

# Town of Cazenovia Planning Board

## Meeting Minutes

December 5, 2013

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

Members Absent:

Others Present: John Langey, Esq.; John Dunkle; Don Ferlow; Kristi Andersen; Peter Muserlian; Nancy Muserlian; JoAnne Gagliano; Antonio Caruso; Chris Montante; Rick Ruggber; Kyle Williams; William Camperlino; James Emerick; Matt Napierala; Tim Carpenter; David Vredenburg; Matt Vredenburg; James Bruno; Jason Emerson; Linda Siracuse; Deb Shephard-Moynihan; Robert Cowan; Brian Keeler; Roberta Keeler; Mark Costa; John Henneberg

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

M. Palmer asked for a motion to approve or amend the November meeting minutes.

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

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The deadline to be on the next meeting agenda is December 18, 2013.

The next work session is December 19, 2013. (a week earlier due to Christmas being the day before.)

The next regularly scheduled meeting is Thursday, January 2, 2014.

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## HEARINGS

### *Owera 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 Owera team members that also approached the Planning Board table were Antonio Caruso, Esq.; Rick Ruggber, contractor; and Chris Montante.

M. Palmer asked the applicant if the building has been scaled back since the last regular meeting.

J. Gagliano confirmed. She displayed the overall site plan of Owera Vineyards. She said they are before the Board for site plan review. She summarized the various documents the Planning Board has received which included the application with SEQRA, site plans, a set of architectural drawings, a letter from Agriculture and Markets Department (hereinafter also referred to as Ag. & Markets or Ag. Dept), a traffic assessment review and sight distance review from the traffic engineer, a noise assessment and noise barrier report from the noise expert [Robert Andres], and optic cut sheets for the lighting modification. She pointed out the existing entrance and said Don Ferlow had expressed a need to increase the sight distance at the entrance. She said they had their traffic engineer look at the site and he recommended removing the large failing Sugar Maple and lower the grade which would increase the sight distance and make it more compliant. She stated they would do both recommendations. She reviewed the overall site plan, starting at the entrance on East Lake Road and pointed out the various items which included:

- Two ponds
- Existing orchard on both sides of the drive
- Existing 3.18 acres of vines that are currently there
- Two proposed vineyard expansions, near the drive coming in
- Septic system location
- Stormwater management area
- Garden
- Utility barn and gravel yard area behind the barn
- Existing production facility which houses the tasting room
- Production facility parking area and bluestone sidewalks
- Wells
- Small wooden pavilion where the ceremonies are held
- Bluestone pathways leading to the pavilion
- Parking area consisting of 104 spaces

- Dumpster enclosure

She stated the building was the subject of the discussion last week. She explained the building by components: the rectangle with vestibule from the driveway is the existing restroom and kitchen building which is 1500 sq. ft. and there would be no changes to that section. She said there is currently a tent structure and they are proposing a solid building with noise barriers. She said there is a small 664 sq. ft. connector between the two which houses the HVAC on the rooftop. She said this area is not part of the reception area. She said the rectangular building is very similar in size to the entertainment tent and the appendage on the side has been removed and the rectangular building is now 5,244 sq. ft. She said adjacent to the building is a pump room, which is for the sprinkler system to meet building code. She said on the backend of the building is a storage area for chairs and tables but will also serve as an additional noise barrier. She stated all the walls have a barrier including this room which will serve as another buffer. She located the pergola on the map and said the area was bluestone with a wooden pergola. She said the rest of the project uphill was on the original approval drawings and by Planning Board request they have removed the building in that area.

The Board wanted to see the architectural drawings.

J. Gagliano displayed the stormwater management and bioretention drawing. She displayed the lighting cut sheet for the lighting replacement where the bulb is inside of the hood with reduced wattage. She said the lights are pendants and are being rebuilt. She showed the detail of the proposed building on MacKnight Architects drawing A-101 dated 11/14/13 and pointed out the interior walls, vestibules, existing restrooms, bride room and kitchen, entry court, dry storage area, and connector unit. She then referred to the inside of the main building and pointed out the doors, vestibules and said there is fixed glazing. She said the existing area has a double door to act as a vestibule and there would be no change to the existing building section. She confirmed that area currently is not soundproof. She pointed out the sound-proofed areas which were notated by a heavy-dashed line on the legend of drawing A-101. She also showed the men & women bathrooms to accommodate building codes, the existing pergola, pergola extension and the vestibule which accesses the pergola. She said the pergola is 22  $\frac{1}{2}$ ' away from the exterior wall.

P. Muserlian said most of the food is prepared off-site and reheated by the caterers. He confirmed there would not be a sound-spill problem in that area.

J. Gagliano said caterers would use the side door, not the main door. She confirmed the two thinner walls on the drawing labeled as "existing wall to remain" are not sound-rated.

P. Muserlian said the envelope is sound-rated on the interior.

J. Gagliano referred to the elevations from various angles and pointed out the portico, vestibules, connector, and the main building and existing pergola and glazing. She said the material matches the material of the other building. She confirmed the windows are fixed. She pointed out the shed-roof attachment and said the storage room is across the end of the building.

