

Town of Cazenovia Planning Board

Meeting Minutes

August 1, 2024

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

Members Absent:

Others Present: John Langey; John Dunkle; Chuck Ladd; Brendan Rigby; William Longcore; Michael Hopsicker; Laurie Hopsicker; Robert DeNoble; Mark Modzeleski; Amy Modzeleski; Robert Germain; Bethany Macera; Tyler Hoffman; Emilya Washeleski; Aaron LaSala; Matthew Vredenburgh; Adam Walters; Christopher Montante; Rick Ruggaber; Berta Keeler; Brian Keeler; Marc Schappell; Thomas Anderson; JoAnne Race; Brody Smith; Sheila Fallon

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

He asked those in the audience to make sure they signed the attendance sheet.

Roll was taken; Roger Cook was asked to be a voting member.

The next regularly scheduled meeting will be Thursday, September 5, 2024.

The next deadline day will be Wednesday, August 21, 2024.

The next regularly scheduled work session will be Thursday, August 29, 2024.

Motion by T. Clarke, seconded by A. Ferguson, to approve the July 2, 2024 meeting minutes was carried unanimously.

HEARINGS

Nash Irrevocable Trust with Singer, Hannah & Rigby, Brendan — Site Plan Review – 2805 File # 24-1538 (Anne Ferguson) Rippleton Road with 3593 Cobb Hill Road, Cazenovia

Brendan Rigby was present to represent the file.

A. Ferguson believed they had received the final plat and asked Mr. Rigby to verify that the appropriate proposed line change was reflected in the drawing entitled *Lot Line Adjustment on Lot One of Map # 5692 and Part Of Lots 13, 14, 2 & 17 – Cazenovia Known as No 4038 US Route 20 (should be 4038 NYS Route 13) and No 3593 Cobb Hill Road, Town of Cazenovia, County of Madison, State of New York* created by Michael J McCully Land Surveying PLLC, dated 07-24-24.

B. Rigby confirmed it was correctly drawn.

A. Ferguson asked which lot was receiving the transfer of property.

B. Rigby pointed to 3593 Cobb Hill Road.

Motion by A. Ferguson, seconded by L. Cushman, to open the public hearing was carried unanimously.

The public was invited to comment at this time.

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

Motion by A. Ferguson, seconded by T. Clarke, to approve the line change as most recently submitted was carried unanimously.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

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

No one was present to represent the application.

R. Ridler stated there was nothing new for the file.

Motion by A. Ferguson, seconded by M. Koppers, to continue the file was carried unanimously.

*Longcore, William & Gail — Line Elimination – 1670 NYS Route 80 with NYS Route 80
File # 24-1531 (Mary Margaret Koppers) New Woodstock*

William Longcore was present to represent the file.

M. Koppers explained that Mr. Longcore had purchased a separate piece of property adjacent to his property and he wished to eliminate the line between the two. She asked Mr. Longcore if he had further information regarding the proposal.

W. Longcore elaborated that he and his wife had purchased 16 acres of a larger tract that had been subdivided more than 30 years ago. He said during the construction of their home on the 16-acre lot, the 1.98-acre lot next to it became available, so they purchased that in 2015. He said they have since purchased another 10 acres to the immediate east. They now would like to incorporate the 1.98-acre into the 16-acre lot.

T. Clarke asked if the lots were vacant.

W. Longcore indicated the lots, other than the lot on which his home was built, were vacant, and he stated they and much of their 16-acre lot were farmed by Barbland Dairy. He said they have no interest to sell the 1.98-acre lot and did not think it would be easy or “a good spot” to make another home. He explained much of the lot was treed. He said 30 years ago when the land was subdivided, a restriction against cutting trees that were greater than five (5) inches in diameter was placed. He explained in 30 years, much of what has grown has become big. He commented the land was very pretty, but it was not conducive for putting a home or anything else there.

R. Ridler commented a house could not be built there.

M. Koppers explained that new building lots need to be a minimum of three (3) acres.

J. Langey led the Board through the Short Environmental Assessment Form (SEAF) to do the State Environmental Quality Review (SEQR) for this Unlisted Action. The answers to the questions were either no or small impact for all the items.

Motion by M. Koppers, seconded by A. Ferguson to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, to move the file to a public hearing at the September 5, 2024 meeting, and to continue the file was carried unanimously.

Mr. Longcore was given the instructions for notifying his neighbors regarding the upcoming public hearing at this time.

*Hopsicker, Michael & Laurie – Site Plan Review – 4507 Seven Pines Drive, Cazenovia
File # 24-1535 (Mary Margaret Koppers)*

Michael Hopsicker was present to represent the file as was Robert DeNoble, his builder, and Laurie Hopsicker was in the audience.

M. Koppers explained that the Hopsickers came before the Town of Cazenovia Zoning Board of Appeals (ZBA) on Monday, July 29th and received an area variance for this project. She said they were interested in building a new 3-car garage for the home they just purchased at Seven Pines. She explained they would be converting the existing 2-car garage into living space. The house would be between the lake and the new garage. Construction would be away from the well and the property connected to the Town sewer line, so a septic system location would not be a concern. She further elaborated that no trees would need to be removed as part of the project. She recalled the impervious surface area would be 13%.

M. Vredenburgh explained that the impervious surface calculation on the drawing entitled *SK-0 Site Plan Hopsicker Site Study 4507 Seven Pines Drive, Cazenovia, NY 13035* created by RAV Architect PC dated 05-20-24 and issued 07-25-24 was incorrect. He explained the deck should have been calculated at 50% and it had been calculated at 100% making the correct existing coverage 11% and the proposed 13.1%.

A. Ferguson asked him to correct the drawing and to initial it.

M. Vredenburgh changed the figure for the deck from 755 SF to 378 SF; the total coverage from 4716 SF to 4279 SF; the new coverage from 5522 SF to 5085 SF, and the Percentage New Lot from 14.2% to 13.1%.

M. Koppers informed the Board part of the driveway would be removed which had accessed the existing garage and would no longer be needed, so some impervious surface area was being eliminated to offset the overall coverage, but there would still be an increase to 13%.

A. Ferguson asked about the area variance that was granted.

M. Koppers explained that was for side yard setback relief.

R. Ridler asked about elevations for the addition.

M. Koppers showed the Board drawing *SK-1 Exterior Elevations*.

M. Hopsicker explained the addition would connect to the house creating a mudroom and a laundry room.

M. Koppers said the house was three (3) stories, but the addition would a 2-story addition

A. Ferguson asked the color of the existing house.

L. Hopsicker answered the existing house was beige, but she plans to paint the existing house and addition Sea Pearl which is a creamy, off-white color keeping the "bright white trim" and replacing the roof with a dark brown roofing to match the existing deck. She said they would be redoing the gutters, and they would get a new exterior door as well.

A. Ferguson asked if the house was viewable from the other side of the lake.

M. Koppers said the addition would not be seen from the lake, and the only view of the addition from the road was driving past the driveway (off Seven Pines Drive – a private road). She said trees block the view from the road. She said the neighbors to the east would be the only ones who will see the new construction.

