

# Cazenovia Zoning Board of Appeals

## Meeting Minutes

July 29, 2024

Members present: Thomas Pratt; Gary Mason; David Vredenburg;  
Luke Gianforte; Joseph Juskiewicz, Alternate Member;

Members absent: David Silverman; Michael Palmer, Alternate Member

Others present: John Langey; Chuck Ladd; Peter Carmen; Andy Ramsgard; Adrienne Drumm;  
Michael Hopsicker; Laurie Hopsicker; Robert DeNoble; Matthew Vredenburg;  
Mark Modzeleski; Amy Modzeleski; John Watson; Lluís Torrent; Robert Frazee;  
Susan Yanulis; Erik Anderson; Donald (Dan) O'Brien, Esq; Matthew Kerwin,  
Esq; Mary Margaret Koppers;

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T. Pratt called the meeting to order at 7:30 p.m.

Roll was taken. All were present except for David Silverman, and Michael Palmer. Joseph Juskiewicz was asked to be a voting member in Mr. Silverman's stead.

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Motion by G. Mason, seconded by L. Gianforte, to approve the June 24, 2024 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday, August 26, 2024.

There will be a work session Tuesday, August 20, 2024.

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T. Pratt asked those in attendance to sign the sheet provided for attendance.

All requested information must be received prior to the work session.

T. Pratt asked that the rustling of papers, the clicking of pens, and other background noise be limited for the benefit of the recording.

T. Pratt said regarding public speaking, please come forward, provide one's name and address, present to the Board not the Applicant(s), refrain from asking questions but rather make statements, and refrain from repeating items if they have already been stated once during the time for public comment.

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*Levinson, Darlene - #21-3 – B&B Special Use Permit Renewal – 1560 North Lake Road, Cazenovia*

T. Pratt said this was a Bed & Breakfast (B&B) Special Use Permit Renewal for a property in the Lake Watershed that was originally granted in 2021.

T. Pratt asked Mr. Ladd if he was able to complete a site inspection.

C. Ladd answered he was not due to scheduling issues.

Motion by D. Vredenburg seconded by L. Gianforte, to continue the file until next month was carried unanimously.

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*Frisbey, Nancy - #23-1 – B&B Special Use Permit Renewal – 5332 East Lake Road, Cazenovia*

T. Pratt said this was a B&B Special Use Permit renewal for a property in the Lake Watershed that was originally approved in 2023.

T. Pratt asked Mr. Ladd if he had inspected this property.

C. Ladd answered that he had.

T. Pratt asked if Mr. Ladd was aware of any complaints regarding this endeavor.

C. Ladd responded there were no complaints and “everything looked good.”

Motion by L. Gianforte seconded by J. Juszkiwicz, to approve a 1-year renewal of the special use permit with the original terms and conditions was carried unanimously.



*Hugo, Aaron - #24-1515 – Area Variances – 1050 Tunnel Lane, Cazenovia  
(Thomas Pratt)*

No one was present to represent the file.

T. Pratt explained area variances were being requested for a new house on an existing site. He went on to say the Applicants were in the process of resolving some property issues. He stated the public hearing was open, and asked if there was anyone in attendance wishing to comment at this time.

No comments were made.

Motion by G. Mason, seconded by D. Vredenburgh, to continue the file and the public hearing was carried unanimously.



*Carmen, Peter & Mary Beth - #24-1533 – Area Variances – 1080 Tunnel Lane, Cazenovia  
(Gary Mason)*

Andy Ramsgard and Adrienne Drumm of Ramsgard Architectural Design were present to represent the file and Peter Carmen was in the audience.

T. Pratt explained this was a request for area variances for a property in the Lake Watershed. He elaborated that the Applicants were wishing to build a new house on an existing site. He said the variances were for front yard setback relief – having 24.2 feet in lieu of 85 feet, lake front relief – having 47 feet instead of 100 feet, and both side yard setbacks would have 14.8 feet in lieu of 25 feet.

A. Ramsgard, reading from the narrative provided for the project, said Peter & Mary Beth Carmen would like to make improvements to their lakefront property at 1080 Tunnel Lane. After 15 years of

owning the home, it has ultimately been determined that the best course of action for all parties is to demolish the existing home and construct a new home on the property. The Carmens envision this property being used by their family for generations to come, and are hoping to soon host grandchildren on the property along with their own adult children. The property is a pre-existing non-conforming lot with no reasonable means to bring the property into conformity with the current Town of Cazenovia Zoning Ordinance. However, the Carmens' proposed new home project will significantly reduce the non-conformities on site within their control. The proposed plan is in line with the existing character of the neighborhood and will be a significant improvement to the existing conditions of the property. In its present-day condition, the property has a total impervious coverage of 25.7%, where 10% is allowed. The proposed plan will reduce the existing impervious coverage on the property by approximately 3.5% to 22.2%. Within this overall coverage, particular care was taken to reduce coverage in the critical lakefront zone (0-20 ft from the lake line). After hearing the Boards' feedback, the Carmens opted to remove a significant portion of their existing lakefront deck and replace it with plantings per the Town's "Plant Materials Suitable for Cazenovia Lakefront Locations" bulletin. Where the existing property has 58.7% coverage in this zone, the proposed work will reduce the existing coverage to approximately 39%, a 19.7% improvement in this critical environmental zone. Setbacks on the property will also be significantly improved upon. The existing home on the property has no setback from the property at the north side yard, and the existing shed is approximately 0.1 feet from the south property line. In this proposed scheme, both structures will be removed and replaced with a single home with attached garage, centered within the width of the property to maximize size yard setbacks. After our previous working session with the Board on (6/18), the Carmens have opted to reduce the overall width of the structure even further. With this change, the overall building has been reduced by more than six (6) feet in width and the footprint was condensed by an additional 117 square feet. The proposed side yard setbacks are now 14.8 feet (north) where 0 exists and 14.7 feet (south) where .01 feet exists.

As the attached Density Control Schedule shows, The Carmen's have reduced the overall size of the proposed home for a second time based on feedback from the Zoning Board. After our first working session with the Board on April 16, 2024, the home was also moved as far back from the lake as the lot conditions allow, overall impermeable surface coverage on the lot was reduced significantly, and the building footprint was decreased by approximately 300 square feet. The existing home on the property is also significantly encroaching into the lake yard setback requirements set forth in the Town of Cazenovia Zoning Ordinance. The existing lake yard setback to the home is approximately 15.5 feet. The Carmens are proposing to significantly relocate the new home 47 feet from the lake, an improvement of 31.5 feet within the lake yard. This will not only increase the permeable surfaces in the lake yard but will also greatly improve the views of the adjacent neighbors. Concern has been expressed over the building height of structures along Tunnel Lane. With that in mind, extra care was taken by the Carmens to ensure that the proposed home is within the allowable building height set forth by the Zoning Ordinance. Additionally, we performed a study to verify that the proposed project is significantly shorter than most of the homes along Tunnel Lane. Both adjacent neighbors are in favor of the project, as their properties will be greatly improved by the relocation of the home, opening up their views to the lake. The Carmens and their neighbors to the north also currently share a single well, which

is located on the Carmens' property. With the proposed work, the Carmens have reached an agreement with this neighbor to drill two (2) new wells on the respective properties at the Carmens' expense. To our knowledge, none of the neighboring homeowners have expressed concerns for the project, and those who have commented have done so in favor of the Carmens' plans. New plantings are proposed on the property along with the shoreline and surrounding the house to improve permeability and aesthetics of the property. These will reduce the risk of runoff of the property and assist in keeping Cazenovia Lake clean. No undesirable change will be produced in the character of the neighborhood, and substantial improvements will be made to the neighboring properties with the proposed plan. There is no feasible means for the owners to bring this project into compliance with the zoning ordinance without causing the Carmens undue hardship. The requested variances are substantial but are also substantially reduced by the proposed project. The proposed project will have positive effects on the physical and environmental conditions of the property and within the neighborhood. The lot and home existed prior to the Zoning Ordinance and prior to the Carmens' owning the property, so the non-conforming nature of the property is not self-created.

