

Cazenovia Zoning Board of Appeals

Meeting Minutes

July 26, 2021

Members present: Thomas Pratt; David Silverman; Gary Mason; Joseph Anderson; Val Koch; David Vredenburg, Alternate Member; Luke Gianforte, Alternate Member

Members absent: None

Others present: Roger Cook; Wendy Loughnot; Melissa Gelman; Matthew Vredenburg; Nicky Bowman; Courtney Bowman; Robert Cowan; Bruce Ward; David Harris; Kyle Reger; Christine Petrone; Joseph Rogers; Robert Ridler; Lorrie Swartwout; Maryellen Sterarns; Barbara Lavier; Jerry Munger

Others present via Zoom: John Langey

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

Roll was then taken.

The next regularly scheduled meeting will be Monday, August 23, 2021.

There will be a work session Tuesday, August 17, 2021.

T. Pratt announced that this was Mr. Anderson’s last meeting as a Zoning Board of Appeals member, saying Mr. Anderson has decided to pursue other things, and he thanked Mr. Anderson for his time and effort.

Other members expressed their appreciation and well wishes.

The June 21, 2021 meeting minutes was approved unanimously.

*Gelman, Mitchell & Melissa - #21-1350 – Special Use Permit – 3937 Number Nine Road, Cazenovia
(Joe Anderson) & Number Nine Road, Cazenovia*

No one was present to represent the file at this time so the application was moved later on the agenda.

*Cushman, Jack & Linda - #21-1359 – Area Variances – 4182 Route 92, Cazenovia
(Thomas Pratt)*

Matthew Vredenburgh was present to represent the file.

David Vredenburgh was recused.

T. Pratt explained multiple area variances were being sought: one variance was needed to build within the 100-foot setback from the lake; another variance was needed to build the garage in front of the house; and a third variance was needed for front yard setback relief. He noted the property was located within the lake watershed overlay zone and the 100’ lake setback. He also explained that a revised drawing had been submitted July 12, 2021 and asked Mr. Vredenburgh to elaborate.

M. Vredenburgh recounted that previously the proposal was for a 25’ X 24’ 2-car-garage located near the driveway. In response to comments from the Board, they now were proposing a 16’ X 35’ 1-car-garage located about 40 feet off the driveway. They would tuck it into the trees and the setback would

now be about 19 feet from the road whereas the original location was 8 – 9 feet from the edge of the Route 92. The setback from the lake would remain the same due to the narrowing of the width of the structure.

T. Pratt asked about the impervious surface coverages.

M. Vredenburg responded the existing impervious surface area was 14.2% and would increase to 15%. He said typically, at the discretion of the Planning Board, 10% was allowed up to 15%, so they would be at the maximum allowed percentage overall. He further explained that the amount allowed within the first 20 feet was 5%. It was 4.1% and it would now be 3.3%. They achieved the reduction by eliminating some pavement and an existing shed. In the next 80 feet (Zone B) they increased the percentage from 21.5 to 23.1. There would be no change in the third zone since very little property was in that zone.

T. Pratt asked how much property was within the 100-foot setback.

M. Vredenburg figured about 75% – 80% of the property was within that setback.

T. Pratt asked that Mr. Vredenburg address the issue of the garage location and mitigations for the proposed location.

M. Vredenburg explained that they felt it was the least visible, accessible location. He pointed out the center of the property would be visible, at least to some degree, from both the road and the lake. He said the septic tank, pump and field were on the road side of the driveway (so development in that area was restricted). He said on the corner of the driveway where they now propose the garage, there were three (3) 18-inch oak trees, and a maple tree. By sliding the structure back, they will now be able to preserve the oak trees, and they propose to plant some evergreen trees as additional screening.

T. Pratt believed there were power lines they were trying to avoid as well.

M. Vredenburg affirmed that was the case and commented that they are required to stay ten (10) feet from the power line, which “boxes them in.”

T. Pratt asked if there was a special reason the Applicants needed the garage.

M. Vredenburg responded they would like the structure for storage for either a boat or a car which would only be accessed during the summer and was the reason a long path would be adequate for access. He added that lawn equipment would also be stored there, saying the lawn equipment was currently stored under the house in the crawl space, which he described as “not very accessible.”

T. Pratt asked about the pool wanting to know its primary purpose and the reason for its location.

M/ Vredenburg answered that it was previously proposed to be “tucked in next to the house,” but on the recommendation of the Board, they moved it to a more discreet location to the north of the house tucked in between the trees and the dwelling. By changing the location, the setback from the lake was

increased from 20 feet to 50 feet. He felt it would not be visible from the lake, being a horizontal structure and being tucked into the existing, mature trees.

T. Pratt asked if the pool was impervious.

M. Vredenburg answered it would not be, saying with 4 ½ inch preboard for the vanishing edge the Code allows it to be considered pervious.

T. Pratt asked about *Lakefront Development Guidelines* usage along the shoreline.

M. Vredenburg responded that most of the shoreline was mature, existing vegetation – he estimated about 80% - and said they would be willing to add vegetation where there was none.

T. Pratt remarked that it would make good sense to do so, since the asphalt would be so close to that area.

T. Pratt then asked about the lighting associated with the pool as well as the garage.

M. Vredenburg answered he was unaware of any lighting at this time, but if there was, he did not expect any lighting to be brighter than what one would have in a sconce on the wall.

T. Pratt reminded the Board the proposal would all be constructed within the 100-foot setback from the lake, which he also reminded them was an area that the Code endeavors to preserve for the protection of the lake.

