

Cazenovia Zoning Board of Appeals

Meeting Minutes

November 27, 2023

Members present: Thomas Pratt; David Silverman; David Vredenburgh; Luke Gianforte; Joseph Juskiewicz, Alternate Member

Members absent: Gary Mason; Michael Palmer, Alternate Member

Others present: John Langey; Chuck Ladd; Robert Cowherd; Wayne Emmons; Laura Emmons; John King; John Druke; Nancy Asher; Eric Goldacker; Kyle Reger

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

Roll was taken.

Joseph Juskiewicz will be acting as a voting member in Gary Mason's absence.

Motion by D. Silverman, seconded by D. Vredenburgh, to approve the October 23, 2023 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Tuesday, December 26, 2023.

There will be a work session Tuesday, December 19, 2023.

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

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

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

Sparks, Cheryl - #20-1 – B & B Special Use Permit Renewal – 1995 Stanley Road, Cazenovia

T. Pratt explained this was a special permit renewal for a Bed & Breakfast (B&B) in the Rural A (RA) District. He believed an inspection must still be done at the property.

C. Ladd confirmed that was the case.

Motion by L. Gianforte, seconded by D. Vredenburgh, to continue the file was carried unanimously.

RCC Cazenovia Station - #01-173 – Special Use Permit Renewal – 2350 Route 20 East, Cazenovia

Robert Cowherd was present to represent the file.

T. Pratt said this was a renewal for a special use permit issued in 2001 for vehicle sales in the RA District and the Village Overlay District.

T. Pratt asked if Mr. Ladd had completed his inspection, if everything was in compliance, and if there had been any complaints.

C. Ladd confirmed he had completed the inspection, finding everything “in line,” and he knew of no complaints.

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

*Emmons, Wayne - #23-1494 – Area Variance – 5241 Emhoff Road, Chittenango
(Dave Vredenburgh)*

Wayne Emmons was present to represent the file, and Laurie Emmons was in the audience.

T. Pratt said the application was for an area variance in the RA Zone and the Riparian Corridor to build a 28' X 30' garage in front of the house. He noted the Planning Board will also be doing a site plan review for this project. He said the Applicant was asked to provide the flood line and garage elevation on the surveyed drawing for the Engineer for the Town's review.

W. Emmons expressed consent.

T. Pratt said the General Municipal Law Recommendation Report (GML) from Madison County Planning Department had been received November 21, 2023.

D. Vredenburgh met with Mr. Emmons on site and confirmed the location of the garage would be on the high spot of the parcel, saying it was the best location for it. He considered asking Mr. Emmons to consider locating farther back, but noted the topography would be lower, it would be closer to the well, and it would impact trees if it were located closer to the house. He felt the requested location was the most practical and repeated it would be on "the highest spot on the lot."

D. Vredenburgh conveyed the request by the Engineer for the Town for the plotting of the flood line by the surveyor and to provide a finished floor elevation for the garage, however the request for information could not be readied for this meeting. He elaborated that he had looked at the flood maps for the area and he was very certain that where the garage was proposed would be out of the flood zone.

T. Pratt asked about the need for a silt fence.

D. Vredenburgh said the location of the garage would not be close to the creek. He explained it was uphill of the creek, but it did not flow toward the creek.

T. Pratt asked if it sloped toward the road.

D. Vredenburgh and W. Emmons explained it flowed toward the old creek channel.

W. Emmons explained that the path of the creek had changed in the 1800's, and he said that was the reason his parcel is a Town of Cazenovia parcel even though it is located on the Town of Fenner side of the current creek channel.

