

Cazenovia Zoning Board of Appeals

Meeting Minutes

October 25, 2021

Members present: Thomas Pratt; David Silverman; Gary Mason; Val Koch; David Vredenburg;
Luke Gianforte, Alternate Member

Members absent: Michael Palmer, Alternate Member

Others present: Roger Cook; John Langey; John (Andy) Breuer; Robert Ridler

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

Roll was then taken.

Motion by V. Koch, seconded by G. Mason, to approve the September 27, 2021 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday, November 22, 2021.

There will be a work session Tuesday, November 16, 2021.

T. Pratt reminded the Board there was a training session this coming Thursday (October 28, 2021) at 7:00 P.M. given by Cazenovia Preservation Foundation.

T. Pratt also welcomed Michael Palmer as a new member of the Board. He explained Mr. Palmer was not present this evening but Mr. Palmer will be joining the Board as the second Alternate Member.

T. Pratt asked that the rustling of papers, the clicking of pens, and other background noise be curtailed to ensure the recording of the meeting would be optimum.

Padgett, William - #00-162 – Special Use Permit Renewal – 2514 Damon Road, New Woodstock

T. Pratt explained this was a special use permit renewal for an art studio which was approved in 2000. He asked if Mr. Cook had performed an inspection and if there were any complaints.

R. Cook responded there were no complaints and the inspection “was fine.”

Motion by G. Mason, seconded by D. Vredenburg, to renew the special use permit with the same terms and conditions as previously approved was carried unanimously.

Hoagland, Paul - #19-1 – B & B Special Use Permit Renewal – 5099 Rathbun Road, Cazenovia

T. Pratt explained this was a special use permit renewal for the operation of a Bed & Breakfast issued in 2019. He asked Mr. Cook if he had an opportunity to inspect the site.

R. Cook explained he had not, but noted this renewal was being addressed 60 days prior to the close of the 12-month period, so there was time to review the renewal at the next meeting.

Motion by D. Silverman seconded by V. Koch, to adjourn the file until the next meeting was carried unanimously.

Breuer, John (Andy) & Amy - #21-1370 – Area Variance – 1130 Tunnel Lane, Cazenovia (David Vredenburgh)

T. Pratt stated the area variance was to build in the 100-foot setback from the lake. The Owner was seeking 76.75 feet of relief. The proposed new house will be larger than the existing home. New depictions were submitted. He asked Mr. Breuer to give a summary/update of the project.

D. Silverman recused himself and L. Gianforte was recognized as a voting member for this file.

A. Breuer said he had attended the work session and was asked to submit some visual renditions. He submitted a photograph of the existing structure as well as simulated drawings of the proposed structure as it would appear from the lake from various vantage points. He said the renderings were not exactly photorealistic but gave a sense of the scale of the overall width of the presentation. He said Mr. Pratt had asked him to assist with the visual impression from the lake with the addition of trees so he had Mr. LaSala illustrate that and said he was happy to do the best he could to frame and to hide the new structure. He said it was not his intent to set the home back further to create a grand lawn. He felt the spirit of the variance was to preserve the health of the lake and to eliminate the runoff of fertilizers into the lake. He stated it was their intent to keep the density of the woodlands on the property.

A. Breuer then spoke about the five (5) criteria used by the Board in consideration of granting an area variance, remarking some factors were more subjective than others. Regarding whether an undesirable change would be produced in the character of the neighborhood or if a detriment to nearby properties would be created, he said his three (3) closest neighbors had all spoken in support of the proposal. He hoped the Board would agree the character of the proposed home would not be detrimental as they view the other homes along the lake in the area.

A. Breuer said regarding whether the benefit sought by the applicant could be achieved by some method which would be feasible for the applicant to pursue but would not require a variance, he felt he could not do so without affecting the nature of the lot including the dense wooded character of the lot. He said he knew the question of the location of the power lines and whether they could be altered was a major consideration of the Board, but he thought logistically and geometrically the hurdles were not worthwhile overcoming.

