

Cazenovia Zoning Board of Appeals

Meeting Minutes

March 27, 2023

Members present: Thomas Pratt; David Silverman; Gary Mason; Luke Gianforte

Members absent: David Vredenburg; Michael Palmer, Alternate Member

Others present: John Langey; Chuck Ladd; Johnathon LaPlante; Rebecca LaPlante; Riley Dixon; Thomas Dixon; Samuel Getman; Michael Basla; Kyle Reger; Robert Ridler; Dana Boise-Mancini; John Copeletti; Kathleen Copeletti; George Puzey

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

Roll was taken.

Motion by G. Mason seconded by L. Gianforte, to approve the February 27, 2023 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday, April 24, 2023.

There will be a work session Tuesday, April 18, 2023.

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.

Jerabek, Eric - #98-117 – Special Use Permit Renewal – 1639 Delphi Road, Cazenovia

T. Pratt said this was a renewal for agriculture and raising animals which was originally approved in 1998.

T. Pratt asked if Chuck Ladd had the opportunity to do a site inspection and if he had received any complaints.

C. Ladd responded he had completed the site inspection and he had not received any complaints.

T. Pratt asked if everything was satisfactory during the site inspection.

C. Ladd answered that it was.

Motion by L. Gianforte, seconded by D. Silverman, to renew the special use permit with the original terms and conditions was carried unanimously.

*LaPlante, Johnathon & Rebecca - #23-1452 – Area Variance – 1642 Peth Road, Cazenovia
(Gary Mason)*

Johnathon and Rebecca LaPlante were present to represent the file.

T. Pratt said the request for an area variance was in the Lake Watershed. He said the proposal was to place a new garage next to the existing house. He said the proposal was for a 2-story 28' X 24' garage that would only have 15 feet of east side yard setback and would be 85 feet from the center line of Peth

Road. He stated the General Municipal Law Recommendation Report (GML) from Madison County Planning Department was received March 3rd and the County did not note any impact.

R. LaPlante showed photographs she had taken of the yard which depicted the general area where they wanted to locate the garage. She explained the west side of the yard has a bridge over a creek that bisects the property. She said the septic system and leach field are also located in that section of the back yard. She said on the east side of the yard there is a flat spot where the driveway was located that they felt would be the best location for the structure, but it was only 15 feet from that property line. She further explained the yard was “pretty wet,” so they worried that bringing in fill to locate the garage farther from the property line would be problematic. They got two quotes for fill, one from TH Kinsella which was strictly for the fill and was \$6301.00, and the other which included labor and equipment from Adam Antoine was \$13,630.00. She said besides the expense of the fill, the project would be delayed another year if they attempted to fill another area of the yard.

R. LaPlante also explained their house was small and they have two (2) children so they need storage area for toys and equipment they use for outdoor activities such as kayaks, snowmobiles, and an ice fishing shanty. She said they spoke to their realtor to see if a garage addition would impact the value of the home and they were told it would increase the value of their home.

J. LaPlante said he had spoken to his neighbors and they “were on board with it.”

G. Mason explained the neighbors would have a chance to speak a little later in the proceedings. He said the issue that most concerned him was the amount of relief being requested. He noted requesting ten (10) feet of relief would amount to 40%. He asked if they could reduce the size of the structure to require less relief.

J. & R. LaPlante felt with the removal of two (2) existing sheds that a reduction would not give them sufficient space for storage as well as space for two (2) vehicles. They explained that one shed was used for wood storage and another was used for storing items.

C. Ladd asked if they could attach the proposal to the house.

J. LaPlante answered they could if they positioned it closer to the center line of Peth Road, so they would still need an area variance.

R. LaPlante said they were not opposed to the idea, but they were unsure if that would be acceptable since they would still need relief.

G. Mason preferred granting front yard relief to granting side yard relief.

C. Ladd thought it would be nicer for the owners to have it attached.

R. LaPlante said putting it closer to the front line would also increase the amount of relief for the side yard because the property line angles in that direction.

G. Mason asked if they had considered that option.

J. LaPlante said they had but it would increase the cost if they were to connect it with a breezeway/roof.

R. LaPlante said they were not opposed to connecting it, but they were unsure how it would work with the regulations.

J. LaPlante also was unsure how a 2-story garage connected to their small house would look. He felt having a separation between the two structures might be more aesthetic.