D. Vredenburgh elaborated that the original Town Line followed the old channel.

T. Pratt asked the function of the garage.

W. Emmons answered it would be used for parking and for storage.

T. Pratt asked if there would be more than one floor.

W. Emmons responded it would be one floor.

T. Pratt asked if there were elevations of the garage.

W. Emmons replied he could provide those.

T. Pratt presumed the garage would match the house.

W. Emmons affirmed it would.

W. Emmons said the snow load would be 50. The wind shear would be 115.

T. Pratt believed the location of the garage would be 115 feet from the creek.

W. Emmons affirmed it would.

T. Pratt believed an existing shed would be demolished.

W. Emmons responded it would either moved from the site or demolished.

T. Pratt asked if there would be lighting associated with the garage.

W. Emmons said there would be.

T. Pratt said (exterior) lighting would need to be dark-sky compliant, low-level, and shielded.

W. Emmons expressed understanding.

T. Pratt asked about electrical connection and plumbing associated with the structure.

W. Emmons answered there would be power, but no plumbing.

T. Pratt asked if the Board had any other questions.

The Board did not.

Motion by J. Juskiewicz, seconded by L. Gianforte, to open the public hearing was carried unanimously.

T. Pratt invited comments at this time.

There were no comments, but the public hearing will be kept open for the next meeting.

W. Emmons verified that the Board was also seeking the finished floor elevation of the garage. He asked if his surveyor will understand what was being requested.

T. Pratt affirmed the surveyor should know what to do, and said if the surveyor had any questions, he could contact the Town Office.

D. Vredenburg gave Mr. Emmons information to give to his surveyor.

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

*Druke, John - #23-1495 – Area Variance – 3631 Route 13, Cazenovia
(Dave Silverman)*

John Druke was present to represent the file, as was John King of Halco.

T. Pratt explained this project was in the RA district and the request was for an area variance. He said he noted there were two addresses for the property: 3631 Route 13 South and 3649 Rippleton Road.

J. Druke answered the physical address was 3631 Route 13 South.

T. Pratt stated an 18 kilowatt, 16' x 32' ground mount solar array was installed 40 feet from the rear yard property line so a variance of ten (10) feet was being sought which was 20% of relief. He saw that the Applicants had been advised in June regarding the need for site plan review in addition to a permit, but the array was installed without having either.

J. King said that was the fault of Halco. He explained there is a multi-step process for the various approvals among utilities, local government, and New York State Energy Research and Development Authority (NYSERDA). In this instance there was disorganization and miscommunication for which he apologized.

D. Silverman asked if Mr. King was directly involved in this project.

J. King answered, "Yes."

D. Silverman asked Mr. King to explain the various steps.

J. King said a typical solar project requires three (3) sets of approvals. The first is through NYSERDA which provides an up-front rebate and makes sure the equipment to be used is all Underwriters Laboratories (UL) listed and approved for installation in New York State. The second approval sought is from the permitting authority. The third approval is from the utility which must approve any co-

generation that will be connected to the grid. Those three (3) sets of approvals are handled by three (3) different people within Halco. Through the general electrical business that they do, they have a person to interface with the utilities for the general mechanical and insulation contracting. They have a permitting specialist in-house, and they have a modeling specialist who works with the State programs because they participate with many of the heating, insulation, ...He said going through that process for different approvals with different people, it was indicated that Halco was good to proceed for this project, "but there were crossed wires, so to speak." He repeated they believed they "were good to proceed on the physical construction."

T. Pratt questioned no one's asking about the permit.

J. King responded that since this incident he has instituted a new procedure wherein he must see the permit before commencing work. He spoke about a procedure for tracking that has also been implemented. He stated this situation is something he does not intend to allow to happen again, calling it "an unforced error" on Halco's part.

D. Silverman commented that it sounded like Halco is a fairly large company.

J. King replied there "are quite a few different divisions within the company itself." He listed residential HVAC service, plumbing, residential electric, commercial mechanical, residential mechanical, insulation, basement waterproofing, and solar.

D. Silverman said he visited the site and the installation appeared to be "first-class," despite being in the wrong location and not permitted. He noted there was no disruption to the site.

J. King said there was no concrete in this installation. He said 82-inch ground screws were used. He spoke about the superiority of that method.

T. Pratt repeated that the Applicants proceeded in the process without a permit, without a variance, and without site plan review with communication dating back to June stating the need for site plan review before permitting. He noted the Applicants have acknowledged that. He asked if the panels could be moved out of the setback.