D. Bowers explained it was on a cul-de-sac.

A. Ferguson explained that if it were viewable from across the lake, the Board would encourage colors more compatible with the landscape, but assured Mrs. Hopsicker that Sea Pearl was fine for her location.

L. Hopsicker said it would be very similar to the color of the Verbecks' house. She also said Mr. DeNoble who was with them was the builder of the Verbecks' home.

T. Clarke asked if a new driveway was being installed.

M. Hopsicker answered a small section would be added for connection to the new garage location. He was unsure if they would have to redo the current driveway.

T. Clarke informed the Hopsickers they were on a forced main for the sewer service and cautioned them the pipes would not be buried very deep and were near the mouth of the driveway.

M. Hopsicker responded they would not be going deep.

M. Koppers asked the lakefront footage.

M. Hopsicker believed it was 71 feet.

R. Ridler asked what they would be doing at the lakefront.

M. Hopsicker replied there was a dramatic difference between the plantings in 2020 than what was there now. He said they would like to do more plantings to "make it greener."

R. Ridler asked if they were going to make it more naturalistic.

M. Hopsicker responded, "Yes."

L. Hopsicker added they intended to install plantings between themselves and in cooperation with the Verbecks. She said the former owners of their parcel removed a number of trees. She said that was why they had hired Mr. Vredenburgh.

M. Hopsicker interjected that there were a number of dead ash trees as well that they would remove and replace with new trees.

A. Ferguson noted in the ZBA approval there was a landscaping agreement with the neighbors.

M. Koppers said there was a stone wall along the shore that was in good condition and the existing lawn was their outside area, so she did not imagine that the Applicants would want to do much landscaping near the lake.

L. Hopsicker agreed saying she would be focusing on the area under the deck, planting some trees and perennials.

J. Langey then led the Board through the SEAF for this Unlisted Action, finding any impacts to be small or none.

Motion by M. Koppers, seconded by T. Clarke to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, to approve the addition of a 3-car garage with a second-floor addition connected to the existing house with the related improvements and as most recently submitted, was carried unanimously.

*Stratton, William & Margaret – Site Plan Review – 3176 West Lake Road, Cazenovia
File # 24-1536 (Mary Margaret Koppers)*

No one was present to represent the file and the Strattons have asked that the file be continued until September.

Motion by M. Koppers, seconded by A. Ferguson, to continue the file was carried unanimously.

*Modzeleski, Mark & Amy – Site Plan Review – 2000 Overlook Terrace, Cazenovia
File # 24-1541 (Robert Ridler)*

Mark Modzeleski was present to represent the file, and Amy Modzeleski was in the audience.

R. Ridler said this file was recently reviewed by the ZBA and believed some variances were approved.

M. Modzeleski affirmed that was true.

R. Ridler believed the proposal was for the construction of a shed.

M. Modzeleski confirmed that was his request.

R. Ridler referred to the depiction that was submitted with the application showing the structure from the front. He asked the dimensions of the shed.

M. Modzeleski answered it would be 30' X 40'.

R. Ridler visited the site and commented the proposal would be a “massive structure” for the size of the lot, and noted this would be the second auxiliary structure.

M. Modzeleski indicated that was approved by the ZBA in addition to a variance for relief for rear yard setback.

R. Ridler asked if there had been a public hearing for that and if there had been any opposition to the project expressed at that time.

M. Modzeleski responded that the neighbor to the rear was fine with the proposal and the neighbor to the side did not oppose it either. He said he had only received texts asking what he would be doing.

R. Ridler asked if the color of the new structure would match the house.

M. Modzeleski answered they would paint the existing house and shed to match the new structure. He said the color would be either gray or “some sort of beige.” He mentioned his wife did not like beige, so the color would most likely be a shade of gray.

D. Bowers asked how this would fit the neighborhood.

R. Ridler repeated it would be a massive structure. He commented that it would be bigger than he would like in his neighborhood but noted there had been “no push back from the neighbors.”

M. Modzeleski said they have not had any negative comments from the neighbors who received letters regarding the project (for the public hearing) and said he had also communicated with the neighbors on his portion of Overlook Terrace.

D. Bowers asked the purpose for the building.

M. Modzeleski responded it would be conditioned collectible storage, so it would be heated and airconditioned.

A. Ferguson asked about the proximity to the neighbor that shares the closest property line.

M. Modzeleski said although it looks like it will be angled at the 25-foot line, in actuality it may be closer to 30 feet. He explained they would like it closer to the house, but the closer they put it to the house, the farther they would have “to come out to the lawn.” He talked about the orientation of the house and how, for aesthetics, they wanted to angle the storage barn similarly, wanting to situate the new building parallel to the house. He also pointed out the location of the well which prevented them from being able to put the structure 50 feet from the rear yard line. He pointed out the tree line which was not depicted in the rendition of the structure and explained the location of a large deciduous tree and two (2) white pines that they hope to preserve. He talked about the size of other trees in the vicinity explaining a couple of trees between him and his neighbor would be preserved as well. He stated “a lot of shrub, a lot of brush” would have to be removed if he repositioned the new structure as well. He said there would not be a driveway to the building, so they were trying to use the lawn most ideally. He explained they would not be using the building daily.

R. Ridler asked the need for the large garage door that was depicted.

M. Modzeleski said the ZBA asked that too. He answered the main reason for the height was convenience, explaining he would like to bring items into the building on the back of a pick-up truck, so it would be easier to drive inside and unload than to have to unload outside and carry items inside.

R. Ridler asked if it was a 10-foot door.

M. Modzeleski replied that was the size shown on the plans.

M. Koppers asked if the door was on the side facing the road.

M. Modzeleski explained how the house was viewed from Overlook Terrace which curves. He explained how the roof was oriented and said they did not want water and snow to fall over the entrance of the new building. He said the dormers on the house and the doors on the new building would be complimentary. He pointed out a triangular detail at the top of the proposed structure that would be added to the existing house and the existing shed to also make the look more uniform.

T. Clarke asked about planting trees.

D. Bowers elaborated that would be for screening the new building.

M. Modzeleski responded that the ZBA had asked if screening was necessary also. He had told them he was open to doing that, but the ZBA had decided it was unnecessary. He offered to plant shrubs if this Board wanted them.

D. Bowers commented that was really a Planning Board item and expressed his opinion that screening would soften the appearance of the barn.

R. Ridler explained the Board would want it to blend into the background as much as possible.

M. Koppes thought if white pines were being preserved, a continuation using evergreens would be attractive.

A. Ferguson commented that they would not want to block the doors of the building.

Looking at the aerial photograph in the file, M. Modzeleski explained how the structure would be nestled into the vegetation in that corner. He repeated he was willing to plant arborvitae or bushes “to knock down the profile.”

M. Koppers said although it was nestled in the trees, it was still “an eye-catching building,” indicating she felt additional screening was necessary.

D. Bowers agreed commenting on the size.

T. Clarke repeated plantings would soften the appearance.

M. Modzeleski said he was also willing to remove a small, peaked roof that was designed over the man door of the proposed structure.