T. Pratt commented it would look like a house attached to a garage rather than a garage attached to a house.

J. LaPlante spoke about their need for storage having two (2) small boys.

L Gianforte agreed with Mr. Mason, thinking a slight repositioning that would require less relief would be easier for him to approve.

J. LaPlante repeated that moving the garage closer to the house would make it closer to the side yard.

R. LaPlante explained that was because of the angle of the property line.

J. LaPlante said putting it more to the south would require fill and probably a retaining wall and a drainage system.

R. LaPlante repeated the yard was very wet behind the house as well having a sizable hill and repeated they would like to use the flat part of their yard which had not washed away.

T. Pratt said one of his issues was the size of the garage in relation to the house – being a 2-story garage and a 1-story house. He felt the gambrel roof would make it at least ½ story higher than the house.

R. LaPlante responded they wanted a bigger garage because they have a smaller house. She elaborated that they got quotes for a 1-story garage versus a 2-story garage and the price difference made it reasonable for them to get the larger size.

J. LaPlante said their house was 1100 square feet.

R. LaPlante did not think it was uncommon to see big garages with small houses.

T. Pratt noted the house was quite close to the road so the garage “would have a lot of presence.”

J. LaPlante countered it would be “a good presence,” and said, “it would look nice.”

T. Pratt responded he wasn’t entirely sure of that. He believed the Applicants’ compelling reason for the request was because it would be on a flat area.

J. LaPlante added that the area was pre-existing, the most convenient, and the most economical option.

R. LaPlante said even with the fill, they would still need a variance and they would not want to invest in the fill and then be denied a variance.

T. Pratt asked about placing the structure in the back yard, wondering if the lower elevation was the issue.

R. LaPlante replied the hill was “pretty big.”

J. LaPlante said the stream was also a consideration, and if they located the garage in the back yard, most of their back yard space would be consumed eliminating the children’s space (to play).

J. & R. LaPlante also noted that location would need fill besides being soggy.

R. LaPlante said it would be an inconvenient location for parking the car especially in the wintertime and with two (2) small children.

L. Gianforte asked if the distance from the house to the proposed location of the garage was 13 feet.

It was affirmed that it was.

L. Gianforte thought the back of the garage would be parallel to the back of the house.

R. LaPlante said was because they wanted to make sure it would be 85 feet from the road.

G. Mason believed the initial location was 82 feet and they pulled it back to be 85 feet to meet Code.

T. Pratt asked how far it would be from the edge of the road.

J. LaPlante answered, “I do not know.”

L. Gianforte commented he still preferred to pull it farther from the side yard even if it made it closer to the road. He thought moving it diagonally would move it farther from the side yard.

J. LaPlante thought that would still require “a large amount of fill as well as equipment, labor, and a drainage plan,” and perhaps even a retaining wall.

L. Gianforte felt only a small amount of fill would be needed in the area he was talking about.

J. LaPlante thought the labor cost of approximately \$5400 would still be the same.

R. LaPlante displayed another photo on her phone to try to give a perspective of the topography.

D. Silverman commented that he gives significant weight to the feelings of the neighbors, but he felt with the situation for the young family with a preexisting pad and with lots of items that should be stored inside, that the proposal would improve the property. He also felt the removal of two (2) sheds was a consideration. He noted some Board members had an issue with granting 40% of relief, and asked

if the owners would be able to move the garage on the pad a couple of feet which would then reduce the relief to 32%.

J. LaPlante responded they could move it a foot; two (2) feet “would be pushing it.” He said he would be willing to do that.

G. Mason said that helps.

T. Pratt asked if they would be willing to give up the second story, repeating his concern over the mass of the structure and it’s appearing to be a garage with a house attached.

J. LaPlante did not think one story would provide adequate storage.

D. Silverman and G. Mason said they were “Okay” with the second story.

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

T. Pratt invited comments at this time.

Dana Boise-Mancini of 1644 Peth Road said she was the neighboring property owner to the east. She said they “also have a massive, 2-story garage” on their property “right behind” where the LaPlantes propose theirs. She said none of her windows face that direction and there are also pine trees between the two garages, and she understood the need for extra storage, so both she and her husband were completely in favor of whatever the Applicants wanted to do. She and her husband were of the opinion that the LaPlantes can use their property however they choose, and she and her husband were “fully in support.”