J. King stated it could. He explained they would need to take up the two (2) ground screws closest to the edge. He believed there was 12' spacing on center between the posts on that array with about a 3 ½ foot cantilever on the outside edge. Checking the specifications of the equipment, he noted there was 9'10" east-west spacing, 9' north-south spacing between the posts, and 1'7" cantilever. If they were to pull up the last set, pull off the last two (2) rows of panels, they could shift the pipe. He went on to further explain the details of the process to slide the array ten feet. He said there were a few different ways it could be done moving eight panels to the other side of the array. He also mentioned the details of splicing the wire to accommodate the change.

T. Pratt asked if Mr. King objected to doing the process he described.

J. King answered if that was required, they would willingly do it because the error was their fault, and they were obligated to make it right.

T. Pratt said if they were willing to move the array, there was no need for Zoning Board of Appeals action.

J. King said he would schedule the work as soon as possible.

D. Silverman was concerned about any adverse impact this might have for the Owner. He said his function on the Board was to help the Applicant while not hurting a neighbor or the community. He said he was unsure if there was a mechanism in the Town law to fine a company that failed to procedurally follow the Code, but he did not want to hurt the Owner. He did not think Mr. Druke's project would be the quality it currently is if it were moved. He admired Halco's commitment to fixing the situation, but he did not want that to be to the Owner's detriment.

D. Silverman spoke about a neighbor located a couple hundred yards above the project who had a visual concern. He was unsure how the relocation would affect that neighbor's view. Where the array is currently located, Mr. Druke and the neighbor had already spoken about vegetative screening. He wondered if there were any other neighbors who had comments, but if there were no other concerns, he would like to know how the other Board members felt about the location.

T. Pratt wanted the Applicants to know that even if they were to move the array so that no area variance was needed, they would still need to meet with the Planning Board for site plan review.

J. King wondered if a new permit would need to be pulled for that or if it would be a modification of the existing permit process.

T. Pratt did not believe they had a permit.

J. King asked if it would be a change to the current application.

T. Pratt believed some costs of the area variance would be reimbursed, but site plan fees would still be necessary.

It was stated that the fees for the permit would apply to whatever permit was issued.

T. Pratt asked the Board's thoughts.

L. Gianforte thought if the Applicants were willing to move the array, they would need to pass the electrical code and Mr. Ladd would also be inspecting it, so he felt workmanship quality issues would not be a factor, so he felt moving it with site plan review was the best option.

T. Pratt affirmed Mr. Ladd would be involved with permitting, and he presumed an electrical inspection would be part of the process.

J. King explained they were not allowed to connect the system to the grid until the electrical certificate was submitted. Similarly, the rebate structure used by New York State requires that those rebates will not be reimbursed to the contractor until after interconnection.

J. Juskiewicz said his concern was that the company did not survey where they were building the array.

J. King assumed responsibility for that error as well. He explained he overlaid the tax maps he found online with the aerial imagery and design software. He repeated that was entirely his mistake.

T. Pratt said in this case, the surveyor should locate the 50-foot setback line.

J. King believed that has happened and that was how this error was identified.

D. Vredenburg agreed that if the provider can remove the panels and relocate the array to verifiably be ten feet outside the rear setback, that would be preferred. He said Mr. Ladd would ensure installation location details. His biggest concern was that the array would meet the setback restrictions. He said they could have the surveyor delineate it or they could work from the dimensions on the drawing from the last row of panels and post. He said Mr. Ladd would make the final determination for verification.

T. Pratt asked Mr. Langey if the Board needed to open the public hearing.

J. Langey said he has heard that the Applicants have been asked if they wish to withdraw the application and to make the unit comply with the existing Code, and to proceed to the Planning Board for site plan review, which was needed regardless. He believed the Contractor has indicated their openness to compliance, in which case this was a voluntary act on the Applicants' part. The Applicants will proceed to the Planning Board, and they will arrange to relocate the panels, with an as-built survey showing where it will be. If that is the case, he said this Board no longer has jurisdiction.

J. King said with a 3-man crew and an equipment operator, that relocation should be a one-day process.

T. Pratt repeated site plan review must be done.

The Applicants were told the meeting will be December 5, 2023.