A. Breuer continued, regarding whether the requested area variance was substantial, he agreed that the increase in the size of the footprint was no doubt substantial, but felt consideration should be given since the overall size of the lot was five (5) acres and because 70% of the lake frontage would remain wild. He concluded those factors rendered the variance to be unsubstantial.

A. Breuer said regarding whether the proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood, he found this proposal to be less impactful because it did not result in wholesale clearing of other parts of the lot.

A. Breuer said regarding whether the alleged difficulty was self-created, he could not dispute that he had purchased the lot knowing the location of the power lines. He hoped the Board had the autonomy to judge that the project was appropriate for the land.

A. Breuer expressed his willingness to supply any other information the Board required.

J. Langey had not attended the work session and believed Mr. Breuer had said the Board had asked him to supply ways to make the new structure blend into the surroundings. He asked what were those specific things. He wondered if some trees were part of the proposal.

A. Breuer answered the palette was an item. He said he was not “wed” to the color depicted, but he wanted “to go with a natural palette.”

J. Langey asked how many of the existing trees would stay.

A. Breuer said the defining four (4) front trees would stay. He said they were healthy trees and “well (established) into the bank.” He said he would be happy to create some of the same cover on the south side of the home.

T. Pratt explained he was looking for a softening of the visual impact from the lake when he requested a blending. He elaborated that he was looking for the color of the exterior, and the plan for trees - if there could be an increased amount of vegetation and trees to soften the impact, and asked for a pictorial representation.

J. Langey asked if the Board had seen what was requested.

T. Pratt affirmed they had. He thought the sheet showing six (6) vantage points was helpful.

D. Vredenburg thought the Applicant had provided what the Board had requested showing the various views from the lake. He wondered if the impervious surface calculations provided corresponded to the recent depictions or if those calculations needed updating.

A. Breuer responded the impervious surface calculations were updated in September and included the patio frontage and anticipation of the stairs as well as the driveway as it exists today, which he said was accurate.

T. Pratt asked the material that would be used between the retaining wall and the building wondering if it would be pervious or impervious.

A. Breuer answered he was unsure, but said he was interested in making it as impervious as possible. He said it could be gravel or river rock.

J. Langey informed Mr. Breuer that if he were to advance to the Planning Board, that Board would require Mr. Breuer to provide a very specific impervious coverage analysis. He asked if he was correct that at this stage Mr. Breuer or his landscape architect had not locked into what that material would be.

A. Breuer said looking at the drawing entitled *Site Plan A 01 1130 Tunnel Lane Breuer Camp* by Aras Design he was unsure where it would be in terms of the shore front. He said everything currently between the building and the retaining wall was either gravel or river rock stone. He said his intention was for a patio extension to lead to future stairs to a dock.

J. Langey asked if the stairs and dock were being proposed at this time.

A. Breuer responded they were graphically represented. He noted the impervious surface area was shown on the plan but the stairs were not included in the color-coded key on the same drawing.

J. Langey stated the discussion this evening was the variance for the house, but he repeated the need for that detail to be settled for the Planning Board in the future. He said typically the Engineer for the Town, John Dunkle, would review the impervious surface calculations before the Planning Board would take action for a site plan application such as this.

A. Breuer expressed understanding.

D. Vredenburgh clarified the actual trees that were existing were deciduous trees and noted that at this time of year the trees would be bare. He wondered if conifer trees had been considered.

A. Breuer said he would prefer to have that type of cover along the retaining wall and not directly in front of any windows. He was not opposed to having conifers on either end of the house.

D. Vredenburgh indicated his biggest concern was the nearness to the lake despite the fact that the existing building is in that footprint. He commented that the proposed building would be an aesthetic improvement over what existed now, and believed it would blend into the surroundings better. He said 77% of relief was an issue.

T. Pratt repeated there was an existing building in that space. He asked if the issue was the increase in the size of the house or in the nearness to the lake.

D. Vredenburgh noted the increase in width was approximately double the existing width.

G. Mason felt the renditions were very informative but felt the Applicant had made his position very clear from the onset that he wanted to remain/expand in the same footprint. His issue was that there were five (5) acres with 280 feet of lake frontage and 77% of relief was requested. He felt no concessions were given other than the exterior color and a few non-descript proposed trees. He noted the proposal would be taller and wider than the existing structure. He felt it would be much more (visually) dramatic 23 feet from shore.