J. Gagliano said the existing bathroom windows are not fixed.

P. Muserlian said the kitchen windows are also not fixed, but the area is climate-controlled.

J. Gagliano displayed the architecturals and pointed out the scissor-truss cross-section roof, sound engineer information details, and wall types.

T. Pratt asked about the acoustical details.

M. Palmer said the Town's sound engineer, Kyle Williams of Barton & Loguidice was at the meeting tonight.

K. Williams said the rating of the wall and construction materials is classified as an S.T.C. (Sound Transmission Class). He stated the applicant's consultant determined the building would need a 60 STC rating to prevent noise impacts off-site. He said the applicant has proposed a number of materials with wall and ceiling construction that meets that STC requirement. He said in the consultant's noise study they have provided cut sheets of the materials that will be used. He said on the exterior they are using 5/8" CDX plywood, 2"x6" wood studs, instead of smaller 2"x4" studs. The studs will be staggered which will increase the sound attenuation rates. He stated they are proposing a sound barrier within the wall with wool insulation, and furring channels and the insulation is 6" thick mineral wool insulation. The applicant is also proposing 5/8" Gypsum Board with a sound dampening glue to attach that will reduce the noise and vibration through the wall. He stated this construction meets the STC exceeding 60 decibels (dB). He summarized that this mathematic value means the inside noise will be reduced by 60 dB to the exterior of the building. He said the material is tested but the combined effect is mathematic.

J. Basic asked if sound will be able to escape the building.

K. Williams said there will be some sound because nothing can be insulated that much, that no sound will exit a building. He stated it dampens it enough where there should not be an issue off

site. He gave the Board a few examples: a quiet room, such as this meeting room, is around 50 dB; a bulldozer operating at 50' away is 85 dB; a loud concert is 90-100 dB.

Hugh Roszel asked the decibel limit if hypothetically it was 90-95 dB inside.

K. Williams said it would be reduced by 60 dB, therefore, it would be 30-35 dB right at the exterior of the building. He explained the proposed barrier supplies a 60 dB reduction and as you move further from the source (building) the further it attenuates at a rate of approx. 6 dB decrease per doubling of the distance. (i.e., 100' of the building - 6 dB less; 200' - 12 dB less; 400' - 18 dB less, etc.)

T. Pratt asked about the STC rating of the windows.

K. Williams said he would have to double-check against the report, but he thought they were around 30. He stated windows are typically less insulated than walls would be. He said the roof is similar construction to the walls.

J. Gagliano stated the nearest property line was 320'.

K. Williams was asked about vibration effect versus noise effect. He said the low frequency noise levels from bass where you get the vibration from, has been taken into account from the noise report, through the construction materials. He said if you reduce the noise level, you will not feel the vibration from the bass.

J. Basic inquired if you can make a building any decibel sound proof that you want.

K. Williams said not practically. He said general construction is around 35-40 dB, therefore this building is significantly better than general construction.

J. Basic asked the sound expert to research what the highest decibel level is for a building to be sound-proofed and not incur much more additional cost.

K. Williams said generally the thicker the wall, the more sound-proof the building. He gave another example and said a quiet, rural farmland setting is 40-45 dB and would go down to about 35 dB at night.

A. Caruso said the applicants were told that this building is on the forefront of buildings for sound suppression. He said they were looking for "68 or so" at the property lines and they want

to be way below that but they did not want to say it could perform at a certain level. He said the house rules would state the doors have to be closed. He said they have to be reasonable and he does not think they can say they will be 35 at the property line. He said the maximum sound at the peak would be 68 dB.

M. Palmer asked the sound expert for the Town if there were any techniques that had been overlooked for sound attenuation.

K. Williams said he did not have any additional suggestions and he concurred with the construction proposed. He said the building does have to be constructed correctly to perform properly. He suggested an inspection program and recommended a post-construction monitoring be conducted to insure the levels are met.

A. Ferguson asked about the noise from people "partying" on the pergola outside.

J. Gagliano said the Planning Board asked for the bar to be discontinued as soon as the ceremony occurs. She said the outside bar will only be available up until the reception begins.

P. Muserlian said there are no chairs, only high-top tables at the pergola. He said once the ceremony is over, probably until 6:15 and some may be later, he said visitors can have their first drink and when the reception starts everyone will go inside and the outside bar will be closed down and the inside bars will be open. He said it is a portable bar.

M. Palmer asked about the noise level for 30-40 people on the veranda.

K. Williams said rowdy conversation is probably in the decibel range of 60 dB.

P. Muserlian confirmed there is not a rule that you cannot smoke on the veranda.

K. Williams restated there is a 6 dB reduction for every doubling of the distance.

The Board briefly discussed the windows that have an STC rating of 30-35 dB and if that affects the overall rating of the building which was factored in for wall square footage in proportion to window square footage.

A. Urtz asked about the activity on the veranda at about 65 dB coupled with the noise level of 35 dB from inside the building and how does that affect the nearest property line.

P. Muserlian said with no activity at the site the readings were at 55-58 dB with wind factored in and the level increased as he got closer to the traffic on the road.

