

Cazenovia Zoning Board of Appeals

Meeting Minutes

November 28, 2011

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

Members absent:

Others present: Wendy Reese, Esq.; Roger Cook; Robert Cowherd, Jr.; Philip Scripa; Mark Sunderman; Larry Caffrey; Helga Caffrey; Ralph Bear; Mike Curley; Kenneth Kelchner

C. Fischer called the meeting to order at 7:30 pm.
The next regularly scheduled meeting is Wednesday, December 28, 2011.

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

Motion by G. Smith, seconded by D. Sheridan to approve the October minutes was carried unanimously.

Cowherd, Jr., Robert - #01-173 – Special Use Permit – 2350 Route 20 East

C. Fischer stated R. Cook inspected the property on November 16, 2011 and took some photos.

R. Cook stated there are 13 conditions of the special use permit, but one of the conditions needs to be amended.

C. Fischer stated one of the corner markers, which is a permit requirement, was removed.

Bob Cowherd stated once Roger pointed out it was missing; he replaced it.

C. Fischer stated the condition that needs to be amended is "the ground surface for the designated display area shall be maintained as natural grass with the same ground contours and surface drainage patterns." He further stated this is referring to the sale display area.

R. Cook stated the change was a subsequent request that the Board agreed to changing it to gravel from grass. He further stated the topography is still the same it is just now crushed stone and not grass. He stated the grass is referred to as one of the thirteen criteria that the permit is judged by.

R. Cook confirmed besides the missing stake there were no other items of non-compliance.

The Board reviewed photos which R. Cook had taken at the time of the inspection and some members felt it had not looked that way in many months.

G. Smith stated it was the month for approval and now the cars that had been parked in front of the garage for some time-had been moved.

B. Cowherd stated the permit says as owner and employees they have to park behind the fence.

R. Cook stated on the Western side of the driveway, the driveway to the house and the driveway from Route 20 are reserved for customer parking. He said this would be customers purchasing vehicles or vehicles that are there to be worked on by B. Cowherd's daughter. R. Cook stated there are vehicles there at any particular time. He further stated employee parking is past the hedgerow and the fence in the back.

R. Cook stated this inspection was not set-up and Mr. Cowherd did not know when he was going to be coming during the month of November.

C. Fischer stated no one has filed any violations, but, at some point, they probably could have. He further stated it is a fluid business with cars in and out, but he thinks there have been some junk vehicles there for longer than 30 days and some, for possibly years.

C. Fischer stated to B. Cowherd that the Board would appreciate his cooperation in complying with the special use permit regulations.

G. Smith stated with the original special use permit that the fence opening to the rear of the property was not supposed to be that big so the cars would be seen. He stated for some time it was not that large of an opening.

R. Cook stated 20' to run from the hedge and then run from the maple tree and back. He further stated B. Cowherd had to put up another section of fence which he complied with.

B. Cowherd stated he did not take down any fence; he has added fencing.

C. Fischer asked the applicant to abide by the rules going forward with the special use permit.

R. Cook stated, from an enforcement standpoint, the driveway leading to the back and the driveway to the house; the cars there are the issue. He further stated he has talked to B. Cowherd in the past, and Mr. Cowherd has taken care of a car if it has been in that area too long. R. Cook stated since he knows it is contentious; he keeps an eye on the area and make sure the cars turn over.

R. Cook said in back there were cars that were there for a long time, but not anymore. He further stated from his inspection of the lot; there was one car that had front end damage and they were waiting for a front end. He said besides that car all the other cars had sales numbers on them.

Motion by D. Sheridan, seconded by C. Fischer 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 originally granted by the Board with the clarification of the grass area which is now crushed stone was carried as follows:

Chris Fischer:	yes
Gene Smith:	no
Louis Orbach:	yes
David Silverman:	yes
Dick Sheridan:	yes

C. Fischer stated to B. Cowherd that the Board was renewing the permit but urged him to do a better job.

B. Cowherd stated the area by the house is the only lighted area besides a light on the back of the rear building. He stated he has cars dropped off/picked up at all hours, seven days a week. He stated he does not sell any cars in that area. He further stated the permit does not say he can't use that area. He said he feels he has complied pretty well, "with a slip here and there."

Hazer, Penny & David - #11-770 – Use Variance – 5857 East Lake Road

C. Fischer stated that the applicant asked that the file be adjourned for a month because they are still waiting to hear back from Madison County as to whether they will be included in the agricultural district.

R. Cook stated he spoke with P. Hazer and they have been accepted locally into the agricultural district which now goes to New York State for final determination, which can take a couple of months. He further stated in response to the neighbor's complaints with the dust; the Hazer's have planted about 30 trees and created a berm.