D. Silverman said he was fine with the pool, but he could not support a structure 19 feet from the highway.

T. Pratt asked if Mr. Silverman was concerned about other property owners wishing to add pools in the future.

D. Silverman believed many pools were found around the lake and felt the request was reasonable.

J. Anderson asked the depth of the pool.

M. Vredenburg said it would be 3 – 4 feet deep.

D. Silverman noted the pool was for the grandchildren's use and commented that the property was meticulously maintained. He added that he could support a garage, but not in the location proposed.

M. Vredenburg showed the Board the north elevation drawing he created showing the garage. He said originally Mr. Cushman wanted to make the garage the same color gray as the house, but in response to the Board's suggestion that the structure might blend into the vegetation better, they would make it darker.

M. Vredenburg said they did consider other options for the location of the garage, but could not find any due the steep grade beyond the power line (further from Route 92), and due to increased visibility from the lake and the road. He repeated they felt the location chosen was the best option.

D. Silverman said in the future if improvements were made to the highway, the distance may be even less between the edge of Route 92 and the structure. He said he would be interested to know the measurement of the crawl space. Driving by he estimated the door to access the crawl space might be 4 -5 feet high.

M. Vredenburg replied in comparison to the road, the garage would be about seven (7) feet lower, and therefore much less visible.

D. Silverman found that detail interesting, but he still opposed the location.

G. Mason indicated he was not opposed to the pool, expecting more pools would be proposed in the area, but believing each situation would be examined on its own merits, but he said he too had a problem with the garage. He noted by narrowing its width but expanding its length, the Applicants did not greatly reduce the size of the structure. He commented the dimensions were not very attractive for the high-visibility area. He conceded there was not a lot of room with which the Applicants could work. However, he felt 16' X 35' dimension was unacceptable.

J. Anderson said he visited the property today, and he was okay with the pool, understanding the desire to keep the children close by and safe, but he pointed out the Owners have a 2-car garage, and the property has constraints.

V. Koch said he was fine with the pool too, and he did not oppose the garage, but he felt it should be shortened. He also asked about the necessity for both the pool and additional storage. He indicated that if only one were to be approved, he thought the garage would be more important than the pool. He felt improvements were made for the location of the pool, but he felt the location was still not where it should be. He said he was concerned about setting a precedent with its location to the Critical Environmental Area (CEA). He felt the garage would be sufficiently hidden if it were shortened.

M. Vredenburg asked if changing the length would change how the other Board members felt.

L. Gianforte thought the Board raised good points. He wondered the true need for the garage to be so close to the road and for the length. He wondered if the existing garage could be widened to be a 2 ½-car garage.

M. Vredenburg responded the existing garage could not be expanded.

T. Pratt presumed the reason was a product of the roof.

M. Vredenburg clarified the location of the septic pump, septic tank, and the septic field prevented the expansion of the existing garage.

T. Pratt asked the Board's feeling about the garage if the length was shortened.

D. Silverman remarked that Mr. Koch had raised interesting points about the pool, but felt the Applicants had a unique situation regarding the constraints of the property which would not set a precedent with others whose properties offered more options. He thought Mr. Mason had made a valid point about the dimensions of the proposed garage, but he could not support the location even considering the decrease in grade. He did not think the Board had approved many variances so close to any type of road.

M. Vredenburg interjected that the property's shape was "very unique." He spoke of other garages in the vicinity already along Route 92 that were also close to the road.

T. Pratt countered that those structures were existing.

M. Vredenburg explained that he was not pointing out those garages as good examples, but as ones not to be thought of as being like their proposal since theirs would be lower, tucked into the trees, and farther from the road.

T. Pratt believed the Board had expressed contention with the proposed garage and mixed reactions regarding the pool. He asked Mr. Vredenburg if he would like to take another look at the plan or if he would like the Board to proceed with the proposal as it was.

M. Vredenburg thought most were in favor of the pool.

T. Pratt interjected that he could split the vote for the two proposals simultaneously, but he could not split the file.

M. Vredenburg expressed understanding. He said if the Board found the shortened garage more palatable, he would adjust the drawing at this time to reflect the change in the plan rather than adjusting the plan for a subsequent meeting.

T. Pratt asked what size Mr. Vredenburg would propose.

M. Vredenburg answered most cars were 20 feet long and with the storage of the lawn mower another five (5) feet would be needed, so he could reduce the length from 35 feet to 25 feet, which he said would then essentially be a 1-car garage.

G. Mason said he would prefer the Owners dig the foundation of the house and enlarge the crawl space.

J. Anderson thought some sort of service would be needed to get a vehicle in the proposed garage due to the grade.

M. Vredenburg disagreed saying the area between the driveway and the location of the garage was "pretty level there." He said the substantial drop was on the other side of the power lines. His

illustration of the north elevation was from the driveway. He explained the topography from the road to the lake.

V. Koch said he would be in favor of the garage if it were downsized to 25 feet.

D. Silverman remarked if it were a shed, he could possibly consider the proposed location, but he could not for a garage.

Discussion followed regarding the nuisances between a shed and a garage.

M. Vredenburg repeated he could make modifications at this meeting if it would improve the chances of an approval, repeating he was trying to avoid having to return at a later date with a revised plan.

T. Pratt repeated the Board could split the votes for the pool and the garage, but they could not approve the pool this month and ask for a revised plan for the garage for the next meeting.

M. Vredenburg understood, clarifying one part of the request could be approved while another part could be denied based upon the variances needed for each.

T. Pratt affirmed that was correct.

R. Cook said he and Mr. Vredenburg had briefly discussed the option of constructing the garage on a section of existing impervious surface area near the house which would move the proposed garage away from the road and would not increase impervious surface area. He elaborated that would require a different configuration for the driveway, and the existing garage would then become the winter storage building. He said that configuration would eliminate the circular driveway, requiring the Owners to back out of the new garage to leave.