T. Pratt asked if Mr. Mason felt the impact was aesthetic.

G. Mason said it was, and indicated that was one reason for the required 100-foot setback from the lake.

A. Breuer asked if the setback was established for the visual impact or for environmental impacts upon the lake.

G. Mason believed it was for the visual impact from the lake.

T. Pratt believed it was for environmental impacts as well, protecting the Critical Environmental Area (CEA), and providing a buffer for runoff.

A. Breuer said if the visual impact was the issue, he felt the existing structure was visually more impactful than the proposed house.

G. Mason thought with a parcel of this size, a compromise could be proposed. He felt Mr. Breuer's position from the beginning was "all or nothing."

J. Langey counseled the Board saying the question for the Board throughout this process would be the balancing test (determining whether the benefit to the applicant outweighs the detriment to health, safety, and welfare of the community) saying they must determine the benefits for the Applicant as he has discussed them, and if the Board perceives a negative impact if they grant this particular variance. He asked the Board to consider what would those negative impacts be and then to consider how the Board would weigh the impacts versus the benefits using the five (5) criteria questions.

L. Gianforte said he agreed with the other members about the distance from the lake. Besides visual concerns he said water quality was an issue. He said there was some existing vegetation but the closeness to the lake limited the buffer (between the structure and the water). He felt any groundcover would be helpful but noted the trees between the house and the lake were mature trees, so when those trees were gone, mature trees would not be their replacement (for quite some time). He said if the trees were harmed during construction the visual impact would become much greater than what had been depicted. He said that (loss) was an unknown (possibility).

A. Breuer responded he was open to the Board's prescribing groundcover or trees as a preventative mechanism.

J. Langey said these details were usually discussed with the Planning Board and with the input and advice from Don Ferlow the liaison from the Cazenovia Advisory Conservation Commission (CACC). He did not think Mr. Ferlow had been asked to look at this proposal yet. He explained Mr. Ferlow works with Applicants recommending species and planting schedules. He said this Board was looking at environmental impacts, but those impacts would be discussed in greater detail at the Planning Board level. Because the house would be bigger than the existing camp, he felt screening was helpful and appropriate for the variance.

T. Pratt did not think the Board needed to discuss specifics but wondered if there was a condition(s) in the Board's view that would make the proposal more acceptable.

T. Pratt asked if the issue for Mr. Gianforte was the quality of the lake.

L. Gianforte said the buffer was one issue, believing the potential for environmental issues could not be physically accommodated in the short space for such a large structure, and the second issue was the visual impact of a structure, only 23 feet from the water, with the lack of space to create vegetative screening.

T. Pratt asked if the concern was the amount of hard surfaces.

L. Gianforte indicated it was the amount of hard surfaces as well as the drop from the house to the water.

J. Langey asked if by granting the variance, there was a full understanding that the creation of the larger structure would result in greater stormwater runoff from the house into the lake, without some remediation by the Applicant. He noted several members had concerns regarding runoff. He asked if the proposal had been reviewed at that level.

T. Pratt answered the proposal had not been.

J. Langey repeated that if the project advanced to the Planning Board, that Board would require proof that the new building as proposed would not create “some sudden runoff” into the lake and information how the Applicant would control that through certain methods. The Engineer for the Town would review that data. Mr. Breuer would have his own professional prepare the methods by which water would be slowed, directed, remediated, and absorbed. He indicated that was a routine part of site plan review. He explained the Zoning Board was trying “to get out in front of that issue.”

A. Breuer said he understood. He said the design had not been developed to the point that gutter design had been done, but said he fully understood the dynamics for pushing as much of the gutter design to the “uphill side.”

T. Pratt asked Mr. Gianforte his opinion regarding the proposal to the neighborhood.

L. Gianforte believed it was an aesthetic house for its proximity to the lake. He respected Mr. Breuer’s desire to not have a big lawn, but he believed 23 feet was not adequate distance from the lake, and the house would “stand out.”

