) events per week, that would be 104 events with that easily doubling. She said they would not be doing 2-20 events per year if they had an all-seasons building.

C. Montonte said that was just what he had on his mind according to what they have done. He indicated if they did an event-by-event accounting, that would be even more difficult condition.

R. Ridler asked if that number included the events in the Tasting Room as well as either the tent or the new building. He said there would be two (2) sites to hold events.

C. Montonte said that would be for only the events in the Event Center.

P. Muserlian recalled providing a list of events on a monthly basis for 12 months.

R. Ridler requested the Applicants resubmit everything, including that which has now been discussed, he felt the Board could then resolve the matter “rather than beating around the bush.”

C. Montonte responded that was why they came this evening, to keep the dialog going and to see if a resolution could be done by year-end. He said regardless of the decision they want to see what their direction would be for the following seasons.

R. Ridler noted Mr. Muserlian mentioned a compromise regarding hours of operation, he asked what that would be.

P. Muserlian answered there was a whole list which they supplied listing their hours and the number events for certain months. He did not bring that this evening.

R. Ridler asked that to be resubmitted as well, so everyone would be “working from the same page.”

R. Ridler asked the Board if they had any other items to mention. No one did at this time. He said once the requested information was received, the Board would “be ready to hit it again.”

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

*Love Frazee Assoc with Pushlar, Paul — Site Plan Review – Route 20 with Route 20 &
File # 23-1497 (Robert Ridler) Fenner Road, Cazenovia*

R. Ridler said the status of this project was there had been a request to increase the maximum height of the arrays at full tilt from eight (8) feet to 10 feet. He stated 10 feet was still within the regulations. He said the photo simulations were based upon 10 feet.

A. Ferguson asked why the simulations were based upon 10 feet if the approval was for eight (8) feet.

R. Ridler believed the Applicants based their data on 10 feet.

J. Langey was unsure how the approval was based upon eight (8) but that was the height recorded in the resolution. He said the minutes show that Chair Pratt of the ZBA confirmed with the Applicants that the proposed height was eight (8) feet. He suspected the Applicants were unaware that the height was incorrect. His concern was that what was shown to the Boards was incorrect as well. However, the Applicants have stated that their design was based upon 10 feet.

A. Ferguson asked how the Board could verify that.

More discussion followed regarding the likelihood that the data was incorrect.

D. Bowers asked the Board where the panels would be erected. His point was that the increase in height would be de minimis since they would be so far from the road.

J. Munger suggest the Applicants resubmit photo simulations documenting they were created as being 10 feet tall.

J. Langey did not think the simulations had a height referenced on them initially.

D. Bowers said that detail could now be added for documentation.

M. Koppers felt the panel would not be visible in the hollow behind Cazenovia Equipment, so the change did not matter.

D. Bowers thought a correction to the submission should still be obtained.

J. Langey summarized that the Board approved of the new height, but they wanted the photo simulations to be redocumented to match the height to be used.

A. Ferguson concurred since the Applicants would then be on record for the 10-foot renditions; that way if the arrays were visible the record would show non-compliance.

R. Ridler then said the Applicants will now be installing smaller panels than those originally quoted. He asked John Watson if that would affect the height, and Mr. Watson said it would not, but the original scheme was for 100 panels in a row, but

now there would be 102 panels to produce the equivalent power. The difference in number would not affect the overall footprint of the array, however.

A. Ferguson responded that change was fine. She said the Board had not specified a certain number of panels per row.

J. Langey said these changes would be captured in the minutes and a letter would be sent asking the Applicants to please reconfirm by resubmissions of the visuals and to show in writing that the visuals reflect the maximum height of 10-foot arrays, and the letter will also acknowledge that the Board has no issue with the substitution of smaller panels resulting in a larger number of total panels to be used, but staying within the original footprint of the approved array. He said this would be handled as an amendment to the original approval; he would not be recreating the original 30-page resolution.

Motion by T. Clarke, seconded by A. Ferguson, to send correspondence authorizing the two (2) changes amending the original approval conditioned upon receipt of the requested documentation was carried unanimously.

R. Ridler noted there was one project listed under the pending category which was the Hugo project. He asked if everyone had visited the site since the “logging event.” The swift removal of trees was noted.

D. Bowers reminded the Board that no site plan for the planting plan would be submitted until the house was built, so this file will be pending for several months.

R. Ridler informed the Board the annual boat trip would not happen this year.

J. Langey said the Board would have an Attorney – Client discussion once all recorded items were addressed.

Motion by D. Bowers, seconded by T. Clarke, to adjourn the meeting at 9:16 P.M. was carried unanimously.

Sue Wightman, Planning Board Secretary – October 4, 2024