

Town of Cazenovia Planning Board

Meeting Minutes

June 20, 2023

Members Present: Robert Ridler, Chairman; Anne Ferguson; Jerry Munger (departed at 7:03PM); Dale Bowers; Thomas Clarke; Gerald Rasmussen (arrived at 7:03 PM); Roger Cook, Alternate Member; Linda Cushman, Alternate Member

Members Absent: Mary Margaret Koppers

Others Present: John Langey; John Dunkle; Chuck Ladd (arrived at 7:13PM) ; Frank Damazo; Bonnie Damazo; Timothy Yousey (Zoning Board of Appeals Members present for part of the discussion: Thomas Pratt, Chair, Michael Palmer; David Vredenburg; Joseph Juskiewicz; Luke Gianforte; David Silverman)

R. Ridler called the meeting to order at 656 P.M.

Roll was taken; Mary Margaret Koppers was absent. Gerald Rasmussen arrived a few minutes after the meeting started and Linda Cushman was asked to cover as a voting member until he arrived. Mr. Munger had a conflicting meeting and left, so Ms. Cushman then represented Mr. Munger.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

*Frank L & Bonnie Damazo Revocable Living Trust – Site Plan Review – 3574 Rippleton Rd,
File # 23-1471 (Dale Bowers) Cazenovia*

Frank and Bonnie Damazo were present to represent the file, and their builder Timothy Yousey was in the audience.

D. Bowers said this was a site plan review for a house in the Riparian Corridor. He asked the Engineer for the Town, John Dunkle, and the Attorney for the Town, John Langey, to explain what was needed, what has been received, and to give the Board guidance.

J. Dunkle explained the issue that was discovered for the proposed house was that it may or may not be in the flood plain of Chittenango Creek as it is mapped. *The Flood Insurance Rate Map Town of Cazenovia, New York, Madison County Panel 13 of 20 Effective Date June 19, 1985* was displayed. He explained a shaded area represented the limits of a 100-year flood. He said it looks like the house would be very close to that boundary, with parts of the property that are definitely in it. He said he was unable to tell if the proposed structure was in the flood plain boundaries because the location is so close. He said the situation requires that the Applicants have their surveyor add to the surveyed drawing the mapped flood plain, and the elevation of the basement and first-floor. He elaborated that those two (2) details will tell the Board and the Applicants if the proposed structure will be affected by the 100-year flood. He said the hope was that it will not be affected, but repeated that it was too close to tell without those details.

F. Damazo asked what the issue would be if it were in the flood plain.

J. Dunkle answered if it were in the flood plain it would be subject to an entire chapter in the Town Code that addresses getting a flood plain permit, and the Owners would be required to obtain flood insurance. He said the obligation to get flood insurance was a national requirement from the Federal Emergency Management Agency (FEMA) if the structure was horizontally or vertically within the flood plain. He explained that determination needed to be made for the Board and for the Owners before the site plan review could be finalized.

F. Damazo questioned the timing of his just learning of this requirement, stating they have a building permit (with construction underway), so they are now “in a terrible situation.”

J. Dunkle said he could not speak to what they were told they were allowed to do “before this.”

B. Damazo asserted it was known for five (5) years that they were “going to build there.” She said, “No one has said anything to us.” She stated when they bought the property, they knew the two (2) acres were not in a flood zone; they were told it was not.

J. Langey asked who told them.

F. Damazo answered Wayne Matteson who designed their septic system, the realtor, and they themselves look at the 100-year map.

B. Damazo confirmed they had.

F. Damazo thought those were “guidelines.”

J. Langey interjected that they “were just trying to confirm that (i.e., whether within the floodplain), from a public policy standpoint.” He said he appreciated what the Applicants were dealing with, and the Board “definitely appreciates what you’re going through,” evidenced by the calling of a special meeting. He assured the Damazos that they were “dealing with a Board that was incredibly sympathetic to your plight.” He then explained the public policy behind the development within a flood zone, which went back decades to the 1980’s. It was to address issues of major flooding not only for the subject property but also potential for damage to other properties. He explained they needed to find out if this project was in that area. If it is in that area then another requirement would be another development permit which had different criteria. He said he did not want to tell the Applicants that they need that because at this time it was not known. He assured the Applicants that if they do need it, the Board “will dig into what’s required for that.” He noted that since he has been the Attorney for the Town, the Town has never had to use it.

J. Dunkle asked if the Damazos had gotten financing for the project.

F. Damazo said they did not need financing.

J. Dunkle remarked that a “bank would have picked up on this in a second.” He showed an image that he had created using a variety of resources, but he was unsure where the house was located.