V. Koch said Mr. Gianforte had expressed his own concerns regarding the proposal. He felt the size of the new structure would be nearly three times the size of the existing structure. The existing camp has a shed roof which helped infiltration (of water) to flow away from the lake. The new design may “dump water directly within that 23-feet, that might not be there now.” With that 23-feet of space being mainly hardscape, those drainage issues were a concern of his as well. He said it was his opinion that in this instance the grand lawn Mr. Breuer did not want would actually be beneficial, allowing an opportunity for absorption of water before reaching the lake. He said aesthetically it would be a beautiful house and he thanked Mr. Breuer for the renderings which definitely aided the visualization of the project, but he concluded he could not “get past how close” this would be to the lake.

J. Langey said it must be articulated why the closeness to the lake would be considered detrimental.

V. Koch elaborated because of the runoff issue from the house to the lake.

J. Langey said Mr. Breuer had not developed the plan to show whether he had a solution for that issue. So as the house was proposed, the Board could not determine if the proposal would be detrimental to the lake. He said the question was whether the Board believed the Applicant should be given an opportunity to demonstrate how he plans to handle the drainage challenges. He said the Applicant could also request the Board continue the decision process without having to develop that plan. He said he wanted to ensure everyone felt the proposal had been “teased out” to the best of their ability.

A. Breuer responded if the Board was “leaning negative” and could be swayed positively by proper stormwater engineering, he would be happy to have it done. He was unsure if it was futile if “it was overwhelmingly negative.”

J. Langey agreed asking why encourage the Applicant to incur the engineering expense if the Board were to deny the proposal for other reasons, such as impacts on the character of the neighborhood, regardless of the engineering mitigations.

A. Breuer said he would argue that the other homes in the neighborhood were also close to the lake.

J. Langey asked how many were close to the water.

D. Vredenburg answered “several.” He said if the Board were to approve the proposal, Mr. Breuer would then have to appear before the Planning Board and that Board would require the stormwater mitigation plan.

J. Langey said he had stated many of the issues mentioned would be investigated on the Planning Board level, however this Board must evaluate environmental impacts, so he felt the question about runoff prevention raised by three (3) Board members was legitimate. He was unsure if the answer was provided, but he agreed the Planning Board would require detailed information regarding impervious surface coverage, with all the improvements on the lake side, including John Dunkle’s review of the runoff from the new surfaces. He explained that was not to say this Board surrendered its ability to consider those issues, and he thought the Applicant might want to address them (for this Board) to some degree.

T. Pratt elaborated the actual wording was whether it would have “adverse physical or environmental effects.” He said the Board must determine if the effects would be adverse or not. He asked if they think the effects would be something Mr. Breuer could remediate or would the effects be adverse to the lake. He asked once the house was built would it become an adverse problem. He asked if it would affect the lake, the habitat, or if it would become something that could not be repaired in the future. He said for example, when trees are removed for construction, those roots which help water infiltration might be removed. He asked if they were to approve the proposal with the condition that the Planning Board require a filtration system to replace what existed, would that be a reasonable requirement or did

the Board feel that would become an adverse effect for the lake. He then asked if the house itself would be a physical detriment to the shoreline. He noted there was a picture showing other houses close to the shoreline, which also spoke to the neighborhood consideration.

D. Vredenburgh said the Board could state that drainage was a potential problem, but he felt confident the Planning Board would take the right measures for remediation.

J. Langey said some area variances have been approved by the Zoning Board for projects along the lake that required a great amount of additional work on the Applicants' part despite the granting of the area variance, and due to the environmental and physical concerns, necessitated sometimes significant modifications to the original plan. This Board had identified aesthetic impacts, stormwater runoff impacts, and impacts to the CEA in the discussion thus far.

J. Langey said the Applicant and his Attorney have provided their own responses to the five-point area variance criteria, suggesting the current building and the proposed building would be in the same area, 23 feet from the water. The new building would be larger in terms of overall length along the shoreline, but no closer.

