

Town of Cazenovia Planning Board

Meeting Minutes

November 7, 2013

Members Present: Michael Palmer, Chairman; Anne Ferguson; Tom Pratt; Hugh Roszel; Anastasia Urtz; Jennifer Basic

Members Absent: Dale Bowers

Others Present: John Langey, Esq.; Roger Cook; John Dunkle; Don Ferlow; Kristi Andersen; Dennis Gregg; William Camperlino; Peter Muserlian; JoAnne Gagliano; Antonio Caruso; Rick Ruggber; Gordon Stansbury; David Vredenburg; Patrick Ruddy; Jason Emerson; Anne Redfern; Graham Egerton; Jorn Clement; Nancy Frisbey-Jones; Sean Palmer; Linda Siracuse; Thomas Driscoll; John Richer; Debbie Richer; Margaret Borio; Deb Shephard-Moynihan; Robert Cowan; Roberta Keeler; Mark Costa; Bryan Wendel; Bruce Race; Charles Woods; Gail Azeredo-Woods; Colleen Stevens; Jim Francis; David Wallace

M. Palmer called the meeting to order at 7:30 p.m.

M. Palmer asked if there were any corrections or comments for the October meeting minutes.

Motion by Hugh Roszel, seconded by Tom Pratt to approve the October meeting minutes was carried unanimously.

The deadline to be on the next meeting agenda is November 20, 2013.

The next work session is November 21, 2013. (a week earlier due to Thanksgiving falling on the normal day.)

The next regularly scheduled meeting is Thursday, December 5, 2013.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

*Green & Moore Development - Major Subdivision (7) - Fenner Road
File # 11-765 (Mike Palmer)*

Dennis Gregg was present to represent the application

The Planning Board previously approved the subdivision, but the maps were not filed within the sixty-two day time frame.

Motion by Tom Pratt, seconded by Anastasia Urtz to reaffirm the appointment of the Planning Board as Lead Agency for purposes of the State Environmental Quality Review Act (SEQRA), to reaffirm the matter an Unlisted Action and to make a Negative Declaration, all based upon the Board's review of the Full EAF, and to reapprove the (7) lot subdivision with the same conditions as the final approval granted on February 2, 2012 was carried unanimously.

*William J. Camperlino - Major Subdivision (4) - Owera Point Drive
File # 12-872 (Dale Bowers)*

William Camperlino was present to represent the application.

W. Camperlino said his consulting engineer, Jim Emerick, and he had met with Pete Church from Madison County about sewage disposal options, some of which require responsible entity. He was hoping to clarify and review some of the options. A Homeowners' Association, a Sewer District, or the Town Code Enforcement Office could be the responsible entity, and he felt Mr. Church was leaning toward the Code Enforcement Office option thinking it was not dissimilar to the inspections and monitoring of septic systems which are already being done with the alternative type septic systems in retrofit, and properties that aren't functioning properly.

R. Cook said that we don't officially have that term for those things, but in some cases the DEC is responsible for those situations and sometimes it's done by agreement with the company that installed the system to inspect and service them, since these types require maintenance.

W. Camperlino said since the Code Enforcement Officer would be called to address the problem if a malfunction occurs, he felt it was reasonable for the Code Enforcement Officer to be the responsible entity.

M. Palmer asked what kinds of systems were being considered for this project requiring this type of inspection.

W. Camperlino said either a mini-sewer treatment plant or a modified version of that. He said he's still exploring these things, but Mr. Church said they can't really explore the sewage treatment plant unless they have determined who the responsible entity will be.

J. Langey asked about having a certified operator for such an option.

R. Cook said that would go back to the installing company who would service and operate under the Town's guidance.

J. Langey stated that the property owner would have to be aware through covenants of the obligation to have a contract with an operator.

J. Basic asked how a potential property purchaser would be aware of this before they closed.

Discussion ensued about the broker notifying the prospective homeowner through a property information sheet, a customized purchase offer, part of the restrictive covenants which are reviewed by the homeowner's counsel, or having the agreement in place as part of the certificate of occupancy requirement trying to determine the best way to inform the purchaser.

A. Urtz stated that the sewage treatment is not the only aspect of concern for how this subdivision will unfold which argues in favor of a Homeowner's Association type of build.

W. Camperlino responded that he has used restrictive covenants in purchase offers giving full disclosure at Waterford Woods in Dewitt which has 117 lots since the 1980's.

M. Palmer asked who enforces the covenants.

W. Camperlino said it is a deed restriction that either he or anyone in the neighborhood can enforce.

M. Palmer stated his concern is that it's a big piece of property but perhaps instead of a four-lot subdivision this should be a three-lot subdivision going with a more conventional septic system.

W. Camperlino said the other lots in the neighborhood are acre lots and his original plan was to have eight lots four and a half years ago.

It was clarified that previously the regulation did not allow an alternate sewer treatment plant. One could not base a subdivision on nonconventional systems, but fewer lots with conventional septic systems, has always been an option.