G. Mason commented that having the percentages supplied (with the narrative just read) had been helpful. He approved of the setbacks from the lake and the private road, as well as the proposed sewer location and the creation of two (2) wells, but he still had concerns regarding the side yard setbacks, which amounted to approximately 40% of relief on both sides. He also questioned if the impervious surface area could not be reduced further as well.

A. Ramsgard responded that what was proposed was a significant reduction in what was existing, and opined the side yards would be "a huge improvement."

G. Mason agreed but noted it would still be 40% less than the allowed standard, which he felt was significant.

T. Pratt interjected it was significant in conjunction with the other area variances also needed. He noted relief was being sought in every direction.

A. Ramsgard repeated that the lot was pre-existing, nonconforming. He said one could not put a house that would comply with the current zoning ordinances on this lot. He stated they were trying to still have reasonable use of the property, making the house smaller and increasing the distance from the lake as well as the north and south side yards. He said the reduction within the first 20 feet of the lake would be significant, removing almost 50% of what was currently there.

G. Mason questioned if the proposal could be redesigned to further reduce the amount of relief from the side yard setbacks.

A. Ramsgard repeated the Owners were reducing their lake front impervious area by 50%. He said it would also be significantly less than what the neighbors have. He alleged, as proposed, it would fit within the character of the neighborhood, and he referred to the drawing create by his firm entitled *Carmen Residence Proposed New Residence 1080 Tunnel Lane, Cazenovia, NY Drawing Z-2 Plans &*

*Elevations* dated 7/8/24. He said all the adjacent properties had gotten variances for all of their properties to do their work and each one of them was a significantly more substantial variance than those sought by the Carmens. He said they endeavored to keep it in character with the neighborhood and to make it “the best they could possibly do given that lot and the constraints we have, and still have a smaller building, but still have the same functions that they currently have.” He explained they took the existing condition “and smashed it down as much as we possibly can, so we can enhance the character of the lake and the character of the neighborhood, but also make substantial improvements.” He stated they could not meet the zoning ordinance completely and build the building.

G. Mason responded they were not expected to meet it 100%.

A. Ramsgard said in the neighborhood, theirs would be the farthest from the lake.

G. Mason repeated the Board’s concern was the request for relief on every side, and repeated his appreciation of their proposing to be farther from the lake, with the house between the lake and the proposed septic area, and the installation of two (2) wells.

A. Drumm said they had pulled in the width of the garage and rotated it to gain six (6) less feet of setback relief. She felt that was a big improvement given the lot width.

T. Pratt concluded the lot was too small.

A. Ramsgard agreed it was too small for the current zoning ordinance, but asserted it was not too small for the current use. He said the proposal was a reduction of the use as well.

T. Pratt acknowledged the existing house was grandfathered.

A. Ramsgard said the proposal was an improvement upon the existing.

T. Pratt countered that siting the house in a new location subjected it to the current standards.

A. Ramsgard responded that the lot was allowed to exist as it now exists because it pre-existed. He reasoned that no building lasts forever. He said there was no way to enlarge the lot. He said the neighborhood was redoing the homes on Tunnel Lane due to disrepair. He felt the zoning ordinance allowed relief for lots such as this. He pointed out they were not creating a non-conforming new lot. He said the house could be rebuilt with the current encroachments.

T. Pratt agreed saying they could build in the current footprint.

A. Ramsgard asked if that would improve the site or the lake, and he said the answer was, “No.”

T. Pratt agreed it would not be better, but said Mr. Ramsgard must work within the setbacks that were now the standard (if they were not going to rebuild in the grandfathered footprint). He repeated that the setbacks requested were still substantial.

A. Ramsgard countered he was asking the Board to allow them to make the property substantially better than the existing condition, with more green space, more area on all sides of the house, and to improve it for the neighbors.

T. Pratt responded they were also asking the Board to ignore the Code.

A. Ramsgard replied he was asking that the Board look at the Code as relief because the Code anticipates a wider, deeper, larger lot. He said the Code did not say that it was workable for every lot in the Town of Cazenovia. He felt the Code tried to create an average that works and makes the Town better as it goes forward in regard to density. He said regarding already denser lots, the Code endeavors to make the density better while still maintaining reasonable use of the properties.

T. Pratt asked the Board their thoughts.

J. Juskiewicz felt the proposed house was inappropriate for this lot.

T. Pratt asked the reason.

J. Juskiewicz felt the side yard setbacks were akin to setbacks in the Village.

A. Ramsgard replied what now exists was comparable to living downtown (in a city) with zero side yard space, implying Village setbacks would be preferable to that.

T. Pratt explained side yard setbacks were created to control density and for access to the back from the front, as well as emergency issues.

A. Ramsgard agreed, saying currently there was zero side yard access.

D. Vredenburgh said what the Applicants were trying to do was not inconsistent with what has been done on any of the neighboring lots. He approved of the improvements they proposed in terms of side yard and lake setbacks. He understood the amount of relief requested was substantial, but he considered what was existing noting that now there was no way to access the front from the back by staying on that property. He asked about the impervious surface percentages, which would be slightly decreased.

T. Pratt commented that the improved percentages would still be 21 % overall with 39% instead of 5% in Zone A and 37% instead of 10% in Zone B. He concluded that was” a lot.”

A. Ramsgard responded that they would be moving the whole house out of that (first) zone.

T. Pratt asked about the percolation (perc) on that lawn.

A. Ramsgard said they could not build a septic system in that lake front area because it would not be 100 feet from the lake. He said fortunately they could put it behind the proposed house which would not only be far enough from the lake but also far enough from wells. He stated that would be a major health improvement. He felt it was the single, most important aspect of the project because that would impact

every single person around the lake. He said the only way they could achieve that was to maintain the house 300 square feet smaller than it presently was and move it away from the lake.

T. Pratt asked if Mr. Ramsgard had “a perc answer.”

A. Ramsgard answered since one could never build a septic system in that location, there was no reason to perc it there.

L. Gianforte felt there was improvement in Zone A, considering the amount of development that exists now, but he felt more could be done to reduce the coverage in that zone. He felt the proposal “was headed in the right direction.”

G. Mason had the same concern, asking if there wasn't more that could be removed in that area.

D. Vredenburgh believed the Planning Board would address that issue.

A. Ramsgard responded all that was proposed in that zone was a pathway from the house to the shoreline. He repeated that would be a substantial improvement.

T. Pratt said the Board clearly understood the Applicants would be making improvements, but the Board could require the Applicants to do more if the Board felt the improvements were not sufficient. When he visited the site, he noticed the pitch to the lake which would carry water “and whatever was in it” into the lake. He heard the Applicants say they would follow the *Lakefront Development Guideline*, but he saw nothing on the plans to show how they would follow them and filter the water.

J. Langey commented that the Planning Board would address some of those matters.

A. Ramsgard responded that whenever green space was added, that acted as a filter. He said they would be happy to draw a section and detail that.

T. Pratt said the *Guidelines* had specific plantings; he stated, “Grass doesn't count.”

A. Ramsgard said planting beds were proposed along the front. He said where water now comes off the hill and runs over the hard surfaces at the shore, they will have plantings. He repeated he would be happy to show a cross section and the filtering process.