T. Pratt asked if the Board saw alternate solutions (requiring lesser relief).

The drawing entitled *Existing and Proposed Site Sections A 03 1130 Tunnel Lane Breuer Camp* by Aras Design was referred to for the discussion.

A. Breuer said the tree line at the top of the hill would be a challenge. He also noted the geometry of the driveway was another challenge. He has installed a new septic field which also limited options, not that the septic field could not be relocated at some cost. He said he was unsure "where the driveway slope would become feasible otherwise." If they were to build at the top of the hill, the site would lose the allure and benefit of a lakefront property since it was so deep from east to west. He then spoke about the challenges of the placement midway from the top of the property to the lake, saying the adjacent neighbor's home was in that same vicinity. He felt with 280 feet of lake frontage it was "goofy" to locate the house near the neighbor's (Ms. Skinner) driveway. Another disadvantage would be looking through the power lines.

G. Mason understood the preference to locate the house where Mr. Breuer proposed, but he did not feel the house could not be placed elsewhere. He commented that people living along roads view power lines as well.

T. Pratt remarked "potentially it could be just a design issue," regarding the relationship to the Skinner property. He said that could be a screening issue as well. He felt those were some options. He asked about the density of trees in the area.

A. Breuer responded he had planted about 40 trees to create a screening between the properties. He spoke about the driveway situation prior to and upon his ownership, saying he felt he had done all he could do to "make this lot workable with two (2) adjacent driveways." He spoke about his attempts to

keep the driveway as it was and said he has developed strategies to endeavor to keep the natural qualities of the property and to limit permeability.

D. Vredenburgh did not think there were feasible alternate locations. If Mr. Breuer were to move the location of the house farther from the lake, it would be close to Mr. Breuer's driveway and close to Ms. Skinner's house and driveway, as well as being behind the power lines. He agreed with Mr. Mason, that many homes view power lines, but he understood Mr. Breuer's desire for an unobstructed view of the lake. He felt the only other alternative was on top of the hill, but he did not think that was a practical option due to the evergreens which were not to be clear-cut, and because there would be no lake view. He said on the other side of the drive there was a slope greater than 15%, which would be "doable" but difficult.

J. Langey asked how many letters from neighbors had been received.

T. Pratt recalled five had been received.

J. Langey asked the proximity of the commenters.

Ms. Skinner, the closest neighbor, wrote a letter of support. Mr. Pratt noted her house was farther from the lake than the other (surrounding homeowners') letters which were also in support of the proposal.

A. Breuer said Kevin Clark and Mike Hayne also wrote a letter in support. He said they were the neighbors to the south on top of the ridge. He said two neighbors to the north, the Baldwins and the Ritchies, also communicated their support. He thought "there was one detractor who lives on the other side of the lake."

J. Langey said it was not a popularity contest; he just wondered the reaction of those most physically impacted. He wondered if the location were to be moved farther from the lake if the new location would be more objectionable to the neighbors.

R. Cook thought it would. He thought the closest property, Ms. Skinner's, would be negatively impacted. As it was proposed now, the house would sit below her house and her view.

A. Breuer felt confident she would prefer the location as proposed rather than being closer to her driveway, her swale, and her stormwater management. He thought that would have to be re-engineered.

R. Cook added runoff in the alternate location could potentially impact her property.

T. Pratt commented he did not think the runoff would be significant.

L. Gianforte thought there was an alternate solution since a 30' X 30' garage was going to be proposed in the future. He felt that indicated there was room to build in that location. He asked if the site could accommodate a garage in that area why part of the house could not be as well.

V. Koch agreed there were other options. He believed at the work session Mr. Breuer indicated trees in the area that were not to be clear-cut were dead or dying.

A. Breuer clarified saying those were among the trees he had planted, not the trees on the top of the hill. He explained he planted 160 trees and 30 – 40 had died. He stated it was the new growth, not the old growth that was dying.

V. Koch agreed with Mr. Gianforte that the additional structure location could be used for the house with perhaps a drive-in garage below the house. He believed there were multiple options.