A. Urtz advised Mr. Camperlino to build his proposal for his vision for this project, taking into consideration the advice he has received regarding the concerns for the burden of administration he would have the Town bear, and then present it to the Board.

M. Palmer also said that tonight the Board does not yet have enough information to say who the designated authority would be in regards to payment, training, and liability.

W. Camperlino asked if he should come to one of the work sessions.

A. Urtz encouraged him to come to the next work session on November 21, 2013.

W. Camperlino said Jim Emerick, his engineer, would be prepared to submit the information by that time.

M. Palmer informed him that if he is going to submit septic design he would need to run that by Tim Carpenter as the reviewing engineer for the Town for approval prior to the Board's review.

R. Cook also mentioned that all systems have to be approved by the Madison County Health Department.

W. Camperlino believes that Jim Emerick has been informing all the interested parties including Madison County and Tim Carpenter.

M. Palmer said the Planning Board has not had any correspondence from Mr. Camperlino's engineers for a couple months.

R. Cook said he's been talking with Peter Church who has been asking for "tweaks" of the design that Mr. Camperlino has been presenting to the County.

M. Palmer asked W. Camperlino if he would be attending November 21, 2013 and Mr. Camperlino affirmed that he would.

Motion by Tom Pratt, seconded by Anastasia Urtz to continue the file was carried unanimously.

*William J. Camperlino - Site Plan Review - Oweria Point Drive
File # 12-873 (Dale Bowers)*

See pages 2 - 5 of these minutes. The site plan was discussed simultaneously with the subdivision application.

*Oweria Vineyards - Site Plan Review - 5276 East Lake Road
File # 13-905 (Dale Bowers)*

Peter Muserlian, applicant, and JoAnne Gagliano of EDR Companies, landscape architect, were present to represent the application. The Oweria team members that also approached the Planning Board table were Antonio Caruso, Esq.; Rob Seeley of EDR Companies; Rick Ruggber, contractor; and Gordon Stansbury, traffic engineer.

M. Palmer asked J. Gagliano to explain the current status and what they are proposing to do.

J. Gagliano displayed the overall site plan of Oweria Vineyards. She stated the Board has received information over the past month for the site plan review which included a report and architectural drawings. She said the drawings have also been submitted to John Dunkle.

J. Gagliano gave an overview of the site plan that was before the Board for the past two years. She pointed out the roadway, two ponds, a land bridge over the ponds, an orchard, garden and vines. She said they are proposing a new block of vines near the existing vines. She pointed out the tasting room, production facility and its parking, as well as, the parking for the building and tent. She next pointed out the new storage building that they received approval for in October 2013. She stated the site plan was color coded: white for existing and gray for new. She pointed out the existing footprint of the building that houses the restrooms, a kitchen and the hallway to the tent. She located the pergola, adjacent to the existing tent area and the wedding-ceremony pergola. She said they are before the Board because they are proposing to replace the existing tent structure with a building to take care of the sound issues. She said there has also been a change to the existing lighting. She said there are light fixtures mounted on wooden posts and fixtures on the columns at the entry and they have been removed from the

site and returned to the factory for a change in the lamping. She said the light source will be placed in the cap of the light which will make the source not visible.

J. Gagliano said the Board has been provided with a sound report from the engineer and she thought the Board received the response from the town-hired sound engineer.

The applicant stated there will be about 3 acres of vines in the new block and there are currently about 3 acres.

J. Gagliano said there is no additional parking and they would be utilizing the same parking lots. She said they were originally approved for a parking and driveway area to the east of the winery building and confirmed that area of parking is still proposed.

J. Langey inquired about the use of the new building.

A. Caruso stated there has been a controversy about what the winery is. He stated they are in an agricultural district through the Agriculture Department and they are operating under the Agriculture and Markets Department (hereinafter also referred to as Ag. & Markets or Ag. Dept.) rules. He said a letter was circulated that indicated the winery was not in compliance with the rules. He said they are going through the Ag. Dept. so they will tell them they are in compliance. He said they have to show they are a farm operation which is a "start-up" farm operation. He explained they are allowed a reasonable amount of time from "start-up" to become a full-fledged farm operation. He stated someone from the Ag. Dept. accurately stated they were not a farm operation but it is inaccurate to think they are not a "start-up" farm operation. He said the Ag. Dept. indicated four times they would provide a letter by today which would state they are a "start-up" farm operation. He stated they then were told they would have to go through a longer application procedure. He said they provided the proof to show they are a "start-up" farm operation which requires showing the product they are currently producing and the plans to increase the product so 51% is from their own land. He stated they are looking to purchase or lease more property off-site which is allowed under the Ag. Dept. rules. He said the product takes time to grow and they are about 4-6 years away from harvesting when the vines are planted. He said they are actively looking to purchase product that is grown so they can harvest right away. He stated they also have to submit their business plan. He said because they are in an agricultural district the town rules do not apply to them as far as for the use. He said the Town is able to work with them on their site plan review but, as far as having events at the location, the events are ruled by the Ag. Dept. He said if the Ag. Dept. does not allow an event, they can't have it. However, if it they do allow it, they can have it, but have to meet certain rules with the Ag. Dept. He reiterated they have a start-up time to work towards making