K. Williams said at nighttime, away from the road, closest to the nearest residence would be closer to the 40 range. He said D.E.C. has a guidance document out on noise where there are certain decibels levels over background that a noise source contributes that they project would cause a nuisance. He said any increase within 3 decibels is a noticeable increase. He said, hypothetically, if the background level is 40 and the noise from the source is also 40, it does not add up to 80, he said you actually add 3 decibels if it is the same. He said at this setting with people talking it is about 50 dB and a person can yell at about 110 dB.

J. Basic had a concern with the one barrier not closing and pointed it on the MacKnight Architects drawing labeled A-101 and said she wanted to see the barrier continued so the sound does not escape.

R. Rugger said they could treat that area, the wall would stay 6" but they could add the resilient clips, the Homasote board, glue, channels and everything that goes with it. He said the doors would stay the same but would have weather-stripping and sweeps at the bottom.

K. Williams said he would research if the different grades of mineral wool would contain the sound better.

A. Ferguson asked if there was an internal noise level maximum.

K. Williams stated in general the maximum is approx. 140 dB, without causing physical harm.

A. Caruso said 95 dB is very loud. He said the most important part is the noise at the boundary line. He said there will be house rules, to include the house will control the sound and a house person will be designated to control this at each event to ensure it is followed. He said they will add this to the contracts with clients and the bands will also sign a contract.

M. Palmer said the applicants will agree to a maximum decibel level at the property line, which has not been established yet. He said, assuming the project moves forward, the Planning Board will require that post-construction sampling is done so it is known what has been agreed upon has been met.

K. Williams said based on the noise report, there are absorbing materials within the building.

A. Caruso said the building is of the size so the noise will be enjoyable for the people inside and there are things that can be added to the corners to reduce the sound.

R. Ruggber said the floor is on concrete.

K. Williams said as long as the exterior walls perform that is the ultimate but there are some methods that can be put on the floors.

M. Palmer asked counsel to explain the communication that has transpired between Ag. & Markets, the counsel for the Town and the applicant. He said the Planning Board received a letter a few weeks ago from Ag. & Markets.

J. Langey said since the last public hearing there has been extensive communication between the Ag. & Markets attorneys, and the person at Ag. & Markets who is the head of making decisions on different farm marketing practices. He said he also had a conference call with the applicant's attorney and Ag. & Markets. He said the Planning Board has been inquiring about the status of a farm operation or "start-up" farm operation. He said Ag. & Markets made their first response in writing at the end of November when the Board received a letter regarding the status which has been added to the file. He stated once the letter was received, he called Ag. & Markets and asked specifically if the letter meant that at this point in time the winery is the equivalent of a "start-up" farm operation. He said Ag. & Markets response was "yes" and that is how the letter should be interpreted. He said now the Board knows that part of the application in front of them is an operation that has the status of a "start-up" farm operation. He said, next, there are certain goals and achievements that have to meet by the winery. He said, what this means for the Planning Board is Ag. & Markets has guidelines if they are a farm operation or "start-up" farm operation. He said Ag. & Markets acknowledges that certain events can be part of a farm operation's legitimate marketing strategy. He stated, from this point, Ag. & Markets has given it back to the Planning Board and the applicant and said these parties need to work out what are the events and how they are going to use the property within the realm of a "start-up" operation. He said Ag. & Markets says if the Planning Board and applicants get in a dispute, then they would step in and give a specific answer. He summarized by stating the two parties will have to determine the parameters. He said the applicants submitted an application to Ag. & Markets and there is a copy in the file. He said it includes a lot of information about their sales and business operation and it is a public document. He said Ag. & Markets said the applicants should come to the Planning Board and have a discussion with the Planning Board and make their proposal on how they plan to conduct their operations and the Planning Board, at the first level, can make some decisions on it and if the applicant or anyone else is dissatisfied, they can appeal it to Ag. & Markets and their department will make the decision. He stated nobody around the table knows



what that final decision will be which is on a case-by-case basis. He said their guidance says they can have events, but it does not say how many. Wedding receptions have been recognized as a legitimate marketing strategy but it is up to the applicant to solidify it and show that it is part of their marketing strategy. He further stated they have a number of years to achieve their goals and they can be reviewed from time-to-time.

M. Palmer said, from his perspective, the onus has been put on the Planning Board to negotiate with the applicant and come up with a plan that is going to respect the neighbors and allow the applicant to proceed with their business plan. He said he has been doing some research, making inquiries and taking into account the public comments and has drafted a list of conditions that would be necessary to protect the neighborhood. He read the "draft" conditions which were:

- Sight distance
- Lighting, particularly driveway lighting
- Noise
  - Decibel limit
  - Building materials
  - Construction inspection
  - Post-construction monitoring
- House rules
- Number of events
  - Number of weekend events vs. weekday events
  - Summer (April-Sept.) events vs. winter (Oct.-March) events
  - 1 event/day
  - Not-for-profit fundraisers and how many
- Activities for school nights and when it should stop
- Modifications or expansions to their building/business plan would have to come back to the Planning Board
- Ceremonial music at wedding ceremonies
  - Amplified or acoustic
  - When it should end
- Keep the Planning Board up-to-date on their business plan and a year-by-year schedule with documentation

He said he came up with this list from conversations with the Boards, attorneys, engineers, and applicants. At this point, the Board went back through the list to discuss each condition.

