Cazenovia Zoning Board of Appeals

Meeting Minutes

June 24, 2024

Members present: Thomas Pratt; David Silverman; Gary Mason; David Vredenburgh; Luke Gianforte; Joseph Juszkiewicz, Alternate Member; Michael Palmer, Alternate Member

Members absent:

Others present: John Langey; Chuck Ladd; Michael Hopsicker; Laurie Hopsicker; Rod VanDerWater; Robert DeNoble; Carol Pugh; Erik Anderson; Donald (Dan) O'Brien, Esq; Daniel Falter; Thomas Cambier, Esq; Sheila Fallon;

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

Roll was taken. All were present.

Motion by L. Gianforte, seconded by G. Mason, to approve the May 28, 2024 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday, July 29, 2024; the fifth Monday in July rather than the fourth.

There will be a work session Tuesday, July 16, 2024.

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

T. Pratt asked everyone in attendance to sign in on the sheet provided.

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.

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

No one was present to represent the file.

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

No comments were made.

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

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

No one was present to represent the file.

T. Pratt explained this was a request for area variances for a property in the Lake Watershed. He elaborated that the Applicants were wishing to build a new house on an existing site. He said the Applicants had attended the work session and were now addressing some comments made by the Board at that work session.

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

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

Michael & Laurie Hopsicker were present to represent the file as were Rod VanDerWater, their architect, and Robert DeNoble, their builder.

T. Pratt explained the request was for an area variance for side yard setback relief for a property in the Lake Watershed for an addition to an existing house (for a three-car garage and bonus room) on a parcel that has .892 acres. He noted the General Municipal Law Recommendation Report (GML) from Madison County Planning Department was received June 24, 2024 and was returned to the Town for local determination.

D. Silverman said the Applicants were looking for ten (10) feet of side yard setback relief. He said the purpose was to mitigate some of the wintery conditions in Central New York. He believed there were no accessory structures on the property.

M. Hopsicker clarified there were no accessory structures on the property.

Referring to the drawing entitled *SK-0 Cover Sheet Hopsicker Site Study 4507 Seven Pines Drive Cazenovia, NY 13035* dated 05-20-24 by Rod A. VanDerWater, Mr. Hopsicker showed an accessory structure that he owns on the adjacent lot.

M. Palmer asked if the property where the shed was located was owned by Mr. Hopsicker.

M. Hopsicker answered he owns the shed, but the property is owned by the Seven Pines Association, and he is now part of the Association (having closed on 4507 Seven Pines Drive today).

D. Silverman believed there would be an attached walkway from the existing house to the garage.

M. Hopsicker affirmed that was the case.

D. Silverman noted the current residence was also within the 25-foot setback of the same property line. He felt he had a good understanding of what was being requested and because the house is already within the setback, he felt comfortable with it.

M. Hopsicker explained that when they staked the addition, it was a little different from the drawing being viewed. He indicated that perhaps less than ten (10) feet of relief might be needed. He elaborated that there was some trouble determining the lot line so as it was staked, it appeared that a couple feet less could be needed.

M. Palmer asked why the lot line was hard to determine.

R. VanDerWater answered it was because they only had one dimension off the house.

M. Palmer presumed an engineer had not surveyed the line.

R. VanDerWater responded, "Not yet." He said that would be done as part of the building process.

T. Pratt interjected that would be a condition if an approval was given.

R. VanDerWater expressed understanding and agreement.

T. Pratt asked where the septic was located.

M. Hopsicker showed on the drawing where the well and the grinder pump was located. He was unsure where the sewer line was on the property, but he understood they would need to have that staked as well. He showed where he believed it was located, but he was not positive that was correct.

T. Pratt cautioned it was possible that they might be building where it was located.

M. Hopsicker acknowledged that was a possibility.

R. VanDerWater said that information was not on any of the surveys he had been given.

T. Pratt then asked about impervious water control.

R. VanDerWater referred to the calculations that were on the drawing. He said the new coverage would be 14.4%. He said some of the additional impervious surface area would be offset by the removal of some paved area. He explained the current garage would be used as an exercise room, so some asphalt could be removed (since the proposed garage would be closer to Seven Pines Drive).