sure they are in compliance with the Ag. Dept. rules. He said, retrospectively, they should have put up the building initially. He said they need to have the events to market their product and there is a formula that is involved. He stated they do not make all their money from events and actually very little money is made from the events. He said since January 1st, they have sold 20,000 bottles of wine. He further stated they have 55 wholesale partners (liquor stores, restaurants, etc.) with whom they do business. He said they are a serious farm operation, winery and they want to become well-known and they have other marketing plans in place to become even better known. He stated their intention is to grow and become one of the best-known wines in New York State.

A. Caruso said he thought the Board had some questions about their use and how the building will be used and what they will do at the building. He further stated they want to work with the Planning Board so the Board is comfortable and the use isn't something they do not want, but they are unsure what events they will be doing because it is all in how you market the product. He said the team is happy to answer any questions the Planning Board may have.

M. Palmer asked about the difference in square footage for the tent and the new building.

J. Gagliano said the main area will be close to the tent footprint but it extends beyond to include the storage area. She referred to the architectural drawings of the building and pointed out the existing building, connection to the tent, storage area, and the addition to the side of the tent footprint.

M. Palmer looked at the drawings and said it is 50'x40' plus the chair storage. He said it was almost 50% bigger than the tent and the pergola would also increase in size.

J. Gagliano confirmed the pergola would extend beyond the current size.

A. Ferguson asked about the redesign of the building (doors, access, restrictions for the pergola, etc.)

J. Gagliano said the tent is currently open to the pergola but in the new design, thick-glazed walls are being proposed with two door openings that would have vestibules. She said the doors to the closet area would be closed and would be the same wall construction as the rest of the building to take care of the noise issue. She said there is the ability to have a walkway off the main circle and she pointed out the doors to another entry, but said they would be closed when the space is used.

P. Muserlian said the space would be called a meeting room.

A. Caruso said the events would be intended to promote the product, therefore possibly a corporate retreat.

R. Seeley said 40 people per side could fit in the meeting room.

J. Gagliano said 380 is the maximum for the whole facility.

A. Ferguson inquired if the food was prepared on site.

P. Muserlian said the caterers prepare the food at their location and bring it to the site to do the final preparation.

T. Pratt asked about the operation in terms of frequency and duration.

J. Gagliano said the site has always been year-round but previously only the tasting room was year round and the tent was removed for the winter.

P. Muserlian confirmed it would go to a year-round use, if there were events.

A. Caruso said the applicant cannot predict what it would be.

T. Pratt inquired what were they marketing.

P. Muserlian said they are promoting their wine.

A. Caruso said they would have wedding receptions, charitable functions, and parties (retirement and Christmas.) He said the event would have to match up to what the Ag. Dept. would allow and the event has to be primarily for promoting their product.

M. Palmer asked what doesn't the Ag. Dept. allow. He asked about a list and questioned the applicants if the criteria was whether or not the product is being promoted.

P. Muserlian said he has not seen any list.

J. Gagliano said, it is her understanding, it is how the event is being served.

H. Roszel asked about the duration of events; 7 days a week, week-long event, etc.

P. Muserlian said they do not know. He said it is set-up so if someone wanted to have an event at the location, they could have it.

A. Caruso said it's inside and part of the original approval was inside. He said outside they agreed to restrict the hours and that is part of the site plan approval.

M. Palmer said it was safe to assume the applicant is going to try to maximize the use of the building.

A. Ferguson said if there are no guidelines on the type of events, are there guidelines on what constituted promotion of the product.

A. Caruso said there is a formula. He further stated the Ag. Dept. continually changes their guidelines. He said there is no notice when the guidelines change and the guidelines are getting more restrictive. He stated as he understands it, the Ag. Dept. does not "grandfather in." He said the Ag. Dept. can rule them on what they can and cannot do.

A. Caruso said, it is his understanding, the formula is the amount of wine you sell and receive payment for at the function, and it has to exceed your net income from the event.

A. Ferguson inquired if predominantly Oweria wines were sold at the events or was there an open liquor license.

A. Caruso said regarding liquor, it is an open bar.

P. Muserlian said it is just their wine.

A. Urtz said they have sold 20,000 bottles of wine at approximately \$ 15.00 a bottle which is a revenue stream of \$ 300,000.00. She compared the \$ 300,000.00 to the 18 weddings. She said she knows the purse on wedding catering and consequently they are selling more catering than wine.

P. Muserlian said "not a chance."

A. Urtz said she was concerned with the data set provided and that an equation has been shown where the events are larger than the farming operation.