F. Damazo drew a spot where he believed the house would be on the depiction.

J. Dunkle noted the location was very close.

F. Damazo responded they knew it was close and they bought the property because they wanted to be close to the creek. He said they understood that if one wanted to live near the water, some risks were part of the location.

B. Damazo said they chose an elevation that “was way up there.”

J. Dunkle believed he was told the house was 14 feet above the creek. He said that elevation needed to be related to the 100-year flood elevation.

F. Damazo said Mr. McCully had plotted the setbacks and had they known they needed the elevations, they would have requested that at the same time. He said this causes another delay. He said when Mr. McCully did the plotting, the house was situated 80-90 feet from the creek. He asked where Mr. Dunkle estimated the location to be, believing Mr. Dunkle estimated it would be 30 – 50 feet.

J. Dunkle estimated it would be 30 – 60 feet.

F. Damazo said farther to the south, the flood plain “comes out because the elevation drops.”

J. Dunkle responded that it was hoped that they “would be okay,” but he was not qualified to map that scaling using only paper copies of maps.

B. Damazo said had they known, they could have started that (mapping) process last week.

J. Langey responded that she was “entirely right,” and the Board understood that, and now the Board needed to work on solutions for the situation.

B. Damazo said they “appreciate that.”

J. Langey continued that Mr. Dunkle needs the additional information so they can reasonably determine that the proposal will be outside that area. He explained if they were outside that area, then the Board can oblige. If they were inside that area, then there is additional permitting that would be needed.

B. Damazo asked again why the issue had not been brought to their attention “last week.”

J. Langey answered that it had not been discovered and that they would have been informed “instantly” had it been known.

D. Bowers said, “Moving forward, this has to be established; it has to be established by their surveyor.”

J. Dunkle answered, “That’s correct.”

D. Bowers said that was “one thing that needs to happen.” He clarified that if that is done and the proposal is outside the flood plain, the Board can then take care of the

matter. He asked how complicated it would be for the Applicants if the proposal was in the flood plain.

J. Langey responded there would be another whole set of criteria that the Zoning Board of Appeals would need to address. He said in his opinion “it would all depend on the circumstances.” He said it would be checked according to the requirements.

J. Dunkle elaborated that some of the requirements would be the same questions being posed at this time – elevations, locations in relation to an established flood plain by a licensed land surveyor.

J. Langey further explained that there would have to be a determination by the ZBA, if the proposal was to be found in that area, that the construction would not pose any threat to the owners or to the surrounding areas. He said it was basically “a safety issue.” He explained even though the owners may be willing to take the risk, FEMA does not allow that; these laws were adopted in the 80’s. Once that other permitting process was done, a development permit would be issued. He noted a few members of the ZBA were present in the audience and he said he had spoken to the ZBA Chair. He assured the Applicants he would work to help them at the ZBA level as well.

R. Ridler assured the Applicants the whole Planning and Zoning would work together with them “to make this happen as quickly as possible.”

F. Damazo thanked them, but said “it does not feel like that.” He said this was costing him thousands of dollars, and was a great inconvenience. He said he had paid for the timbers, which if they were not up within a certain time limit, they would be worthless.

J. Dunkle asked who was the surveyor.

F. Damazo answered, “Mike McCully.”

J. Dunkle offered to speak to Mr. Cully directly to tell him exactly what was needed, to save time if Mr. Damazo could give him Mr. McCully’s contact information.

B. Damazo said they were told repeatedly they were not in the flood plain. She said they would not have purchased the property if they thought they were in it.

J. Langey said they may not be.

D. Bowers asked if the Board could make a conditional approval.

J. Langey answered the General Municipal Law Recommendation Report (GML) had not been returned from Madison County Planning Department, so the Board could not approve the site plan at this time even with conditions.

A. Ferguson believed the Board would receive the GML in a few days.

The GML was explained to the Applicants.

J. Langey suspected the County had not completed the review at this time because it was a complicated issue, but he was unsure not having spoken to them directly. He knew a member of the Town Board had called to expedite the review. He said they would still get an expedited report, since the County has up to 30 days to respond.

B. Damazo spoke about the contractors that thought they had this job. She asked why they could not proceed and do the paperwork after.

J. Langey responded he could not advise that; he had to follow the laws the Town has adopted.

D. Bowers asked if the surveyor could provide the material, could the Board proceed with this file at the upcoming work session (June 29th).

J. Langey said they could.

F. Damazo expressed dissatisfaction. He expressed appreciation for the special consideration but repeated, "You guys have no idea what you have done to us."

R. Ridler asked if he understood that the Applicants had contacted the Department of Environmental Conservation (DEC) and they were told by the DEC that it was all right to build in the proposed location.