T. Pratt said it was acknowledged that the hardship was self-created, saying Mr. Breuer was aware that the proposal would require a variance. He wondered if the Board found any environmental impacts beyond the CEA issue, for example any runoff issues behind the house, or tree issues behind the house.

G. Mason was unsure how thick the trees were in various locations and wondered if the Board should visit the site to see if there were alternatives for the location of the house before making a decision. He thought perhaps lower on the hillside was still an option rather than at the top of the hill. He reiterated he felt there were alternatives.

T. Pratt added the driveway could be revised.

L. Gianforte believed moving the structure farther from the lake would have environmental impacts on trees, but more space would result, mitigating environmental impacts upon the lake.

T. Pratt said moving it back would also reduce construction impacts (upon the lake).

L. Gianforte noticed an existing wooden retaining wall in the photograph which he did not see in the renderings. He wondered if the retaining wall would be changed to stone.

A. Breuer thought there would be some capping on the retaining wall.

T. Pratt noted that could be another issue to be dealt with by the Planning Board so as to not affect the CEA further.

T. Pratt summarized the Board had discussed neighborhood impacts, the size of the house, width of the house, that there were already other houses as close to the shore (in the neighborhood), the softening of the appearance by using (exterior) colors that were more natural to the environment, alternate solutions for the house location, and some neighborhood impacts upon the lake itself. Regarding environmental and physical effects, the proposal was found to affect the CEA, and there were unanswered questions about runoff issues. He said the Board needed to consider if the proposal “affects other things beyond that,” the habitat and the aesthetics of the lake which also involved the CEA. He felt the Board was finding there were some environmental and physical effects as designed. He said the Board must decide if the issues must be resolved by the Planning Board, or if the effects would be too great and therefore be unacceptable. He reiterated the effect must be judged as to whether it would be considered adverse and/or without remedy. The last question was whether the hardship was self-created.

V. Koch said he was not able to make a determination regarding the runoff issue without seeing (engineering) data. He believed much more water would be entering the lake than what currently does if there were no mitigations designed to handle the related runoff. He stated he would need to review the remediation plan to determine if the environmental effect would be adverse.

A. Breuer responded a gutter system could be designed to shed water away from the lake. He expressed his willingness to work with the Planning Board to improve or at least achieve the same effect that was there now.

A. Breuer said he never envisioned a contemporary mono-sloped house which he found less appealing and less fitting than what was designed, but if it were necessary, he would consider a similar, taller design to what was there, if that were the engineering strategy needed to ensure the water sheds to the west. He repeated he did not think that would be as appropriate to the locale architecturally, but he would not be opposed to it. He said he would be more likely to change the design of the house which would allow him to use the current footprint than he would be to relocate the structure uphill. He said he hoped the “subjectivity of Board for the appropriateness of this house on this site outweighs the question mark of the future if I don’t do this.” He stated he would not pursue the project farther up the hill. He clarified he did not say that as an ultimatum, but said, “from an economic and lifestyle decision, it’s not for me.” He said maybe someone else would choose to do it.

T. Pratt said the public hearing was still open. He asked if there was anyone present wishing to speak in favor of or in opposition to the proposal at this time.

R. Ridler indicated that he had some thoughts but as Chairman of the Planning Board he was unsure if he should express them at this time.

J. Langey advised Mr. Ridler to wait until the application was before the Planning Board. He knew Mr. Ridler’s comments were important, and he regretted not encouraging them, but he felt it was better to keep the process clean.

A. Breuer asked if it was appropriate for him to speak to Mr. Ridler as Chairman of the Planning Board at this time before he pushed for a vote.

J. Langey was unsure if Mr. Ridler would care to respond to Mr. Breuer’s inquiries at this time.

R. Ridler felt it would not be appropriate for him to enter into a dialog with Mr. Breuer at this time.

A. Breuer responded he understood.

J. Langey said if Mr. Breuer wished to comment to the Zoning Board about other items, Mr. Ridler would witness those comments.