T. Pratt informed the Applicants that 10% was the maximum impervious surface coverage allowed. He also told them there was a series of zones with maximum percentages within each zone that would have to be addressed. He warned them that if the area variance were approved, the Applicants would have to work with the Planning Board to get the percentages to acceptable levels.

T. Pratt asked about exterior lighting.

M. Hopsicker answered there would be lights on the garage.

T. Pratt responded that any lighting would need to be dark-sky compliant, low-level, and shielded.

The Applicants expressed understanding and agreement.

T. Pratt asked the maximum height of the addition.

M. Hopsicker answered it was just under 25 feet. He also said it would be well below the roofline of the existing house, so it would not be seen from the lake.

R. VanDerWater stated he had updated the design and it would be 24 feet, 4 inches. That was shown on his drawing entitled *SK-1 Exterior Elevations Hopsicker Site Study 4507 Seven Pines Drive Cazenovia, NY 13035* issued 6-21-24.

T. Pratt asked why the addition could not be the acceptable distance from the setback.

Referring the drawing entitled *SK-2 First Floor Plan Hopsicker Site Study 4507 Seven Pines Drive Cazenovia, NY 13035* issued 6-21-24 by Rod A. VanDerWater, Mr. Hopsicker showed where there was an existing laundry room that would be converted to kitchen storage, where there would a bathroom that they would keep, and a bedroom that they would also want to keep. Moving the addition would block the window in that bedroom.

T. Pratt believed the addition could be moved slightly away from the property line and there still would be access, and the window in the bedroom would be made smaller, if the Applicants were willing to move a closet.

T. Pratt then asked where the water coming from the addition's roof would go. He wondered if the slope of the land was toward the lake or a neighbor's property.

R. VanDerWater answered that it looked "like there was a bit of a swale that runs down this property line." He said he believed that was there because the neighboring house belonging to the Verbecks was new and that drainage pitched toward that shared property line.

T. Pratt informed the Applicants that water should not pass from the property line to a neighbor's property.

M. Hopsicker thought it could be discharged behind the addition.

T. Pratt noticed there would be gutters. He remarked that the discharge of water was an issue as was how the Owners would deal with it. He expected the Planning Board to be concerned with that. He commented that he was as well.

T. Pratt asked if the reference regarding wetlands on the Environmental Assessment Form was about wetlands on the site or if they were referring to the lake.

M. Hopsicker answered, “The lake.”

T. Pratt said that made sense to him.

T. Pratt asked how close the addition would be to the adjacent house pictured in drawing SK-0.

M. Hopsicker answered that house was no longer there; the Verbecks removed that house and built a new house farther from the property line.

An aerial photo was viewed to see the nearness of the neighboring structures. There was some discussion as to the approximate distance between the houses.

T. Pratt asked about a shaded area he noticed on SK-0 wondering if that was part of the new construction.

R. VanDerWater responded that the shaded area was actually existing steps (from the first-floor deck to the lawn below).

T. Pratt mentioned the condition of the space between the lake and the front of the house, referring to two (2) photographs submitted with the area variance application which showed rocks lining the shore without plantings. He felt with the increase in water that would be draining from the site, some improvements could be made along the shore line.

M. Palmer asked if Mr. Pratt was hoping to see a more naturalized shore line.

T. Pratt answered, “Yes.” He said he would like them to follow the *Cazenovia Lakefront Development Guidelines* to make some improvements, saying that would have to be approved by the Planning Board as well. He thought that should be part of the project

M. Hopsicker replied that their intention was to do a landscape plan planting more trees and working with the Verbecks regarding what would be acceptable to them as well.

T. Pratt concluded by informing the Applicants that if they were able to reposition the addition 10 feet, they would not need any approvals from the Zoning Board.