A. Ferguson thought a landscaping plan in the front and along the side of the building was needed.

R. Ridler asked the color of the garage door. He thought the white door shown in the rendition caused the building “to stand out more” than if the door matched the color of the building.

M. Modzeleski said they could match the color of the barn, but he thought the white door matched the features of the garage doors on the house.

The Board expressed their desire for the door on the new garage to be the same as the rest of the garage.

M. Modzeleski said they had considered a sliding barn door design, and he said that could be painted the same color with just the cross pieces painted white. He said the color and style of the door was not “a deal breaker” for him.

R. Ridler asked about exterior lighting.

M. Modzeleski said the ZBA talked about that too and he said the plan was not to have a lot of exterior lighting. He thought there would be one shielded exterior light.

J. Langey said down cast, shielded, dark-sky compliant lighting was already a condition set by the ZBA.

M. Modzeleski said there were no windows or doors on any of the sides but the front, so other exterior lights would not be needed.

M. Koppers commented that the roofed area over the man door made the appearance of the building more interesting and discouraged Mr. Modzeleski from removing it from the design.

M. Modzeleski explained the size of the building was a result of calculating the maximum size that would be allowed for impervious surface area, knowing they were allowed 10%. He said this would make their coverage 9.1%.

R. Ridler asked the Board if there were any other items to cover.

M. Koppers thought the wording of the landscaping condition needed to be clearly stated and understood.

R. Ridler suggested the requirements be itemized for clarity. He said the Applicants are to plant shrubbery to nestle the building more into the landscape.

M. Modzeleski understood the Board wanted plantings in the front and along the neighboring side.

A. Ferguson clarified that would be the front and the west side.

R. Ridler said the next condition was to make the overhead door the same color as the rest of the new building and that was to be similar to the existing buildings.

D. Bowers thought a plan was needed.

J. Langey said the site plan approval could include a condition that the Applicants return to the Planning Board with an acceptable landscaping plan.

D. Bowers thought that would enable the Applicants to start their project but have time to create the landscaping plan, which he felt was nebulous now.

M. Modzeleski said he could have his designer illustrate the planting plan and also create a rendition showing the building with the garage door being the same color as the building.

J. Langey asked the timeframe the Board wanted the Applicants to have the planting plan ready for review.

R. Ridler asked if Mr. Modzeleski could have the planting plan ready by the September meeting.

M. Modzeleski said he could; he will be out of town for that meeting, but his wife could represent.

M. Koppers informed him the deadline for the submission would be August 21, 2024.

M. Modzeleski expressed understanding and said he could accomplish that.

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

Motion by D. Bowers, seconded by T. Clarke to approve construction of a 30' X 40' pole barn for storage as most recently submitted, conditioned upon the review of an acceptable planting plan to be discussed at the next meeting, was carried unanimously.

M. Modzeleski asked if he could schedule an excavator, and could he start construction.

C. Ladd said he would need to get the building permit first, but Mr. Modzeleski was informed the Board had approved commencement once that was obtained.

R. Ridler reminded Mr. Modzeleski to have his plan submitted by August 21st.

*Crawford Farms, LLC – Minor (1) Subdivision – 5008 East Lake Road, Cazenovia
File # 24-1545 (Linda Cushman)*

Robert Germain, Esq of Germain of Germain & Germain, LLP was present to represent the file.

R. Germain explained that the Planning Board had previously approved a line elimination between the two (2) properties and the Crawfords had planned to remove one of the houses and perhaps build something larger, but that plan was abandoned, and now the Crawfords would like to restore the property to two (2) lots.

L. Cushman asked Mr. Germain to describe the two (2) lots.

The locations of the properties were at the corner of Chard Road and East Lake Road.

R. Germain said both lots being created would be conforming. The Chard Road lot would be 5.694 acres and the East Lake Road lot would be four (4) acres.

D. Bowers stated both lots would each have houses on them.

R. Germain repeated the plan had been to remove a house, but the Crawfords had gone in different directions.

L. Cushman believed the smaller lot being created had the house close to East Lake Road and thought there were a couple of small sheds that went with that home as well.

The subdivision survey entitled *Map of Survey Prepared For Lands of Crawford Farms, LLC 1904 Chard Road Town of Cazenovia County of Madison State of New York* dated June 19, 2024 created by Jacobs Land Surveying was referenced and the sheds were located.

L. Cushman asked what the plans were for the two (2) lots.

R. Germain said eventually they would be sold.

It was repeated that currently the lot had two residences which was not allowed in the Town Code, because the intent had been to remove one house. The barn was to remain, and the property would have been used for more horses, but now it will be divided and sold as two (2) lots.

J. Langey led the Board through the SEAF for this Unlisted Action finding there would be no environmental impacts associated with this project.

Motion by L. Cushman, seconded by A. Ferguson to appoint the Planning Board as Lead Agency for the purposes SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, to move the file to a public hearing at the September 5, 2024 meeting, and to continue the file was carried unanimously.

*Macera, Bethany – Site Plan Review – 4526 Michigan Road, Cazenovia
File # 24-1546 (Dale Bowers)*

Bethany Macera was present to represent the file.

D. Bowers said the Board had seen this property before when this lot was created from the larger family lot. The parcel was 4+ acres, so impervious percentages were good. The General Municipal Law Recommendation Report (GML) from Madison County Planning Department had been received and was returned for Local Determination. The well and septic were located on the site plan drawing. He said he found the house interesting and had a couple questions for Ms. Macera seeing that it would be a pre-cast concrete house. He wondered what would be chosen for the exterior.

B. Macera said it could be sided however one wanted. Bruce Ward, Architect ALA had drawn board and batten in the elevations he created entitled *Bethany Macera New Residence 4526 Michigan Rd, Cazenovia, NY Sheet 3* dated July 1, 2024. She said ideally, she would like a cedar shake with two (2) feet of rock border around the foundation.

D. Bowers noted this would be placed in a wooded area and the house would not be seen, but mentioned earth tone colors were preferred.

B. Macera responded it would be “green, brown.”

D. Bowers said it didn’t matter if it was board and batten or cedar shake. He noted it would be a single-story house.

R. Ridler asked if there would be an attached garage.

B. Macera affirmed there would. The garage would be 30' X 32'. She said it would be a three bedroom, 2 bath, 1600 SF of living space with the garage being about 950 SF.

A. Ferguson wanted the record to show it would be sided.

R. Cook said there was one other poured concrete home in the area.

D. Bowers noted it would have a wooden exterior.

B. Macera explained the house would be poured at the factory and delivered to the site in sections. She said it would come with R21 insulation and metal studs already imbedded in the concrete, so it would be ready to wire upon erection.

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

M. Koppers asked if the impervious surface percentages were acceptable.

D. Bowers affirmed they were.

Motion by D. Bowers, seconded by T. Clarke, to approve the site plan for the construction of a new home as most recently submitted was carried unanimously.