C. Fischer stated they will adjourn the file until next month's meeting.

Wells, Steven & Martin - #11-784 – Area Variance – 5007 East Lake Road

C. Fischer stated pursuant to the discussion last month. He requested the applicant have the property lines staked in detail, especially in the middle along the hedgerow, and they fully

agreed. He spoke to the applicant's attorney and the surveyor has not been out yet. The applicant has requested that the Board adjourn the file for another month. He further stated he talked to the attorney for the people across the street who have the adjoining land to the applicant's property and they are in agreement. He told the Well's attorney he would talk to the Board about a tentative date and time for a field trip. After a little discussion, the Board agreed to meet sometime on Sunday, December 11, 2011 around 2:00 p.m. or 2:30 p.m. C. Fischer stated he would discuss with the Wells and then get back to the Board members.

C. Fischer stated the file will be adjourned until next month's meeting.

Scripa, Philip - #11-796 – Special Use Permit – 4963 Syracuse Road

C. Fischer stated he spoke with Philip Scripa earlier in the day and there was a misunderstanding and the letters for the public hearing did not get sent out by Mr. Scripa. He further stated, in his earlier conversation with P. Scripa, he suggested that he come to the meeting and discuss the file, and the public hearing would be rescheduled for next month and it would be renoticed. C. Fischer said if anyone came tonight for the public hearing that they would take comments this month but the Board would not do anything formally until next month.

P. Scripa stated he has a dog kennel and he wants to own dogs. He stated, when he spoke to Roger Cook, he knows the dogs have to be registered and he needs a shelter for the dogs. He further stated the business side has been negated. The shelter is for housing the dogs and is 10'x30' with chain link fence dividing the individual stalls on the outside. The roof covers them all and they are on crushed stone. He further stated there is only a few dogs out there now; he does not have 12 dogs. Additionally, he said he has 3 indoor dogs.

C. Fischer stated the file was sent to County Planning Dept. under a normal GML referral and the County Planner initially was under the impression it was a public, breeding kennel. Their initial response was concerns with parking and a variety of public-related questions. C. Fischer stated then Mr. Scripa sent a response to the County and then once they understood it was not a public kennel they sent it back for local review. C. Fischer stated the kennel building has been built.

P. Scripa showed the building on the site plan and said there are 6 runs on each side and they are on crushed stone. Only one side of the run is used at this time. He stated he goes out numerous times a day. The garbage man has agreed to take the waste. He stated if he decided to become a business or breeder; he knows he will have to let the Town know. He stated he knows he at least needs a fence on the one side near his neighbors. He further stated the other side runs off to a creek and the dogs do not go near the brush/bush area. He said he may fence both sides. He also wants to fence near the front of his house so they do not go near Route 92.

P. Scripa stated the dogs listen to him fairly well, vocally. The dogs have wandered over to his neighbor's yard a few times. He further stated he moved here from Syracuse where the dogs would have more room.

C. Fischer stated the type of dogs that P. Scripa owns are American Pitbulls. He further stated he would really like to see a plan for a fence.

P. Scripa stated the dogs listen to him, but he knows he needs a fence. He said now the facility is built that his next step is a fence.

C. Fischer stated he wants the applicant to tell the Board where he will put the fence and not make the Board dictate where it will go.

P. Scripa stated he would like to fence from the front of house near the driveway, run fencing all the way from the backside of the house, right up to the property line and right in front of the trees. However, he is not sure who the trees belong to, him or his neighbor.

R. Cook stated with a special use permit, fenced areas used in association with this use may not be permitted within 50' of any side or rear property line and shall be prohibited in a front yard. He further explained you need to come in 50' on every side and that is where you can start to put a fence. Additionally, the fence can't be in the front yard.

Once the fence requirements were discussed, the Board took some time to brain storm with the applicant on various fence locations.

R. Cook confirmed to the Board that having more than 6 dogs requires a special use permit.

P. Scripa stated the dogs have their rabies and are registered but there are 2 that are not of age to have their rabies and are not registered. He has all the dogs records, along with Upstate Animal Clinic in Cazenovia which is the veterinary hospital he uses.

R. Cook stated the actual kennel where the dogs are housed, from what he is seen that is proposed, is enclosed.

P. Scripa confirmed.

C. Fischer confirmed to the applicant that the Board is looking for, in addition to the fencing that is around the outside runs of the building, fencing on the property as discussed earlier.

R. Cook stated he has been in contact with the Dog Control Officer and he has been contacted several times because the dogs have left Mr. Scripa's property. He further stated there is a concern.

P. Scripa stated he knows he needs a fence and will do, once he can afford.

C. Fischer stated to the Board that he had a letter from the Town of Cazenovia Planning Board dated November 3, 2011 voting unanimously on a positive recommendation for a private kennel for dogs for personal use.

C. Fischer stated it had been published for a public hearing and asked if anyone was present to speak for or against the application. He further stated Mr. Scripa did not mail the letters which is

a requirement. He opened the public hearing but said he will adjourn after tonight until next month. The hearing will be renoticed and the applicant will mail the required letters to the neighbors.

C. Fischer opened the public hearing and asked if anyone was present to speak for or against the application.

Mark Sunderman, the next door neighbor, voiced several concerns. He inquired how he got the building up without a permit. He wants the dogs out of his yard because he has Shih-Tzus and children visit, occasionally. He further stated he thinks the fence should have gone in before the building. He said the noise is an issue especially for the neighbors on the other side of the creek that listen to the barking constantly. He concluded by stating the noise, setbacks and fence (lack of) are the issues.