M. Hopsicker responded moving it 10 feet would be “tough.”

T. Pratt asked if less relief could be requested.

M. Hopsicker answered he was willing to explore possibilities.

J. Juszkiewicz asked if the window in the bedroom could be moved around the corner to the other wall.

M. Hopsicker answered there was a window already there as well.

M. Palmer asked to see the floor plan again. He asked about moving the addition and reducing the size of the window.

M. Hopsicker asked Mr. VanDerWater if that would work with the roof line.

R. VanDerWater answered it would. He said they tried to give the Owners as much room as they could in the proposed laundry room. He said they would have to see how the location of the grinder pump impacted the addition's distance from the property line.

M. Palmer commented that the less relief requested, the easier it would be for the Board to justify granting it.

R. VanDerWater displayed a photo on his phone that showed where the windows were located in the bedroom being affected.

T. Pratt asked if the addition would only be two (2) floors high rather than three (3) floors.

R. VanDerWater answered, "Correct." He said it would be much lower than the existing building which he expected was 35 feet high.

T. Pratt asked if the Applicants would like to look at the proposal (for other options).

M. Hopsicker answered they would like to, wanting to be as accommodating as they could.

L. Hopsicker said she was agreeable to moving the closet into the laundry room allowing better access (if the proposal were to be shifted farther from the property line). She said she needs the bedroom and she would prefer not to adjust the bathroom, but she was flexible about where the closet could be located.

M. Palmer asked how the Board could proceed if the lot line was not clearly established.

T. Pratt indicated that conditions would include the surveyor's establishing the property line, the setback line, and the building. He mentioned Code Enforcement would need to witness that as well. He said the Board lacked the floor plan however, in the process of negotiating less relief.

T. Pratt advised the Applicants to redo their proposal so the Board was clear about the specifics of the project.

M. Palmer counseled the Applicants to also locate the sewer line.

M. Hopsicker responded that now that they own the property, they would be able to stake those important areas more easily.

D. Silverman mentioned the Board would need to see adequate distance from the sewer line in case there needed to be future repairs to the sewer line.

It was expected that there would be a right-of-way associated with the sewer line.

T. Pratt said that detail needed to be on the survey. He also said he had requested a survey that was scalable.

R. DeNoble believed a new survey had been obtained today.

The challenges of getting a scalable survey were discussed and ultimately Mr. VanDerWater said he would obtain one.

M. Palmer asked if a list of things the Applicants need to supply for the next meeting could be made.

T. Pratt said a new plan, including a new floor plan, was needed, the sewer location was needed, and complete survey was needed.

D. Vredenburgh said the surveyor could plot to scale on his map.

R. VanDerWater said if the surveyor sends him a pdf of the survey, he could then print it to scale.

T. Pratt repeated the survey should show the sewer location.

M. Palmer asked if the well was marked (on the survey).

It was.

T. Pratt asked if there was a topographical (topo) drawing.

It was thought there was not.

T. Pratt asked if the surveyor could show the general direction of water flow on his survey as well.

M. Palmer noted the Planning Board would be looking for a topo anyway.

R. VanDerWater expected the Planning Board would want to see what the topo was presently and what it would be after the project was completed.

M. Hopsicker asked who would create that.

He was told the surveyor.

There was then discussion about the location of the sewer line and where there was a manhole.

M. Palmer explained the question was where the line from the house met the main line.

M. Hopsicker was told by Andy Rutz that the sewer would not be a problem for the proposed addition.

M. Hopsicker repeated they would get the line staked.

T. Pratt asked if the Applicants understood what they need to do (for the next meeting).

The Applicants indicated they did.

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

T. Pratt invited comments at this time.

Carol Pugh of 4495 Seven Pines Drive questioned the impervious surface calculations which she had seen in the proposal (noting they were over 10%). She said while she reviewed that, she also questioned the location of the sewer line. She said and her husband discovered the line was not where Mr. Rutz thought it was on their property and she suspected it was not on the Hopsicker property either.