#### Sight Distance

M. Palmer said if the tree comes down and grade issue is corrected that Don Ferlow had concerns with, then that issue has been corrected.

#### Lighting

M. Palmer said once the new lighting is in place, it will need to be verified that the wattage meets the "dark skies" requirement. It was mentioned that the Village has a light meter and Roger Cook has borrowed it in the past.

J. Gagliano said the company has certified the lights are night sky compliant.

M. Palmer said the Board would also want to know that the lights leading up the road are turned off when the facility is not open, as well as, they are off at a reasonable time after the events.

P. Muserlian said they have put in a 7-day timer recently.

#### Noise

M. Palmer said probably the biggest complaint from the neighbors has been the noise levels. He said there is going to be a building that will be a significant improvement over the tent. He said the threshold decibel level is going to have to be established for the nearest property line and he was unsure what that number should be.

A. Caruso said 68 dB maximum should be easily attainable.

K. Williams said he thought that 68 dB was too loud.

A. Caruso said 68 would be peak and confirmed that is the target they have been using at the property line.

K. Williams said the Planning Board should also establish an average or LAQ limit at the property line which would take into account all the periods of noise.

P. Muserlian said the time to probably do it, would be at post-construction time.

K. Williams said the Town does not have a specific decibel limit in their Code.

J. Langey said he has done a lot of research in the past few months and he has prepared a draft noise ordinance and at this time which has only been circulated around the Town Board. He said

most ordinances are 55-65 dB at the property line. He agreed that peak and average are good factors to take into consideration

K. Williams said DEC recommends a level of 55 dB average in their noise guidance document for SEQRA as a level that does not cause any intrusion. He said the peaks will be short bursts and if you have multiple peaks it will drive up the LAQ.

A. Caruso said the number has to be reasonable so they do not create something they cannot perform at and suggested the two noise experts talk.

K. Williams said anything over 10 dB additional to your typical levels for LAQ, is considered a doubling to what you are hearing.

A. Ferguson said she would like the measurement to be the nearest property line as the benchmark.

J. Dunkle said he thinks it is important to establish the ambient noise levels at the property lines and base the limits on some relationship to the ambient levels. He said the base line ambient is what the community hears when there is no event at all.

#### House Rules

M. Palmer said the Board has reviewed some of the house rules.

A. Caruso said he thought they felt "they were going down a path that really did not make a lot of sense." He stated he told his client to make sure the Planning Board really wants the house rules or is the Board really just looking for the noise level at the boundary line. He said if there are some house rules the Planning Board would like, they are happy to provide the Board with reasonable rules.

A. Ferguson said the rules were pretty skinny so if they could "flush it out a little bit."

The Board agreed that they wanted to see the hours of operation, mechanisms to control the sound, how they manage the sound either through a contractual relationship with clients or a house manager and how will they enforce the rules.

A. Caruso said they can start with a set of rules, but they may change once events start.

M. Palmer reiterated the rules should include the following: what time the event is over, management controls the volume, band location, doors not to be blocked open. He stated it should be dictated that the house rules are part of the contract so people understand what they are signing-up for.

#### Event Times

M. Palmer said the Board should discuss when events will end on weeknights and weekends. He said the Board feels 10 p.m. is the appropriate time to end the events.

#### Weekend Events

M. Palmer said for weekend events he split it between 25 summer and 25 winter events.

#### Weekday Events

M. Palmer said for weekday events he split it up between 20 summer and 20 winter events. He said weekend events should end by 10:00 p.m. and weekday events should end by 6:00 p.m. He stated one event per day.

#### Not-for-profit

M. Palmer said he did not want to discourage the vineyard from having charitable events. He was unsure at this point if a limit should be put on those events and it would need to be discussed

#### School Nights

M. Palmer said school nights are defined as whenever there is public school the next day. He said not every Sunday night is a school night because there are some holidays that are on Monday. He said there have been comments and complaints the noise is interfering with kids study habits and they do not want to see this continue. He thought 6:00 p.m. was a reasonable time.

#### Modifications/expansions (Planning Board approval)

M. Palmer said any modifications or expansions/changes would need to come back before the Planning Board.

J. Langey concurred.

#### Ceremonial music

M. Palmer said it is typical for music (acoustic) to play just before, during and/or after the ceremony.

A. Ferguson thought this could be put in the rules. She said it could say the music outside ends when the ceremony ends or shortly thereafter.

Demonstrate meeting NYS Ag. & Market Goals

M. Palmer said the applicants should have a plan that they are meeting the goals that Ag. & Markets has established.

Discontinue use of bar

J. Langey reminded the Board of the discontinuance of the bar after wedding ceremonies.

Signing of contracts

J. Langey said to include getting things signed in the contracts and mentioned band contracts.

A. Ferguson said whatever is agreed upon should be for the property, not just for the proposed building.

M. Palmer said the next people that take over will follow the same rules.

A. Ferguson said the same rules would apply for all the buildings on the property.

A. Caruso said the wine tasting room has been operating for all this time and has been approved. He said the sound levels are applicable to all the buildings.