A. Caruso said the guidelines are applied per event. He stated the guidelines are net income. He said if the wedding reception is \$ 10,000.00 you get to deduct all the costs to determine the

profit because the Ag. Dept. understands you would not sell more wine than what the total event costs. He reiterated the catering is done by outside businesses, employees have to be paid, etc. and then the net is determined. He said the wine sales have to exceed that number or they would be in violation.

H. Roszel asked if it was allowed to bring grapes off-site to the property and then process them at the winery.

A. Caruso said absolutely. He stated this is where the rules state you are allowed to go from a "start-up" farm operation, to get to a full farm operation. He said 51% of your product is to come from your property, on-site or off-site because sometimes you have to go to an alternate location to grow a particular variety of grape. He said there are some rules and regulations about using New York grapes. He further said they have a winery/liquor license that Owerha has to comply with that has regulations on the types of grapes, etc., as does Ag. & Markets. He said they have to comply with all these rules and regulations.

A. Urtz said her understanding of the Ag. Dept. rules is the ancillary activities can be occasional in nature but they can't usurp the preeminence of the farm, itself. She said a wedding in a tent can occur occasionally, as something that goes along with a farm operation.

A. Caruso said there is nothing in the Ag. Dept. rules that he has read that says "occasional." He stated people come to the facility, they get the wine promoted to them and then they see it on the shelf.

A. Ferguson said her concern is with the original proposal, it was ancillary and complimentary to the business and now it is perceived and viewed as being the main portion of the winery. She did not know why the size and events are so integral to the operation. She thought the product could be promoted during the day by bringing in wholesalers, corporations, merchandisers, etc. She thought a lot of attention was being focused on something complimentary to the winery.

A. Caruso said that is the difference on who owns the winery and how they approach promoting their product and what they want to do. He said when the applicant was before the Board for the original building, the building was what they were allowed to do, but they ended up not doing it. He said they switched to the tent which resulted in noise. He said there would not have been noise if they just built the building, originally.

A. Urtz said the original building was the tasting facility and production-clearly a farm operation structure. She said the issue is, if what is being proposed, is a farming use and if this

substantive activity is farming. She stated there is only a limited authority that has been delegated to the Planning Board and what the applicant is proposing has to be farming.

A. Caruso said the Planning Board's definition of farming is probably different than the Ag. Dept. definition of farming, winery, and events that are allowed. He said the whole purpose of the Ag. Dept. creating districts was for a farmer do these things and events. He said the Ag. Dept. is allowing them to become a commercial farm and make money. He said Mr. Muserlian is taking the risk because the building is constructed to contain the noise and then the Ag. Dept. somehow change their rules and he can't use the building the way he wants to or he cannot comply with the event requirement.

J. Langey said the Planning Board has convened for site plan review for a winery, not an "event center." He said the Planning Board can grant approval for a winery, the events themselves are recognized under the guidelines issued by the Ag. Dept. as something that can be conducted at a winery that is protected under the farm operation umbrella. He said recently the Ag. Dept. has changed their mind and their guidelines. He said they continually look at the guidelines and how farm operations are going to be protected. He said they do have a start-up issue. He said he wanted to clarify the Planning Board can approve a site plan for a winery. He said in the past, they have recognized if you qualify as a farm operation, and it is a "start-up" there is a certain level of events that Ag. & Markets recognize and if it "trumps our laws, so be it, Ag. & Markets will tell us, back off Town, your laws don't apply with regard to certain events." He stated this is on a case-by-case basis. He said one possible outcome might be that the Planning Board approves some level of what the applicant is asking for or lesser and attaches what the Planning Board believes to be reasonable conditions and then the applicant could go to Ag. & Markets if they think the Town of Cazenovia Planning Board made a mistake and have Ag. & Markets sort it out and tell them what they can do. He said the Town has talked to Ag. & Markets lawyers and they do not want to resolve this now, they want a dispute between the Town and winery. He said the Planning Board would like for Ag. & Markets to comment on it now and tell them their thoughts and number of events. He further stated the Planning Board has an application in front of them and the applicant has a right to make the application. He said the Planning Board has a right to attach reasonable conditions to any approval if they choose to approve a site plan and the conditions have to be based on the record they have in front of them. He said if people are happy or unhappy with the decision, they can go to Ag. & Markets and complain about it. He further stated the Planning Board is now aware of the impacts caused by things that were not directly related to crushing grapes and making wine.

A. Ferguson said at the work session the Planning Board reviewed the administrative guidelines for the control of the music. She inquired if the guidelines had been clarified.