T. Pratt asked if Ms. Pugh's was the adjacent property.

C. Pugh answered their property was across the street, but they were one of the 14 members that pump to the main sewer line along East Lake Road. She also said their surveyor did not know where the lines were either. She explained that everyone at Seven Pines has been replacing their 30-year-old grinder pumps and finding where the sewer lines actually were. She said most of the home owners do not know. She repeated she wanted the impervious surface calculations to be reviewed.

T. Pratt responded that he too was looking for the Applicants to request less impervious surface area.

R. VanDerWater responded, "Okay."

Jon Verbeck said he was the adjacent neighbor at 4509 East Lake Road and he spoke about his good experience working with the Hopsickers and his 100% support of the project.

D. Vredenburgh mentioned that it was the Town sewer line so the Town Wastewater Treatment Plant may have the mapping needed, or may know where to get that information. He thought that sewer line was only ten (10) years old.

J. Langey said the person to call was Jim Cunningham, who happens to also be the Supervisor for the Town of Nelson. He suggested the Applicants call the Town of Nelson to reach Mr. Cunningham who would be able to help them.

R. VanDerWater expressed gratitude.

Motion by L. Gianforte, seconded by D. Vredenburgh, to continue the file and the public hearing until the next month was carried unanimously.

T. Pratt reminded the Applicants if they could move the whole project away from the property line, they would no longer need any approvals from this Board.

M. Hopsicker responded that he was hoping the project would improve the property, not detract from it, and that was what he was trying to balance.

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

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

T. Pratt explained this was an appeal in the lake watershed regarding the Code Enforcements' requirement to not keep roosters as stated in the Town Code 165-82.3.

T. Pratt said this was the public hearing for this appeal, but he invited Mr. O'Brien to summarize his client's position before Mr. Pratt opened the public hearing.

D. O'Brien said he certainly supports the Town Government's soliciting the input of its constituents, however he wanted to reiterate the duty of the Zoning Board of Appeals (ZBA) for this appeal was to determine whether or not the Code Enforcement Officer properly interpreted the Code as it exists. He continued saying it was not a question of whether they would like it to say something else, or if they would like to make changes to it, it's a question of whether or not this particular Code, as written and passed by the Town Board, was interpreted properly by the Code Enforcement Officer. He said they obviously have filed an appeal and believe it was not for the reasons set forth in his letter dated June 21, 2023. It is their position that because this property qualifies as a farm, it is exempt from the provisions of the Code cited by the Code Enforcement Officer for the keeping of chickens, therefore, Ms. Ramanathan has the right under the Code as written to keep animals and to do all those things that are allowed because she now has seven (7) acres, which do not need to be contiguous, and some can be leased and some can be rented. He recalled a comment made at the last meeting "that seemed to be a slippery slope," but as the Code was currently written, what the Owners were doing was allowed. Having said that, he made the point at the last meeting, and as John Langey was present at court when it was stated, that the Owners would not have a rooster because they felt that was what the Judge wanted to hear, and Mr. O'Brien stated the Owners were prepared to do that, however the other restrictions on their ability to operate as a farm, that interpretation by the Code Enforcement Officer (CEO), if not reversed by this Body, would place limitations on his clients' validity to use their property which they would find unacceptable and not consistent with the Code as they read it. He said, "In sum, we believe the Code Enforcement Officer erred for the reasons set forth in his letter June 21, 2023. We would like to see that reversed. The stipulation that we made with respect to the rooster, which I understand was the sore point that gave rise to the complaint in the first place, that has been waived by Ms. Ramanathan, and therefore we would hope the very salutary sentiments that are expressed in the Town's Comprehensive Plan would be adhered to." Quoting from the section of Agriculture and Farmland, he read, "Local farmers are aging, which may lead to the potential turnover of land from agricultural use to developed nonagricultural use...The recommended action steps set forth in the matrix below are based

upon the community's commitment to support the local farming industry and protect farmland from unchecked encroachment of suburban and commercial development." He said it went on to say, "In addition to revising its zoning regulations to include farmland protection measures, it is recommended that the Town continue to proactively support its farming community." He said his and his clients' position would be rather than require someone who wants to start a farm to generate $10,000.00 of sales as soon as they start their endeavor, there needs to be some way to allow small farms to commence operations and grow. He said he does "not see that anywhere in the Code as a requirement to be able to qualify as a farm. We think we do qualify as a farm and want to be good neighbors." He believed the Town's sentiments expressed in its Code are that farming is to be encouraged, and they would like to see that here.