T. Pratt suggested the Board review the considerations for an area variance.

He asked if the Board feels the proposal would be an undesirable change to the neighborhood. He said the Board needs to consider not only whether it would be now but also in the future. He saw it as oversized and relatively tight to the side yard, but he gathered the Board did not feel it was an undesirable change.

G. Mason felt it was a farm community along Peth Road and it was (another) barn.

T. Pratt asked if there were alternate solutions. He felt there were. He believed they could move it back or closer to the house, or reduce the size.

D. Silverman noted there were financial constraints and believed the proposal would improve the existing situation. He repeated there was already an existing pad, the Applicants have expressed their willingness to relocate it two (2) feet farther into compliance, so he felt it was as good a solution for his comfort. He felt the garage/barn was “workable” in the location and would be an enhancement to the community as well as the Applicants.

L. Gianforte said the size of the structure was not an issue for him. His issue was the nearness to the side yard property line, and he preferred it's being farther from that even if it meant being closer to the road.

D. Silverman asked if moving it two (2) feet was in Mr. Gianforte's "comfort zone."

L. Gianforte responded, "It helps."

T. Pratt asked if the Board noted any physical or environmental issues.

T. Pratt listed "runoff, water, impervious..."

G. Mason did not think impervious (surface area) was an issue on three (3) acres.

T. Pratt noted it was zoned Lake Watershed. He asked if the relief would be substantial at 40% or 32%.

D. Silverman replied the Board had given significantly more relief in the past, referring to a recent specific project.

T. Pratt countered that particular circumstance differed from this situation.

D. Silverman commented that "every situation was different." He felt under the circumstances, for this project, the relief was not substantial.

T. Pratt asked the Board if they felt the circumstance was self-created.

T. Pratt said as he viewed it, there were four (4) negative interpretations and one (1) positive. As he listened to the other members talk, he heard one (1) negative and four (4) positives.

J. Langey reminded the Board it was a balancing test, it wasn't "the straight math." He said, in the end, the Board must "decide if the benefit to this Applicant outweighs any identified detriment to the neighborhood using the five (5) standards" to help them "get to that decision."

T. Pratt said the Applicants had the choice to gauge how the Board was viewing the proposal, to have the Board vote at this time, or to take another month to investigate another solution.

J. LaPlante responded they had thought about this for the past seven (7) years, ever since they had moved into the home, with the intention of putting a garage there but they have been waiting to be able to afford it.

R. LaPlante explained when they bought the house, they did not realize how wet the backyard was because they bought the property in the wintertime. She said that wetness has limited their options.

J. Langey asked the Board to clarify what they would be voting on – the original requested relief or a revised location which would be two (2) feet more compliant.

T. Pratt believed they were now considering the location requiring two (2) feet less relief.

R. LaPlante confirmed that was the request.

D. Silverman believed it would still be 85 feet from the center line of Peth Road.

J. LaPlante hoped the two (2) feet would make a difference in the Board's opinion.

T. Pratt said the decision to seek the Board's verdict at this time was in the Applicants' hands.

J. LaPlante responded, "Let's roll the dice."

Motion by G. Mason seconded by D. Silverman, to close the public hearing was carried unanimously.

J. Langey said this could be considered a Type II Action in regard to the State Environmental Quality Review (SEQR), but he thought it prudent to treat it as an Unlisted Action, so he lead the Board through the Short Environmental Assessment Form (SEAF). Reviewing the questions, it was determined only small if any impacts would result from the proposed action.

Conditions were then discussed.

G. Mason said the removal of two (2) existing sheds would be part of an approval.

It was clarified the area variance would be for eight (8) feet of encroachment into the 25-foot side yard setback.

T. Pratt said the Board would need the Applicants to survey the location of the property and provide a finished survey once the building has been built so that the Town will know the location from the property line is as approved. He elaborated that a surveyor must locate the position.

D. Silverman clarified that the survey on the property would need to be done prior to construction.

J. LaPlante asked if the Board knew the approximate cost of that work.

D. Silverman advised they contact the original surveyor of the property to get a quote for the work.

T. Pratt explained the property line should be marked so when the contractor does the work, there is no question where the appropriate distance is. Also, a corner of the wall should be located so that everything will be located where it should be.