M. Vredenburg said that was an option, but the new construction would be in full view of the lake. He questioned if that was more desirable.

R. Cook thought it was a question as to how greatly the Owners desired the space. He believed he was not hearing a lot of sympathy (from the Board) for a structure of any size in the proposed location.

T. Pratt asked if there were any comments in favor of or in opposition to the file from the audience at this time.

There were none.

M. Vredenburg asked to mark the plan to revise it to be 16' X 25'.

T. Pratt asked if Mr. Vredenburg wanted the Board to proceed.

M. Vredenburg believed there was no other, better location possible for the proposed garage/shed.

T. Pratt clarified the proposed accessory structure could be denied if a vote were taken.

M. Vredenburg repeated there were no other, better options.

Motion by T. Pratt, seconded by G. Mason to close the public hearing was carried unanimously.

W. Lougnot reviewed Part 2 of the Short Environmental Assessment Form for the Board's State Environmental Quality Assessment Review (SEQR) for this Unlisted Action.

T. Pratt said the Board would vote for the garage and pool separately. He said the garage would require 19 feet of relief from the required 50-foot setback from the highway, 32 feet of relief from the 100-foot setback from the lake, and an area variance to be placed in the front yard.

T. Pratt then reviewed the five (5) criteria for issuing an area variance. He said regarding an undesirable change to the neighborhood, the garage would be tucked into the trees, but there would be a visual issue that should be considered. Regarding an alternate solution, he felt the lot was constrained by the power lines, the nearness of the entire property to the lake, and the presence of the septic features. Regarding the substantiality, he said it would require 38% relief from the road and 32% relief from the lake. The physical and environmental impacts noted by Mr. Silverman included if the highway were improved/enlarged or if there were a storm, these issues should be considered. The hardship was self-created, and he reminded the Board the land was purchased knowing the development within the 100-foot setback from the lake was restricted.

Next conditions were discussed.

It was noted that the proposal was now for a 16' x 25' garage. Trees would be used to screen the structure from the highway.

M. Vredenburg asked the size of the trees to be planted, wondering if 10-foot trees would be appropriate.

T. Pratt replied some of the details would be determined by the Planning Board (during site plan review), but he said substantial screening would be necessary.

T. Pratt said other conditions should be that the color of the proposed garage should be a darker color so that it would blend into the trees, and that there would be no exterior lights.

J. Langey advised that the plantings be guaranteed for a certain number of years so dead or dying screening would be replaced.

T. Pratt asked the length of time for the guarantee.

J. Langey responded it was at the Board's discretion.

M. Vredenburg said the Applicants were committed to the screening, so whatever the Board requested they would maintain.

The Board determined five (5) years was sufficient.

Motion by V. Koch, seconded by G. Mason, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the State Environmental Quality Review (SEQR), to affirm the matter an Unlisted Action and make a Negative Declaration, based upon the Zoning Board’s review of the Short Environmental Assessment Form (SEAF), and to approve the area variances for the garage as most recently proposed and with the stated conditions was denied as follows:

David Silverman	Voted	No
Gary Mason	Voted	No
Joe Anderson	Voted	No
Val Koch	Voted	Yes
Thomas Pratt	Voted	No.

T. Pratt said the proposed 12’ X 20’ pool would be 50 feet from the shore, requiring 50 feet of relief. He said there was a plan to screen the pool with vegetation from the lake. He then reviewed the area variance criteria. He said regarding an undesirable change to the neighborhood, it would be screened from the lake, but it would be within the 100-foot setback. Regarding an alternate solution, he thought there were other locations, but those alternatives would not fit with the needs of the Owners. Regarding whether the proposal was substantial, it would need 50% of relief where no construction was allowed. Regarding physical and environmental impact, theoretically there was no issue. He said it was a self-created issue being within the 100-foot setback from the lake. He summarized that he found four (4) negative considerations although some would be mitigated.

T. Pratt then spoke about conditions. He said the pool would have to hold the impervious water, the 4-inch of freeboard in terms of area of the pool, so the system of the pool must absorb all the water; there would be no lighting associated with the pool; and it would be shielded and not visible from the lake view.

R. Cook said regarding its being not seen from the lake, there will be a 4–5-foot fence around the pool, and asked if the fence would be the screening or if there was to be vegetative screening of the fence.

T. Pratt wanted the fence to be screened.

D. Silverman assumed the Planning Board would address the issue of the fence appearance and did not think additional screening was a must.

G. Mason thought a “nice, decorative fence” would be adequate.

J. Anderson agreed, indicating it was more a safety issue than an aesthetic issue for him.

T. Pratt said the only screening required for the pool would be the fence.

Motion to approve the pool with the above-referenced conditions was carried as follows:

David Silverman	Voted	Yes
Gary Mason	Voted	Yes
Joe Anderson	Voted	Yes
Val Koch	Voted	No
Thomas Pratt	Voted	No.

T. Pratt informed Mr. Vredenburg he would now be seeking site plan review for the pool.



*New Woodstock Market - #21-1361 – Special Use Permit – 2092 Main Street, New Woodstock
(Thomas Pratt) (Timothy S. Dady – Owner)*

Nicky Bowman was present to represent the file.

T. Pratt said this was a special use permit for a market in the New Woodstock Hamlet Overlay and the New Woodstock Central Business Overlay. He said New York State’s Historic Preservation Office (SHPO) did not have any concerns at this time (regarding the historic homes in the neighborhood). He said the Board may ask for the Planning Board’s comments regarding some of the issues of the proposal.

T. Pratt said the Board needed to know if the existing tanks were acceptable to the New York State Department of Transportation (DOT) and if they were transferrable.