*Hoffman, Tyler — Site Plan Review – 5649 East Lake Road, Cazenovia
File # 24-1547 (Dale Bowers)*

Tyler Hoffman and Emilya Washeleski were present to represent the file.

D. Bowers explained a site plan review had been approved for the driveway and the staking of a future house. The Applicants were now before the Board for the home build review. He commented that the Applicants had been a little “overeager” and had started to install culverts in a waterway area and were told the Board needed to see the whole plan before any more work could be done at the site, so now the Applicants have provided that information.

D. Bowers stated the impervious surface percentages were “fine.” He displayed elevations created by Eugene Rood PE dated June 13, 2024 entitled *The Residence of Tyler Hoffman & Emilya Washeleski 5649 East Lake Rd Cazanovia (sic) NY 13035*.

The concern D. Bowers had was whether the culverts were where and what they need to be and he asked John Dunkle to inspect them.

D. Bowers reported that Mr. Dunkle had not been able to visit the site this week but planned to visit tomorrow.

J. Dunkle asked if the driveway traverses a wetland.

T. Hoffman believed it did.

J. Dunkle explained it was important that the culverts allow water to flow between the sections of wetland that Mr. Hoffman may have “blocked off.”

T. Hoffman responded he had used two (2) 24-inch culverts.

D. Bowers commented that the area was dry where it was not before.

T. Hoffman replied it was “rock hard.”

J. Dunkle asked if that was the Board's only concern.

D. Bowers answered that was his only concern.

R. Ridler asked if any filling had been done.

D. Bowers answered, “No; the site is pretty flat.” He said according to the prints, the majority of the site will be lawn.

A. Ferguson asked if there was a landscaping plan.

E. Washeleski answered she had not yet designed that.

C. Ladd asked about the percolation on the site.

D. Bowers replied the Board did need to have the septic plan too.

T. Hoffman explained he was waiting for his engineer to submit the septic plan. He commented that the septic plan was supposed to have been ready before the meeting but had not been.

D. Bowers apologized but informed the Applicants the Board would need to have that so they would need to come back next month.

A. Ferguson said as long as the Applicants made a commitment to do some landscaping, the Board did not need to see a formal landscaping plan.

D. Bowers agreed saying it was far enough from the road not to require the planting detail.

T. Hoffman replied it would be about 500 feet from East Lake Road.

D. Bowers remarked it would be far enough back that the Applicants could do whatever they wanted with the landscaping, but the septic issue was something the Board needed to see in addition to Mr. Dunkle's review of the culvert.

R. Ridler asked if a perc test had been done.

T. Hoffman answered, “No.”

D. Bowers asked Mr. Hoffman if he understood what was needed.

T. Hoffman replied, "Oh yeah."

Motion by D. Bowers, seconded by M. Koppers, to continue the file until the pertinent information from both parties was received was carried unanimously.

It was clarified the Board was waiting for Mr. Dunkle review, the perc results and the septic design.

R. Cook said the distance of the driveway requires the Owners to have a turnaround area for emergency vehicles, so that should be shown on a plan as well.

T. Hoffman responded the turnaround area in front of the house could accommodate two (2) dump trucks.

That was another item Mr. Hoffman needed for the next meeting.

T. Hoffman clarified that he needed to return for the September meeting.

M. Koppers also instructed Mr. Hoffman to have his information submitted by August 21st.

*Hugo, Aaron & Michela – Site Plan Review– 4398 Syracuse Road, Cazenovia
File # 24-1538 (Dale Bowers)*

Aaron LaSala of ARAS Design and Construction, LLC was present to represent the file as was Matthew Vredenburgh, the landscape architect.

D. Bowers explained the application was for a site plan review. He felt it was helpful to the Board to understand the project in its context, so he displayed the subdivision map entitled *Final Plan Lessen Estate Subdivision Pt. 46 4th Allotment New Petersburg Tr Madison County, New York – Town of Cazenovia* by D. W. Hannig & Associates dated Oct. 9, 1986 last revised March 25, 1987. He explained this was part of the Lessen property on the lakeside of NYS Route 92. He not only viewed this map, but he also read the minutes from the approval of the subdivision. He also discovered a list of covenants associated with the created parcels which he sent to Mr. LaSala and to Mr. Vredenburgh. He acknowledged the covenants would not be enforced by the Board nor the Town, but he felt the Applicants should be aware of them.

R. Ridler stated the covenants would be the Applicants' issue.

D. Bowers said the Board was starting to “take harder looks” at projects citing overcrowding of land, visual blight and architectural compatibility among the considerations for the Board.

D. Bowers said the project they were reviewing was Lot 4 on the plat. He directed the Board's attention to page Z-10 created by Aras Luxury Residences dated 2024.07.25 entitled *Hugo Custom New Residence 4398 Syracuse Road Cazenovia, NY 13035 Existing House* which showed three (3) photographs of the existing house. He explained it appeared as an A-frame house and was oriented the short side facing the lake. He said the existing house encroached on the lake side by six (6) feet sitting 94 feet from the water. The new house was proposed to be more than 100 feet from the lake (185+ feet), but it will be turned 90 degrees so the long side will be parallel to the lake. He stated the existing house blends very well into the surroundings. As of yesterday, the trees that needed to be removed had not been marked.

A. LaSala confirmed the trees had not been marked.

D. Bowers responded that was fine, but he urged the Applicants to do that, thinking there were significant trees there.

D. Bowers had also requested that Mr. LaSala have renditions of how the lots looked from the lake.

A. LaSala said they would be submitting the depictions, but he displayed what he had prepared on his tablet.

D. Bowers noted the lots were heavily wooded within the Critical Environmental Area (CEA – the first 20 feet from the lake). He wanted the Applicants to also project how the new house would look from the lake. He summarized saying his concern was whether the new house, despite its grandeur, was fitting in the context of the neighborhood there.

M. Vredenburgh thanked Mr. Bowers for sending the covenants and said they would design their project according to the covenants, for example the 35-foot side yard setback requirement, endeavoring to be as compliant with the covenants as possible. He said if they need to change their plans based upon what the neighbors enforcing the covenants tell them, they will return to the Planning Board with a revised plan.

D. Bowers asked Mr. Langey about that procedure.

J. Langey's position was the covenants were written saying the Town of Cazenovia may enforce them, but the Town was not obligated to do so; he counseled his municipalities to avoid that since the neighbors have the right to enforce the covenants themselves. He said the Planning Board already has the right to review the site plan for projects, so

he did not know if the covenants were even needed to “get it to where the Planning Board thinks it needs to be.” He instructed the Applicants to be aware that even if this were approved by the Board, if they were to negate the covenants, they will have to deal with the neighbors.

M. Vredenburg responded, “Absolutely.”

D. Bowers saw that the height would be 37 feet from the low point of the basement and the others had to be no more than 30 feet.

M. Vredenburg replied they would “look at this further, in terms of the elevations.” He said the finished floor would be at the 1233 contour elevation line; he thought the house would be 30 feet above that, around 1263, so he could provide a section that shows the height of the trees on the shore which he thought would be about 1280. He said there were several large trees and they intend to keep them all. He suspected the canopies of the “giant” oaks would more than shroud the highest part of the roof.