T. Pratt presumed the color and finish of the garage would match the existing house.

J. LaPlante affirmed it would.

T. Pratt asked if plantings would be needed to shield the new structure.

D. Silverman believed the neighbor spoke about existing trees.

J. LaPlante affirmed there was a row of trees already.

T. Pratt then asked about lighting.

G. Mason explained that if there would be outside lighting on the building, it would need to be dark-sky compliant, and downward-facing.

T. Pratt added it would need to be shielded and low-level also.

R. LaPlante said they would do whatever the Board wanted – either having lighting or not.

G. Mason explained the Board wasn't asking for lighting, but if there were lighting, this was how it needed to be.

Motion by G. Mason, seconded by D. Silverman, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the 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 area variance for 8 feet of relief as most recently submitted for the construction of a 24' X 28' garage with the conditions discussed was carried as follows:

David Silveman	Voted	Yes
Gary Mason	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	No.

T. Pratt said the Applicants will now attend the upcoming Planning Board meeting for site plan review.

*Dixon, Riley & Allison - #23-1455 –Area Variance – 5701 East Lake Road, Cazenovia
(Thomas Pratt)*

Riley and Thomas Dixon Riley's father were present as was their attorney Samuel Getman from Vindigni, Betro & Getman, PLLC.

T. Pratt explained the proposal was in the Lake Watershed and they were seeking an area variance to subdivide the property along the road line resulting in a 2.3-acre parcel on the west side of East Lake Road and an 80+ parcel on the east side of East Lake Road. The Town Code requires newly created parcels to be three (3) acres.

S. Getman explained the house was located on the west side of East Lake Road. He said the remaining parcel was the pertinent lot where they hoped to add a new residence. He said crossing the road was a safety concern, and it seemed dividing the lot at the road with an area variance was the most logical way to subdivide the property.

T. Pratt asked the reason .7 acres could not be conveyed with the 2.3-acre lot.

S. Getman said immediately across the property where the house is located there are already existing structures – barns, ponds. Also taking property from the other side would create a flag lot. The only vacant land that could be conveyed was not ideally located in relation to the lot with the existing house.

T. Pratt said a result of the subdivision as proposed would result in the 80-acre lot being a noncompliant site having no primary residence with nine (9) accessory buildings.

S. Getman said if the area variance were allowed, “the ultimate goal” was to receive approval from the Town of Cazenovia Planning Board for a new residence. He said they were advised to seek the area variance in tandem with Planning Board review, but the area variance was needed first.

T. Pratt repeated the undesirable situation that would be created on the larger lot.

S. Getman said they would not sell the smaller parcel until they had begun construction on the residency on the larger parcel. He said the Planning Board had instructed them to get the area variance before seeking the Planning Board’s approval.

T. Pratt said he was unsure how the Town could ensure the house would be built.

T. Dixon said the goal of the subdivision was to create the new home. He said they would simultaneously file for a new residence.

J. Langey suggested the Planning Board Chair could withhold his signature on the final subdivision plat as a means of delaying the filing of the subdivision until construction was satisfactorily guaranteed. He said Chair Pratt’s point was legitimate, that technically nonconformance would be created by granting the subdivision with the existing conditions, but he acknowledged the subdivision could not be created without the variance. He explained the Board was looking for “insurance.” He noted the Planning Board Chair was in attendance tonight. He said the situation could delay the subdivision’s completion.

T. Dixon understood “the catch 22.” He understood the area variance could be conditioned upon the approval of the subdivision.

J. Langey said the Board would have to do the analysis for the area variance, and the approval could be subject to the Planning Board granting a conditional approval for the subdivision, holding the signature on the map until such time as the house was substantially constructed, or building permits were pulled, or whatever the assurance may be. He explained the Town recently had an issue with a similar situation and the Town “got burned on that” so that was why the Town was endeavoring to be more careful.

S. Getman expressed understanding.

T. Pratt asked if the house could be built first and then the property could be divided after.

S. Getman said the “catch 22” would remain, because they might build the house but still be denied the area variance.

J. Langey felt, if the variance were to be granted, the safer way would be to have the Planning Board hold the filing of the subdivision map “until the house is done.” He said if there was not follow through, the noncompliance would then become a Code enforcement issue.