N. Bowman said they were and said she sent an email to that affect. She said she was notified by the DOT that they were transferring the permit that was required for the use of the property into their name and they were just awaiting the DOT to send signed copies of that transfer. She said the permit was \$100.00 per year and everything could stay as it was until they were ready to address the gas dispensers.

T. Pratt noted the dispensers were connected to the property, but he understood the use of the dispensers was not part of the proposal before the Board at this time. He said when the Applicants want to use the tanks, they would have to return to the Board for that use.

N. Bowman agreed.

T. Pratt then spoke about parking. He said ten (10) spaces were required for the market. He noted there was a building behind the store and that the potential for All Terrain Vehicle (ATV) maintenance/repair had been mentioned in relation to that building. He thought that would eliminate the four (4) parking spaces designated in that area.

N. Bowman said the building was filled with trash and the building needed to be cleaned and repaired, saying it was not currently usable. She was unsure about the future plans for the shop, but at this time they would not be including that in the proposal.

R. Cook said the shop would be considered a separate business, and mention of the option was raised in passing during a previous meeting. He said if anyone cared to pursue an additional business, additional parking would need to be provided.

N. Bowman reaffirmed the building was for storage at this time.

T. Pratt then addressed the condition of the market building.

N. Bowman thought the building “looked pretty good,” saying she painted the front and the sides.

T. Pratt thought there was additional work to be done.

R. Cook commented the Applicants were doing as much as they could without having ownership of the property. He explained Timothy (Shawn) Dady, the owner of the property, has been cited to fix some of the issues with the structure, saying that was Mr. Dady’s obligation as the owner.

T. Pratt asked if the lighting would be night-sky compliant.

N. Bowman affirmed it would. She also stated it would be downward facing toward the sign.

Regarding the sign, she said it was actually 4’ X 6’, not 4’ X 9’, so it was the correct size.

T. Pratt then addressed deliveries. He said due to the limited parking, the deliveries would have to be controlled.

N. Bowman said the deliveries would be scheduled for specific days and believed they would be very early in the morning, before 7:00AM. She anticipated the delivery trucks would be box-sized, not tractor trailer-sized.

T. Pratt then said the trash would need to be removed on a weekly basis; it would need to be screened; and the rodents would need to be exterminated.

N. Bowman said in response to the rodent issue, the space between the pavement and the building had been filled with stone, and bait traps have been installed around the building, and since they started cleaning and maintaining the building, she has not seen a problem.

T. Pratt then discussed snow removal. He said there had been previous issues regarding snow so snow must be removed.

N. Bowman said her husband would be removing the snow. She elaborated about the complications with the parking and snow removal last winter, which involved the neighbors to the west, who also rent from the Mr. Dady.

T. Pratt asked if the hours of operation would be 6:00AM – 10:00PM.

N. Bowman affirmed they would be at this time.

T. Pratt said a concern was raised regarding parking in front of the building.

N. Bowman said parking would not be allowed between the pumps and the front door of the store. She said they would be posting signs or marking the sidewalk to indicate it was only for pedestrian use. She said they would direct traffic to flow behind the building, not in front, and they wanted to caution the traffic to be slow for the safety of children who continually walk in front of the store. She assured the Board parking would only be allowed in the spaces shown on the survey map.

D. Silverman commented that it was difficult to see so much effort already going into an endeavor that had not yet been approved.

N. Bowman explained they had originally wanted to use the building for a trucking company, but COVID prevented that. She said they needed to put the building to use. She continued the building was configured as a market with a deli area, so they thought they would resume that use. She said an interest in the sale of ice cream had been noted as well.

It was verified that the Bowmans do not yet own the building.

N. Bowman explained they were in the process of buying it from Mr. Dady with a lease-to-own agreement. She elaborated about their working relationship with the Owner and said Mr. Dady wanted them to succeed.

T. Pratt noted the mention of an LED lighted sign in the narrative.

R. Cook explained the Code did not allow those lit, scrolling signs.

G. Mason expressed concern about what was in the ground around the unused tanks. He thought it would be very expensive to take care any potential leakage.

N. Bowman spoke about their dealings with Cortland Pump regarding the situation. She believed Cortland Pump advised them to check the lines first. Mr. Dady believed the only problem was with the diesel line.

More discussion followed regarding the potential for complications and consequences.

N. Bowman said financially the use of the tanks was not feasible at this time.

R. Cook raised another concern about the driveway to the east of the store, saying part of it belongs to the property to the east. He said in the past that had not been an issue, but now that property was for sale, so it may become an issue depending on how much of the driveway was in question.

More discussion followed regarding the age and last inspection of the tanks as well as the onus if something were to need remediation.

Courtney Bowman came forward to address those concerns. He believed the tanks were installed in 1984 and the last inspection was performed in 1995, but leak detection records have been maintained monthly. He said in the event of failure or leakage, Mr. Dady would be responsible at this time. He has informed Mr. Dady that he would want the tanks to be inspected before they assumed ownership of them.

After more discussion, J. Langey stated the Board was considering a unique property with a unique request. He said the parcel has some underground gasoline storage tanks and some other potential environmental issues, however the Board does not have proof of anything – an active leak, the integrity of the tanks, etc. The request before the Board was for the operation of the market subject to conditions. He felt the issues raised by the Board were helpful to the Applicants regarding personal potential liability, and he echoed the advice to use competent legal counsel that would probably request that a “full, clean bill of health” for the parcel or indemnification down the line, but that would not be anything the Zoning Board of Appeals would have control or power over. The Board cannot help the Applicants with this set of circumstances. As an application for the market itself, the Applicants have gone on the record saying they do not need nor want the pumps to be part of the application, so the focus of the Board should be on the market aspect, with the Applicants taking into consideration the large concerns the Board has expressed with the gasoline aspect of the property.