T. Pratt indicated that would be helpful.

T. Pratt said when he considers the proposal he asks if there would be a physical and environmental impact, how the height compares to the adjacent properties.

A. Drumm said the proposed height would be less than the adjacent properties.

T. Pratt considers water mitigation, which they allege they will provide.

A. Ramsgard believed that was clearly shown with the removal of 50% of the structures in that zone and the restoration of the landscape.

T. Pratt noted the impervious coverage would still be too high.

T. Pratt also noted the area variances could all be considered substantial, and self-created. He suggested more development of the proposal should be done to see if any more conformity could be achieved whether it was impervious surface area, or reducing the size of the proposed house, or getting “a variance that works, or get us a setback that works.”

A. Ramsgard asked what variance would work.

T. Pratt clarified he meant a setback that was conforming.

A. Ramsgard responded the setbacks overlap.

T. Pratt insisted reductions in the amount of relief needed could still be made.

A. Ramsgard replied they were increasing the side yards by almost 30 feet.

T. Pratt countered 40% of relief was still being sought on both sides.

A. Ramsgard agreed.

T. Pratt said a substantial amount of relief was needed for the lake side and the road side as well, but thought the Board might be able to find their “way through that.” He understood the Applicants’ position but asked them “to dig deeper.”

D. Vredenburgh asked the width of the house.

A. Ramsgard answered 42 feet, which he said was comparable to the other houses in the area – smaller than the neighbor to the north, the same size as the neighbor to the south, smaller than the second neighbor to the south, and about the same size as the second neighbor to the north. He stated it would match the character of the neighborhood, and the current house does not. He said each house in the neighborhood has nonconforming side yards. He offered to encapsulate the figures of those side yard comparisons, but he believed their proposal improved those setbacks more than all the other previously approved projects in the neighborhood using the current zoning ordinances.

D. Vredenburgh echoed Mr. Langey’s comment that Planning Board will have to deal with many of the concerns expressed such as impervious surface area. It was his opinion that was the Planning Board’s “job.” He thought the Planning Board would do it well. He said this Board was being asked to consider the variances.

G. Mason added they were considering variances on all sides.

D. Vredenburgh repeated the other issues were Planning Board issues.

G. Mason said impervious surface area at the lake was a concern of his, but he agreed the Planning Board would address it.

J. Juskiewicz said if this were to be approved, saying this was “the Town’s last shot at making improvements,” that one consideration that should be mentioned to the Planning Board was an advanced treatment unit to remove nitrogen and phosphorus. He said when conventional systems reach their limits, the soil can no longer absorb the nitrogen and phosphorus.

A. Ramsgard was willing to add that to their “commitment for this proposal,” saying it would add to the longevity of the system which would “be good for everybody.”

J. Langey believed the first proposal had been changed after meeting with the Board and it had been reduced.

A. Drumm responded the proposal has been changed twice so far.

J. Langey asked if the Applicants’ position was there was no more reduction possible. He asked if they wanted to consult with their client before taking that position, stating it was the Client’s decision to react to the comments made this evening. He counseled against the Applicants asking the Board to vote on the proposal at this time from the comments that he has heard.

A. Ramsgard responded they would consult with the Owners. He wondered if there was anyone from the public wishing to speak in favor of the proposal.

T. Pratt asked if there was anyone in attendance wishing to speak in favor of or in opposition to the project.

No comments were made at this time.

J. Langey asked if the wish of the Applicants was to continue the file, thinking it was in their best interests.

A. Ramsgard indicated it was.

Motion by G. Mason, seconded by L. Gianforte, to continue the file was carried unanimously.

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*Hopsicker, Michael & Laurie - #24-1534 – Area Variances – 4507 Seven Pines Drive, Cazenovia (David Silverman)*

Michael & Laurie Hopsicker were present to represent the file with Robert DeNoble, their builder and Matthew Vredenburgh, their landscape architect.

T. Pratt explained the request was for an area variance for five (5) feet of side yard setback relief for a property in the Lake Watershed for a two-story addition to an existing house for a three-car garage on a parcel that has .892 acres. He noted the General Municipal Law Recommendation Report (GML) from Madison County Planning Department was received June 24, 2024. At the last meeting the Board had asked the Applicants to provide a topographical drawing, to refine the amount of relief needed by a survey, to show utilities, to revise the floor plan, and to address the impervious surface area.

M. Hopsicker displayed the drawing entitled *Location/Elevation Survey on Part of the Town of Cazenovia Known as No. 4507 Seven Pines Drive, Town of Cazenovia, County of Madison, State of New York* drawn by Michael J. McCully Land Surveying, PLLC dated 07-090-24 which was submitted to the file on July 25, 2024. He said in addition to the topo, they also had the sewer line, the gas line, and the electric line located. He explained the gas line and the sewer line will have to be moved to accommodate the addition.

T. Pratt asked if it was the Verbecks' gas and sewer lines that would need to be relocated.

M. Hopsicker answered both the Verbecks' and their lines. He said Mr. DeNoble had spoken with National Grid about cost and timing and National Grid did not indicate there would be any problem moving the line. They discussed the sewer line change with the Verbecks and there was plenty of room to reroute it on the site between the cable line and the existing building. He said originally, they were requesting to place the connector 15 feet from the property line but have since redesigned it and it would now be 20 feet from the property line.

T. Pratt noted a 5-foot variance was now requested.

M. Hopsicker responded that was correct and stated the garage portion would be 22 feet from the property line. He said the Surveyor pinned the property to show exactly where the line was and they were very confident regarding the exact amount of relief needed.

M. Hopsicker continued saying the existing house was nonconforming with impervious coverage of approximately 12%. The proposal would increase the overall impervious surface area to 14% and all development would be in Zone C.

T. Pratt asked if the structure was 100 feet from the lake.

M. Vredenburg clarified that the addition would be more than 100 feet from the lake, but the house was 94 feet from the water and the existing deck was 77 feet from the water. He said the side yard setback for the existing structure was 12 feet and the side yard setback for the deck was approximately 7 ½ feet. He said the proposal was not any closer than the current setbacks.

T. Pratt asked about stormwater.

M. Vredenburg showed where there was an existing drainage ditch, a stream and a wet area. He expressed confidence that they could grade in such a way as to direct water away from the stream,

saying the pitch was “pretty flat.” He said nothing that comes off their building will flow to adjacent properties. He asserted they could absolutely devise something to detain the water if necessary. He commented that while there was disturbance to reroute the utilities and to build the garage, they could create a small, shallow basin at the same time.

T. Pratt believed a 10-foot easement needed to be part of the new sewer line.

M. Vredenburg was not aware of that requirement.

M. Hopsicker believed there would be enough room to accommodate a 10-foot easement from the building.

T. Pratt asked that Mr. Hopsicker would work with whoever oversees those requirements to make sure he complied.

M. Hopsicker readily agreed.

M. Vredenburg asked if the line needed to be centered in the 10-foot easement.

J. Langey did not think the Town regulated where the easement had to be, but said equipment needed to be able to access the sewer line, so he thought it was typically centered to accomplish that.

T. Pratt noted the impervious surface area was higher than allowed, but noted it was a pre-existing.

M. Vredenburg said the overall percentages might be lower, not knowing how the Architect calculated the deck, so the existing may be 11% and the proposed may be 13%.

T. Pratt also noted the construction would be away from the lake.

M. Vredenburg said that was correct and they would have an opportunity to divert water before it would enter the lake.

T. Pratt commented that any (exterior) lighting would need to be low-level, dark-sky compliant, and shielded. He noted the overall height would be less than 35 feet.