A. Breuer said he believed the standards for the 100-foot setback from the lake and the standards for the lake front coverage exist for the interpretation of what was best for the lake, but he felt there was some subjectivity to the blend of the factors. He was sure there were concerns about setting precedents

moving forward, but he challenged that there was not another site on the lake with five (5) acres of land thereby resulting in an impervious calculation that would be less than 6% of the land mass and where this configuration of the power lines exist. He hoped this created a uniqueness that should the Board allow him to proceed, the Board would not face a precedent challenge in the future. He hoped the design would be deemed appropriate as well as the wooded nature of the total lot coverage. He commented the last thing he wanted to see when he was on a boat was a home with a grand lawn. He repeated he thought the design was more appropriate for the wooded locale of the lake, especially on the west side.

T. Pratt asked if there was anything more the Board needed to know. A need for a runoff mitigation plan was requested and Mr. Breuer had offered a mitigating thought in response. He said the CEA had been discussed and asked if a closer examination of the CEA was needed. He asked if a closer look at the site conditions was needed, perhaps involving a site visit. He informed Mr. Breuer that it was his choice if he wanted a decision from the Board at this time. He thought the tenor of the Board had been heard during the discussion.

A. Breuer said if anyone at the table thought a site visit would be valuable, as he has volunteered in the past, he was willing to make himself available for it.

T. Pratt repeated Mr. Breuer's other option was to say he was ready for the Board to vote on the proposal (as is) "knowing the tenor around the table."

V. Koch asked if there was any benefit to visiting the site since there was no interest in moving the location of the house.

A. Breuer thought the only advantage was to challenge how many options there truly were.

T. Pratt reiterated that the question was whether there was an alternate solution. If the Board believed there were alternate solutions, that "weighs into the test."

V. Koch commented a site visit then would only be for the Board's benefit, not the Applicant's.

T. Pratt agreed unless there were no alternate solutions. He repeated the importance of evaluating the circumstances considering the five (5) criteria.

A. Breuer said in respect to the Board's time, he would not be interested in placing the house behind the power lines, calling it a project he was not willing to undertake. He thought the Board had been more than patient and he hoped he had provided everything he could, so he saw no reason not to proceed with the vote. He remarked, "Go easy on me."

V. Koch alluded to the fact that if the Board visited the site and they agreed there were no other places to put the house, that would help Mr. Breuer's case. He said if the Board did not visit the site, it could potentially hurt Mr. Breuer's case.

A. Breuer conceded that there were alternatives to squeeze the house in front of the power lines, but one essential aspect of the design for him was the inclusion of a first-floor bedroom. He said he trimmed the footprint to allow for 70+% of the shoreline to be undeveloped.

L. Gianforte said the idea about burying or moving the power lines had been explored, he wondered if the lines could be raised. He said he did not know if National Grid would do that, but he wondered if that would be easier than the other two ideas.

A. Breuer did not know whether that was an option for National Grid or what that would entail, believing lines north and south of his property would be affected, and not knowing how cost-inhibitive it would be. He thought the poles would have to be raised significantly. He thought guy wires and other communication lines would be considerations. He commented he liked the creativity.

J. Langey asked if the Board felt they had “teased out all those five (5) questions enough.” He repeated the questions for the Board’s benefit. He repeated for each of the questions the Applicants have submitted their own full analysis of the criteria through their attorney and additional submissions.

J. Langey said a consideration was whether there would be an undesirable change to the neighborhood, and he said the Board gave their thoughts about that.

J. Langey said another consideration was whether the benefit could be achieved by other methods feasible to the Applicant, and that had been addressed.

J. Langey said another criterion was whether the request was substantial which the Board had also discussed.

J. Langey said the fourth question was whether the variance would have an adverse impact on physical or environmental conditions in the neighborhood or area, and that had been discussed at length.

J. Langey said the last item which was agreed upon and was almost always true of any area variance was whether the hardship was self-created; he reminded the Board that was not the conclusive factor.

J. Langey said the question for the Board was with all the evidence and all the discussion did the Board believe the benefit to Mr. Breuer to build his new home with the granting of the variance outweighed the potential detriment to the area. He repeated his counsel that the Board weigh the benefit to Mr. Breuer versus the detriment to the neighborhood.