D. Bowers responded, “This is what we need to see.”

J. Langey added the covenants provided to him to read were unsigned, so he advised someone examine the abstracts to see “what happened to these covenants – if they were still intact, amended...”

M. Vredenburg thought they would be able to “fairly easily comply with all of those.” He said a couple spruce may be affected by construction, but he was not worried about the setbacks, or the preservation of trees 150 feet from the shoreline.

R. Ridler asked if the impervious surface area was an issue.

A. LaSala responded the lot was 3.17 acres. He said they did create some simulations after the work session last week. He showed those on his tablet. He said as the lot looks now, one could not see the house at all. He showed the simulation with the new house and pointed out the house remains below the tree line from the vantage point from the lake. He also displayed a rendering of the house not within the context of the site.

M. Vredenburg said the colors were also what was proposed.

A. LaSala described it as a dark-painted horizontal clapboard, 5 ½ inch exposure and a stained pine.

R. Ridler asked if it would have a stoned treatment.

A. LaSala responded it would and there would be boulder retaining walls.

D. Bowers commented they were “hiding the 3-story effect pretty well.”

A. LaSala described it as a walk-out and did not think they could design it as a 2-story house, because the Owners would not want bedrooms in the basement.

A. LaSala informed the Board another design change that was made as a result of the Board's feedback and the covenants was the removal of the master suite portion and the connection. He said the timber pavilion would remain like a screened in porch, but an entire section will be removed from the plans.

R. Ridler asked about the resulting square footage.

A. LaSala said that would reduce the square footages of the main level and the basement by 1000 feet, resulting in approximately 4700 square feet for the first floor.

J. Langey asked if we now have the final version of the plans.

A. LaSala said there was a lot to cover, so they would be submitting this new information next week.

M. Vredenburgh said because they have reduced the size and they have been made aware of the requirement for preservation of spruce trees, they will work harder to save more. He commented that there were two (2) that would be in the way of construction, but he felt there were many they could keep and put on the map.

T. Clarke recalled discussion regarding roof run-off.

D. Bowers mentioned there were problems with storm water running down the driveways in the area.

M. Vredenburgh pointed out an existing storm water facility on the parcel. He said they plan to crown the driveway to split the flow and prevent concentration. He plans to create another basin.

A. LaSala showed where the existing septic system was located.

D. Bowers asked if they would keep the existing system.

A. LaSala said they would keep it or extend it. He said Wayne Matteson was working on the design.

M. Vredenburgh said there is currently a pump system which they may rethink.

D. Bowers noticed the neighbors have French drains around their system.

M. Vredenburg spoke more about the workings of the current system.

M. Koppers asked the location of the well.

They showed her where that was located on drawing Z-2 *Proposed Site Plan*.

M. Koppers expressed her approval of the removal of the master suite.

A. LaSala disagreed.

M. Koppers responded the Applicants were trying to build a portfolio house and the Board was trying to build a house that would fit the neighborhood.

More discussion followed about the design.

D. Bowers thought good progress had been made and reminded the Applicants to let the Board know when the trees that would need to be removed would be flagged. He encouraged the members to visit the site.

A. LaSala inquired if the Board felt it might be reasonable to expect a decision if everything were submitted in time for the next meeting.

R. Ridler reminded the Applicants the deadline date for submissions was August 21st.

M. Vredenburg remarked they would like to start work before winter.

D. Bowers asked the Board their thoughts.

The Board expressed their willingness to try to get to that point if everything was in order.

D. Bowers said it was not the Board's "intent to drag this out."

J. Dunkle asked if the Board wanted him to look at the water issue.

D. Bowers responded that he would love him to and wondered if Mr. Dunkle could visit the site. He asked the Applicants to get Mr. Dunkle anything he might need.

D. Bowers asked if Mr. Dunkle could visit the site.

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

R. Ridler repeated the deadline was August 21st and the meeting was September 5th.

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

Adam Walters, Esq. of Phillips Lytle, LLP was present to represent the file.

A. Walter said he was here to update the Board regarding “where we are with the Winery and the site plan review process.” He said they had a productive discussion at the work session last week and thanked the Board for the opportunity to be here.

A. Walters spoke about Owera's long history. He reported the Winery was fully operational and has existed for 10 years. He stated the Winery's events were a critical part of the Winery operations. He said they have an approved plan involving the tent. He noted the tent had been the source of many complaints and concerns from the community. He said if one has a band inside a tent, it will be heard from outside the tent. He said they have “come in over the years a few times to talk about building a building, putting everything inside – the acoustical controls built into the design, noise monitoring, I believe has been on the table – a lot of other conditions - they're really protective of the group, this group,” (indicating the group assembled in the audience). He continued saying, “In general, Owera is very much on board with everything the Board has been doing to push in a direction to get a facility that everybody can be more comfortable with; and that is the goal, right?” He stated it was an existing operation and will not “be going anywhere – everybody knows it will not be going away.” He said the question was, “How do we make it better?” He thought across the board there was “a strong feeling with the additional conditions the Board has been talking about will make things better.” He stated that was Owera's goal. He said, “The challenge remains that the Board approved a building in 2014/2015; there was a lot of dispute, a lot of litigation, all very ugly history, but that's where we are, so our message tonight to the Board and to the community is fairly simple – we want to move forward in a way that reduces concerns from the community and we think the best way to do that is to make the building happen.” He continued saying the challenge “was having conditions that don't compromise the operations of the Winery.” He warned if that happens, the building will not get built and the position will remain as it has been the last 10 years.

A. Walters recounted that he had written a letter to Attorney Langey explaining Owera's view with the conditions and the technical issues which he felt were atypical of details reviewed by the Planning Board, saying this involved compliance with New York State Department of Agriculture & Markets (Ag & Markets) law. He thought the suggestions were “reasonable approaches for the Board to ensure that the operations were consistent with the requirements with Ag & Markets law. He said they devised two (2) proposals whereas the old approval had four (4) conditions related to Ag & Markets.

He repeated they were suggesting two (2) replacement conditions: Replacement Condition #1 would be that Owera would obtain an Ag & Markets assessment from the Town Assessor. He said the Town Assessor can only grant those exemptions to operating farming/agricultural operations. He said “there were a lot of hoops to jump through with the Assessor to get that. He said they have had some discussions with the Assessor, and he believed he provided the Board with a copy of the Assessor’s letter saying that except for the fact that Owera has a Payment In Lieu Of Taxes agreement (PILOT), it would qualify for the assessment. He said Owera was willing to terminate its PILOT and instead would apply for an Ag & Markets exemption from the Assessor. That would be a condition to give the Board assurance that this is an active ag operation.

A. Walters stated Replacement Condition #2 was they propose to have a Farm Winery License from Alcohol Beverage & Control from the State Liquor Authority (SLA) which “they had to jump through various hoops to get that,” but it was another way for this Board to ensure that this operation was complying with all the legal requirements to operate as a winery, which was also part of the Ag & Markets exemption.