M. Hopsicker responded, “Correct.”

T. Pratt mentioned he had visited the site this morning and he thought one of the neighbors would lose their view of the lake through the Hopsicker driveway when this addition was constructed.

Others felt there was not much a view due to the trees and other houses.

L. Hopsicker said they would work with the Verbecks to relandscape along the shared side.

M. Hopsicker added they would pay for the plantings.

T. Pratt asked if the addition would match the color and style of the existing house.

L. Hopsicker answered, “Correct.”

M. Hopsicker responded they intend to paint the house.

L. Hopsicker explained that she would like to change the color of the house.

T. Pratt asked if it would “blend in.”

L. Hopsicker answered, “Yes.”

T. Pratt asked the need for a 3-car garage.

Mr. & Mrs. Hopsicker responded they own four (4) cars.

They explained this was their fourth house in Cazenovia, and Mr. Hopsicker said every house they have owned, they have “made better.” He said this was hopefully their last house and they want it to be their dream house. He said they have four (4) children with two spouses as well as elderly parents who will all be spending time with them.

M. Hopsicker said he had wanted to ask for a 4-car garage but felt that was unrealistic. The current proposal would 38’ X 36’ which would accommodate three (3) 9-foot doors.

G. Mason believed the Applicants had made many positive changes. He noted the shed the Hopsickers own offsite was “useless” for parking a car.

J. Juskiewicz saw no problem with the proposal.

D. Vredenburg believed the Applicants have adjusted their plan by moving it slightly to the west, so as long as they deal with all the utilities, he indicated he was satisfied.

L. Gianforte had nothing to add.

Motion by G. Mason, seconded by J. Juskiewicz, to open the public hearing was carried unanimously.

T. Pratt invited comments.

Hearing none, motion by G. Mason, seconded by D. Vredenburg to close the public hearing was carried unanimously.

J. Langey led the Board through the Short Environmental Assessment Form (SEAF) for this Unlisted Action in regard to the State Environmental Quality Review (SEQR). All items were found to be no impacts or small impacts.

T. Pratt then led the Board through the criteria for an area variance asking if it would be an undesirable change to the neighborhood. He said the Board has found that it would not be. Regarding an alternate solution, he said the garage could be for fewer vehicles, but it was discussed and that option would not meet the Owners’ criteria. Regarding physical and environmental impacts, it was found that the

impervious surface area was higher than the standard but mitigations would part of the efforts. Regarding whether the relief would be substantial, it was found to be 20%, which he felt was far from substantial. Regarding whether this was a self-created hardship, he found it to be, but felt it aligned with the existing building.

T. Pratt listed the following conditions to be considered with an approval:

- 1) Impervious surface area must satisfy the Planning Board;
- 2) Construction must comply with the Town and New York State Building Code;
- 3) Any outdoor lighting must be dark-sky compliant, shielded, and low-level;
- 4) *Lakefront Development Guidelines* for landscaping should be part of the site plan review by the Planning Board;
- 5) Color and style of the addition shall match the color and style of the existing house;
- 6) A surveyor shall mark the property and setback lines witnessed by Code Enforcement, and a final survey shall be provided post-construction.

Motion by G. Mason, seconded by J. Juskiewicz , to appoint the Zoning Board as Lead Agency for the purposes of SEQR, to affirm the Matter an Unlisted Action, and to make a Negative Declaration based upon the Board’s review of the SEAF, and to approve the area variance for five (5) feet of side yard setback relief for a 3-car garage with a bonus room for a home office and extra storage to be connected to the existing house with a two-story connector having an entry and a mudroom on the first floor and a laundry room and a hall connecting the office to the main house as most recently submitted was carried as follows:

Gary Mason	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburgh	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	Yes.

T. Pratt informed the Applicants that they were now approved to appear before the Planning Board at the next meeting.

M. Hopsicker thanked the Board.

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*Modzeleski, Mark & Amy - #24-1543 – Area Variance – 2000 Overlook Terrace, Cazenovia*  
*Modzeleski, Mark & Amy - #24-1544 – Special Use Permit – 2000 Overlook Terrace, Cazenovia*  
*( Luke Gianforte)*

Mark and Amy Modzeleski were present to represent the file.

T. Pratt explained this was a request in the Lake Watershed for an area variance and a special use permit for a second accessory structure requiring 25 feet of rear yard setback relief. He said the GML from Madison County Planning Department had been received on July 25, 2024. He explained the Board will vote separately on the two (2) applications. He said the site was 1.18 acres.

L. Gianforte elaborated that the Applicants were hoping to add an accessory building in the back corner of their lot. Referring to the drawing entitled *C1 2001 Overlook Terrace – Detached Garage Site Plan* by Coogan Architecture PLLC, dated 7/10/24 he said the proposal was adjusted from the initial position of the proposed structure. He explained the Applicants angled the shed. He also explained there was an existing shed already on the site and he showed the location of that building.

L. Gianforte said the new structure would have heated storage.

M. Modzeleski said it would be conditioned space.

L. Gianforte explained the reason for keeping the first shed was to hold the lawn mower and other equipment that does not require heated storage. He said the location of some trees and the well were other considerations for the location of the new structure not being closer to the street.

T. Pratt asked the function of the building.

M. Modzeleski answered it was for collectible storage and repeated it would be conditioned. He said the side shed has oil and gas, and mowers. He spoke about the aesthetics of angling the new structure to be in line with their house. He also spoke about two (2) large pine trees that they want to preserve.

They viewed the aerial photograph of the property to get a sense of the proposed location. He spoke about the nearness to their well if they were to install it farther from the rear property line.

L. Gianforte asked if the garage door was moved to the other side of the front of the structure, could they move the building farther from the rear property line.

M. Modzeleski answered they designed the front of the new building to resemble the front of the house and thought it would fit in better as it was designed. He said the new building would match the house, being beige with white trim. He also said that even though they would not be entering the new structure frequently, they would still prefer not to drive across the lawn and around trees any more than necessary, which was another reason why having the door closer to the house was sensible.

T. Pratt asked the need for the garage door to be so large.

M. Modzeleski explained he has a small John Deere tractor that stands about 9-feet tall, so he made the door 10' X 10' for ease of access for the tractor. He said some of the collectibles would be transported in the back of his truck, so he would also like to be able to drive into the storage area with his truck.

T. Pratt asked about the resulting impervious coverage.

M. Modzeleski answered the total, including the new building, would amount to approximately 9.1% and he understood he needed to keep it less than 10%.

T. Pratt repeated the need for exterior lighting to be shielded, low-level, and dark-sky compliant.

M. Modzeleski said there would probably be one (1) small light on the exterior near the door.

T. Pratt asked about plumbing and electrical service within the structure.

M. Modzeleski answered there would be electricity for heating and air-conditioning, but not plumbing.

T. Pratt understood the color and style would match the house. He asked the height.

M. Modzeleski answered the height would be approximately 25 feet to the peak, and about 13 ½ - 14 feet to the eaves. The roof would be roughly a 6/12 pitch.

T. Pratt asked the Board if they felt plantings would be needed to shield the proposed structure.

D. Vredenburgh thought it would already be amply shielded on two (2), maybe even three (3) sides, and he did not think the view from the road would be an issue.

G. Mason said his only concern was the nearness to the house next door if only 25 feet were between the new building and the property line.

M. Modzeleski responded that neighbor was aware of his plans.

T. Pratt asked if a solid back would face that neighbor.

M. Modzeleski answered it would be solid explaining there would be no windows and the only entrance to the building would be on the front.