J. Langey then asked if a parking plan has been provided and if the number of spaces was adequate.

T. Pratt affirmed a parking plan had been provided and that ten (10) spaces would be adequate for the 1500 square foot building.

J. Langey said he had heard mention of a future business and asked if any of the ten (10) spaces would be eliminated by the new business.

C. Bowman said that would not be a consideration at this time.

R. Cook answered Mr. Langey saying the other business would eliminate some spaces.

N. Bowman said they would reapproach the Board in the event they were to seek an additional business, but at this time the building would be strictly for storage.

J. Langey asked if the Board was awaiting a letter from the DOT regarding the access point (for Route 80/Route 13).

T. Pratt explained the Board had requested confirmation from DOT that the tanks were acceptable and would remain in the road right-of-way. He said it was stated that the Bowmans did not have a letter that the lease for the right-of-way had transferred at this point.

C. Bowman clarified the letter just needed to be signed and returned.

J. Langey asked about a letter affirming proper ingress and egress.

N. Bowman said the letter she was referring to was regarding the permit to allow use for real property from the DOT.

It was clarified that the information Mr. Langey was asking about was regarding approval by the DOT for traffic flow in and out of the site.

R. Cook said when New York State widened the road in 1990, they created the driveway cuts in the curb in and out of that property; he thought one could assume that the State approved of the ingress and egress since they were the ones to create them.

J. Langey explained he was referring to the potential for the neighboring property owner to have ownership of part of the property the Market would use for egress, wondering if there would be adequate space if no right of way was allowed by the new owner.

R. Cook explained the situation and thought perhaps a legal document should be requested to show that continued use by the Market would be allowed.

J. Langey thought that would be wise for the Applicants. He explained the Board could not grant the Applicants permission to use that, so like the issue with the tanks, it was a buyer-beware issue.

The law of adverse possession was mentioned but was not a matter for the Board's consideration.

N. Bowman felt the amount of space owned by the neighbor was relatively small, thinking it would not affect the driveway.

J. Langey advised the Applicants that even if the Board approved the special use permit, the approval would be nullified if Applicants found themselves entangled in litigation with neighbors.

J. Langey felt there were a number of open issues, and he wanted the Board to be comfortable knowing how the market will be operated.

W. Lougnot asked about the sale of propane tanks.

T. Pratt thought the safety details of that product would be part of the permitting process.

R. Cook said the location for those propane tanks would be outside the proposed traffic and parking areas.

N. Bowman added they would be in a locked cage as well.

J. Anderson wondered if there were tax issues involved (with the property).

J. Langey responded that was not an issue for the Board.

T. Pratt invited public comment at this time. He asked that comments be stated only once, and that letters would not be read, but a brief summary be given.

Lorrie Swartwout said she worked in the building for more than 15 years for three (3) different owners and the rat problem was a problem throughout her time there. She noted the Applicants had worked very hard, and she asked them not to buy the building. She said when she worked there five (5) years ago the diesel tank at that time had very low pressure with a leak that they were unsure as to the location. She repeated the problem with rats was an issue even after having exterminators. She also questioned the repayment of taxes, to which the Board said was not to be addressed in this discussion.

Margaret Shaw who has lived across the street for nearly 40 years said her issue was with the very bright fluorescent lights that were used at night and that disrupt her enjoyment of her living room. She said unlike Cazenovia's business district, the two stores in New Woodstock were amidst homes, some of the dwellings being over 100 years old.

D. Silverman asked if the (light) situation could be corrected.

N. Bowman said they would install shades to cover the windows facing the street.

It was suggested that cardboard be used until the window dressings were obtained.

V. Koch asked if the garage was included in the property that the Bowmans plan to take over.

N. Bowman affirmed it was and that they would have control over its contents.

W. Loughnot asked about the frequency of trash removal.

N. Bowman said it would be collected once a week.

T. Pratt asked about the oil from the fryers, stating it should be removed more often than once a month.

N. Bowman said Bakers Commodities would come to change it whenever they were asked.

T. Pratt asked if the staff would currently be just the two (2) Bowmans.

N. Bowman said that was correct.

T. Pratt thought the outstanding issues were the question of the neighboring property line to the east and the permission for the tanks to remain in the DOT right-of-way.

J. Langey said if the Board would otherwise approve the endeavor, it was his opinion that the special use permit could be granted with the understanding that if the right of ingress or egress was no longer allowed as shown on the site plan drawing, they would lose the special use permit.

More discussion followed regarding the issue of the access.

T. Pratt concluded the discussion by saying a condition of the approval may be that the Applicants must demonstrate to Mr. Cook that they have sufficient area on the market property for traffic to exit without a right-of-way from the property to the east.

N. Bowman believed they could provide that.

T. Pratt asked the Board if they felt they had enough information or if they wanted other information provided, and if so, what was that information.

The members indicated that the signed letter transferring the permit from the DOT for the tanks in the right-of-way was the only other item lacking for the operation of the market at this time.

T. Pratt believed that could be a condition of an approval as well.

Motion by G. Mason, seconded by J. Anderson, to close the public hearing was carried unanimously.

Although Part 1 of the SEAF was completed by the Applicants for this Unlisted Action, it was decided that the action would be reviewed as a Type I Action and Part 2 and 3 of the Full Environmental Assessment Form (FEAF) would be completed for the State Environmental Quality Review (SEQR) at this time.

W. Loughnot led the Board through this review. It was determined all impacts, including #10 *Impacts on Historical and Archeological Resources*, were small or no impact allowing the Board to make a Negative Declaration as part of their motion.