F. Damazo said the DEC had told them to be 50 feet (from the creek).

J. Dunkle explained that was for the disturbing of a stream or a wetland. He said that was another jurisdiction for riparian corridors, not the flood plain.

J. Langey asked if the contractor was doing any flood-proofing.

J. Dunkle explained that flood-proofing would involve opening for water to flow through the basement so as to not collapse the structure. It was a technique that could be used if one were building in the floodplain. He clarified he was not suggesting that they do that, but just explaining what Mr. Langey was asking.

B. Damazo answered they had not planned for that since they did not believe they were in the floodplain.

D. Bowers believed the only option the Board had at this time was to continue the file.

J. Langey summarized that there were two (2) outstanding items: the determination regarding the floodplain, and the GML.

B. Damazo asked when the flood issue arose.

D. Bowers believed it was the previous Wednesday that the Board realized the project was in the Riparian Corridor.

B. Damazo repeated they could have had Mr. McCully do the elevations had they known.

F. Damazo said they lost valuable time.

B. Damazo asked what would be the process if they were not in the floodplain.

J. Langey answered the Board would conduct a routine site plan review within the Riparian Corridor.

F. Damazo asked if there were no other issues.

D. Bowers said he saw no other issues when he visited the site.

J. Dunkle noted the lot was large and the impervious surface percentages were minor.

J. Langey asked about the driveway cut.

D. Bowers answered, "That was fine."

J. Langey asked about aesthetics.

D. Bowers indicated that was fine as well.

J. Dunkle asked if the Applicants had gotten a Department of Transportation (DOT) permit for the driveway.

F. Damazo replied, "Jeff Stowell did." He added the electric was in and the well was in.

J. Dunkle asked if the septic system was all set.

F. Damazo responded the septic system was not totally in.

D. Bowers interjected there was a septic plan that was approved.

T. Clarke asked if the Applicants needed a silt barrier.

J. Dunkle affirmed there should be one.

D. Bowers indicated the contractor would need to see to that, since it was not there when he visited the site.

A. Ferguson remarked that was a minor detail.

B. Damazo asked if the floodplain location was okay and the Board was okay, could they continue.

D. Bowers anticipated the GML coming soon.

A. Ferguson said they needed the updated survey with the elevations.

J. Dunkle said that survey was key. He was unsure how much work it would be for the surveyor. He said the surveyor may just visit the site and take some GPS shots. He gave the Damazos his business card with his cell number to give to Mr. McCully and asked the Damazos to let Mr. McCully know he would be calling him.

B. Damazo asked about the GML.

J. Langey was hoping to get that as soon as the next day.

B. Damazo explained that they care for Mr. Damazo's 99-year-old father, so they have obligations out-of-town to consider. She wondered if they would have to be present for an approval.

D. Bowers suggested they ask Mr. Yousey to represent them if they could not be present.

T. Yousey affirmed he could represent.

J. Dunkle said Jeff Stowell or Wayne Matteson could also represent.

J. Dunkle said Mr. Matteson may be able to provide elevations as well.

A. Ferguson said perhaps Mr. Matteson could do that if the surveyor could not (as soon as needed).

J. Dunkle checked the septic plan to see if Mr. Matteson had already shown the detail he was looking for.

F. Damazo said the leach field was definitely not in the floodplain.

J. Dunkle asked if they were pumping up to the leach field.

They are.

J. Dunkle saw that Mr. Matteson delineated the creek, but not the floodplain.

F. Damazo remarked he knew this was not done on purpose, but repeated they had “no clue how bad you have messed us up.”

J. Langey said he and any member of the Board would feel the same way.

J. Dunkle added that was “why we are all here for you.”

D. Bowers said, “Let’s hope for the best.”

DISCUSSION ITEMS

Demolition Photographs – Planning Board Recommendation to The Town Board (Anne Ferguson)

A. Ferguson read the following proposal:

“In the case of demolition of a building (including residences) or other structure, the permit application shall be accompanied by digital photographs of each exterior elevation. Additional photographs may be requested at the discretion of the Code Enforcement Officer. Such photos would be retained with the application by the Town of Cazenovia as part of the historical record of the property. At his discretion, the Code Enforcement Officer may refer the demolition of buildings and structures to the Planning Board for acknowledgement.”

J. Langey explained this was the recommendation of the Planning Board to make to the Town Board for an amendment to the Code to capture this language.

Motion by A. Ferguson, seconded by G. Rasmussen, to make the recommendation to the Town Board to change the Town Code to include the verbiage read by A. Ferguson, was carried unanimously.

Motion by D. Bowers, seconded by T. Clarke, to adjourn the meeting at 7:22 P.M. was carried unanimously.

Sue Wightman, Planning Board Secretary – June 20, 2023