G. Mason thought it was “quite a bit of relief,” but said he did not have a problem with there being another structure.

T. Pratt asked about the impact upon trees.

M. Modzeleski spoke about a large hardwood near the area where the shed would be constructed. He thought the angled placement would keep construction away from its root ball. He said there would be some smaller trees that would need to be removed, 2” – 4” calipers, but the two (2) large pines trees would be unaffected.

T. Pratt explained that since they were largely basing the variance on the preservation of trees, he wanted to be sure trees would not be removed haphazardly, saying that would make him inclined to not allow the variance.

M. Modzeleski expressed understanding.

T. Pratt explained that if the Board approved the project, the Owners would need a surveyor to locate the property line, the offset, and those would need to be witnessed by the Code Enforcement Officer.

M. Modzeleski responded Mike, the surveyor, has staked the area.

T. Pratt said after construction an as-built survey would also need to be done. He noted the first accessory structure was not on the drawing being viewed.

M. Modzeleski said the architect had drawn that depiction and that the existing structure was shown on the survey.

The Board expressed their satisfaction in understanding the proposal.

Motion by D. Vredenburg, seconded by L. Gianforte, to open the public hearing was carried unanimously.

T. Pratt invited comments at this time.

Hearing none, motion by G. Mason, seconded by D. Vredenburg, to close the public hearing was carried unanimously.

J. Langey lead the Board through the SEAF for this Unlisted Action for both applications simultaneously. All findings were that only small or no impacts would result.

T. Pratt said the considerations regarding the special use permit for a second accessory structure were if there would be any impacts to the neighborhood or the environment.

T. Pratt said the potential conditions would be:

- 1) Exterior lighting shall be low-level, shielded and dark sky compliant.

- 2) Impervious surface area shall be approved by the Planning Board;
- 3) Electrical service will be provided, but no plumbing shall be provided for the building;
- 4) The color and style of the proposed building shall match the existing house;
- 5) Construction will comply with Town and New York State Building Code; and

6) A survey shall be completed and witnessed by the Code Enforcement Officer locating the property line as well as the build line before construction, and an as-built survey shall be provided post-construction.

Motion by D. Vredenburgh seconded by L. Gianforte, to appoint the Zoning Board of Appeals as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration, based upon the Board’s review of the SEAF and to approve the special use permit for a 30’X 40’ pole barn as a second accessory structure as most recently submitted and with the conditions stated was carried as follows:

Gary Mason	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburgh	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	Yes.

T. Pratt then reviewed the criterial for granting an area variance of 25 feet from the rear yard line in lieu of 50 feet. He asked if it would be an undesirable change to the neighborhood. He believed the Board determined it would not be. He then asked if there were an alternate solution. He responded the Owner could move the location closer to the front, but the location of a well and some trees deterred that option. He then asked about physical and environmental impacts, and he said none had been identified. He asked if the variance was substantial. He noted it would be 50%. He asked if the hardship was self-created, and he concluded it was.

Motion by L. Gianforte, seconded by J. Juskiewicz, to approve an area variance of 25 feet of rear yard setback relief as most recently submitted and with the already stated conditions was approved as follows:

Gary Mason	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburgh	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	Yes.

T. Pratt then instructed the Applicants to attend the upcoming Planning Board meeting for site plan review.

M. Modzeleski thanked the Board.



*Love-Frazee Assoc with Pushlar, Paul (Quantum DPI Group Inc) - #23-1498 – Solar Major Special Use (Thomas Pratt) Permit – Route 20 East with Fenner Road & Route 20 East, Cazenovia*

John Watson and Lluís Torrent were present to represent the file. Robert Frazee was present in the audience.

T. Pratt explained this was a Solar Major Special Use Permit on Route 20 East providing a 5-megawatt major solar project off Remington Drive. It is on 21.9 acres involving parcels with tax map numbers 95.-1-9.1, 95.-1-8, and 95.-1-9. The project shall be called Remington Park Solar, LLC. The project will have 2 ½ years for completion by December 6, 2026. The Planning Board gave a Negative SEQR declaration that the Zoning Board will reaffirm. Impervious surface area will be 1.13% which is less than the allowed 20%. The Planning Board completed site plan review and gave approval for it on June 6, 2024.

The applicants brought 24” X 36” drawings and were prepared to present a slide show.

J. Watson explained the array would be just to the north of Cazenovia Equipment. The project was separated into three (3) separate arrays, connected by two (2) paths. Entry to site would be from Remington Park Drive which is a private drive. They will be creating a gravel access road to the site. They will be planting 172 trees even though the elevation, and the current photos, and photo simulations show that visibility from US Route 20 will be minimal. A randomized hedge would be created with mixed evergreens and deciduous trees upon the Planning Board’s recommendation.

L. Torrent showed an enlarged satellite shot created to illustrate the screening proposed.

J. Watson said the interconnection from National Grid along Route 20 would be an interconnection pad, a ground-mounted pad mount in lieu of five (5) power poles.

L. Torrent elaborated that the section of Route 20 was a scenic area and the Planning Board requested that view be protected by use of the pad-mount cabinet.

J. Langey added that was a “big item” with the Planning Board which the Applicants addressed for people living in the area and for people traveling along Route 20.

T. Pratt asked the height of the cabinet.

L. Torrent answered it would be six (6) feet high.

T. Pratt concluded it would be visible.

L. Torrent responded the Planning Board had not asked them to screen it, but if the Zoning Board wanted screening, they would be willing to comply.

T. Pratt indicated the farm equipment stored outside at Caz Equipment probably screened it already.

J. Watson said after meeting with the Board at the work session, they addressed some glare, and noise during construction issues.

L. Torrent said there were also questions regarding the use of pesticides and herbicides. He was prepared to do a slide presentation using the screen at the Town Hall, but Chair Pratt said that was not necessary and that he was interested in some slides that were on the Applicants’ laptop showing the visual impacts from various vantage points.

L. Torrent showed the Board the eight (8) vantage points, which were from various places along Route 20, from the apartment building, from the closest factory to the east (in the Town of Nelson), and from the medical facility to the east (also in the Town of Nelson) that the Planning Board deemed critical, and he explained in detail the conclusions regarding the visual impacts and mitigations if any were required.

T. Pratt asked if all the trees that were shown in the photographs would be preserved (for ongoing screening).

L. Torrent answered they would and added that the actual photographs shown were taken. January 22, 2024 (when foliage was off the trees).

L. Torrent wanted to correct a statement he had made at the work session regarding the height of the pole from the ground to the bottom of the panels would be 2.5’ – 3’, but it would actually be four (4) feet.

T. Pratt stated the maximum height allowed for the full array was eight (8) feet.

L. Torrent assured the Board that would still be the maximum height.

L. Torrent said one concern raised by the Board was noise during construction. He showed a photograph of a machine that would be used during construction, and according to the specifications of that machine, the maximum noise produced would be 85 - 90 decibels (dB). He explained that sound dissipates with distance and every time the distance is doubled, the reduction in sound is 6 dB. They calculated that the closest home would be approximately 780 feet from construction resulting in sound that would be less than 40 dB, which he said was not “a lot.” He stated they were very conservative when they considered their calculations and remarked that 38 dB was the same as, “a quiet library,” concluding noise (during construction would not be a problem).

L. Torrent said another question was the number of mowings in the Operations & Maintenance (O & M) Plan submitted. He stated the minimum number of mowings would be two (2) and probably would be 2 – 4 per season.

T. Pratt presumed that was the number of mowings inside the fence, but he wondered about the area outside the fence, wanting it to be maintained as “a clean presentation.”