A. Walters said he was happy to answer questions.

J. Langey asked how many years were left on the PILOT.

Five (5) years were left; it was originally for 15 years.

A. Walters said, “We think it’s a solid approach that allows this project to move forward, and again, we just wanted to have a dialog, we wanted obviously to let the community know what’s going on, but right now the temporary tent is back up and it’s going to start booking events, and we’re going to be back hopefully not exactly where we were, but without a building there’s going to be ongoing concerns.”

D. Bowers asked why this was a Planning Board issue and not a Town Board issue.

J. Langey asked Mr. Bowers which aspect. He said the Applicants were asking for a modification of the approval that stands to this day.

A. Walters interjected it was an approval the Planning Board approved.

J. Langey explained the Applicants feel conditions the Planning Board approved constrain the Applicants so the Applicants are asking the Planning Board to reconsider those conditions, and the Applicants are offering in exchange to terminate their PILOT and to stay within compliance with the alternate conditions suggested.

J. Langey said the question for the Planning Board has always been about impacts on the neighborhood. He said that was how the Planning Board fashioned those conditions, noting the Board “took a lot of time to do them.” The Applicants are asking,

will you reconsider those three (3) conditions and replace them with the two (2) that have been proposed. He repeated the Planning Board was being asked if they will modify that approval.

M. Koppers asked that the three conditions being asked to be modified be reiterated.

R. Ridler had a copy of the 2015 Planning Board approval which included a history of the many modifications to the site plan that had been made over the years since its creation as a vineyard in 2008. He listed the many amendments that had been made for variance stages of the endeavor including the Tasting Room, a storage structure, in addition to various site work before the approval of the 48' X 142' permanent structure referred to as a Farm Promotion & Marketing Facility (FPMF). The business had been operational for about six (6) years at that time and there were concerns back then about the negative impacts of a building in lieu of the tent. Dozens of complaints received in the summer and fall of 2013 were noted and sound engineers were employed to address noise attenuation.

A. Ferguson remarked more sound attenuation research had also been done in 2023.

A. Walters said that had been for the latest proposal.

R. Ridler gave more information about the noise attenuation research that had been part of the 2015 proposal and the sound engineer's findings at that time and how that was incorporated into the resolution for the approval given at that time.

R. Ridler agreed that the Board repeated those exercises last year. He believed that the findings supported the conclusion that the proposed building would eliminate many of the concerns raised in 2015.

R. Ridler then spoke about the hours of operation for the 2015 approval. The hours proposed were Mondays – Thursdays 8am – 10pm; Fridays and Saturdays 8am – 12am; Sundays 10am– 5pm. The previously approved hours were Sundays – Thursdays 11am – 5pm; Friday – Saturdays 11am – 10pm. An additional half hour was given to the staff to clean up after events. (The approved hours were Fridays & Saturdays 10am – 9pm; Sundays 10am – 5pm; Mondays – Thursdays 10am – 6pm). He remarked hours of operation remain an issue on minds of the Planning Board at this time.

R. Ridler said the number of guests for events was also discussed and set, with 250 guests being the maximum.

R. Ridler said much time was spent on specific SEQR findings, including the standard of 50 decibel (dB) maximum sound at the property lines.

R. Ridler then addressed the specific conditions being addressed for consideration of replacement. He read the following conditions from the resolution,

“23. In accordance with Agriculture and Markets policy and interpretation, for farm marketing events which involve the charging of admission, facility rental fees and/or vendor fees, the Applicant shall demonstrate that the per event sales of the farm's wine and wine related food products, as a result of those activities, must exceed the fees charged for such events, less the actual cost to offer the activity and/or hold the event such that the primary purpose of the activity is to sell the farm's wine and wine related food products....

“24. The Applicant shall keep sufficient records readily available to prove the above requirement is met and may be required to produce such proof upon the reasonable request of the Town;

“25. In relation to the above condition, the Applicant shall cause to be filed with the Town of Cazenovia Code Enforcement Office and with the appropriate officials of the New York State Department of Agriculture and Markets, on an annual basis, a specific detailed accounting certified by a licensed, independent C.P.A. that the per event sales of the farm's wine and wine related food products, as a result of those marketing activities on the site, has exceeded the fees charged for such activities, less cost.”

“26. Further, the Applicant must also demonstrate to the Planning Board on or before January 1, 2020 that the winery's wine product is produced from 51% or more of grapes/juice grown and produced on the winery's lands (either owned or leased by the winery pursuant to Agriculture and Markets guidelines). “

R. Ridler summarized the next conditions which talked about three (3) acres of vines being cultivated at the time and 4+ acres being added, and the size of events to be allowed.

A. Walters interjected that they did not have a problem with Condition #27 just referred to by Mr. Ridler. He stated it was Conditions 23, 24, 25 and 26 that made this a Planning Board issue. He said the Planning Board decided in 2015 to include those conditions. He remarked he understood why but said their issue has always been that the Planning Board made guidelines from Ag & Markets into binding requirements. He asserted that guidelines and requirements were two (2) very different things. He repeated the guidelines have been made into conditions that have to be audited.

D. Bowers asked if Mr. Walters was saying the 51% was merely a guideline.

A. Walters asserted it “was just a guideline,” particularly for newer wineries. He said, “the basic bottom line” was that they “have to be right with Ag & Markets.” He said the

Town Assessor “has all sorts of ways to address these issues; you don't even need to get into it – just make us get an ag assessment.”

R. Ridler countered that an ag assessment has nothing “to do with Ag & Markets 305A which talks about the requirements for percentages of revenue.”

A. Walters interjected that “305A is basically a rule....that says Towns/Municipalities cannot unreasonably restrict agricultural operations.” He repeated his argument that an assessor cannot give an ag assessment to something that is not an active agricultural operation. He alleged that those two (2) things were equivalent. He said an ag assessment entitles them to the protections of 305A.

J. Langey stated this was a decision entirely up to the Planning Board, whether to relieve those conditions, and he knew Mr. Walters understood that. His recollection was that when these things were put in place it was to address future potential negative impacts. The farm use itself was allowed; the part that would not be allowed was if it was really not a farm operation but its heart was actually in the events. He said, “The criticism, right or not from the outside, was this is really just an excuse to have a bar, a wedding event center, but Ag & Markets their policy steps in and says, ‘here's how you resolve that,’ or maybe tease it out, and that's what those three (3) conditions were there for.” He said it was “to look at the revenues that come in and compare it to the sale of the farm product. You get to this level, you can feel pretty good that we are doing the right thing by checking on that.” He repeated that was why those conditions were part of the approval. He continued saying those were challenged in court and were addressed by the Judge in the decision that upheld the inclusion of those conditions. He respects that the Applicants are now requesting a change of that, and they have every right to ask for that change, but the request was being made of the Planning Board to decide if they “want to get rid of those,” and if the Planning Board wants to adopt what the Applicants are proposing now. He said he had no opinion one way or the other. He was unsure if the Assessor “wants us to turn it over to him.” He remarked the Planning Board “would lose some control if you do that.” He did not want to tell the Board what to do, “but those conditions were fully litigated in a court of law, and they stand to this moment.” He repeated the Applicants have the right to ask the Board to give them relief, and they are saying, “This is how we want to make you feel comfortable with that relief.” He said the question was whether the Planning Board members were comfortable with the new conditions suggested or if they still prefer the conditions they have created.