The following conditions for the operation of the store only were then stated:

- 1) access for ingress and egress as shown on the site plan would be maintained,
- 2) the hours of operation would be 6:00AM – 10:00PM,
- 3) parking for 10 cars would be provided and would be preserved,
- 4) any building issues (cited by Mr. Cook) must be resolved before the opening of the business,
- 5) lighting would be dark-sky compliant and would be shielded, noting the lighting now there was dark-sky compliant,
- 6) the existing sign does not and would not exceed the 24-square foot maximum,

7) deliveries would be controlled and confined to early-morning times so as to not interfere with parking during store operations,

8) waste would be removed weekly and screened, and the rodent issue would be resolved and eliminated,

9) a signed copy of the DOT letter transferring the permit for the gasoline tanks within the DOT right-of-way/lease agreement would be provided,

10) snow would be removed from the site or maintained on the site in a way that would not create problems for others,

11) no parking would be allowed in front of the building,

12) the barn/storage building on the premises would be cleaned out, and

13) front windows shall have blinds or other shielding to stop glare from the interior lighting.

T. Pratt asked the Board to consider if the special use permit would be appropriate to the neighborhood with no adverse physical or environmental effects.

Motion by V. Koch, seconded by J. Anderson, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the SEQR, to affirm the matter an Unlisted Action reviewed as a Type I Action and make a Negative Declaration, based upon the Board's review of the FEAF and to approve the special use permit for a grocery market with the conditions listed was carried as follows:

David Silverman	Voted	Yes
Gary Mason	Voted	Yes
Joe Anderson	Voted	Yes
Val Koch	Voted	Yes
Thomas Pratt	Voted	Yes.

*Gelman, Mitchell & Melissa - #21-1350 – Special Use Permit – 3937 Number Nine Road, Cazenovia
(Joe Anderson) & Number Nine Road, Cazenovia*

Melissa Gelman was now present to represent the file.

V. Koch recused himself as a neighbor of the Applicants.

T. Pratt said this application was for a special use permit for a private stable.

J. Anderson explained there was an existing barn on the property for the private stable for two (2) horses and a donkey.

M. Gelman affirmed that was correct.

J. Anderson said the proposal would not change the landscape or the buildings. He said a manure management plan was submitted. He noted there had been “a fair degree of community support” as well. He asked if Ms. Gelman had owned horses previously.

M. Gelman answered she had, being a veterinarian.

T. Pratt asked if the barns and stalls would be 150 feet from the property lines.

M. Gelman responded that they were.

T. Pratt saw that manure maintenance was also 150 feet from the property lines. He said manure would need to be removed on a weekly basis. He said noise should also be controlled.

T. Pratt noted there was more than ample pastureland, with 14 acres being provided (4 ½ was required).

T. Pratt asked about lights.

M. Gelman said additional lighting would be added, but she assured the Board it would be night-sky compliant.

T. Pratt asked if the lighting would be on at all times.

M. Gelman thought the lights would be on a timer.

T. Pratt said there would be no retail.

M. Gelman affirmed there would not.

T. Pratt said the fencing should be at least eight (8) feet from the property lines, and the Applicants would not be using pesticides.

M. Gelman affirmed they do not use pesticides.

T. Pratt noted the barn needed to be a minimum of 1150 square feet and looked to Mr. Cook to verify it was.

Motion by D. Silverman, seconded by J. Anderson, to open the public hearing was carried unanimously.

Hearing no comments, motion by J. Anderson, seconded by D. Silverman, to close the public hearing was carried unanimously.

W. Lougnot lead the Board through Part 2 of the FEAF. All impacts including *Impacts on Historic and Archeological Resources* were found to be no or small, allowing the Board to make a Negative Declaration.

T. Pratt then summarized the conditions already mentioned which were:

- 1) manure must be 150 feet from the property lines and removed weekly,
- 2) Applicants would be responsible for controlling the noise if there were any,
- 3) lighting shall be dark-sky compliant and shielded,
- 4) there shall be no associated retail sales with the stable,
- 5) fences shall be at least eight feet from the property lines,
- 6) there shall be no pesticide use associated with the stable,
- 7) two (2) horses and a donkey shall be allowed,
- 8) no horse rentals or riding shall be operated on site, and
- 9) sufficient pastureland shall be provided.

D. Vredenburgh was asked to vote in V. Koch's stead.

Motion by J. Anderson, seconded by G. Mason, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the SEQR, to affirm the matter Type I Action, to make a Negative Declaration, based upon the Board's review of the FEAF, and to approve the special use permit for a private stable as most recently proposed was carried unanimously.

Cowan, Robert & Kathleen - #21-1368 – Area Variance – 5329 East Lake Road, Cazenovia (Joe Anderson)

Robert Cowan was present to represent the file, as was Bruce Ward.

T. Pratt said this property was in the lake watershed and they were seeking area variances for an addition. Front yard setback relief of 9’8” and 5’ of rear setback relief were being sought.

J. Anderson spoke about the aesthetic challenges of constructing an addition on the narrow parcel which would require front and rear yard variances.

R. Cowan elaborated by saying the property was further encumbered by two (2) leach fields and 150-year-old trees that surround the existing house. In response to comments made at the last meeting, they reduced the size of the addition by 12 feet in length. He referred to the drawing created by Aras Design and Construction entitled *Cowan Addition 5329 East Lake Road, Cazenovia, NY 13035 A 04 Proposed Floor Plan* and the sheet showing photographs of the neighboring homes which illustrated that many homes along that stretch of East Lake Road were within the road setback.

T. Pratt said it had also been mentioned that treating the addition as “a different mass” might also improve the visual appeal of the elongated home.

