

# Cazenovia Zoning Board of Appeals

## Meeting Minutes

May 28, 2024

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

Members absent: David Vredenburgh

Others present: John Langey; Chuck Ladd; Erik Anderson; Donald (Dan) O'Brien, Esq; Thomas Cambier, Esq; John Holmes; Sandra Holmes; Thomas Schepp; Howard Port; Ann Port; Adrienne Drumm; Andrew Ramsgard; Sheila Fallon; Robert Ridler

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

Roll was taken. All were present except David Vredenburgh. Michael Palmer was asked to be a voting member in Mr. Vredenburgh's absence.

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Motion by L. Gianforte, seconded by G. Mason, to approve the April 22, 2024 meeting minutes was carried unanimously.

Motion by L. Gianforte, seconded by D. Silverman, to approve the March 25, 2024 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday, June 24, 2024.

There will be a work session Tuesday, June 18, 2024.

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

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.

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*Peterson, David - #21-1 – B & B Special Use Permit Renewal – 2964 West Lake Road, Cazenovia*

T. Pratt said this was a special use permit for a Bed & Breakfast renewal in the Lake Watershed that was originally issued in 2021. He asked Mr. Ladd if he had completed an inspection and if there had been any complaints.

C. Ladd answered he had inspected the property and he had not received any complaints.

Motion by M. Palmer, seconded by G. Mason, to renew the special use permit for a B&B with the original terms and conditions was carried unanimously.

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

No one was present to represent the file.

T. Pratt explained the application was for a property in the Lake Watershed requiring area variances. He said he had spoken with the representatives today and the Applicants were still working on property line issues.

Motion by M. Palmer, seconded by L. Gianforte, to continue the file and the public hearing was carried unanimously.

(Many in the audience left upon hearing this file would not be addressed this evening.)

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*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, and Erik Anderson was in the audience.

T. Pratt explained this was an appeal of Code Enforcement's determination that roosters were not permitted on the property citing Code 165-82.3(A)(1).

D. O'Brien reminded the Board that this was an appeal that was presented in a letter dated June 21, 2023, and when the matter appeared before the Board, it was determined the right to appeal had been waived. That was challenged according to Article 78, and he and Mr. Langey had appeared in court at Madison County, and it was ultimately determined that there was no waiver and this appeal could be heard on its merits. He stated the letter sent on June 21<sup>st</sup> was still operative with the exception that the Owners would not house any roosters, and that was stipulated before the Supreme Court at the last session when the order was issued annulling the decision to dismiss the appeal. In all other respects, they would like the application of the rule prohibiting chickens or limiting the use of chickens under section 165-82.3 to not be applied to their farm operation, arguing the restrictions and the conditions under which chickens can be kept according to the Town Ordinance do not apply to farms and farming operations. He said in particular, "Section 165-61 defines a *Farm* as a variety of structures for the processing, storage and sale of agricultural commodities such as crops, plants, vines, flowers, grapes, products, trees, sod, shrubs, livestock, honey, Christmas trees, compost, poultry, dairy products, animals, including commercial horse boarding operations, equine operations, timber operations and compost, biomass operations – essentially it's a very broad definition of what types of activities qualify as a farm." He continued, "Correspondingly 165-61 of the Code defines a *Farm Operation* as land and on-farm buildings, equipment, manure processing and handling facilities and practices which contribute to the production, preparation and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation, a timber operation, compost, mulch, or other biomass crops, and a commercial equine operation. He said, "It goes on to say, such farm

operations may consist of one or more parcels of owner or rented land, which parcels may be contiguous or noncontiguous to each other.” He said the requirement was a minimum of seven (7) acres.