A. Ferguson said if the party ends at 10 p.m., it should not move to the wine tasting facility to be continued. She reiterated the rules apply to the whole property.

D. Bowers said the wine tasting facility can only have 54 occupants and it already has hours of operation.

A. Urtz said a standard challenge would be that not all the people would not go to the building and there will be an after-party in the parking lot.

A. Caruso agreed and said when the event is done in the new building, it will be done.

M. Palmer asked the Board their pleasure.

A. Ferguson said the applicant could write it up formally and there could be a special meeting.

A. Caruso said there are certain things they agree with and certain things they do not agree with.

D. Bowers said the biggest issues are the sound at the property line and events. He stated M. Palmer has proposed 25 events for April-September and 25 events for October-May as a benchmark. It was clarified if in one weekend there was a Friday event and a Saturday event, it would be two weekend events.

A. Caruso said from their side, 26 x 2 (Friday & Saturday) that is 52 and it would be what they would consider as wedding receptions. He agreed it was easy to break down into two 6 month periods; April 1<sup>st</sup>-September 30<sup>th</sup> and October 1<sup>st</sup>-March 31<sup>st</sup>. He said they spoke about the need for a few Sundays because there are three holidays throughout the year and someone may want to have an event on that Sunday because there is no work or school the next day. He said they would like the ability to do the three on Sunday. He said the original benchmark they are willing to do is one event per day. He said he was going to skip around on the list of items that the Chairman drafted that they agree with. He said it benefits everyone to have charitable fund-raising events and they would say 4 maximum charitable. He said these would be in addition to the other events.

A. Urtz said it is common for these type of events to fall during the weekday.

A. Caruso reiterated the events: 4 not-for-profit or charitable events, three events on Sundays, and one event per day.

A. Urtz said the Sundays are Columbus Day, Memorial Day and Labor Day.

A. Caruso indicated they are proposing they could hypothetically have a Friday, Saturday and Sunday event on those particular weekends. He next discussed weekday events, 20 and 20.

D. Bowers asked about a typical weekday event.

P. Muserlian said they did an art night in the tasting room which was very successful.

Nancy Muserlian mentioned a brunch.

A. Caruso stated that is something they are looking at how to market and he thought 20 and 20 was fine.

A. Caruso moved onto the other weekend events. He said currently they have 32 Friday/Saturday events scheduled for the April 1<sup>st</sup> - September 30<sup>th</sup> period out of a possible 52. He said they had 26 events last year and he was unsure if they were all wedding receptions. He said they would like to have the ability to do more than 32 and he would need to talk to his client separately.

M. Palmer said this would be tabled for the time.

A. Caruso said he did not have a problem with school nights ending at 6:00 p.m. He said they do have a problem with the 10:00 p.m. end time and that will need to be discussed further. He said people work on Fridays, so 5:00-11:00 p.m. is what would work because people arrive at 5:00 - 6:00, 6:15 ceremony, 6:00 - 7:00 cocktails and everyone moves inside and then the bar gets shut down outside and then the 4-hour traditional wedding reception which would go to 11:00 p.m.

M. Palmer asked if they were proposing a Friday 11:00 p.m. end time and a Saturday 10:00 p.m. end time.

A. Caruso said he would need to talk to his client.

M. Palmer said the Board could discuss this point.

A. Caruso said the noise will stop at a decibel limit and they do not have a problem with the construction inspection. He inquired how much they would need to pay the expert and obviously the applicant is aware that he would need to do the post-construction inspection to ensure the building noise complies. He said the school night designation does bother him a little bit. He stated the counsel for the Town and he can work out a definition that works in case there was ever a regular school day on Saturdays. He agreed to the modification/expansion requiring Planning Board approval. He said the ceremonial music was already discussed but the time needs to be worked out in case there is a rain delay, etc. He next referred to demonstrating the NYS Dept. of Ag. & Markets qualification and requirements. He said he was unsure what that meant.

J. Langey said it is an evolving concept. He stated the reason the Planning Board is acknowledging the events and uses is because Ag. & Markets is dictating that the Board has to acknowledge. He said it has to be in the parameters that the status is maintained as a "start-up" farm operation or fully qualified farm operation. He said he was unsure how it would be monitored and they would need to get some assistance.

A. Caruso said the guidelines are difficult to deal with because they are always a moving target. He said the letter that he has from Ag. & Markets stated they have until the end of 2020 for their start-up farm operation. He said in that time period, they have benchmarks to achieve on a yearly basis.

A. Caruso asked for a special meeting before January 2, 2014. He said, if approved, it would give 2 weeks to pull the building permit. He said there is a lot of work to be done before the opening date.

M. Palmer asked the Board about a special meeting.

J. Langey said the Board could hold a special meeting the night of the work session, December 19<sup>th</sup>, as long as it is noticed as a special meeting.