R. Ridler said he fully understood how farmers rely on protection from unreasonable rules and regulations that would prohibit farm operations and agrees with it 100%, but he said on the flip side, the requirements and conditions that were imposed in no way restrict, in his opinion, Owera's ability to operate as a farm winery.

D. Bowers wanted to add that the Planning Board did not “come up with that; this is something the State came up with.”

A. Walters repeated that the State provides guidelines, and says Ag & Markets use guidelines to evaluate, but he asserted “there are no hard and fast lines here – that is clear.”

J. Langey responded that the issue was, “Now there are hard and fast guidelines because it is a law.”

A. Walters replied, “Exactly!”

J. Langey continued, “The Judge says you have the right to do this.”

A. Walters conceded Oweria did challenge, and they lost. He believes they now offer a “perfectly safe alternative.” He said they were open to other ideas if there were any.

D. Bowers asked what would result if the Board denied the alternatives. He said there would be no building, and the Applicants would keep their tent, but the Ag & Markets requirement “will not go away.”

A. Walters said it would not be a condition of a site plan approval so it would not be a Planning Board issue.

D. Bowers thought the Town had an annual accounting.

J. Langey confirmed an annual accounting was to be performed. He said there have been “numerous ones.” He noted one was not done last year.

A. Ferguson asked if the Applicant was asking the Board to change the condition and to consider something else, was Mr. Walters implying the Applicant cannot meet the conditions.

A. Walters answered, “No, not at all.”

A. Ferguson replied, “Then why bring it up?”

A. Walters responded, “I am telling you, I can’t say this any clearer, if you stick with those conditions, we stick with the tent. And that’s bad for everybody.”

R. Ridler saw in 2013 that there were numerous complaints regarding the use of the tent, but the Winery said they would address those issues and in 2014 there were no complaints. He concluded for Mr. Walters to say the tent was bad only showed the

onus to mitigate noise was on the Winery and perhaps that was not followed when complaints arise.

A. Walters said the Winery has been actively trying to manage any neighbor complaints quickly, efficiently, effectively. He said that was being done now, but that was not done in 2014.

M. Koppers said that was not what Chair Ridler just relayed. He said there were no complaints in 2014. There were problems in 2013 but in 2014 there were no complaints. She asked why in subsequent years have there been complaints. She asked what happened in 2014 that is not happening now.

A. Walters answered he did not know, but he could look into that.

R. Ridler understood the benefit of a permanent structure, but to say not having it would be the consequence of holding the Winery to the guidelines of production of product versus revenue from events - which was an important element in his opinion for any approval moving forward - was not an incentive for him because he would want that requirement if it were just a tent operation.

A. Ferguson agreed saying the standard does not go away if the tent is used.

A. Walters said the Board has an approval they have issued; the project approved never moved forward. Typically, a site plan approval expires if a permit is not pulled to do the project within a year. Their view was this particular approval is irrelevant to any active operation issues. In fact, in the litigation the Planning Board Chair put in an affidavit that said here are the current restrictions for the tent operation, and they were "pretty limited."

J. Langey reported he drafted a noise ordinance that the Town has not yet adopted but could easily be submitted to and adopted by the Town Board. He felt it would pass constitutional muster having many guidelines. Having said that, he said one other point regarding Ag & Markets, Ag & Markets reviewed these conditions and they elected not to say they were overreaching. He said the question the Board has was why change the conditions to get a stick-building if there is no difference to you to operate. Why not keep the conditions and still build the building if Mr. Walters claimed the revised conditions are a wash anyway.

A. Walters answered If the Board could live with the revised conditions, the building would be built.

M. Koppers recalled the hours of operation were another unacceptable condition for the building.

A. Walters conceded the hours were also an issue. He said they would not want to see a restriction on hours more than what was currently allowed for the tent.

M. Koppers recalled the first discussion of Ag & Markets arose after the November meeting when an attorney in attendance stated they would put pressure on whether Oweria was meeting the Ag & Markets regulations.

A. Walters replied that was when he was contacted.

M. Koppers said the reasons given for the building not being built do not mesh with the history of the meetings and the Board's being told the hours were the unacceptable component of the project.

A. Walters said to consider that the Applicants sued the Town over the issues of these conditions and lost, and they did not build the building.

A. Ferguson responded the Applicants returned to the Board in 2023 with a proposal for a new building, not the 2015 building. She said she was confused about which building would not be built.

C. Montante said he's been involved with Oweria for many years and has been present at many meetings throughout the past.

J. Langey explained that Mr. Montante, among his many roles with Oweria, is their Certified Public Accountant.

C. Montante explained the 2023 building would be smaller than the 2015 building. He said the 2023 building would effectively be the same footprint as the current tent. They thought that might be "more agreeable," and did not have the educational wing or some of the grandness of the original proposal, and would accommodate fewer patrons.

C. Montante explained one of the issues of the Ag & Markets guidelines was the predominance standard of 51%. He recalled the Commissioner of Ag & Markets addressed the Board and emphatically asserted that these are merely guidelines.

J. Langey recalled the Commissioner came to Mr. Langey's office, not before the Board. He thought perhaps the Chair of the Board, Anastasia Urtz, may have been there at the time.

C. Montante continued that the Commissioner was impressing upon whoever was there that these are just guidelines. He said in this climate, which is not in the Finger Lakes, one cannot grow vinifera varieties of grapes such as chardonnays or Rieslings, the portfolios of wines one would typically expect in a Finger Lakes winery. He said there is

something called American Viticultural Zones and in the Farm Bureau policy guide there was a provision whereby the Commissioner can set a different guideline for properties inside the Viticultural Zone from those outside the Viticultural Zone. He said outside the Viticultural Zone “our climate's too high” and one has to bury the vines which makes the cost prohibitive to do that. He said they would like to do that but they can't do that. He explained this was why it is a guideline. He said the Commissioner might come down and say, ‘Look, we like this part of your winery, but we have this restriction but we understand that you cannot grow this amount in portfolio.’ He said their State Liquor Authority Farm Winery License requires them to specially only sell wine from New York State growers. He said they were in perfect compliance with the State Liquor Authority. He asserted the guidelines were developed simply for the Agency to step in if they feel a farmer is being unreasonably restricted at a local level. He alleged the Agency did not want to do that, and they came in this instance and said, ‘Please work with these people so we don't have to get involved.’ He said, “That's what happened back then. They just did not want to go forward and overturn what local municipality has, in good faith, decided what it wanted to do, but it warned you, these are only guidelines.” He mentioned those guidelines no longer exist; they have been replaced 2 -3 times. He said Ower was grandfathered into the old guidelines. He repeated Mr. Walters' point that it was hard to regulate around guidelines.