D. O'Brien understood the Board wanted to hear comments from folks, and said that was "fine," but reminded the Board it was a legal analysis that they would be making, not a legislative or executive analysis.

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

T. Pratt invited comments at this time.

Thomas Cabier of Hancock Estabrook, LLP said he represented Daniel Falter (of 2619 West Lake Road), the adjacent property owner. He said it appeared in this application to maintain roosters the assertion that this was a farm. A farm is defined in the Code as any parcel with seven (7) acres. He said the Code does not say, in the definition of a farm, leased or owned, contiguous or not contiguous. It does say that to have a farm it must be operated in conjunction with a farm operation. Here we have a single residence that was zoned for residential purpose; it was not assessed for agricultural use, and it is comprised of a 5.78-acre parcel plus a 1.3-acre parcel which are two (2) separate parcels which necessarily would not qualify it as a farm. He said the second question was if it is used in conjunction with a farm operation. He said the Code was very clear that a farm operation must be used for a commercial purpose. He said, "there has been no demonstration of any commercial purpose here, in fact it's my understanding that they've applied for inclusion in an Agricultural District and that was denied." He went on to say when the Madison County Planning Department was contacted for their interpretation regarding this appeal they responded, "Based on the material submitted…the applicant leases an additional non-contiguous 1.3 acres…we do not see in the materials any type of information about the farm operation, agricultural commodities produced or any type of farm business plan to demonstrate that farming is actually taking place on this property. We also note that the applicant's parcel is not part of a NYS Ag District. Based on the materials presented to us, we agree with the Code Enforcement Officer's determination." He said it was also worth noting in the petition that was brought in Supreme Court, the lease of 1.3 acres included as an exhibit specifically stated one of the prohibited uses was, "the tenant shall not engage in any of the following activities, all uses beyond the planting and harvesting of vegetables." He stated the property they leased for the purposes of this purported farm included a restrictive covenant that would not allow them to engage in the very activity they have sought to engage in – the keeping of livestock. He added, if the Board were to view this in the way they have

suggested, you are a farming operation if you own a total of seven (7) acres of land, contiguous or noncontiguous, leased or not leased. Broadly interpreted that would mean someone who owns a home on Albany Street, but leases seven (7) acres down the road and uses it for farming could keep livestock right on the main street. He said that was "an absurd result." He said specifically with respect to the roosters, there's no question that they're a nuisance and there's no question that they are banded in residential neighborhoods for good reason.

Dan Falter of 2619 West Lake Road, the neighbor adjacent to Ms. Sheila Ramanathan's property, explained their property was located between the lake and the golf course. He said the Applicants' house was a residence with a small back yard. He said it was not a farm or a farming operation. He repeated there was good reason the Town Code prohibits roosters. He said the neighbors' multiple roosters started crowing before sunrise and continued throughout the day. The noise by the rooster was a nuisance that disrupted his household's sleep and interfered with their peaceful enjoyment of their home. He said he does not have a problem with farm operations that keep poultry and livestock in Agricultural Districts and are part of commercial farming operations, however, roosters do not belong in his residential community that prides itself on being a place where people can enjoy a tranquil and harmonious environment. For these reasons he requested that the Board uphold the CEO's determination that roosters are not allowed.

T. Pratt asked if anyone else wished to speak.

Erik Anderson asked if he could speak. He noted there were a number of assertions that they are not a farm because they do not produce anything. He stated he does produce livestock and animal products for sale. This past spring they sold 17 baby goats costing $250 each. He has four (4) more female goats that were born at the beginning of the month that will also sell for $250 each. He said he has no problem moving livestock for sale. He continued that if one asks if they were a commercial operation and if they are "trying to be profitable," he produces several thousand dollars during one kitting season. He said if he were to do two (2) kiddings (in a year) he would exceed the $10,000.00 revenue requirement for a farm without breeding and selling chickens, which they did before eliminating all the roosters on the property after receiving the note from the Code Enforcement Officer.