M. Palmer said they are not prepared to say they can vote at that meeting because there are a few significant issues to be resolved.

The Board agreed to meet on December 19, 2013.

M. Palmer stated the public hearing was continued from last month. He went over the basic rules for public hearings.

Deborah Shephard-Moynihan, submitted a letter dated December 5, 2013 to the Planning Board. She reviewed her research regarding local laws and Ag. & Markets laws. She asked that the building continue to be rejected by the Planning Board. She further stated the Town Board would receive a request from the residents on December 6, 2013 asking that the weddings stop.

Mark Costa, a neighbor at 1710 North Lake Road, talked about the sound levels, in particular low-frequency sounds. He further suggested an event permit be obtained for each event. He said he does not want to pay exorbitant taxes to live across from a bar.

Bob Cowan, a neighbor at 5329 East Lake Road, expressed the owners of Oweria Vineyards feel that a lot of different things fall under the umbrella of State Ag. & Markets. He asked that the zoning laws be enforced. He informed the Planning Board that the State Liquor Authority denied the applicant their liquor license and any new temporary liquor licenses until this issue is resolved.

Brian Keeler, a neighbor at 5237 East Lake Road, reminded everyone their houses were there before the winery. He suggested a long study be completed to determine the true ambient sound



level and the applicant should be required to stay within some specified level of what the ambient level is. He said putting a banquet hall within a rural residential neighborhood will significantly and forever change the neighborhood.

John Henneberg said he was not a resident of the neighborhood but he thought the vineyard was trying to appease the neighbors and do better with the sound and lights. He thought it would be a shame to shut them down for what they bring to the area and Cazenovia.

Don McPherson, a neighbor at 5257 Oweria Point Drive, reminded the Board that late Friday nights are important in regards to event times because students have college entrance and SAT exams on Saturdays.

M. Palmer asked the Board their pleasure regarding the public hearing.

Anne Ferguson, seconded by Anastasia Urtz to continue the public hearing was carried unanimously.

A. Urtz asked that the Planning Board formally request the Code Enforcement Officer to provide a written opinion of the jurisdiction of this Board to handle the application and whether the application is for a use that is consistent with Town zoning.

J. Langey said the C.E.O. cannot say what the Planning Board jurisdiction is but he can say what his interpretation of the Code is visa-vi the zoning law and how it relates to Ag. & Markets. He said anyone can appeal it if they disagree with it. He confirmed Roger Cook is the front line of the zoning code and would be the proper person.

Motion by Anastasia Urtz, seconded by Jennifer Basic to ask the Codes Enforcement Officer to give an interpretation of the Code and how this request relates to the Town of Cazenovia zoning ordinance was carried as follows:

Roll call:

Mike Palmer - Yes

Dale Bowers - Yes

Tom Pratt - Yes

Anastasia Urtz - Yes

Jennifer Basic - Yes

Anne Ferguson - Yes

Hugh Roszel - Yes

M. Palmer asked that the letter be drafted and then submitted to John Langey and himself to review. He also said the letter should give a reply date of on or before the 19<sup>th</sup> of December.

Motion by Hugh Roszel, seconded by Tom Pratt to hold a special meeting on December 19, 2013 was carried unanimously.

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

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LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

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

William Camperlino, Jim Emerick, and Matt Napierala were present to represent the application.

J. Emerick handed out a memo addressing the items of concern discussed at the last work session before this meeting. Since the work session, he has met with T. Carpenter and the Health Department. One of the areas of concern was the wetland delineation. The Army Corps of Engineers (ACOE) and the New York State Department of Environmental Conservation (DEC) were both contacted regarding the timeframe lapse since the original wetland delineation. The DEC verified that the original delineation is still acceptable with no significant changes. The ACOE indicated that they were not concerned due to the 100 foot buffer, and since the project is not disturbing the wetland, no permit is needed. He discussed the identification of the wetland buffer on the site, displaying signs that they plan to mount on the trees to visually mark the area. The next issue he discussed was the onsite wastewater treatment, stating they feel they have provided a fairly robust treatment system. It is an enhanced treatment unit with four feet of fill and a 75 foot taper. The aerobic treatment unit exceeds what is required by code. In addition, they plan to provide a Nitrogen removal system for that unit which also exceeds what is required by code. They feel this system is superior to the existing systems in the surrounding area. He said T. Carpenter's outstanding concern was with the design perc rate for the absorption field. He discussed the various perc rates and the possibilities of failure depending on the use of various fill materials. He proposed 11-15 minute perc rate using a system large enough to handle a slower perc rate. The unit they proposed is an Eljen Geosynthetic Sand Filter and explained its advantages over a standard trench. The archaeological investigation was the next matter J. Emerick discussed stating that Pratt & Pratt Archaeological Consultants determined the site would have no effect on archaeological resources in the area. J. Emerick concluded by saying they would like to submit the recent revisions as a formal submission at the next Planning Board meeting, feeling they have addressed all the concerns that were raised concerning the project.