J. Gagliano had copies of the new rules.

M. Palmer said he did not receive the new rules.

J. Gagliano provided copies of the rules to the Planning Board. She said they have identified the "house rules."

M. Palmer read the proposed house rules which were:

1. Events scheduled at "The Theodora" will end by 11 p.m.
2. Music inside of "The Theodora" will end by 11 p.m.
3. Ceremonial music for weddings/events occurring at the pergola will end by 8 p.m.
4. The volume of all amplified music will be controlled by Ower's audio system.
5. All outdoor operations will be conducted during the times as currently authorized.
6. Smoking is not permitted inside of "The Theodora."
7. Road and parking lot lighting will be turned off at the earlier of 12 a.m. or approximately 1-hour after the end of any event.
8. Exterior doors will primarily remain closed while music is playing inside of "The Theodora" and will not be propped open.

J. Basic wanted clarification if the applicant had received Ag. & Markets approval as a farm operation, at this time. She said a plan is being presented under the guise of Ag. & Markets, but there is not approval under the Ag. & Markets guidelines yet.

A. Caruso said it is a "catch 22." He said they are an Ag. & Markets "start-up" farm operation. He said there is not designation for a "start-up" farm operation. He said the only way to get a letter from Ag. & Markets that says they actually are a farm operation is for the Town to tell the applicant some unreasonable restriction and then the applicant would have to file an application stating the Town is unreasonable and then they will determine whether they are or aren't. He stated they have called Ag. & Markets and requested a letter that they are a "start-up" farm operation. He said tomorrow he is submitting a further application based on what he was told from Ag. & Markets. He asked the counsel for the Town about an unreasonable restriction.

J. Langey said a notice of violation was issued. He thought the violation was something Ag. & Markets could review.

A. Caruso said Ag. & Markets is not set-up to say the winery is a "start-up" farm operation and issue a certificate. He explained they are set up so you are a "start-up" farm, you comply with the rules and go ahead and do whatever you are doing. He further stated if there is a problem, the applicant would go to Ag. & Markets tell them and then Ag. & Markets would look at them again and let the applicant know. He said the Board has the right to know if the winery is a "start-up" farm operation, as well as the applicants have a right to know.

M. Palmer asked who the burden of proof is on to determine whether or not they are an operation.

A. Caruso said the proof is on the applicant and they need to show Ag. & Markets what they are doing and what the plans are and how they intend to go from a farm operation of 4 acres of vines on-site and vines off-site to end up with 51% of their production. He said they have to show they have 51% of their production and when they reach that level they are a farm operation.

A. Caruso said the timeframe is a reasonable amount of time. He said it takes 4-6 years to produce the grapes and Ag. & Markets states you have a reasonable amount of time to be a "start-up."

A. Urtz asked about the revenue stream on the farm crops vs. the event proceeds and presumed those figures had to be presented to Ag. & Markets so they would have an idea if the ancillary uses are, in fact, promotional.

A. Caruso said the components have to be kept separate; the start-up farm operation portion and the event portion has to be an approved event for promotion of their wine product.

A. Urtz asked if such a document was produced to show to the State.

A. Caruso said they would give Ag. & Markets whatever document they want to get a letter back from them. He said such a document has not been produced.

A. Urtz asked if a showing had been done to make sure they meet that test.

A. Caruso said they do not have to meet it right now because they are a "start-up" farm operation.

A. Urtz wondered if there was such a document she could FOIL.

M. Palmer generalized and said when the process began the Planning Board was behind the winery operation. He said they were supportive of it and worked with the applicant the past three years and felt it would be a good thing for the community. He further stated it was never anticipated the outcome of the event center and the impact on the neighborhood. He said as it has moved forward they have continually supported the winery, last month they undesirably segmented the approval process so the barn could start to be constructed for the wine storage and tractors. He said they are not in support of the event center, at all. He said they are trading a seasonal tent for a larger year round building which would have a potential for events 40-50 weekends of the year, possibly two nights a week. He stated he appreciates the fact the applicant is willing to spend the money and he has done a nice job at the site. He further said he appreciates the fact he has hired an acoustical engineer to make sure the building is as quiet as possible. He said "I just don't buy, that this is part of the winery." He said without firm direction from Ag. & Markets, he can't support it. He said if Ag. & Markets comes in and tells them something different, then they would have to take direction from them. He said they can only approve a winery and he felt it was a big enough departure that he does not see how it supports wine sales.

A. Urtz stated she agreed with the Chairman. She also stated she does not think the Town Board has delegated to the Planning Board to take action on this application because it is not a farming use. She said they cannot take action on something that is not within the zoning law. She felt the applicants were seeking a use variance.

M. Palmer said they want to see something in writing from Ag. & Markets with direction and their stance. He said until then, the applicant has to prove it to the Planning Board.

A. Caruso said they are trying to replace the tent with a building to cure the noise problem. He said whether they can or cannot have an event is going to be through the Ag. Dept. He said if the Ag. Dept. came back and said they are not a "start-up" farm operation, they would need to apply for a use variance.

R. Cook confirmed that the Planning Board can approve wineries.

M. Palmer said conditions could be applied such as hours of operation, number of events, etc.

R. Cook stated it would be under a special use permit.

A. Urtz said an events center is not a special use.

A. Caruso said they have the protection to build the building if they are a "start-up" farm operation to build an event building. He said if it is too big, they are willing to talk to the Planning Board to make a determination. He said the Planning Board can tell them what to do with the building and they will consider it and try to work it out.