J. Watson believed the area outside the fence would be farmed still, and he stated it would be kept clean.

L. Torrent said another question was about the use of pesticides and herbicides. He stated that no pesticides or herbicides would be used to control the vegetation, and that was also a part of the O & M Plan.

L. Torrent said the final topic was concerning glare associated with the panels. He said the panels would not be seen, so glare should not be a problem. He showed a glare table from the National Laboratories showing the emissions of glare from a variety of sources. For example, asphalt emits very little glare. According to the study, solar panels emit less glare than a forest, less than agricultural land, less than rural environments, less than water, and less than snow. They then contacted a reputable engineering firm to do a glare study for this specific project with several points of calculations throughout the site, and the Engineer concluded no glare impact would be seen from this project.

L. Torrent noted it was asked that the frames of the panels be black with no metal showing, so they contacted the manufacturer to see if this could be done. The manufacturer responded that roof mounted panels can be ordered that way, but it would require a special order for panels for this type of facility. A minimum special order would be for a 50-megawatt facility, however. He asked the Board to reconsider their request for black framing because the logistics to achieve that would be very complicated. He asked the Board to take into consideration the screening and the fact that the view of the facility would be so contained.

T. Pratt asked about the dimension of the edging around the panels.

J. Watson and L. Torrent figured the thickness of a panel would be about an inch and the overlapping on the face of the panel would be  $\frac{1}{2}$  -  $\frac{3}{4}$  of an inch.

L. Torrent elaborated that it would be an alloy similar to the guardrails along the highway.

T. Pratt had a series of questions related to the resolution for their application. He said the plantings were guaranteed for two (2) years and there was a \$10,000.00 bond for it. He presumed any vegetation that needed replacing would still be done after the 2-year period.

J. Watson answered, “Of course.”

T. Pratt saw the decommissioning bond was \$168,390.00 inflated at 2.8% per year for 35 years. He asked if the Applicants thought 2.8% was a reasonable rate for inflation based upon the inflation rate of the last year.

L. Torrent said considering from the 1980’s to 2020 when COVID-19 changed the economy, the average number was 2%. He said what occurred as a result of COVID-19 was “uncommon” and the potential projection was that from now on it should return to 2%. He commented that they have used these numbers in their proposals in other towns, and those numbers have been acceptable to those other towns. He assumed they will have to have approval from the Cazenovia Town Board for the decommissioning from the Payment In Lieu of Taxes (PILOT), and said if the Board wanted rationale for these numbers, they were open to getting that.

T. Pratt commented that buildings were inflating faster. He repeated that the maximum height of the arrays must not exceed eight (8) feet from the finished grade and should be consistent throughout.

J. Watson responded, “Yes.”

T. Pratt then addressed winter access on the emergency road.

L. Torrent replied as Mr. Watson had stated, they will be using the Remington Park Drive as access for the facility which is a private road.

T. Pratt asked about access when responding to an emergency in the winter at the facility.

L. Torrent said they would have an easement agreement among Mr. Frazee, the apartment complex, and them, for the Applicants’ maintaining access/plowing from a specific point on Remington Drive to the facility.

T. Pratt explained that when one calls with a problem, the Applicants shall have a designated person responsible to respond immediately, not a recording or an answering service.

L. Torrent replied that every hour of production would be important, and it would in their best interest to try to solve any problem immediately, or they would “take the hit.”

T. Pratt said he did not want anyone taking the hit or giving a best effort, he wanted all problems to be solved immediately.

L. Torrent thought 99% of the time they would know when there was a problem before anyone else.

T. Pratt insisted that someone in the solar facility’s employ needed to have the responsibility of solving whatever problems arise at the facility, including plowing, to maintain continual access, and responding to any call that may be placed to the emergency telephone number listed at the facility.

L. Torrent and J. Watson expressed understanding and compliance.

T. Pratt also saw in the resolution that the racking would be steel gray, not galvanized as stated earlier.

J. Watson and L. Torrent said it would be steel gray.

T. Pratt noted all the fencing would be black.

L. Torrent responded the wire mesh used for the fencing would be black.

T. Pratt saw on the application Part 2, Item 3 he saw it was stated the Applicants (upon decommissioning) will remove 48 inches below grade and restore to farmland. He responded that everything should be removed and wondered if there would be anything below 48 inches below grade such as conduits.

J. Watson responded, “No.”

T. Pratt concluded the Town should not have to be concerned about anything remaining in place below 48 inches.

J. Watson replied, “That’s correct.”

T. Pratt noted there was a creek in the middle of the site and asked if that was protected from silt during construction.

J. Watson answered, “Yes, that is correct.”

L. Torrent elaborated that was included in the Stormwater Pollution Prevention Plan (SWPPP) and the Soil & Erosion Control Plan.

T. Pratt also noted it was stated that construction would be completed in 27 months, but the Applicants led the Board to believe it would be much less time.

L. Torrent responded it was under advisement from the Planning Board that they make the completion timeline longer (due to complications experienced with a previous developer) to avoid having to seek unexpected extensions in the future.

J. Watson assured the Board if all the materials were on site, construction would be completed within 6– 9 months.

L. Torrent said National Grid would be another factor out of the Applicants’ control which may cause delays as well.

T. Pratt then addressed endangered species and limits of seasonal work. He presumed the bats that were protected were not in the area, but he saw they were listed by the Applicants. He asked if there would be any limitations because of that.

J. Watson responded only nine (9) trees will be cut on site.

T. Pratt listed items that had already been discussed: no hazard to aviation in Appendix Q; emergency sign with 24-hour access; summary noise levels; planting review for shielding; installation method.

J. Langey mentioned a positive letter was received a few days ago from the New York's State Historic Preservation Office (SHPO) that there were no concerns about impacts to surrounding properties that have historic value.

The other Board members had no other comments or concerns.

Motion by G. Mason, seconded by L. Gianforte, to open the public hearing was carried unanimously.

T. Pratt invited comments at this time, asking people to step forward and to state their name and address.

Sue Yanulis of Cody Road in the Town of Fenner had some questions. She asked when the sound study was done, and how many feet out was it calculated.

L. Torrent answered 780 feet.

S. Yanulis asked about the verification of that study. She also asked about the mechanism indicating that it would be 40 dB. She said the reason she asked was because she has heard humming from other solar farms.

L. Torrent asked the distance Ms. Yanulis was when she heard the humming, saying he did not deny that at 10 feet from the machine, one would hear it.

S. Yanulis answered she heard it from 250 – 300 feet. She asserted 85 dB “was pretty darn loud.”

J. Watson clarified the 85 dB was during construction.

S. Yanulis asked what the sound would be on a daily basis, wondering if it would be 40 dB.

L. Torrent asked if Ms. Yanulis' concern was during maintenance and operation or during construction.

S. Yanulis answered during operation. She asked if the application was posted on the Town's website.

She was told it was not.

S. Yanulis asked where she could access the information.

She was shown the binder.

S. Yanulis asked if she could borrow and return the binder.

She was told she could not remove it from the Town Office, but she could view it at the Town Office (during regular office hours).

S. Yanulis asked about the impact to wildlife, wondering if 6-foot fencing around 22 acres would inhibit the habitat of wildlife. She wondered if small animals would be able to access the space with openings at the bottom of the fencing.

T. Pratt said the fence would be eight (8) feet tall.

L. Torrent answered there would be no openings in the fence.

S. Yanulis asked if there would be a displacement of wildlife and how that would be mitigated or how other farmland would be impacted by an influx of more animals and the potential destruction of crops.