R. Cowan said they varied and changed the roof of the added living space between the existing living space and the new garage addition as well as proposing some stone facing and some plantings to embellish the differentiation.

T. Pratt noted the impervious surface area was less than 20%, increasing from 14.8% to 18.3%. He remarked the Planning Board would probably check those calculations (during site plan review).

T. Pratt asked about having the garage entry on the side rather than having the garage face the road.

R. Cowan responded that would cause an increase in impervious surface area exceeding 20% to access a side entrance from an extended driveway.

G. Mason commented the plan was much more aesthetically pleasing to him than the first proposal they presented.

D. Silverman agreed, calling the plans, “excellent.”

T. Pratt invited public comment at this time.

There was no one present wishing to speak.

Motion by G. Mason, seconded by J. Anderson, to close the public hearing was carried unanimously.

T. Pratt reminded the Board the building was “in a tight situation” as he summarized the area variance criteria. He said regarding an undesirable change to the neighborhood, he thought the design was typical

of a rural area with the distinction of the addition creating a more barn-type garage. Aligning the addition would be an alternate solution, but it would seem the proposed canted addition was better. He calculated the rear setback relief to be 10% and the front setback relief to be 11%, neither of which he thought was substantial. Regarding environmental impacts, he did not think there were any as proposed, but if they were to develop closer to the rear, it would impact the septic system. He did find the hardship to be self-created.

W. Lougnot then led the Board through Part 2 of the SEAF for this Unlisted Action.

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 Zoning Board’s review of the SEAF, and to approve the area variances as most recently submitted was carried as follow:

David Silverman	Voted	Yes
Gary Mason	Voted	Yes
Joe Anderson	Voted	Yes
Val Koch	Voted	Yes
Thomas Pratt	Voted	Yes.

T. Pratt said the Applicants will now appear before the Planning Board (for site plan review).

*Breuer, John (Andy) & Amy - #21-1370 – Area Variance – 1130 Tunnel Lane, Cazenovia
(David Silverman)*

No one was present to represent the file.

T. Pratt said the property was in the lake watershed and they were seeking an area variance. He said the Applicant had attended the work session and was given comments. The Applicants had notified the Board they would not be attending this meeting and asked to be continued until the next meeting.

Motion by D. Silverman, seconded by V. Koch, to continue the file and the public hearing was carried unanimously.

Harris, David & Marcia - #21-1373 – Special Use Permit – 5257 Rathbun Road, Cazenovia (Val Koch)

David Harris was present to represent the file.

T. Pratt explained the request was for a special use permit in the Rural A Zone for a 30' X 36' second accessory structure.

V. Koch said he had not visited the site, but he noticed from the aerial view in the file there was sufficient space on the property. He said there was an existing shed that the Owner would like to keep. He felt the request was in keeping with the neighborhood. He said if lighting were associated with the structure, his only issue was that the lighting be night-sky compliant and shielded.

T. Pratt displayed the section of the survey provided with the application and asked about the topography.

D. Harris showed where the ski club was, where the slope was, where the woods were, and where he mows. He said across the road was Chittenango Falls State Park.

T. Pratt asked the location of the proposed structure. When shown, he asked if it was a wooded area.

D. Harris said there were three (3) large maple trees in the area.

T. Pratt asked if the maples would come down.

D. Harris responded that one already came down, but he would not take the other two (2).

D. Silverman asked the significance of the first accessory building.

D. Harris answered it was there when they first purchased the property, so to them it was “original.” He explained they “raised small animals there for a while.” Also, on one wall there was a painting created by his deceased father. He admitted that wall could be salvaged if need be.

T. Pratt said if the first accessory structure were removed, Mr. Harris would not need a special use permit.

D. Harris replied he had been informed about that option.

D. Silverman asked the size of the property.

D. Harris answered it was 13.7 acres.

G. Mason commented that Mr. Harris had the space for another structure.

V. Koch agreed.

T. Pratt asked how the structure would be used.

D. Harris said it would be for the parking of two (2) vehicles with a small amount of storage.

T. Pratt asked about color and finish of the proposal.

D. Harris answered it would be gray to match the house. He said it would be wood, board and batten with a metal roof.

T. Pratt asked if the metal roof would match the house.

D. Harris affirmed it would, saying it too would be gray.

T. Pratt asked if there would be 25 feet between the new structure and the side yard property line.

D. Harris answered, “Yes.”

T. Pratt asked about lighting.

D. Harris replied there would be three (3) lights, one over each door.

T. Pratt asked that the lights be dark-sky compliant and shielded.

D. Harris responded, “Sure.”

T. Pratt asked if there would be power and water.

D. Harris answered there would be power, but not water.

Motion by V. Koch, seconded by J. Anderson, to open the public hearing was carried unanimously.

T. Pratt invited public comment at this time.

Hearing none, motion by V. Koch, seconded by D. Silverman, to close the public hearing was carried unanimously.

T. Pratt asked if the proposal was appropriate to the neighborhood with no adverse physical or environmental effects.

W. Lougnot then led the Board through Part 2 of the SEAF for this Unlisted Action.

T. Pratt said the conditions would include:

- 1) color to match the house,

- 2) roof to match the house,
- 3) lighting to be dark-sky compliant and shielded, and
- 4) there would be no water service associated with the garage, but there would be power.

Motion by V. Koch, seconded by D. Silverman to affirm the matter an Unlisted Action and make a Negative Declaration, based upon the Zoning Board of Appeals review of the SEAF, and to approve the special use permit for a second accessory structure as most recently submitted and with the stated conditions was carried unanimously.

