

Cazenovia Zoning Board of Appeals

Meeting Minutes

June 27, 2011

Members present: Chris Fischer, Chairman; Gene Smith; David Silverman; Louis Orbach

Members absent: Richard Sheridan

Others present: Wendy Reese, Esq.; Roger Cook; Ann Redfern; Graham Egerton; Michael Rudy; Conor Kays; Pat Carmeli

C. Fischer called the meeting to order at 7:30 pm.
The next regularly scheduled meeting is July 25, 2011.

C. Fischer asked if there were any corrections or comments for the May meeting minutes.

Motion by G. Smith, seconded by L. Orbach to approve the May meeting minutes as presented was carried unanimously.

Ralph & Jeff Stowell - #04-236 – Special Use Renewal – 2349 Route 20 East

C. Fischer stated that the special use permit is for vehicle sales, auto and construction equipment. The permit was originally Ralph's but Jeff has taken over.

C. Fischer stated that R. Cook inspected the property on June 14, 2011 and they only had two vehicles for sale and he found no items of non-compliance.

The Board had some concern with the location of vehicles out "For Sale."

C. Fischer referred back to the original special use permit approval and stated to the Board the following "all equipment sales shall be located on the East side of the driveway between the maple trees and the fence. Additionally, no more than 6 pieces shall be displayed for sale."

R. Cook will talk with owner about location of items being placed out "For Sale."

Motion by G. Smith, seconded by D. Silverman to appoint the Zoning Board of Appeals as Lead Agency for purposes of the State Environmental Quality Review Act (SEQRA), to declare the matter an Unlisted Action and to make a Negative Declaration of environmental significance, all based upon the Board's review of the Short EAF, and to approve the Special Use Permit Renewal under the same terms and conditions as previously approved was carried unanimously.

Dennis Hile - #11-758 – Special Use Permit & Area Variance – 5089 Temperance Hill

C. Fischer summarized the current status of the application for the Board. At last month's meeting, the Board reviewed application and requested some additional items to be consistent with previous reviews of windmills. Applicant submitted almost everything requested but the Board is still in need of some additional items.

C. Fischer requested that the representative for the applicant, Conor Kays, explain the status to the Board.

C. Kays, manager at Alternative Power Solutions, stated they got everything requested except the letter from Verizon for their tower and notification from CAVAC regarding access road. C. Kays stated they got a letter from fire department and an email from CAVAC and neither party wants to be liable and certify that access road is there.

C. Kays does not propose the dirt path access road should be considered an access road; he wants Temperance Hill Road to be considered the access road.

C. Fischer stated to C. Kays the requirement is for access from the main road to the site.

C. Fischer summarized the documentation he was provided by C. Kays from CAVAC, and CAVAC suggest whatever is to be considered as an access road should be well-marked.

The representatives provided an updated and more detailed site map that showed setbacks. C. Kays stated the location of the windmill is no more than 300' off of road. The windmill is proposed to be 125' from property line which is also owned by Mr. Hile. The area around windmill is a pasture for his cows. The electric fence height is approx. 4' tall. There is a gate on the roadside.

The windmill will be 153' tall. According to town regulations, the windmill location needs to be the tower height plus an additional 25' from property line. Therefore, it needs to be at least 178' from property line. W. Reese explained there is a fall zone in which you take, in this case, 178' and basically draw a circle around the tower. If use new discussed location, there is 350' between barn and road and Mr. Hile would need a 3' or 6' variance depending on exact location. It was discussed to position the windmill so the minimum requirement was toward the house and the shorter (variance) would be needed for the vacant lot side.

C. Fischer explained to applicant he could leave windmill and they would need an additional variance or move it to eliminate that issue.

C. Kays inquired if the windmill could be moved closer to the property line since the adjoining lot belongs to the applicant. C. Fischer explained to C. Kays the concern is long term and if the lot was to sell.

C. Kays is going to discuss with the applicant on the exact placement of the windmill.

C. Fischer stated that application is not complete and the town engineer needs to review application.

The property is zoned rural residential and if it is a farm it needs to be 150' therefore it would need a 3' height variance since it is 153' tall.

The Board asked last month if the height of the windmill could be changed to 150' to fit into the allowable height. The representative received a letter from the windmill manufacturer and it was summarized to Board that it would be too costly to modify and it is not a sound construction practice to drop the tower 3' below grade and the anchor bolts would not be able to be checked.

C. Fischer stated that as part of the list of items to do included CAVAC, fire department, AT&T, Verizon, the height issue, specificity of location, and a noise report. C. Kays reviewed the spin data from a 200' hypotenuse distance from the turbine head itself and wind speed average from the NYSEERDA State standards which is the program they are using to dictate production. A little over 10 miles/hour is average wind speed for year:

- Sound pressure level with turbine by itself is about 41 decibels
- Sound pressure level with ambient is 79 decibels
- Turbine head is about 40 decibels

C. Kays stated that more often than not, the turbine will be adding less than 50 decibels. In high winds it will be adding a little more than 50 decibels. In very high wind speeds (12 meters/second) it can add 60 decibels.

C. Kays stated it should not be audible to anyone living in this area and it should be less than 50 decibels for across the street, even in decent wind speeds.

The tower is a Rohn SSB 140. The turbine is a 10kW Bergey.

C. Fischer stated that the representative still needs to provide a letter from Verizon. The representative stated he has tried and is not getting a response from Verizon.

C. Fischer stated if the representative has made repeated efforts to contact Verizon and CAVAC, they should provide documentation showing they made good faith effort. An email was received by CAVAC which C. Fischer summarized for the Board as on page 2 of these minutes.

C. Fischer wants applicant to try to get documentation from Verizon, finalize location of tower and redo public hearing letters for next month's ZBA meeting. The public hearing letters need to be revised to specifically state you are asking for special use permit and an area variance.

The town will issue notice for a public hearing for July and send to town engineer for engineering perspective.

To summarize, they will need a 6' side variance and a 3' height variance as well as special use permit. C. Kays will verify with homeowner to finalize location.

Pat Carmeli - #11-767 – Area Variance Permit – 3428 East Road

P. Carmeli wants to have chickens for free range eggs.

The property consists of 10 acres and the requirement is 15 acres to have chickens. The applicant has 7 chickens. They are not going into business; the eggs are for personal use. The property is surrounded by Critz's Tree Farm, cornfields, swamp, cow pastures and a ranch house. The chickens will be housed in an outbuilding with nesting boxes and a fenced area.

C. Fischer stated that the application was published for a public hearing and asked if anyone was present to speak for or against the application.

As no one was present, motion by C. Fischer, seconded by G. Smith to close the public hearing was carried unanimously.

Motion by G. Smith, seconded by L. Orbach to appoint the Zoning Board of Appeals as Lead Agency for purposes of the State Environmental Quality Review Act (SEQRA), to declare the matter an Unlisted Action and to make a Negative Declaration of environmental significance, all based upon the Board's review of the Short EAF, and to approve the area variance to allow up to a maximum of ten chickens for personal use on a ten acre parcel was carried unanimously.

C. Fischer stated that J. Langey has drafted a low impact business services law which fills in gaps that allows for uses that aren't otherwise addressed in the code. The town board will be looking at the law next meeting.

At 8:21 pm, a motion by C. Fischer, seconded by G. Smith to close the meeting was carried unanimously.

Zoning Board of Appeals Secretary – Connie Sunderman – June 23, 2011