L. Torrent said the environmental impact only addressed protected and endangered species, so they only addressed those as well. He understood there may be a displacement of animals such as rabbits and deer, just as there would be with the construction of homes or other developments. He said they had no special sensitivity for unprotected species.

Robert Frazee responded most of the fenced area would not include the areas that are currently treed or have hedgerows or brush where wildlife would tend to nest. He said the fence would be around the solar arrays and the rest of the space would remain accessible by wildlife. He felt the impact on wildlife would be very small and said the area butts up to a wooded area owned by the Pushlars.

(The parcel on which the solar array will be built is 65+ acres.)

L. Torrent said to answer the question regarding the sound during operation, it was projected that the closest house will hear 34 dB, but the ambient noise in that area is 54 dB – 55 dB. He said the ambient noise will make the inverter inaudible. He said the inverter will be the only noise-producing equipment associated with the project during operation.

S. Yanulis knew windmills were a different topic, but she spoke about the noise she experiences in proximity to them. She had no other questions and said in the future she would look at the material submitted.

Hearing no other comments, motion by D, Vredenburg, seconded by J. Juskiewicz, to close the public hearing was carried unanimously.

T. Pratt recapped the proposal by saying they were voting on a Major Solar Special Use Permit, having no physical or environmental effects. Conditions he would like placed on the approval would include:

- 1) Winter access maintained on the emergency access roads;

- 2) Emergency telephone number to be answered by a person who can affect action – not a recording or an answering service;
- 3) Trim on the panels will be galvanized steel, and the poles will be steel gray;
- 4) No application of herbicides or pesticides;
- 5) Area outside the fenced area will always be maintained to presentable standards;
- 6) The stream located on the parcel will be protected during construction;
- 7) Construction shall be completed by December 6, 2026;
- 8) Installation hours shall correspond to the times conditioned by the Planning Board.

Motion by T. Pratt, seconded by J. Juskiewicz, to reaffirm the matter a Type I Action and make a Negative Declaration, based upon the Planning Board’s review of the Full Environmental Assessment Form (FEAF), and to approve the Solar Major Special Use Permit for the Remington Park, LLC solar project at 2 Remington Drive for tax maps 95.-1-9.1, 95.-1-9, and 95.-1-8 as most recently submitted, as approved by the Cazenovia Town Planning Board, and with the additional conditions listed was carried as follows:

Gary Mason	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburg	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	Yes.

T. Pratt expressed his desire that the Applicants would not have to return to the Board to complete the project.

J. Watson thanked the Board and staff. He told Mr. Langey that they would be in touch regarding the PILOT and decommissioning plan.

J. Langey instructed the Applicants to send him their draft agreements and the other documents needing review. Once those were negotiated and terms were finalized by both parties, those agreements will be taken to the Town Board at a formal meeting for consideration and approval.

*Ramanathan, Sheila & Anderson, Erik - #23-1477 – Appeal – 4628 Syracuse Road, Cazenovia*

Donald (Dan) O'Brien, Esq. of Woods, Oviatt, Gilman, LLP at 1900 Bausch & Lomb Place, Rochester, NY was present with Erik Anderson in the audience.

T. Pratt explained this was an appeal in the Lake Watershed of the Code Enforcement Officer's determination that the Owners can not keep roosters according to section 163-82.3 in the Town Code.

T. Pratt then said, "The following is the Zoning Board of Appeals' findings from discussions and determination for an appeal of a determination by the Town of Cazenovia Code Enforcement Office the appellants were in violation of the Zoning Code at Sheila Ramanathan and Erik Anderson premises at 4628 Syracuse Road (Route 92) in the Town of Cazenovia (Tax Map 85.-1-15.13) in the Rural A (RA) District and Lake Watershed & Riparian Corridor District (LW&RC).

"The Applicants assert they are a 'farm' or 'farm operation' under the Town of Cazenovia Zoning Code.

"The premises consist of 5.74± acres and are the residence of Sheila Ramanathan and Eric Anderson.

"The Premises are in a neighborhood setting with other single-family dwellings, vacant lands, Route 92, Cazenovia Golf Course to the west, and Cazenovia Lake to the east. The premises are not in the Town's Agricultural Overlay (AO) District since it does not consist of 7+ acres, does not consist of 20 acres of USDA Prime Soils, and are not located within the New York State Certified Ag District.

" 'Farm' and 'Farming' are defined in the Town Code as:

" 'Any lot or parcel of land at least seven (7) acres in area which is used in conjunction with a farm operation...' " He relayed there was a list of examples, and continued, " 'as defined by the Agriculture and Markets (Ag & Markets) Law AML Section 301,' "

T. Pratt said he was abbreviating these for our benefit.

T. Pratt continued, "The Farm Operation is defined as:

'As defined in the New York Agriculture and Markets Law, Article 25AA, Section 301 (11), as amended, ....and it is a commercial operation.'"

T. Pratt said the key point was that it should be run as a commercial operation.

T. Pratt continued, “The Zoning Board of Appeals has reviewed photographs on the premises that depict a modern, contemporary-style, two-story home with small front, rear and side yards and extensive forested area.

“Section 165-82.2 (Keeping of Animals) in the Town of Cazenovia Code allows for the keeping of animals on residential properties under certain circumstances. Section 165.82.3 provides and allows for certain circumstances, the keeping of chickens with a permit but does not allow roosters on residential property. The Applicants have testified to the Zoning Board they are keeping goats in addition to roosters and chickens. They were also aware of the provisions of sections 165-82.2 and 165.82.3 to have chickens but consider themselves a ‘farm.’

"No information has been provided as proof regarding the sale of chickens, goats or other products from the premises, or whether they filed a tax return identifying them as a farm.

“The applicants applied to Madison County Agricultural Department for inclusion in the New York State Certified Agricultural District in the Town of Cazenovia and were denied.

“The appeal was referred to the Madison County Planning Department under General Municipal Law 239-1 and -m for a recommendation on the interpretation. On 9 May 2024 their comments following a description of the information they received.”

Reading from the GML, Mr. Pratt said, “ ‘We do not see the materials submitted to us any type of information about the farm operation agricultural commodities produced or any type of farm business to demonstrate that farming is actually taking place on this property. We also note that the applicant’s parcel is not part of a NYS Ag District. Based on the materials submitted to us, we agree with the Code Enforcement Officer’s determination.’ ”

T. Pratt then said, “The Applicants provided a copy of the lease agreement related to additional property at 5069 Ridge Road (owned by Derek and Kerri Cole) consisting of 1.3 acres and discloses the following:

“The land was obtained to technically comply with a farm by having seven (7) acres regardless of use.

“The Appellant reports the leased land was to claim they have seven (7) acres of farm and it is not used in any fashion for farming.

“The lease is terminable ‘at will.’

“Lease is restricted to the planting of vegetables and does not allow chickens, roosters or other farm animals.

“The land is part of a larger parcel with scrub vegetation.

“The leased premises are not in a New York Ag District.

“The Appellants confirmed they keep no animals on the leased land and do not cultivate crops.

“The Zoning Board received and reviewed correspondence from the neighboring property owner in opposition to the keeping of roosters and that Ramanathan/Anderson property is a farm summarized as follows:”

T. Pratt explained the neighbor reported, “The roosters were disruptive in a quiet residential neighborhood.”

T. Pratt then said, “Mr. Daniel Falter, the owner of the neighboring property testified the rooster caused significant noise disturbance and otherwise disrupted Mr. Falter’s quality of life. Mr. Falter has submitted numerous complaints relative to the illegal use of the premises for roosters and other animals.

“The Town Code 165-82.3 states ‘no person shall have, own, permit or otherwise possess a rooster on their property.’