E. Anderson said as to the point of people being able to have a farm on Albany Street, if one noticed the 150-foot setback requirement from all property lines in the Code regarding the keeping livestock, if one had a rectangular property one football field by two football fields, one could not have a single farm animal on the property regardless of how much land one might rent, and the size of that property would be a little larger than four (4) acres. He said renting land as a farm operation as it is written in the Code is not a "slippery slope," because if one's property were a football field or less in width, there is no square inch on the property where livestock could be housed.

E. Anderson said another issue was the recommendation that land be rented in conjunction with the property they owned. He alleged the renting of land to fulfill the 7-acre requirement was recommended by the previous Code Enforcement Officer, Roger Cook, directly to them. He stated had Mr. Cook not

made the suggestion that they rent land, they would have ceased the farming activities, knowing they were "shy" of the seven (7) acres. He said it was at Mr. Cook's recommendation and assistance that they were able to find additional land for rent. Furthermore, he said Mr. Cook specifically stated to him that the rented land did not need to be used. He was told that it was clear since the property had an existing animal barn, it was always intended for the keeping of animals, and that the setback restrictions also allowed it. He said they have already stipulated that they would be willing to "forevermore not have a rooster on the property," if that was acceptable, having the understanding that the roosters were the primary complaint.

E. Anderson said the property was zoned Lake Watershed because a small portion of the property was within that overlay with the majority being in Rural A - regardless farming was allowed in those districts. He concluded saying that the only purpose for those properties in those districts was solely residential was not true. In the Code, it is clear that farms and farming is part of those districts.

E. Anderson expressed willingness to answer any questions or offer any clarification if anyone had any comments. He felt he had summed up his "understanding of the situation" and what he was "trying to do to rectify it and not cause issues" for his neighbors.

J. Langey was looking at a section of the Code regarding the keeping of animal, and he said if the Applicants' desire was to keep animals including chickens and goats, there was a provision in the Code that might be an avenue for that without opening the property to an unlimited number of animals. He commented that if they were a farm there would be an unlimited number and types of farm animals that could be kept, noting there would be no density requirement theoretically if their argument were successful. He said the Applicants could then tell people they could keep as many animals on the property as they chose (if they were a farm). However, he pointed out there might be an option to work with the Codes Department and be able to host small animal, not roosters, including the keeping of chickens, which they spoken about before, and "the path to success" for that which anyone else in the Town could also have (if they owned three [3] acres), as well as a conversion chart in the Code for keeping other animals.

D. O'Brien was familiar with that section of Code 165-82.2.

J. Langey continued saying that section detailed examples of animals provided as well as the restrictions. He suggested they look at that to see if their needs on the property could be met using that avenue. He said the issue of their being "truly a farm," if they "really act as a farm," and if all the neighbors "could act as a farm if you rent more property," could be suspended if that section could allow the goats that are desired. He was unsure how many goats that section of Code would allow. He said he had not "drilled down too deep," but he repeated his suggestion that they look at that option.

J. Langey agreed it appeared to him that the roosters were the beginning of the issue, and it sounded like they were making a verbal representation that they would not do that. He said his concern was that at some future point the Owners would change their minds and want roosters. He said, "I'm not saying you would or wouldn't," but he noted that could be a future issue.

D. O'Brien believed Mr. Langey "would not want to make a stipulation in open court and then go back on it." He said he did not think the Judge "would be very keen on that."

J. Langey countered the Town "would not want to go back to court on that", however.

D. O'Brien explained the problem with the section of Code Mr. Langey was referring to was that there were a number of restrictions that made the endeavor like a petting zoo rather than a farm. He mentioned one of the things that one could not do was slaughter animals.