Motion by D. Vredenburg, seconded by V. Koch, to close the public hearing was carried unanimously.

J. Langey led the Board through the Short Environmental Assessment Form for the State Environmental Quality Review. Four of the impacts were found to have no impact:

#5 Change in existing level of traffic or existing infrastructure for mass transit, biking or walkway

#8 Impairment of the character or quality of important historic, archaeological, architectural, or aesthetic resources

#10 Increase in the potential for erosion, flooding or drainage problems

#11 Creating a hazard to environmental resources or human health.

Seven of the impacts were determined to be a small impact:

#1 Creating a material conflict with an adopted land use plan or zoning regulation

#2 Change in the use of intensity of use of land

#3 Impairment of the character or quality of the existing community

#4 Impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)

#6 Increase in the use of energy and failure to incorporate reasonably available energy conservation or renewable energy opportunities

#7A Impact on private water supplies (#7B Impact on private wastewater treatment utilities was found to be no impact)

#9 Adverse change to the natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna).

Special attention was given to #4 Impact on environmental impacts that cause the establishment of a CEA with a lengthy discussion as to whether it should be determined to be a greater impact than a small impact.

J. Langey explained that the determination allowed the Board to make a potential Negative Declaration, which he said in of itself did not mean the Board was required to approve or disapprove the area variance, which should be decided using the balancing test criteria.

J. Langey explained there were two (2) ways to go about voting. The first was to make a motion to approve the project with any conditions the Board may find necessary. The two (2) conditions he heard mentioned during the earlier discussion was the need for the Applicant to present an acceptable storm water mitigation plan to the Planning Board, and the second condition was the need for the Applicant to present an appropriate planting/landscaping plan. In order for the conditional approval to pass three (3) members must vote in favor of the motion. If fewer than three (3) members vote to approve the proposal, then the proposal would not be approved. However, that would not be the same as a denial which requires a motion, and that too would require three (3) of the voting members to approve the denial. If those two (2) options occur, one of the options should receive three (3) out of five (5) votes if people vote honestly.

T. Pratt then listed conditions he would like to see incorporated.

- 1) Exceed *The Cazenovia Lakefront Development Guidelines*,
- 2) Take care of the stormwater,
- 3) Maintain the CEA,
- 4) Exterior colors of the house must be neutral colors that blend with the environment, browns and beiges.

V. Koch added the colors should be maintained in perpetuity.

J. Langey said if one wanted to change the color, one would have to reappear before the Board for approval of the change. He asked the colors shown in the depiction wondering if they were factory colors.

A. Breuer said the color was not key noted on the plans.

J. Langey asked if the architect had the colors.

A. Breuer did not believe the colors had been identified.

J. Langey asked if the colors could be identified.

A. Breuer affirmed they could.

J. Langey elaborated about the need to know the colors if it were to be a condition of the approval.

T. Pratt presumed the Planning Board would obtain that detail whereas the Zoning Board was giving the directive.

T. Pratt continued his discussion of the conditions saying water runoff would need to be mitigated; impervious surfaces (should be) as required in the Code, but in addition to that, the runoff water must be mitigated away from the lake.

T. Pratt said the CEA must be protected and it should not be touched.

J. Langey clarified that the conditions mentioned were to be advisory to the Planning Board.

Motion by D. Vredenburg seconded by V. Koch, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration, based upon the Board's review of the SEAF and to approve the area variance as most recently submitted and with the aforementioned conditions was not carried as follows:

David Silverman

Voted

Recused

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Luke Gianforte	Voted	No
Gary Mason	Voted	No
David Vredenburgh	Voted	Yes
Val Koch	Voted	No
Thomas Pratt	Voted	Yes.

Motion by T. Pratt, seconded by V. Koch to deny the application for the area variance was carried as follows:

David Silverman	Voted	Recused
Luke Gianforte	Voted	Yes
Gary Mason	Voted	Yes
David Vredenburgh	Voted	No
Val Koch	Voted	Yes
Thomas Pratt	Voted	No.

Motion by G. Mason, seconded by V. Koch, to adjourn the meeting at 8:52 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – October 25, 2021