“The Appellant’s premises are a residence not a farm since it is located in a residential/recreational area between Cazenovia Lake and the Cazenovia Golf Course.

“The Premises are not in an agricultural district and was rejected for inclusion by the County.

“The Premises do not meet the definition of Farm in the Town Code since the premises are not a ‘lot or parcel of land at least seven (7) acres is area which is used in conjunction with a farm operation.’

“The primary premises are 5.74± acres and the leased premises are 1.3± acres.

“The term farm strictly defined requires seven (7) acres while the term farm operation requires the property/properties be used for farming and farm practices ‘which contribute to the production, preparation and marketing of crops, livestock and livestock products (again) as a commercial enterprise...’ The appellants did not demonstrate compliance with this requirement.

“No evidence was provided that they use their property in conjunction with a farm operation since there is no evidence of any production, preparation or marketing of crops, livestock or livestock products as a commercial enterprise would require. The premises have never exceeded a gross minimum sales amount of \$10,000.”

T. Pratt then listed additional considerations for the Board saying, “The Town Code requires farms must be used in conjunction with a farm operation.” He then cited Article XVIII Additional Regulations for

Certain Specified Uses, Section 165-72B “Farms” in the Town Code states, “A farm may breed, raise and/or train farm animals provided the property contains a minimum of seven acres.”

T. Pratt continued saying, “The premises and leased promises are not used for commercial purposes. The leased premises are limited to planting and harvesting of vegetables and the Appellant admits they do not do it. In addition, keeping of livestock is not permitted under the lease presented by the Appellants.

“The Appellants’ position that the mere act of leasing lands to achieve a 7-acre minimum does not establish the premises as a farm or farm operation. The Appellants admitted the sole purpose of acquiring the land was to meet what they believed to be a technical requirement of the 7- acres- minimum.

“The requirement of seven (7) acres under the code, when read as a whole, is that the farm premises be used as a farm and/or a farm operation. It was further admitted that the leased lands have no connection to any part of farming or farm operation.

“The Code allows for the keeping of chickens and animals by issuance of a permit by the Town of Cazenovia Code Officer and they did not pursue these ‘as of right’ alternatives.

“The Zoning Board acknowledges the recommendations and determination of the Madison County Planning Department dated 9 May 2024 indicating the Appellants did not demonstrate that they were a farm or qualify as a farm.

“Appellant Anderson testified that the leased premises consisted of 1.3 acres, and they did not keep animals on or cultivate crops on the land.

“Appellants acknowledged the purpose of leasing the land was to achieve what they believe would meet the 7-acre-requirement and automatically qualify them as a farm and admitted substantial portion of the primary premises were also not dedicated towards raising animals and/or growing crops or vegetables. Only minor portions of the primary premises are dedicated towards keeping chickens and other animals with the majority of the premises used as a residence.

“Madison County Agriculture Department refused to include the premises in the applicable NYS certified Agricultural District is instructive to the ZBA determination that the premises are not and have not been a farm.

“The argument relative to their interpretation of the code would create an absurd result where any property owner in the Town could create seven (7) acres and be deemed a farm regardless of use of the premises for agricultural commodities and/or the keeping of animals. This is inconsistent with the purpose and intent of the Town’s Zoning Law and Comprehensive Plan.

“Finally, the Appellants have failed to present sufficient evidence to overturn the determination of the Code Enforcement Officer ruling dated 25 April 2023.”

At this time, T. Pratt asked the Board if they had any additional comments. They did not.

Motion by T. Pratt, seconded by I. Gianforte, that, on the basis of the Board’s findings, the Appellants have not provided sufficient evidence to overturn the Code Enforcement Officer ruling dated 25 April 2023 was carried as follows:

Gary Mason	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburg	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	Yes.

D. O’Brien asked when the findings would be available.

J. Langey answered that he would prepare a formalized version of the findings and he would get that to Mr. O’Brien once it was prepared. He asked if Mr. O’Brien wanted to wait for a signed version or if a draft sufficed.

D. O’Brien asked for the official record.

J. Langey responded he would provide both.

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*Lucas, David (Dimension NY 1, LLC) - #24-1540 –Solar Major Special Use Permit 3<sup>rd</sup> Extension –  
(Thomas Pratt) 2405 Barrett Road, New Woodstock*

Matthew Kerwin, Esq. of Barclay Damon, LLP was present to represent the file.

T. Pratt explained the Applicant was seeking to extend the completion date once again for the solar site on Barrett Road now to be completed 2 July 2025. He said the Planning Board approved the Solar Site Plan extension on 2 July 2024 for an additional year.

T. Pratt asked the reason for extension, recalling the last time the Applicants were before the Board they requested an extension to the previous date and asserted they would complete the project by that time.

M. Kerwin responded they were close.

T. Pratt asked what happened.

M. Kerwin answered the racking system used to hold the solar panels was defective upon arrival. He said the General Contractor has been “working around the clock” with the company that provided the racking components to get working racking systems to the site. He relayed there had been a number of delays, but reported, “Things have improved.” He believed the company supplying the racking changed suppliers themselves, having a quality assurance and quality control (QAQC) problem. He said when they received the product it had not gone through the proper protocols to ensure it was actually operational.

M. Kerwin stated at the date of the letter requesting the extension, the project was 35% complete. He believed at this time it was closer to 50% complete. He had not recently talked with his client, but he understood that by the end of this month, the product should be arriving at the property, and they should be able to complete the project quickly.

M. Kerwin said in addition to that, National Grid has not been able to complete its interconnection at the site, so that was another delay. He anticipated that should be done by the end of the summer.

T. Pratt commented that was not the Board’s problem, nor Mr. Kerwin’s problem, it was a problem for the manufacturer.

M. Kerwin indicated they have communicated that to the manufacturer. He said they want to complete the project and get it operational as quickly as possible.

T. Pratt asked what would be done if the Board did not grant the extension.

M. Kerwin had not anticipated that scenario. He said they have a half-completed project with a great deal of investment which he believed would make a substantial vested rights argument, but he hoped it would not come to that. He felt the project could be completed by fall.

D. Vredenburgh asked if the existing panels were with the new racking system.

M. Kerwin explained the panels were not the issue, it was the supports for the panels.

D. Vredenburgh saw there were panels on site.

M. Kerwin was unsure what was installed on site, but he knew the panels were not the problem.

J. Juskiewicz asked where the racking system was made.

M. Kerwin was unsure, but believed it was a United States supplier. He said it was a foreign supplier previously and the change resulted in the problem.

C. Ladd thought Mr. Vredenburgh raised a good point, saying the panels should already be on site or they may also be delayed.

M. Kerwin repeated that it was his understanding that the panels for the site were not the issue for the delay. He was told once the racking system was there, they would be “good to go” for the installation.

D. Vredenburg said there were several panels already installed. He thought several hundred were erected. He asked if the racking system was what holds the panels.

M. Kerwin answered they were.

D. Vredenburg believed most of the poles were already in the ground.

T. Pratt said basically the Planning Board has already approved the extension.

M. Kerwin responded, “Yes.”

T. Pratt reasserted his desire to not have to repeat this process another time.

M. Kerwin understood but indicated he could not make any promises for the future.

Motion by T. Pratt seconded by J. Juskiewicz, to reaffirm the findings in the original Full Environmental Assessment Form with all the original terms and conditions and to approve the third change for the Solar Major Special Use Permit with completion to now be July 2, 2025 was carried as follows

Gary Mason	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburg	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	Yes.

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Motion by D. Vredenburg, seconded by L. Gianforte, to adjourn the meeting at 9:50 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – July 30, 2024.