T. Pratt questioned the only safeguard being the signature for the subdivision filing.

J. Langey answered the Town does not want to spend money with enforcement issues, but the Town does have that resource. Because the Applicants were seeking the variance to subdivide, he felt the incentive to file the subdivision would be adequate.

D. Silverman commented regarding the 3-acre size, most of the other homes along that section of the neighborhood do not have 3-acre lots. He felt the newly created lot would be “in line with what the other properties have.” He felt the safeguard Mr. Langey spoke about for the other lot would also protect the community. He stated he “was much in favor of the project.”

G. Mason said the undersized lot would have 400 feet of road frontage, so that was not a concern for him. He asked about the use of the larger lot, wondering if the new owners intended to have horses.

R. Dixon said everything would remain (the same with) just the addition of the house.

T. Pratt asked about the use of the many accessory structures.

R. Dixon explained many of the structures were run-in shelters for the horses.

T. Pratt asked if R. Dixon would be keeping horses on the property.

R. Dixon answered, “Yes, for the time being.”

T. Pratt asked for clarification.

R. Dixon explained the previous owners, Crawford Farms, would be leasing the property from him for the use of the Crawford horses.

S. Getman said Crawford Farms would be using/leasing the property for their agricultural use for the horses.

T. Pratt asked if the horses would still be kept once the house was built.

R. Dixon answered, “Yes.”

T. Pratt asked if a fence would be put around the house.

R. Dixon said it would be.

T. Dixon remarked there were plenty of fences on the property.

D. Silverman believed the horses on the property were retired horses.

It was affirmed they were.

There was more discussion regarding the number of accessory structures and whether a special use permit would be needed for the keeping of horses.

J. Langey said that would be Mr. Ladd's decision.

C. Ladd said he would have to consult the Code and make sure there was adequate acreage for the number of horses.

J. Langey was unsure if a special use permit would be needed for the stable operation.

L. Gianforte had no issue with subdividing the property along the road. He agreed there were similar (sized) lots along the road and felt the lot was already split by the road.

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

T. Pratt invited comments at this time.

John Copeletti of 5707 East Lake Road said he and his wife live next door to the existing residence. He said they see no problem with the proposal. He was glad the horses will stay on the property which he described as "beautiful." He welcomed the Dixons.

Kathleen Copeletti also welcomed the Dixons.

T. Pratt said the Board should review the qualifying questions regarding the area variance. He asked the Board if they felt it would be an undesirable change to the neighborhood. He said it was indicated that the newly created lot would be similar to other properties with more or less the same acreage.

T. Pratt asked if there is an alternate solution. He said there was the solution of transferring some land from the opposite side of the road, but the Owners desire to keep the barn with the larger parcel for the horses.

T. Pratt asked if there would be a physical or environmental impact. He noted it would create a nonconforming parcel with only accessory buildings, but that situation could be mitigated in the future with the construction of a residence. He asked when the house would be built.

S. Getman said the application would be immediate.

T. Pratt asked when the house would be built.

S. Getman indicated that would depend largely on the Town's approvals.

T. Dixon stated he was the Builder and they wanted it done immediately.

T. Pratt asked if the Board considered the variance substantial. He said it would be .7 acres out of three (3) acres, so he estimated that to be 23%. He repeated the (number) of accessory buildings was an issue.

T. Pratt asked if the situation was self-created. He noted the Applicants "were trying to fix a problem that they were trying to work through."

Motion by D. Silverman, seconded by L. Gianforte, to close the public hearing was carried unanimously.

J. Langey lead the Board through the SEAF for this Unlisted Action and all responses were answered to have small or no impacts.

J. Langey asked if a condition of an approval would include obtaining the condition by the Town of Cazenovia Planning Board for the construction of a primary dwelling on the 80-acre site to prevent a violation of the Zoning Law and the subdivision map be held until at least commencement of the home. He said the Planning Board would have to "be walked through this whole scenario."

He asked about the timing of the Planning Board meeting.

Robert Ridler responded the work session was in three days. The regular meeting would be next week.

J. Langey asked if the Applicants would be attending the work session.

The Applicants responded that they could if the Planning Board wanted them to.

J. Langey thought that might aid the Planning Board's understanding.

T. Pratt asked if a timeframe needed to be set for the build.

There was discussion regarding setting the term for a year or two (2). It was then discussed if the term was for the commencement or the completion of construction. The Applicants felt commencement was more reasonable. They were certain they could start construction within a year regardless of the time their applications were reviewed by the Planning Board.