J. Langey informed Chair Pratt, that if anyone was in attendance for the public hearing for this request, the Applicants have withdrawn their request for an area variance, but there will be review of the application by the Planning Board which will be the first Tuesday in December at 7:30PM.

J. King asked if that will take place in this building.

He was told it would.

*Asher, Nancy - #23-1496 – Area Variance – 4727 Lincklaen Road, Cazenovia
(Luke Gianforte)*

Nancy Asher, and her builder, Eric Goldacker, were present to represent the file.

T. Pratt explained that Ms. Asher was looking for an area variance in the RA district for an 8' X 18' addition on the north side of the house which is close to Lucas Cross Road. He asked for clarification regarding the amount of relief being sought. He believed the application stated 58 feet of relief was requested. He said there will not be a site plan review for this project, so the ZBA will be doing that as part of the discussion for this project. He said the GML was received November 21, 2023.

L Gianforte elaborated that a small addition was proposed for the house with the inclusion of some bathrooms. He described the project as “tricky” because the house was located on the corner of Lincklaen Road and Lucas Cross Road therefore having two (2) front yards. The existing front of the house faces Lincklaen Road and the addition will be on the Lucas Cross Road side of the house.

The drawing created by Micheal J. McCully Land Surveying PLLC dated 08-03-23 and entitled *Location Survey on Part of Lots & P.S. of the 4th Allotment of the New Petersburg Tract Known as No. 4727 Lincklaen Road Town of Cazenovia, County of Madison, State of New York* was viewed to show the orientation of the dwelling on the lot.

E. Goldacker said the existing house was not compliant with the current setbacks required. He said after remeasuring, the addition would be six (6) feet farther from the road than the existing structure.

T. Pratt believed the relief needed was 58 feet of 85 feet, meaning there was 27 feet, and wondered if the structure was on the road.

D. Vredenburgh believed the existing corner of the house was 26.8 feet from the centerline of the road and the addition would be 27 feet from the centerline of the road or perhaps 33 feet by the new measurement.

T. Pratt asked how far the structure was from the edge of the road.

C. Ladd answered 12 – 15 feet.

E. Goldacker repeated the addition would be another five (5) feet or so from the edge of the road.

L. Gianforte believed the parcel was uniquely situated on the corner of Lincklaen Road and Lucas Cross Road (which are not perpendicular).

T. Pratt asked if the addition could be located on the west side of the house rather than the north.

E. Goldacker explained there was one (1) existing bathroom for the house that was so small one had to walk around the toilet to get into the shower that was on the opposite side of the house from the sleeping spaces. One must go downstairs, through the dining room, and through the kitchen to use the bathroom. The addition was to locate bathrooms near the sleeping quarters.

T. Pratt asked if it could be added to the south side of the house.

E. Goldacker said that would narrow the space between the house and the barn significantly.

N. Asher added the bathrooms would still be very far from the bedrooms if they were to put it on the south side.

The drawings by Bruce Ward Architect A.I.A. dated Sept. 28, 2023, entitled *Sheet 2 First Floor Plan and Sheet 3 2nd Floor Plan Nancy Asher Addition to Residence 4727 Lincklaen Street (sic) Cazenovia, NY* were viewed to gain perspective regarding the layout of the house.

N. Asher showed where the original bathroom was located, saying it was not usable for families and it was not safe.

N. Asher said the second-floor addition would be for a bathroom and a closet. The first-floor addition would be for a bathroom and a laundry area.

T. Pratt asked if it has a basement.

N. Asher said it did. She clarified the house has a basement, but the addition would not.

T. Pratt believed the Applicants were stating that due to the configuration of the house, the addition could not be located elsewhere.

N. Asher responded that they really could not. She said she tried.

T. Pratt asked if the finishes would match the existing.

N. Asher affirmed it would. She said the color will probably be changed.

T. Pratt asked if there would be lighting on the outside of the addition.

N. Asher answered, "Only if there's a door."

T. Pratt said if there was, it would have to be dark-sky compliant, low-level, and shielded.

T. Pratt wondered if any plantings would be appropriate.

N. Asher said there are existing maple trees with very substantive roots which have been protected. She imagined those trees have been there for 70 or more years, so their trunks are sizable. She believed

more plantings would disturb the maples' root structure. She said Bartlett Tree Experts trimmed the branches and "guyed the things that needed to be guyed."