D. O’Brien said when this was first discussed with the previous Code Enforcement Officer, Ms. Ramanathan was told the problem was that she did not have seven (7) acres, which she indeed did not, so the Homeowners leased property to meet the requirement. They leased 1.3 acres from Derek Cole to supplement the 5.7431 acres they owned; the lease was dated November 7, 2021 and was signed by Erik Anderson, Ms. Ramanathan’s husband. Consequently, they believe this property, the farming operation, is exempt from the prohibition found in 165-82.3(A)(1) against the ownership and possession of roosters since they have stipulated that they will not have a rooster on the property as suggested by the Court. They would otherwise not be subject to the prohibitions of the keeping of chickens provision of the Town Code. It was only subsequent to their learning that the leasing of the property was insufficient to qualify as a farming operation according to the CEO because they were then told it would have to be qualified as an agricultural district and qualified for an agricultural assessment. He said that requirement was included no where in the Town Code, and they believe it should not be imposed upon the Owners because the law prohibits the imposition of requirements that are neither expressed nor implied in a zoning ordinance.

D. O’Brien repeated their position was that the requirement of an agricultural assessment was not part of the Ordinance and the only condition which they did not meet originally was the seven-acre-minimum, which they now meet, therefore under the Ordinance of the Town of Cazenovia, this property qualifies as a farming operation. He said he would “also point out that parenthetically the requirement of an agricultural assessment and \$10,000.00 worth of sales would make it almost impossible for anybody to start a farming operation unless they were willing to invest a lot of money; and given the farm-friendly status of the Town of Cazenovia and certainly the emphasis in the agricultural law in favor of farming agricultural operations, it would make sense to allow people to start their farming operation and let it grow into a \$10,000-a-year business. And if the opposite is true and that you can’t qualify until you have \$10,000 in sales, it’s going to make it very difficult for people to begin their farming operations on the property even if they otherwise qualified under the ordinance.”

D. O’Brien said Mr. Langey had spoken about the possibility of the Town changing the ordinance. He said as the Town Ordinance was currently written, Ms. Ramanathan should be permitted to keep chickens on her property and in all other respects operate a farm, with the exception of what was stipulated to an open court, which was that there would be no roosters maintained on the property.

J. Langey said one of the things he and Mr. O’Brien had talked about was the ZBA’s holding a public hearing on the issue of this interpretation of the Applicants’ appeal. He said the public hearing would have to be noticed, and the public would be welcome to attend. He said a representative would need to be present for that public hearing.

D. O’Brien asked what provision of the Ordinance authorizes a public hearing on the appeal to the ZBA from the COE’s interpretation.

J. Langey responded it was a generic power of the ZBA to hold public hearings on matters before them.

D. O'Brien did not recall Mr. Langey's saying that, he did recall him saying he might contemplate the Town Board's modifying the ordinance.

J. Langey said that had been part of the discussion, but he also mentioned that this Board holds public hearings for all matters that come before it.

D. O'Brien responded that this would still be a legal determination for the ZBA to make.

J. Langey replied, "And they can have a public hearing on it."

J. Langey elaborated that this determination would have impacts on all properties in the Town. He said the proposal by Mr. O'Brien would apply to Mr. Langey's own property, as a resident. He felt it was fitting that the public have an opportunity to comment on this matter which would impact the entire Town.

D. O'Brien said he did not deny that the interpretation as urged to be adopted by the ZBA would apply to anyone similarly situated.

J. Langey answered that was a fair comment, and noted that one could lease six (6) or more acres if all things were otherwise equal.

D. O'Brien said that was probably correct, but he wanted to point out that whatever the public thinks, having a full range of opinions, it should not affect the determination of the ZBA because the ZBA's determination of whether the CEO has correctly interpreted its own Ordinance would be a legal determination, not a show of hands.

J. Langey agreed it would not be a popularity contest, but repeated that the Board routinely has public hearings regarding all matters that come before it. He was certain he mentioned that to Mr. O'Brien.

D. O'Brien asked if they had public hearings even for appeals from the CEO.

J. Langey answered, "Yes, even appeals."

D. O'Brien responded, "Okay, all right."

J. Langey said the next order of business was to schedule that public hearing.

Motion by M. Palmer, seconded by L. Gianforte, to move the file to a public hearing at the June 24, 2024 meeting and to continue the file was carried unanimously.

Motion by M. Palmer, seconded by L. Gianforte, to adjourn the meeting at 7:48 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – May 29, 2024.