M. Palmer asked if there was an area of reserve if the system were to fail.

J. Emerick said they have provided a 50% reserve.

M. Napierala further explained the design addressing the reserve area, fill material, taper distance and zone, and perc rate, reiterating the advantages of the Eljen unit in conjunction with the synthetic trench system. He also stressed the importance of the quality of the fill material.

T. Carpenter stated that he needs to review what has recently been submitted, but he finds the 11-15 perc acceptable as long as they implement the larger footprint they mentioned.

Some further discussion followed among T. Carpenter, J. Emerick, and M. Napierala about the finer points of the design and certain reductions.

J. Langey asked about the verification of these exact details of the planned design when the actual work is being done.

J. Emerick stated that the soils need to be tested in place, both a deep hole and a perc test, both of which would be observed by the Code Officer and Madison County.

M. Napierala further stated that they certify at the borrow pit. He then referred to the notes on the plan, which would specify the process of borrow pit certification as well as on-site certification which would include R. Cook as well as Madison County's representative, Pete Church or whomever, and M. Napierala's firm. M. Napierala's firm would ultimately be responsible, but R. Cook and P. Church would have the ability to sign-off. Those are the protection items that would exist to control the contractor in the field.

M. Palmer asked if these systems would have to have a responsible management entity to monitor them.

M. Napierala said they would not because of the synthetic trenches.

Some discussion about the advantages of third party inspection reviews versus what is required by the State of New York for enhanced treatment units in the lake watershed followed.

D. Ferlow then stated the site is encumbered by a flood plain which appears on the Federal Insurance Rate Map (FIRM), and he explained the procedure to modify the map. He stated

because this is a conservation subdivision, there is a requirement for set-asides for flood plains, wetlands and things of that nature, limiting the number of subdivisions to three lots.

M. Napierala answered that he had talked to the Surveyor of Record when they had first started this plan and he readjusted his entire topo on the site. M. Napierala will confer with Dave Hannig the Surveyor of Record, awaiting the surveyor's determination.

J. Emerick said the 1096 was adjusted to meet the same datum used for the Federal Emergency Management Agency (FEMA) study.

More discussion ensued over the ways to determine where the flood plain is represented on the survey of the property and how to adjust any erroneous calculation.

M. Palmer asked again about the responsible entity issue. Like the flood plain, more information needed to be provided and evaluated.

J. Emerick expressed his desire to move forward to the stage of having a public meeting.

Motion by Hugh Roszel, seconded by A. Ferguson to continue the file was carried unanimously.

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

See pages 18-20 of these minutes. The site plan was discussed simultaneously with the subdivision application.

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

David Vredenburg and Matt Vredenburg were present to represent the application.

The Board reviewed the lot features that were presented at the last meeting, and D. Ferlow discussed the findings he and Matt Weber noted when they walked the property. He also discussed the conservation analysis report that M. Vredenburg had prepared, and how to divide the land according to the best view, and placement of other building sites was discussed with input from M. Vredenburg.

M. Vredenburg was hesitant to make lot line decisions without first consulting with the client. D. Vredenburg agreed to return to the customer to get those decisions.

M. Palmer asked if he would get the deep test and perc tests done even though it is winter time.

D. Vredenburg agreed.

Motion by A. Ferguson, seconded by J. Basic to move the file to a public hearing was carried unanimously.

M. Palmer gave D. Vredenburg the list of properties within 500 feet.

It was decided that D. Vredenburg can issue the letters to the property owners within 500 feet by December 22, 2013, and have a public hearing January 2, 2014 only if he has submitted his plan in the file to the Planning Board for review by the December 19, 2013 work session.

D. Vredenburg will contact the Gordons and if he cannot meet this deadline he will inform the Board.

J. Dunkle also asked D. Vredenburg to do some research to locate the adjacent wells which will dictate where septic systems can be placed.

D. Vredenburg agreed to do that, stating he does not believe it will be a problem.

D. Vredenburg also mentioned that we had CPW, LLC. on this agenda to discuss as an informal, and he will not be here to represent that later tonight. He thought he might have M. Vredenburg represent that for him December 19, 2013.

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*James Bruno - Site Plan Review - 4477 Ridge Road  
File # 13-907 (Tom Pratt)*

J. Bruno explained the location of his property, stating in June he installed a six inch wide drainage pipe, parallel to his driveway with a catch basin in order to mitigate serious erosion. He showed photos of the damage that has been occurring on his property over the last four years. He was unaware that he would need site plan approval for what he felt was a rudimentary procedure. In late October, he received notification that he was in violation of code and immediately contacted R. Cook who suggested he submit the site plan application and appear before the Board at the earliest possible meeting. He then explained that the origin of the problem was the destruction of ceramic drainage pipe during housing construction in 2009 on East Lake Road. Because that pipe was a century old the mapping of that pipe cannot be done. It begins in a ditch on Town land on Ridge Road across the road from J. Bruno's property. The extent of the flooding that followed resulted in traffic hazards, and February 12, 2013 a car accident occurred due to the overflow from the ditch that had frozen. J. Bruno further stated that on July 6, 2010 a plan was approved by J. Dunkle, J. Langey, R. Cook, T. Hunt, Bill Anderson, and himself to install a replacement line which included a permanent right of way of easement across J. Bruno's property. He showed the site plan for that project which was prepared by Dunn and Sgromo Engineers at that time. He proposed that he be allowed to keep the line that he has installed temporarily until a permanent fix is implemented. He mentioned other property owners who are also affected by this drainage problem. He also suggested that the Town put traffic signs along that area as a warning of the hazards.