J. Langey thought they could, in good faith, work with the commencement of the house within a year. He said the only other mechanism he was acquainted with was the posting of a bond or a cash security "of so many thousands of dollars." He explained that process. He realized the Applicants had no time to discuss that option among themselves.

T. Dixon felt having a year to commence construction was reasonable, saying there was a process that they "were not in control of." He was speaking of the application process and the subdivision process.

J. Langey did not anticipate any problems with the Planning Board process or the Building Code process. He thought an approval in May from the Planning Board was attainable.

R. Ridler said he was hearing that a single residence was proposed for the 80 acres. His only concern would be an application to further subdivide the larger parcel. He thought a statement from the Applicants that a single-family residence was their intention for the 80 acres would be helpful.

T. Dixon responded, “Done.”

J. Langey said the Planning Board would deal with future subdivisions.

T. Pratt said the final wording of the condition was that the Applicants would have a year to commence building the house.

J. Langey affirmed that was correct.

Motion by G. Mason, seconded by D. Silverman, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the 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 area variance for .7 acres for the creation of a 2.3 parcel on the west side of East Lake Road and for an 80+ acre parcel temporarily having nine (9) accessory structures to be used for horses with no primary structure with the above-referenced conditions on the east side of East Lake Road was carried as follows:

David Silverman	Voted	Yes
Gary Mason	Voted	Yes
Luke Gianforte	Voted	Yes
Thomas Pratt	Voted	No.

The Applicants were instructed to file a site plan review application and to meet with the Planning Board.

*Maples of Madison County, LLC/Madison County Distillery LLC - #20-1291 – Special Use Permit
(Thomas Pratt) Amendment - 2415 US Route 20 East, Cazenovia*

Michael Basla was present to represent the file.

L. Gianforte was recused for this file.

T. Pratt explained the proposal was for a special use permit amendment in the Rural A District with the Wellhead Protection Overlay District and the Commercial Overlay District. He said the amendment was to create a larger, enclosed bandstand which was a variance from the 6”-platform (that was previously approved). He said the GML was received from Madison County Planning. However, the responses from the New York State Office of Parks, Recreation and Historic Preservation (SHPO) and the New York State Department of Transportation (DOT) for Lead Agency Consent had not been received, so the Board will not be able to take action this evening.

T. Pratt said he also had sent an email to Mr. Basla regarding obtaining a sound transmission engineer’s letter relative to the new bandstand design.

M. Basla was sorry this matter could not be finalized at this time. He had seen the GML, and read from it, “Previously the Town included a maximum number of music events, event times, noise levels, and other specifics as conditions of the approval which we assume would continue to be part of this.” He explained this matter was about the amendment “of the size of the platform with a little elevation and walls.” He spoke about the flight line on an airbase where ear protection was worn by those near the jet engines but how there were also buildings protected from the noise by a wall. He said from the beginning of the proposal in 2021 it was very clear that Mr. Basla would have to maintain a decibel (dB) level at the property lines of 50 dB. He also recalled a member of the Board having trouble approving a distillery because of profitability. He admitted he has not taken profit from this business in the six (6) years it has been operating. He felt the cost of an engineer’s letter was one more bill he would have to incur and he did not think it was necessary. He said he sent 17 letters to the neighboring property owners, and unlike in 2021, there were no responses which he felt was “a good thing.” He noted this situation was not about noise abatement, it was about music, which he felt many people enjoyed. He felt the Madison County Planning Department “got it right on target.” He declared he would follow all the rules that were already approved, and he would be the “enforcer.” He informed the Board he would be unavailable to attend the next meeting on April 24th because he would be en route to St. Louis to be inducted in the Air Force Hall of Fame, so now the project would be delayed another month. He also noted in Mr. Langey’s letter to the Involved and Interested Agencies that “he saw minimal to no problem with the amendment,” to paraphrase Mr. Langey’s language.

T. Pratt repeated he needed a letter from the engineer.

M. Basla responded, “No Sir.”

T. Pratt replied, “Build a 6”-platform then.”

M. Basla asserted the request was “unreasonable.” He said putting walls around the platform would send “the noise in a certain direction.” He claimed walls would inhibit the noise from going behind (the bandstand).