L. Gianforte believed the proposal was the best option for the site.

J. Juskiewicz said situations with older houses which were built prior to the current standards were difficult and he felt the Applicants were doing the best they could with their arrangements.

D. Vredenburg agreed. He asked about the statement that the addition would be five (5) feet farther away.

E. Goldacker explained the addition would be at least five (5) feet farther from the centerline of the road than the existing house at the intersection.

D. Vredenburg commented that the trees already existing would offer some visual buffering.

N. Asher added there would not be large windows in the addition that would require screening for appropriateness.

D. Vredenburg believed the proposal was the best option.

Motion by L. Gianforte, seconded by J. Juskiewicz, to open the public hearing was carried unanimously.

T. Pratt invited comments at this time.

There were none.

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

T. Pratt then reviewed the criteria for granting an area variance asking if this would result in an undesirable change to the neighborhood. He and the Board did not feel it would.

T. Pratt asked if there was an alternate solution. He answered in discussing the proposal, the floor plan in the interior of the building would not accommodate an alternative.

T. Pratt asked if there would be physical or environmental impacts. He noted the structure is close to the road, but he did not believe there would be any significant physical or environmental impacts.

T. Pratt asked if the requested relief would be substantial. He calculated 58 feet of 85 feet would be 68%, which would be substantial.

T. Pratt asked if the situation was self-created. He answered it was definitely self-created, although this was an unusual piece of property.

E. Goldacker said at the time the house was built, Lucas Cross Road was just a farm path, not a Town-maintained road.

N. Asher believed the Town converted the road in the 1930's. She further explained that half the house was only half the original house, with the other piece of the house being built in 1902. The newer part of the house was added when what is now Lucas Cross Road was just a path for convenience for the Lucas farm operation.

T. Pratt asked if the variance being granted would be 58 feet of relief.

D. Vredenburgh said that was what was requested in the original application, and that would be the maximum needed, but it may actually be 5 – 6 feet fewer.

J. Langey advised the area variance should be given for a maximum of 58 feet.

Motion by J. Juskiewicz, seconded by D. Silverman, to close the public hearing was carried unanimously.

T. Pratt believed a condition of an approval would be for the color, finish and style of the addition to match the existing house.

T. Pratt said it was decided that no additional plantings were needed.

T. Pratt said any exterior lighting for the addition should be dark-sky compliant, low, and shielded.

N. Asher interjected she did not plan to keep the house the current color.

T. Pratt elaborated that the addition should match the color of the house, whatever color that will be.

N. Asher understood.

Motion by L. Gianforte, seconded by D. Vredenburgh, to approve the area variance for the construction of an 8' X 18' house addition requiring the maximum of 58' of setback relief from Lucas Cross Road and with the two conditions stated was carried as follows:

David Silverman	Voted	Yes
Luke Gianforte	Voted	Yes
Joseph Juskiewicz	Voted	Yes
David Vredenburgh	Voted	Yes
Thomas Pratt	Voted	Yes.

T. Pratt informed the Applicants they will need to get a building permit.

*Davis, Brian & Melissa - #23-1500 – Special Use Permits – 4580 Fox Lane, Cazenovia
(Thomas Pratt)*

No one was present to represent the file.

T. Pratt this proposal was in the Lake Watershed and was a special use permit for a private horse stable for three (3) horses, a barn, pastures, and manure controls on 6.7 acres. He said the GML was received on November 21, 2023. He said the Board requested that Mr. Davis get an updated survey and site plan and to provide a clear representation of what he is planning to do. He believed Mr. Davis was working on that request, and he thought Mr. Davis should have that either in December or January.

Motion by J. Juskiewicz, seconded by L. Gianforte, to continue the file was carried unanimously.

Motion by J. Juskiewicz, seconded by L. Gianforte, to adjourn the meeting at 8:23 p.m. was carried unanimously.

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