J. Langey asked if there was a desire to slaughter animals on the site.

D. O'Brien responded, "If you want to have goat meat."

J. Langey believed the Owners could do it for their own use and for their own private consumption. He said if they were to slaughter animals for people to buy, that would create a whole other issue. He spoke about another incident regarding slaughtering in LaFayette.

D. Obrien clarified that he was not saying the Owners have any current plans to do that, he was saying those were the kinds of things that change the site's character from they could do on a farm versus what would be authorized by that particular section of the Code. He said there were other restrictions as well, that would make it very difficult for Mr. Anderson to do what he wishes to do. He said he read the formula and it was very restrictive given the number of acres his clients have.

J. Langey said he understood that was their opinion, but he felt another opinion was that the Code was very generous to accommodate these types of animals on residential properties, if this particular property was residential.

E. Anderson said he appreciated Mr. Langey's comments, but he pointed out further in that section of Code one could not sell or even give an egg to one's neighbor from a chicken on the property if one was not a farm. He said that was in the same section as the keeping of roosters. He stated the actual sale of livestock and animal products, to the best of his knowledge, would not be allowed. He said they could not breed the animals; they could not sell them; they could not produce livestock products for other people to use. He said they "went into this with the intention of generating income." He stated they were already at a point where, if they were not incurring other expenses like legal fees, they were "in a profitability stage of development already." He said if one looked at the Madison County Agricultural Census as a reference, there were hundreds of farms that make less money that he does. He said if it were decided that they could not have a farm, the provisions in the Code do not allow them to do what they want to do, which is to make money. It was never their intention to lose money or to have a petting zoo, despite the adorableness and delightfulness of baby goats.

J. Langey said he now has heard the intent to make money and have the ability to slaughter animals on the property.

D. O'Brien interjected, "No."

J. Langey continued that if that were something the Owners would like to consider, he was offering the option of the keeping of small animals on the property as another option, but said they certainly had the right to pursue their appeal.

D. O'Brien responded it was a question of what the interpretation of the Code was.

E. Anderson said as far as the keeping of roosters, he wanted to point out that after the order came in, they eliminated the roosters immediately, and hoped the neighbor could attest to that. He said there has not been a single rooster on the property for a year. He offered to have their promise to not have roosters on the property as long as they are owners of the property put in writing. He said he did not mind taking extra steps. He spoke about his ability to raise chickens in his incubators and the demand for them, but said they were "okay with closing for ourselves" that avenue of income because the goats have become more lucrative.

D. O'Brien added if the thought of slaughtering animals "bothered" Mr. Langey, they could probably stipulate that they would not do that as well.

T. Cabier asked what else could be stipulated, wondering if the number of bulls or livestock kept could be an item.

D. O'Brien said there were no bulls kept on the property.

E. Anderson said he has bucks and does (referring to male and female goats).

D. O'Brien commented that it was "a pretty rustic part of town" where the property was located. He said his clients read the Town Ordinance they felt carefully, and they thought they were in compliance. When they were told they needed seven (7) acres, they got the seven (7) acres. They were then told they needed to be in an Agricultural District, but he alleged that is not what the Code says. He said they were then told they had to make $10,000.00 in sales. And he said that was not in the Code either. He conceded they understand that there were people who preferred this to be a strictly, exclusively residential area, "but the Code allows this kind of thing, and that was why they started." He claimed they want to be good neighbors and they do not wish to antagonize their neighbors, and he hoped "getting rid of the rooster ameliorated the problem," but in terms of starting a farm enterprise, which the Code does not restrict or prohibit in residential areas, like this one, and in fact is encouraged in the sentiment of the Comprehensive Plan by not only preserving but expanding the farming enterprise. He concluded that their position was that the Code authorizes this, and they are willing to make concessions or ameliorate some of what people consider the most objectionable aspects of a farm, but it is a community that supports farming, and that was what they would like to see.

E. Anderson said there were also comments asking what would stop them from having 100 animals or 200 animals. He said the setbacks prevent them from having animals anywhere but in his back yard. He said that was the only area that was 150 feet from the lot lines. He said, "personally I could have a slightly larger herd, but I don't see myself as ever having, you know, more than 20 goats. Twenty is, you

know, about the limit of what I personally am able to handle as far as like managing all the birds, and you know, moving all the livestock."