D. Silverman said he understood both points of view. He recalled the live test (done for the initial approval), remembering there was not a problem that particular night, noting that conditions were slightly different at the time. He questioned the value of an engineer’s letter.

G. Mason believed the Board’s concern was how the noise would be monitored by subsequent owners and how the Board could constrain them.

M. Basla asked if the special use permit ran with the land or the person.

J. Langey answered it ran with the property. He said when Mr. Basla sells his establishment, the special use permit will transfer to the new owners.

M. Basla pointed out that the special use permit would need renewing annually, so if there were a problem with management in the future, the Board would have that annual review.

T. Pratt stated he did not “know enough about sound” and he doubted anyone in the room knew enough about sound.

M. Basla said Mr. Pratt was present the evening of the sound test.

T. Pratt countered he was not there with the proposed bandstand; he was there when there was a 6”-platform proposed. He contended he would not object to a 6”-platform.

M. Basla asserted putting walls around the proposal would direct the sound.

T. Pratt believed the walls would focus the sound.

M. Basla interjected the sound would be focused toward his building.

T. Pratt questioned if sound would “bounce off the building.”

M. Basla did not think the sound would bounce off wood.

T. Pratt repeated he did not “know enough,” and asserted he needed a letter.

M. Basla replied, “No, you don’t need a letter, Sir.” He said Chair Pratt was asking for a letter, demanding a letter, but he did not need a letter.

T. Pratt responded Mr. Basla could state it “any way you want – I am still looking for a letter.”

M. Basla retaliated, “Let the Town pay for it.” He said he “continues to pay money to get these things approved.” He repeated he would “ask the Town to pay for it.” He asserted he could get 500 signatures saying, “this is a good thing for this community.” He believed Chair Pratt “was asking an unreasonable

thing.” He agreed with Mr. Silverman that the letter would just be a piece of paper, and like Mr. Mason commented, one would not know “until we put the bandstand up and play music.” He said at which time he would have to “be the enforcer.” He continued saying he “appreciates that” and he knows “how to keep people accountable” – including himself.

T. Pratt responded, “Again, it’s not just you.” He stated Mr. Basla would not be there forever.

M. Basla repeated the special use permit must be reapproved every year. He asked who had concerns.

T. Pratt said it was discussed at the meeting.

M. Basla wondered if it was one (1) person or five (5).

T. Pratt said the letter came from the Board.

G. Mason asked if the Board could revoke the special use if there were complaints.

T. Pratt felt the Board would have no recourse after the bandstand was built.

G. Mason asked if there were sound issues if the Board could deny the renewal.

J. Langey said the current resolution allows for 50 dB. As was stated by the County Planning Board, it was presumed that condition would be “carried over” and then exceeding that limit would become a Code Enforcement issue, potentially involving “a trip to court, a prosecutor, what have you.” He said that was one avenue the Town would have.

M. Basla believed part of the special use permit was the ability to host 18 events per year; that the events end at 9:00 P.M.; and that it’s outdoor music. He felt those were all thing the Board could “pull.”

D. Silverman believed the issue was the 50 dB at the property line and said if that was not maintained, “it’s nothing but aggravation.”

M. Basla responded, “I know.”

M. Basla asked to what effect would an engineering letter be if he were “to sell the place.”

T. Pratt explained the engineering letter would give the Board a basis by which the Board can make a decision.

M. Basla believed the Board already had the basis of 50 dB at the property line.

D. Silverman thought perhaps small trees could be planted at the property lines as a barrier for the future.

M. Basla acknowledged the past issue involved the South Village residents. He was happy that none of them “raised their hand this time.” He attributed that to his being a good neighbor. He admitted he’s not yet had a band.

There was some confusion regarding the type of music that could be played on the platform, whether it was prerecorded, live acoustic, or live amplified.

J. Langey was unsure reading the resolution of the prior approval if a live band could perform outdoors.

M. Basla recalled the 2021 approval was for live outdoor bands.

J. Langey said this issue should be “cleared up” for the next meeting.

J. Langey asked that the filed resolution be provided to him before the next meeting.

M. Basla asked if a recording of the meeting could be used to resolve the issue as well. He admitted he might not have read the resolution, but he said he knew what he expected it to say.

D. Silverman reassured Mr. Basla that the issue would be “straightened out.”

M. Basla also stated there were only “so many months of good weather around here,” and said he had a month of construction still. He said it sounded like a decision could not be made until May. He recalled the months he was allowed to have events were May – October.