J. Gagliano said they want to hear what the Planning Board has to say, based on an assumption, they are going to get the Ag. Dept. approval.

A. Caruso said if they have a right to do the building, the applicant does not want next season to come around and the tent has to go back up. He said they understand if they do not get the Ag. Dept. approval, they have a problem. He said the best approach to serve all parties is to look at the structure and discuss what the Planning Board has concerns about. He said then they could get an idea of what the Planning Board would approve.

M. Palmer said he does not think the Planning Board should approve until they know if the Ag. & Markets approval exists or not. He said he thought the building should be no bigger than the tent was before, limit on the number of events per year, the hours of operation, an acceptable sound level at the nearest property line. He thought it was going in the wrong direction in terms of number of events, number of people and increased traffic. He said if they do get approval, he thought the items he mentioned would be reasonable to cause the least amount of interference in the neighborhood.

A. Urtz said the overflow parking is not overflow parking because it was associated with a whole different site plan. She stated they cannot "bootstrap" it into this project. She thought the building, to fall within a farming use, should have features that involve wine production.

A. Caruso did not understand why the building had to have a farming purpose when it can be used for an event under the Ag. Dept. rules and that is fully allowed.

M. Palmer said he thinks that is going to be determined by the Ag. & Markets Dept.

P. Muserlian said the idea behind what they are doing here is to develop agri-tourism and make this a winery where people want to come. He stated a lot of time and energy has been spent on trying to figure it out. He further said one of the things that is needed is a facility where the product can be promoted. He said Ag. & Markets states you can have weddings, meetings, and do just about anything as long as you are promoting your wine. He said that is what this facility is; it has a farm use for agri-tourism. He stated they will get the Planning Board what they need so they understand and they will approve this. He said it might not be the same configuration as it

is today and they would like input from the Planning Board on what changes the Board would like to see so they can move forward.

M. Palmer said the size of the building, number of events, noise level, and duration of events.

A. Ferguson said she thought the house rules should be "beefed up." She said there is no guarantee of who is responsible to administer the rules or any assurance that the rules will be built into the contracts with potential clients.

M. Palmer said the rules should be part of the final approval, if and when they get to that stage. He said if any additional contracts are to be issued, the rules should be included.

M. Palmer asked J. Dunkle if there were any stormwater management issues or water and septic issues.

J. Dunkle said the applicant has proposed mitigation for the increase in impervious surfaces and there is enough space on site to manage stormwater uses.

P. Muserlian said the engineer for the Town hired a sound consultant and the two sound consultants reviewed the building assembly and the consultants "were on the same page." He stated once the building is built, the sound consultants will come back to inspect and make sure it is built, in accordance with the specs that were put together. He said the building should handle the noise objections of the neighbors.

Gordon Stansbury, traffic engineer, said he did a study in 2010 and it did not include a review of sight distance because they had a letter from Madison County D.O.T. where they completed a review and there was adequate sight distance. He stated they did not focus on that issue at the time, however, this past week he has been at the site and did north and south sight distance measurements. He said, today, there is adequate sight distance to the south and clearly not adequate sight distance to the north. He stated you can see approximately 250' (242') and the large tree on the north corner, as well as, the mound in front of it need to be cut back to get the appropriate sight distance. He said he has provided a letter with the recommendations with the required distances.

M. Palmer inquired if we would receive a copy for the file.

A copy of the traffic engineer letter was added to the file.

J. Dunkle said if there is going to be an increase in use, the traffic conditions would need to be modified.

G. Stansbury said he looked at the original study in comparison to the projected use; the original study evaluated the events at 375 people. He stated, from what he has heard, the events taking place are actually smaller than what was perceived as any maximum event. He concluded that he was comfortable with the study that was originally done and it still applies at this time.

Motion by Anne Ferguson, seconded by Tom Pratt to open the public hearing was carried unanimously.

M. Palmer went over the basic rules for the public hearing and stated the public hearing is an opportunity for people to express their concerns to the Planning Board. He stated the questions and comments will be recorded and the applicant will be given an opportunity to respond to the questions and comments which will be discussed at the next meeting.

Robert Cowan, neighbor at 5329 East Lake Road, read his November 6, 2013 letter and submitted it to the Planning Board in opposition to the proposed building. He stated his concerns which included zoning violations for the type of use being conducted, noise, and lighting.

Deborah Shephard-Moynihan, wanted the construction of the building to be halted and there to be conversations with Ag & Markets and a determination to be made if based on the facts and numbers if weddings can occur and how many. She also shared her research which included discussions with Ag. & Markets, wedding catering services, and wineries.