C. Montante said instead of the 51%, they would comply with the ag assessment, and by producing a certain amount, it could be assumed that they were meeting all the criteria that all the other farms in the County have to meet. He stressed Ower has the requirement that an independent auditor must certify that operations meet the 2013 guidelines, but no one could determine if one met the guidelines because they are guidelines, and they cannot grow 51% on their farm. By putting the current conditions into the approval, they cannot meet the standard. He believed Ms. Ferguson asked if they could meet the standard and he was saying they could not on their farm meet 51%. He said they would only be able to grow three (3) types of grapes. He said they have a brand to protect into which they have invested millions of dollars in 2012. He said they have operated exactly as they intended to operate and it was all published. He stated they “couldn't have been more in line with what we were expected to do.” He said they hit all their employment numbers, they hit all their economic development numbers, and then they had this issue in 2013. He said they canceled in 2014 – that was why there were no complaints. At the time they said they would come back with a plan and that plan was the proposed building, but by then the damage was done and people were upset. He said, “It went a little bit sideways, and we got into issues with Ag & Markets and guidelines, and before we knew it, we were just all over the place.” He said they got the approval but there were some last-minute negotiations on the hours. He said they were guided by Ag & Markets to go forward with the lawsuit, “because they couldn't get through to suggest that these were just guidelines.”

R. Ridler asked if the 51% represented the production of product on the farm or on leased or owned land elsewhere. He said 51% doesn't talk about revenue, it talks

about production of wine. He said he understands for whatever reasons they have given, Oweria cannot meet that here in Cazenovia. He said what the Board is talking about was the events sales versus revenue from production. He explained their revenue from production needs to be greater than the revenue from events.

C. Montante said they have demonstrated that year after year and Mr. Langey was present for some of those meetings. He said they can meet that hurdle because it's gross wine sales versus net events sales which includes all the overhead at the Winery. He presumed they could live with that, but he thought the new standard would "step it back" and was a way to let the regulatory agencies – Ag & Markets, the State Liquor Authority, the Health Department – have oversight. He asked why have the redundancies of the conditions and asked who has the expertise to measure whether they have enough wine sales to justify the events that they're having.

R. Ridler thought that would be a dollars and cents calculation, and he did not think it took great expertise.

C. Montante responded it was an easy calculation because they were grandfathered into the old guidelines.

A. Ferguson asked them to clarify their terms about gross and net sales wondering if they were saying their gross sales of wine were greater than the sale of wine at events.

C. Montante replied they demonstrated year after year that their wine sales were 5 – 10 times more than the net event sales.

A. Ferguson said it was the term net event sales that was confusing her; she wondered how the revenue from events, not the sale of wine during events, compared to the gross sale of wine overall.

C. Montante answered all the overhead of the business – the full-time, 12-month event staff expense, the overhead of the winery, the overhead of grape production, the wholesale operation, the equipment – all of those payables can be deducted from the profits of the events.

A. Walters said it's not a comparison of wine sales from events versus regular wine sales, it is gross wine sales versus net event income (minus all the costs of business).

T. Clarke heard them say Ag & Markets had changed their guidelines, he asked what the new guidelines were.

A. Walters said the former guidelines from Ag & Markets were still applicable to them because they use the guidelines in place when the business opened.

C. Montante explained the conditions in the 2015 approval were patterned after the 2013 Ag & Market guidelines.

The Board asked what the new standards were.

A. Walters said they did not know.

T. Clarke thought the Board may like to know that.

A. Ferguson wondered if the current standards could be used an alternative to the conditions.

A. Walters said the new guidelines would not apply. He said what he was hearing was what they have proposed does not quite satisfy the concerns relative to the events. He suggested that they will consider some of the suggestions they have heard and will return with additional thoughts because he is getting the sense that the majority of the Board does not feel “we can just kick it to the Assessor and leave it at that.”

J. Langey responded that Mr. Walters has been put in a difficult position as a lawyer and he was doing his best job, but he said, “This Board is not there right now.”

A. Walters said if the Board has specific questions, they will come back with specific answers. He has heard that the Board would like to hear what the current guidelines are, and he thought perhaps “that’s a different way to get there.”

A. Ferguson said the Applicants keep talking about the 2015 building, but the Board took six (6) months last year with new conditions for an approval for a building with improved technology, so she was confused about the discussion about the 2015 building.

A. Walters answered they were not talking about the 2015 building – they were talking about the 2015 conditions.

A. Ferguson responded that they revised the conditions for the 2023 building, however.

A. Walters said his letter just addressed the four conditions that were outlined from 2015 and that were also part of the 2023 project approval.

A. Ferguson also said she felt like the Applicants was trying to hold the Board hostage, saying they will not build the building unless their terms are accepted.

A. Walters wanted to be clear that if the Board decides they would rather have the conditions, which he said was their job, the Board needs to know the ramifications of their decision.

A. Ferguson indicated the Applicants were saying they will not negotiate.

A. Walters replied, “Things will continue as they are.” He indicated that did not want it to sound like they were inflexible, but he wanted the Board to know where they were “coming from,” and what their thinking was.

R. Ridler said the greatest concern he hears not just from the neighbors but also from the community is that the events are overwhelming the production of wine and the sales of wine. That was why he felt the conditions in question were still applicable today, even though the building has changed. He felt the Board was comfortable with their work reviewing the building, about the hours of operation, and about mitigating the complaints the community has had in the past. In regard to hours, he felt there might still be an issue over closing times. He asked the Applicants to be prepared to discuss that issue as well.

A. Walters responded, “That sounds reasonable.”

D. Bowers asked why the Applicants don’t just continue with the tent; he felt the tent was easier for the Applicants.

C. Montante responded they were approached to suggest to the Board an alternate to the tent, saying people don’t want to hear the events taking place in the tent. They were offering the building as a remedy. He denied it was “a profit motive.” He stated they “could live with a seasonal facility.” He said, “Maybe we can make it better in some ways.”

A. Walters said the reason they were here now was because the tent was “coming to the end of its life.”

D. Bowers responded that was what they were told a year ago.

A. Walters said they took it down thinking they would have a clear idea, but they just haven’t gotten there yet. He said the tent was now back up.

R. Ridler asked Mr. Ladd if he had received any complaints.

C. Ladd has not.

J. Munger asked if there have been any events.

C. Montante confirmed they have not held an event in the tent yet, but they would let the Board know when one was scheduled.

R. Ridler wanted the Applicants to know the Board would thoroughly evaluate any complaints, if there were any, to ensure they understand the nature of the complaints.

A. Walters replied, "We would expect nothing less."

R. Ridler responded he "was saying that from both sides."

A. Walters understood. He thanked the Board and said the conversation was very helpful.

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

JoAnne Race asked a procedural question, wondering if new information were brought forth since the closing of the last public hearing (in November 2023), would the Board be able to request another public hearing.

J. Langey answered the Board can hold more public hearings if they find them to be necessary.

Motion by D. Bowers, seconded by T. Clarke, to adjourn the meeting at 9:27 P.M. was carried unanimously.

Sue Wightman, Planning Board Secretary – August 2, 2024