M. Palmer explained that this Board does not dictate what the Town does regarding storm water management. He said that falls under the jurisdiction of the Town Board.

J. Dunkle recognized the severity of J. Bruno's problem and reiterated the cause of the flooding and the steps that were taken in devising a plan to remedy the situation. In addition to the original proposal, another plan is now being investigated to send Ridge Road drainage down Wright Road.

J. Basic asked if J. Bruno's drainage is sufficient until the grander problem is solved.

J. Dunkle explained that it is not. It is a substandard structure in the Town's property, right on the shoulder of the road. J. Dunkle is unsure of what it does. One concern is that, whether coincidentally or consequently, the neighbor across the street began experiencing flooding in their basement on or around the time this structure was installed by J. Bruno.

J. Bruno believes that his neighbor, Mr. John McCullough's flooding is coincidental. He pointed out that his system drains the surface water that had been mainly flowing over his driveway and rechanneling it through the six inch flex pipe which sends the water down clean as opposed to its taking surface contaminants with it downhill then draining into the watershed which it had done when it was unmitigated, which also resulted in the destruction of his property.

M. Palmer stated that J. Bruno is before the Board because he did his project without approval and because it is in the Town's right-of-way.

A. Urtz also pointed out that it is not a recommended strategy for dealing with surface water. She also asked if there were other engineering solutions he could undertake to solve his property issues that would comply with the Town's consent.

J. Dunkle asked if J. Bruno could move the structure out of the Town's right-of-way and still accomplish the desired result.

J. Bruno expressed his desire to work with the Town.

D. Bowers informed J. Bruno that he needs to consult an engineer and to present a plan before the Board that remedies his property damage.

J. Bruno asked for clarification about what should appear on the plan.

H. Roszel explained how he could create drawings of the system he is currently using, showing how he would modify that system to be fully situated on his land and present that to the Board.

Discussion of the rebuilding of the catch basin followed.

J. Basic told him they would need a cross-section of the tubes, the crushed stone, and the drainage path.

M. Palmer asked where the drainage discharges.

J. Bruno explained that it is about 1  $\frac{1}{2}$  feet underground and runs into a wooded lot on his property which leaches into the soil.

M. Palmer informed J. Bruno that he needs to get another copy of the map they were looking at and show them how he is going to move the structure from the Town's right-of-way into his property line.

J. Basic added J. Bruno will need to also show in the cross-section how it is going to control the water.

H. Roszel also said that it should show how it is 1  $\frac{1}{2}$  feet deep, the direction it runs for 200 feet, that it "doesn't see daylight," and that is emptying into the ground.

J. Bruno clarified that the pipe is buried 1  $\frac{1}{2}$  feet deep, but it does surface where it empties so it does "see daylight."

M. Palmer said because he has four acres where it daylight, that poses no problem.

J. Bruno said he will submit a revised site application plan showing the removal of the catch basin to his property.

M. Palmer showed him the details of the cross-section drawing that he also needs to submit, stating that it will be acceptable even though it will be done in retrospect. He informed him that his map should show the length of the piping. Until he returns, he is allowed to keep what he has in place even though he is in violation, as long as he is working on compliance.

J. Bruno was advised to go to the Town Board with the grander drainage issues.

J. Langey informed him that the work done on the Town's land needs to be approved by Tim Hunt and J. Dunkle once J. Bruno restores it.

Motion by J. Basic, seconded by M. Palmer to continue the file was carried unanimously.

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*Jennifer Basic/New Ventures Assets - Site Plan Review - 2363 Route 20 East  
File # 13-908 (Hugh Roszel)*

Jennifer Basic was present to represent the file.



J. Basic explained she was proposing to open "The Barn Too," a continuation of the consignment/retail business owned by Jean Dally on Ballina Road, at the Enders house and J. Basic also plans to move her professional office there which is a consented use. J. Basic needs a special use permit for the retail sales so she's in need of a Planning Board recommendation to the Zoning Board of Appeals, after receiving their approval, she would then reappear before the Planning Board for site plan review. She stated nothing is changing with respect to the structure. She knows she has to address parking, lighting, and signage.

M. Palmer asked if she had seen the GML report.

J. Basic affirmed that she had.

Motion by H. Roszel, seconded by D. Bowers to make a positive recommendation to the Zoning Board of Appeals was carried as follows:

Michael Palmer:	yes
Anastasia Urtz:	yes
Anne Ferguson	yes
Dale Bowers	yes
Tom Pratt	yes
J. Basic	abstain
Hugh Roszel	yes

Motion by D. Bowers, seconded by H. Roszel to close the meeting was carried unanimously at 10:50 p.m.

Connie Sunderman - Planning Board Secretary

Sue Wightman - Office Secretary

December 7, 2013