Berta Keeler, neighbor at 5237 East Lake Road, stated she was in favor of the vineyard with the original 2011 plans until they started having the events. She read her list of questions dated November 7, 2013 and submitted it to the Planning Board. She stated her opposition to the "new banquet hall" and wanted the owners to be encouraged to continue with their vineyard venture in a way that helps Cazenovia and is not a public annoyance.

Brian Wendell, neighbor at 5271 East Lake Road, read his November 7, 2013 letter which also included an email dated August 1, 2013 from Robert Somers of N.Y.S. Agriculture & Markets. He submitted his letter to the Planning Board. He expressed concerns with the noise, tent, hours of operation, lights and site plan violations. He wanted these issues to be addressed before any more events and weddings are allowed.

Mark Costa, neighbor at 1710 North Lake Road, expressed concerns with the noise and lights. He did not feel that Ag. & Markets has given permission and the Town should not just "roll over" because Ag. & Markets may protect them. He asked the Planning Board to protect the neighborhood and restore some peace and tranquility to it.

Bruce Race, neighbor at 5320 East Lake Road, read his November 7, 2013 letter and submitted it to the Planning Board. He stated he was in opposition to Owerá Vineyards building a permanent event center building. He expressed his concerns with lighting, bar location, and non-compliance with local ordinances.

Charles Woods, neighbor at 5211 East Lake Road, submitted his letter to the Planning Board. He stated his opposition to an expanded structure because the noise (rhythmic bass) could become worse.

Gail Woods, neighbor at 5211 East Lake Road, realized this wedding/noise conflict is not just local, it is happening across the country and State. She suggested "take time out" because what is done here could expand to other businesses under Ag. & Markets. She supports agriculture but said this location may not be the best place. She felt the community should come together and the information from the State and Town should be reviewed to see what is good for the people.

Maggie Borio, neighbor at 5262 East Lake Road, said she was in support of the building and thought a building would be better than a tent. She said when there were some events with a band, in the production building; she did not hear them. She said Owerá supports a lot of people including local restaurants and shops and thinks it has brought people to the community.

Colleen Stevens, a neighbor at 5330 Mark Lane, submitted her letter dated November 7, 2013 and said she had nothing new to add to the previous comments.

David Wallace, a neighbor at 5251 Owerá Point, submitted his letter and said everyone has covered all the issues.

M. Palmer asked for a motion to continue the public hearing because there are a lot of issues that have not been resolved as a Planning Board that the public should be aware of before they close the public hearing.

Motion by Hugh Roszel, seconded by Tom Pratt to continue the public hearing was carried unanimously.

M. Palmer said the file should be continued, at this point because a lot of comments have been made from the Planning Board and the public. He further stated the Planning Board will have to work with Ag. & Markets on the issues that have been heard at this meeting. He wanted the applicants to address the issues that have been raised and whether or not it is incumbent on the

applicant or the Town to approach Ag. & Markets. He further stated he thought that was going to be a real pivotal part of the approval.

A. Caruso asked for the letters to be emailed to him. He further stated they will keep the Planning Board informed of an Ag. Dept. approval and will come to the work session to address the issues.

Motion by Tom Pratt, seconded by Hugh Roszel to continue the file was carried unanimously.

*Charles & Julie Gordon - Minor Subdivision (3) - 4520 Route 92
File # 13-906 (Anne Ferguson)*

David Vredenburg was present to represent the application.

A. Ferguson recalled that he was going to redo the boundaries to reflect the conservation subdivision.

D. Vredenburg distributed maps to show that it was basically the same layout with three lots following the tree line, still trying to preserve the three and a half acre parcel the Gordons want to keep with the house, maintaining a five acre lot with the cottage, and the remaining three and a half acre vacant lot in between. He has not yet completed all the details.

A. Ferguson inquired about another grove of evergreens.

D. Vredenburg said he has yet to incorporate some of the things they want to see on the final map, mentioning an intermittent stream as well.

A. Ferguson asked if he wanted to continue the file.

D. Vredenburg affirmed asking for any additional comments.

J. Basic mentioned the "no build zones ."

Some other vegetative features and the 15 percent slope were mentioned.

J. Langey suggested calling it a preservation area using best management for forestry rather than a "no build zone" for beneficial maintenance to which Don Ferlow agreed.

M. Palmer asked who monitors that.

J. Langey said to put it on the map and have a recordable instrument that would in essence say, if need be, the Town could enforce it.

J. Basic stated that if it is designated on the survey as a preservation area, prospective purchasers will be aware that they can't clear cut and of the maintenance required.

M. Palmer asked if a perc test had been done yet.

D. Vredenburg said no.

J. Dunkle asked if the final subdivision plan will include building areas in grading or will he look at each lot on an individual basis. He wants to be sure existing drainage patterns will be maintained especially if there is a stream that flows and takes drainage offsite. He asked if this is something to be addressed on this subdivision plan or on an individual lot basis.

R. Cook said based on this being a new subdivision and under current regulations any kind of activity would have to come back for site plan approval for building locations and drainage.