Petrone, Christine & Rogers, Joseph - #21-1374 – Area Variance – 1956 Delphi Road, New Woodstock
Petrone, Christine & Rogers, Joseph - #21-1375 – Special Use Permit – 1956 Delphi Road
(Gary Mason)

Christine Petrone and Joseph Rogers were present to represent the file.

G. Mason displayed the survey included with the application and said the General Municipal Law Recommendation Report had been received from Madison County Planning Department which stated there would be no adverse impact and they returned it for local determination.

G. Mason noted the amount of relief being sought, 125 feet of 150 feet of side yard setback, was “extremely significant.” He understood the neighbor to the east, Jean Ball, did not want to look at the barn, but he said he would feel more comfortable if less relief was needed.

C. Petrone explained Ms. Ball has no fence and her view was across their pasture.

G. Mason said another concern was that a farmer would only empty the manure pit every 3-4 months. He felt, as the Applicant probably heard, that typically one would be asked to empty it once a week.

C. Petrone said that would be fine.

G. Mason understood the neighbor’s not wanting to view the barn.

T. Pratt believed there were a number of trees along a shared property line between Ms. Petrone and Ms. Ball.

C. Petrone countered that nothing blocks the view across their yard when Ms. Ball sits in her patio area.

T. Pratt asked how far from the west property line could the barn be moved.

C. Petrone said the grade slopes up until they reach the proposed area, and the next flat area would be directly behind Ms. Ball's back yard. She explained the property line being encroached upon was the line between Laura Jungkind and herself. She said the property belonging to Ms. Jungkind was her pastureland on the other side of the property line, with Ms. Jungkind's barn being closer to Ms. Petrone than Ms. Jungkind's house. She said she was more concerned with preserving Ms. Ball's view than the proximity to Ms. Jungkind's property.

T. Pratt indicated the Board needed a lesser variance than the one requested which was too great.

D. Silverman said although the encroachment was near more pastureland, there was no guarantee that it would always remain pastureland. He wondered if plantings would help mitigate the moving of the structure to some degree. He asked the size of the neighboring pastureland.

C. Petrone responded it ran almost the entire length of the Jungkind property; her paddock was from the street all the way to back property line.

D. Silverman asked who would be affected by the variance. He also assumed the grade was a consideration. He asked the dimensions of the barn.

C. Petrone answered it would 36' X 40'.

D. Silverman asked, "Who would want to look at a 36' X 40' (barn)?"

C. Petrone explained they asked the excavating company about other options, and the excavators were the ones to suggest the location proposed.

D. Silverman asked if Ms. Ball had written a letter of support.

C. Petrone answered she had, and it was in the file. She said both neighbors had written in support of the proposal.

G. Mason remarked that he was not requiring the barn be relocated 150 feet from the property line, but he thought the variance for the proposed location was too great to consider (as is).

T. Pratt commented that the Board needed options. He made suggestions as to where the barn could be located, thinking the grade was not very drastic and that planting might soften the view of the barn for the neighbor while still meeting the 150-foot requirements and no variance would be needed.

C. Petrone responded Ms. Ball has a firepit very close to the property line so she was unsure where plantings could be placed.

T. Pratt said another option was to find a better location (that might require a lesser variance). He said the Board could vote on the proposal as it was, but he was unsure of the outcome.

G. Mason suggested an alternative location be marked on the property and the Board could visit the site to consider the change.

C. Petrone responded she would have to have the excavators return and quote the new location to see if it was affordable.

J. Rogers added that the repositioning of the barn farther from the house would be an inconvenience practically speaking.

C. Petrone explained they would be removing the existing shed and would be storing those items in the barn as well, so the greater distance from the house would make that storage less convenient.

J. Rogers added accessibility was a consideration for the people providing services for the animals such as the farrier and veterinarians.

T. Pratt explained that he was not comfortable allowing the barn to be so close to the west property line since one could not know how the property would be used in the long-term future.

D. Silverman said the Board was asking that the Applicants consider a different location and that they mark it so the Board could see it on the property.

J. Rogers clarified the Board was concerned because what was pasture now, may not be pasture in the future.

T. Pratt affirmed that was correct, saying in 30, 50 or 100 years one could not guarantee that the land would remain pasture, or know how it would be used.

T. Pratt said there were reasons dictating that barns be 150 feet from neighboring property lines.

G. Mason indicated that the Board was willing to work with the Applicants, saying he was not guaranteeing the Board would approve relief, but saying they would consider other locations.

C. Petrone asked if the Board would allow them to be 50 feet from the property line.

The Board expressed hesitation, and T. Pratt said he was not “on board” with that amount of relief either.

C. Petrone repeated she was not comfortable putting the barn so close to Ms. Ball. She said she didn't know where else to put it.

T. Pratt repeated his encouragement that the Applicants take another look at the proposal and see if they could revise the plan.

R. Cook said perhaps if they were to excavate in a new location, the building might sit low enough so as to not interrupt Ms. Ball's view; she might be able to look over the top of the barn. He said the Applicants may not be able to locate the barn 150 feet from the property lines, but the Board may be

more inclined to grant 50 feet of relief rather than 125 feet. He said another option might be to turn the structure so that the whole structure was not running parallel to the property line, so only a corner of the barn would need the greatest amount of relief, and it could be tucked into the hillside.

G. Mason believed some excavation would be needed to construct the barn no matter where it was located on the property.

C. Petrone said the least expensive location would be at least \$10,000.00.

T. Pratt asked the Applicants to take a second look and to return to the Board to see what could be done.

Motion by J. Anderson, seconded by G. Mason, to continue the file was carried unanimously.



Motion by J. Anderson, seconded by G. Mason, to adjourn the meeting at 9:46 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – July 27, 2021