J. Langey asked if Mr. Anderson was talking about the number kept at the house property. He asked about the leased area.

E. Anderson responded the leased area was to meet the legal requirement for acreage.

J. Langey replied, "So there is nothing going on on the leased area."

E. Anderson said he had spoken to the owner of the leased area and he offered to bring the goats over because the owner's child loves goats. He explained goats forage, they do not graze. He said if he needed to meet the requirement by going to that property with a scythe to cut some debris to feed the goats, the goats would eat all of it. He said goats eat everything; he feeds them his Christmas tree every year.

C. Ladd believed the 150-foot setback was regarding the manure.

E. Anderson responded animals could not be housed in a building that is closer than 150 feet from any lot line.

C. Ladd said animals could be pastured within a fenced area a foot from the property lines.

E. Anderson said odor and dust-producing requires a 150-foot setback and he argues animals produce odors and dust.

E. Anderson noted if a farm were in an Agricultural District there would be no setback requirement. He stated there were other farms in the Town that were not in an Agricultural District. He said the reason there were so many provisions was because the Code distinguishes between farms in Agricultural Districts and farms not in Agricultural Districts. He repeated there were farms in the Town that were not in Agricultural Districts.

J. Langey responded those farms predate the regulations.

E. Anderson countered that the Code allows for farms outside of Agricultural Districts with the specific restrictions.

J. Langey replied the question for the Board was whether Mr. Anderson's "property, as it sits there, is a farm."

E. Anderson agreed, and he offered to show the Board his ledger for the sale of goats. He said the income was in the thousands and it was more than he paid for feed. He said to him, "that was enough to demonstrate that I'm attempting to be commercially successful here, and I'm already, you know, as far as …animals out, feed in, you know I am already profitable by…that respect."

C. Ladd asked if Mr. Anderson if he referred to the Code when he first got the animals.

E. Anderson answered, “Yup,” but said he missed the 7-acre requirement because it was buried in the definitions.

C. Ladd said Mr. Anderson would have then known he needed to obtain a special use permit to have goats on his property. He asked if they took that avenue.

E. Anderson answered they were always intending to have a farm from the beginning of getting the animals, otherwise he said they would have requested a permit for the chickens and a permit for the goats. He remarked if the Town wanted “to clean up the Code a little bit to make things more clear,” he thought “that would be…extremely beneficial.” He believed that there was something either at the County level or the State level saying the laws regarding agriculture in Cazenovia were confusing. He felt they could all agree that was true. He said it was “not perfectly clear, you know, especially with how, you know, you determine that the farm operation is a commercial operation or not.” Mr. Ladd said they needed to qualify for the Internal Revenue Service (IRS) property tax exemption or for an agricultural assessment, and if that was where the Town wanted “to set the bar, that’s okay, but that does make you much more restrictive with regard to farming than anywhere else in the County.” He indicated that was the Town’s choice.

J. Langey asked Mr. O’Brien if there was anything else he wanted to state for the record to make sure the record was complete on behalf of his client.

D. O’Brien answered, “No; I think the letter coupled with the information they have been provided subsequently…sets forth our position.”

J. Langey explained he just wanted to make sure Mr. O’Brien was able to get everything in he had intended.

T. Pratt announced at this point they would close the public hearing, following that the Board would “take another month to review what we’ve heard, read through it, and figure out our position from there.”

D. O’Brien responded, “Okay.”

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

Motion by L.Gianforte, seconded by D. Silverman, to continue the file until the July 29, 2024 meeting was carried unanimously.

D. O’Brien asked if it was the Board’s contemplation that a determination would be rendered in advance of that meeting.

T. Pratt answered, “We will have to see how things come together. I’m not going to promise anything.”

D. O’Brien responded, “Okay.”

Motion by G. Mason, seconded by L. Gianforte, to adjourn the meeting at 8:46 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – June 25, 2024.