J. Langey said, “it would all have to get figured it out,” but he believed “the sticking point right now is the engineer’s report.”

M. Basla responded, “Yes, Sir, the engineering letter that I say is not necessary.” He asserted “the standards have been established,” and that it was the Board who created those standards.

G. Mason asked when the (recently approved) barn project would commence, thinking that was a project that could be done before the bandstand.

M. Basla described his situation saying he had “plenty of work.” He asked if there were any other questions he could answer and what else did he need to do.

T. Pratt responded, “Provide a letter from the engineer.”

M. Basla retorted, “No Sir.”

C. Ladd asked if Mr. Basla were allowed to build the bandstand without a letter and if Mr. Ladd received a complaint, would he be able to shut down Mr. Basla so that he could not operate at all.

J. Langey answered Mr. Ladd would send a notice of violation, an order of remedy, and Mr. Basla would be issued an appearance ticket to appear before a local judge or it would advance directly to the New York State Supreme Court for an injunction to come back into compliance.

C. Ladd thought that procedure would take 90 days.

J. Langey said it would take at least 60 days. He stated one could not be shut down without a court order.

M. Basla remarked the Board was considering how to penalize him.

T. Pratt responded, “this is not a penalty, Mike.”

M. Basla disagreed saying the cost would be a penalty.

J. Langey said he appreciated what Mr. Basla was saying. He explained his firm represents 50 different municipalities and said, “it’s a delicate balance that we’re all trying to do.” He said, “the Town has an interest in seeing a great business like yours succeed,” calling it “a wonderful place,” at the same time “they are trying to balance it...so they don’t end up with a nightmare,” referring to another location that required extensive weekend music monitoring. He asked that Mr. Basla understand “that was where the Board was coming from.”

M. Basla said he understood, but he did not know how a letter from a sound engineer will prevent “a terrible scenario.”

There was a brief exchange regarding the cost for the engineer.

J. Langey said he and the Board had the utmost respect for what Mr. Basla has accomplished.

There was more discussion about the fine business Mr. Basla has run in the past, noting outside music has not yet been a part of the experience.

J. Langey believed the issue now was that a letter by a professional was requested certifying in their professional opinion that the structure will not exceed the sound limits, or if the Board would continue to use the 50 dB level in the current resolution using the tool of enforce by the Code Enforcement Officer if that were not maintained. He advised the Board to have that issue sorted out by the next meeting knowing Mr. Basla has refused to comply with the request for a letter.

M. Basla said he would write a letter stating he would maintain the 50 dB level at the property lines.

J. Langey said that was unnecessary because it was already part of the resolution. He said as Chair Pratt was stating, the Board was seeking something beyond a promise, hoping a sound engineer could provide some assurance.

D. Silverman opined he did not think a letter was necessary if the 50 dB restriction continued to apply to the amendment.

G. Mason recalled it had been 30 – 32 dB at the property lines during the previous sound test.

J. Langey said he would record whatever the Board decided they wanted.

M. Basla believed the Board was always looking for “one more thing,” until they voted. He felt like the letter was the “one more thing.” He repeated this was simply an amendment in the size and a slight change in the location of the previous approved platform.

T. Pratt disagreed.

M. Basla said he was grateful for respectful disagreements.

T. Pratt asked if Mr. Basla would provide the letter.

M. Basla responded, “No, Sir - no, Sir.”

C. Ladd pointed out the amendment was needed because Mr. Basla had not adhered to the original approval.

M. Basla repeated his reasons for changing the design, saying he did not do his due diligence in researching “what we were going to perform that noise on.” He asserted once he had done his research, he spoke to Mr. Cook and Mr. Cook had said, “Mike, that change is okay.” He said he gets “that wasn’t enough” and that was why they “were here.”

C. Ladd believed that was not the jurisdiction of Codes Enforcement, to approve those changes.

M. Basla knew that now.

M. Basla said he would review the prior approval and appreciated Mr. Langey’s doing that. He hoped the music issue would be sorted out and they could find their way forward.

Motion by G. Mason, seconded by D. Silverman, to continue the file was carried unanimously.



Motion by G. Mason, seconded by L. Gianforte, to adjourn the meeting at 9:10 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – March 28, 2023.