

Cazenovia Zoning Board of Appeals

Meeting Minutes

August 28, 2023

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

Members absent: Gary Mason

Others present: Chuck Ladd; John Langey; John Nutter; Sheila Ramanathan; Erik Anderson; Thomas Cambier; Kyle Reger

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

Roll was taken. All were present except Gary Mason. Michael Palmer assumed the role of a voting member in Mr. Mason's absence.

Motion by L. Gianforte seconded by D. Vredenburg to approve the June 26, 2023 meeting minutes was carried unanimously.

Motion by L. Gianforte, seconded by D. Silverman, to approve the July 24, 2023 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday, September 25, 2023.

There will be a work session Tuesday, September 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.

Sovik, Charles - #08-565 –Special Use Permit Renewal – 3813 Number Nine Road, Cazenovia

T. Pratt explained this was the annual renewal in the Rural A (RA) Zone. The permit was issued in 2008 to raise farm animals. He asked Chuck Ladd if he completed a site inspection and if he had received any complaints.

C. Ladd answered he did complete a site inspection and he had received no complaints.

Motion by M. Palmer, seconded by D. Vredenburg to approve the special use permit renewal with the same terms and conditions as the original approval was carried unanimously.

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

T. Pratt said this was an appeal in the RA district. He said the Board would review some information. He said on June 23, 2023 the Town of Cazenovia received a copy of the Appellants' formal appeal relative to the Codes Enforcement Office's allegations of violations by Appellants of keeping roosters on the Premises. Pursuant to New York State Town Law 267-a(5)(b), "Filing of administrative decision and time of appeal", "An appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the administrative official by filing with such administrative official and with the board of appeals a notice of appeal, specifying the grounds thereof and the relief sought." A copy of the Town's official record of the circumstances surrounding the presence of roosters at the Premises has been provided to the Zoning Board of Appeals for their review. Included in the record is a copy of the written determination of the Code Enforcement Officer dated

January 4, 2023 addressed to Appellants by way of e-mail determining that the Town of Cazenovia's Code states that there shall be no roosters permitted in the Town of Cazenovia. Further, that said communication and determination by the Code Enforcement Officer was in relation to the subject Premises and the presence of roosters on said Premises. That said communication further included instructions to the Appellants to remove the roosters from their property. Said determination was also made on January 4, 2023. Further, that additional correspondence and exchanges occurred between Appellants and the Town and that upon information and belief, Appellants had been represented throughout this period and prior thereto by legal counsel relative to this issue, and the violations of the Code as alleged by the Codes Enforcement Officer. That previous to said January 4, 2023 determination, by way of a separate prior communication, Appellants were further notified of a determination by the Codes Enforcement Office that Appellants "cannot have roosters (representing an earlier request that the roosters be removed from the Premises). Said determination was a notification that was provided in writing on May 2, 2022 by the Codes Enforcement Officer. That prior to said May 2, 2022 and January 4, 2023 determinations, and by way of a separate "Notice of Violation" dated November 2, 2021, the Codes Enforcement Officer of the Town of Cazenovia in response to complaints associated with the presence of roosters and other animals on the Premises directed Appellants to obtain permits for the keeping of animals on the Premises. In addition to the above determinations which were and are on file with the Codes Enforcement Office, further communications regarding the violation of the presence of roosters on the Premises were provided to the Appellants' then legal counsel by way of various correspondence, including correspondences on January 16, 2023 and January 19, 2023. Despite the various notifications, orders and determinations issued by the Code Enforcement Officer as referenced above, no appeal of said determinations, orders and directives was taken by the Appellants within the timeframe set forth under New York State Town Law 267-a(5)(b). The Zoning Board of Appeals has been advised that failure to timely take an appeal is a jurisdictional bar to challenge the Code Enforcement Officer's determinations referenced above relative to the keeping of animals and roosters. Notwithstanding the Appellants' attempt to frame its challenge as a timely one, the referenced determination, interpretation and directives issued in November of 2021, May of 2022 and January of 2023 (i.e. that Appellants were in violation of keeping of animals and roosters on the Premises and that the Appellants' property is not a farm or a farm operation) are each binding prior determinations controlling this appeal. Chair Pratt clarified that "basically they had a time period they did not meet."

Motion by T. Pratt, seconded by M. Palmer, that the Board dismiss the appeal on the grounds that 60 days have passed since the original determination, therefore the ZBA does not have jurisdiction was carried unanimously.

The Appellants' legal representative from Woods Oviatt Gilman LLP (Joh Nutter) asked if he could be heard as Counsel for the Applicants.

J. Langey said he would expound, saying when he took a deeper look at the history of the issue, it was clear this issue had been raised for quite some time by the Town, with more than one Code Enforcement Officer who made the determination roosters were not allowed on the property and that the property was not a farm, with all that being part of the record. The findings that were adopted recount that history, so

in essence there was no appeal to be heard at this time with this Board. He recognized that the Applicants have their rights, but at this time he recommended the Board proceed with the rest of its business.

J. Nutter asked if he was not being allowed to be heard.

J. Langey answered this was not a public hearing tonight.

J. Nutter said for the record he objected to not being able to be heard, he objected to the finding, he objected to the Board's motion, and he stated his belief that the appeal was filed timely. He said his clients reserve their rights.

J. Langey said he appreciated that and it was understood that his clients' rights are reserved, and asked that the comments be kept civil, with the understanding the Board was done with their business for tonight, and asked that the Board be permitted to conclude it business.

E. Anderson asked if he could say something.

J. Nutter countered that he was not being uncivil.

J. Langey responded he was not saying that Mr. Nutter was being uncivil at all; he agreed Mr. Nutter was civil, but he did not want the meeting to devolve into something else.

J. Nutter stated for the record that his clients reserve all of their rights. He said this was something that was not brought to their attention.

J. Langey said he would discuss the matter outside with counsel after the conclusion of the meeting.

Motion by M. Palmer, seconded by D. Vredenburg, to adjourn the meeting at 7:41 p.m. was carried unanimously.

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