T. Pratt said we would want to get that on the plan so people know what they are.

J. Dunkle wondered about having an easement if the stream is draining over someone else's property.

D. Vredenburg said his intention was to show the watercourse.

J. Dunkle said that would be a reminder to us that we would want to have grading plans and drainage plans for each lot.

There was some discussion if it should be an easement, or some other protection of that drainage area so no one could disturb the flow of the water.

Motion by Jennifer Basic, seconded by Hugh Roszel to continue the file was carried unanimously.

RECOMMENDATIONS TO THE ZONING BOARD OF APPEALS

NONE

INFORMAL

Ruddy, Patrick - Possible Site Plan Review - 2420 Route 20 East

Patrick Ruddy was present to discuss a possible site plan review.

P. Ruddy explained he bought the property known as "The Maples" in May of 2012 and his father-in-law wants to build a house and then in the future they would like to build a distillery and possibly a café. He is working with a builder now and is in the process of getting blueprints.

M. Palmer asked if he was aware of the zoning requirements and restrictions there.

P. Ruddy said they have been looking into it.

M. Palmer asked if it was zoned commercial non-retail.

R. Cook confirmed that it is.

P. Ruddy said some of it is also zoned agriculture which the activity would be.

P. Ruddy said they bought it in two parcels but they would like to get it back to a working farm and then they would be able to add a second residence as a farm-help house.

Some discussion followed about the current property lines to gain an understanding of why and how the subdivision was previously done.

P. Ruddy asked what things need to be done now.

M. Palmer said a perc test would need to be done somewhere in the area of the building. He further stated a site plan should be developed to show where the house is going to be, the driveway, any accessory buildings, how close they are going to be to the lot line, special characteristics of the land, elevations, exterior of the house, and the location of the well which must meet the Madison County health regulations.

P. Ruddy asked what things they should look into regarding the distillery.

M. Palmer said they would want to know what the building looks like, access, parking, lighting, sound, signage, the hours of operation, what events they anticipate and how many people they would expect to attend.

Some discussion of annexation followed.

D. Ferlow mentioned that there are two circles of potential archeology resources that may come into the property which the new SEQRA forms address.

J. Langey said this can be checked by going onto the DEC website and inputting one's address.

M. Palmer advised Mr. Ruddy to locate those archeological areas on his map and if he wanted to do any disturbance in that area he would have to do a Phase One Archeological Review.

J. Langey advised him to contact the New York State Historic Preservation Office to get in front of this issue which the Board will have to address.

J. Dunkle told him that the New York State Historic Preservation Office will make a quick determination if they have a concern, and if they do, there will be several steps that will have to be taken.

CPW, LLC - Possible Subdivision - 2890 West Lake Road

David Vredenburg was present to represent the owners of this property to discuss a possible subdivision.

D. Vredenburg stated that there are 11 1/2 to 12 acres on this West Lake Road property with a little over 500 feet of lake frontage and 468 feet of road frontage. Right now there is the main structure house, a bath house building down below, and a little storage building on the lake in the northeast corner. It has a 20 foot right-of-way ingress and egress to service the lower property. What his client wants to do, if this qualifies as a conservation subdivision, is to be able to create a lot around the house and sell it, and then he would like to build a house in the lower level near the lake. It is currently in two tax map parcels with the same ownership and one deed.

M. Palmer said this subdivision would create a two acre parcel with the existing house, a 5.4 acre parcel with the cottage area, and a 4.4 acre parcel for the undeveloped area.

There was some discussion about the way the land was parceled and how it appears on the deed because there are two tax map numbers.

J. Langey asked if this is how the Planning Board would want to do a conservation subdivision.

Discussion about how to reconfigure the lines followed.

D. Vredenburg said his client may eventually decide to sell the two acre parcel and retain the rest. He said because he is working through a real estate person, he doesn't really know the customer's full intentions.

J. Basic said that dividing this parcel into two properties would be more favorable to the Board.

M. Palmer said they need to know the status of that other lot, so they can determine if that is an existing lot and already buildable.

M. Palmer clarified that if they do a conservation subdivision they can allow him a parcel smaller than three acres to sell with the house.

M. Palmer said he certainly has enough property to do what he wants to do. He may need to adjust the configuration of the lot lines. Whether the conservation subdivision is advantageous to the owner - conditions can be put on the subdivision without going through a conservation subdivision, or whether it is advantageous to the Planning Board is in question.

J. Langey said a certain number of acres requires a conservation analysis. This exercise must be performed by the applicant.

M. Palmer reiterated that the conservation analysis does need to be performed.

More discussion about the way to divide the lots followed.

D. Vredenburg said he would go back through the real estate agent and then will come back to the Board.

Motion by Hugh Roszel, seconded by Jen Basic to close the meeting was carried unanimously at 10:12 p.m.

Connie Sunderman - Planning Board Secretary

Sue Wightman - Office Secretary

November 9, 2013