R. Cook stated if it was a public kennel it would be the same setbacks as a private kennel: 100' back from side, fencing 50' back.

C. Fischer stated that the application process started as a notice of violation.

R. Cook confirmed and said there was no building permit to start with. He stated once Mr. Scripa explained his plans that this started the special use permit process. R. Cook said he has the right to build an accessory building on his property. He is not going to issue a permit for a structure knowing that it is for dogs and not for the typical, lawnmowers, etc. He stated everything is on hold until they go through this process.

C. Fischer said if there is an issue on distances; it would be in the best interest to have a surveyor check the estimated distances on Mr. Scripa's plan.

P. Scripa stated the trees are on his side.

P. Scripa wanted to make sure it was known the breed of the dogs is irrelevant. He said one day he left, and the door opened from a draft and the dogs got outside. The three dogs were loose and they were on his property when he returned. He got a ticket for a noise complaint. He said his dogs are not that loud; they whine in the morning and evening when they want to be fed. He further stated there are a lot of dogs around and he can't guarantee all the noise is his dogs. He has four that are outside and one is a puppy. He said he has three indoor dogs and they are inside.

Larry Caffrey lives across the road from Mr. Scripa. He inquired how it has been allowed that dog kennels is an allowed use in Residential 1A. He also inquired what vet in the Cazenovia area would treat the animals.

P. Scripa stated he takes his animals to Upstate Animal Clinic in the Tops Plaza.

R. Cook stated in 2009 the Town Board adopted a new zoning ordinance and this is a use that the Town Board said is acceptable in Residential A designation by special use permit. It is an "as-right use" and needs to be reviewed by the Board and meet certain conditions.

Helga Caffrey, owns property at 4973 Cazenovia Road and 4974 Cazenovia Road, she expressed concern because the pitbulls have been in her backyard several times. She said she should not be afraid to go out in her backyard. She said there have been signs in the front yard, in the past, "Pitbulls For Sale" and from her understanding from the meeting she thought it was for personal use. She further stated she thinks a complete fence to cover the whole backyard is necessary so the dogs cannot get out.

P. Scripa stated he does not want puppies in the house and he did put out a sign.

Ralph Bear, a neighbor from Bethel Road, stated his concern is the noise. He stated now the applicant has four dogs, but twelve dogs will be worse. He said he does not want to hear the barking. He moved out to Bethel Road to be in the country and he does not want to hear dogs bark all day long. He said his dog starts to bark when Mr. Scripa's dogs bark. He said he is concerned about the fence but there is the creek in between with a large drop off, so the noise is his main concern.

Mike Curley, Bethel Road resident and friend of the Scripas, stated Bethel Road is an idyllic, peaceful place. He stated the dogs have been a disturbing change. He said his wife will not take a walk in the back of the property with their little dog. He stated he has seen the dogs running on his property. He said he wants to see a 0% chance that they can get out of the lot so the neighbors can enjoy their properties. He wants to see a good fence so there will not be fear of them getting out. He said the barking is an issue-it is a plaintive yelping, however, it is not all the time. He offered his assistance to put up some exterior walls with insulation to help with the noise. He suggested sound insulation enclosures to Mr. Scripa to help with the noise because the barking is a direct line (free shot) to the neighboring properties.

P. Scripa stated he has only gotten one note on his door. He further stated he has not heard all this concern until today. He said he moved to the country from Syracuse for his dogs to have more room to run and not be in a little larger cage than they were in before. He said he agrees he needs a fence.

P. Scripa stated he is following the process of what needs to be done in order to be in compliance. The contractor will start working on the insulation on the 1st of December and then the fence will be the next project.

C. Fischer stated the public hearing will be continued until next month. He stated to the applicant the Board would like the distances verified by a surveyor, and determine where he thinks the appropriate location for the fence would be and let the Board know.

P. Scripa stated he is considering a 6' fence because the dogs can jump. If he does a wooden fence, he may go 7' high. He said the wooden fence may make them less prone to barking and provide additional insulation and warmth.

C. Fischer stated the next meeting is December 28, 2011. He stated for the applicant to come up with his revised plan and submit 10 days in advance of the meeting. He also reminded the applicant to do the letters notifying the neighbors of the public hearing. He told the applicant he would compose a letter reminding him of what needs to be done in preparation for the next

meeting. He further stated he will mail a copy of the Town of Cazenovia Code for animal kennels.

P. Scripa stated that he currently has 7 dogs.

C. Fischer stated there is no limit to the number of dogs you can have; but if you have more than 6 you need a special use permit from the Town. He further stated under the special use permit they can put a limit on the number of dogs allowed based on the criteria.

Daggett, William & Jean - #11-804 – Area Variance – 2034 Syossett Drive

L. Orbach recused himself since he is representing the application for the Daggett's.

L. Orbach presented a map showing the original boundaries when Syossett was initially developed. He pointed out the property that he and his wife own and then the property that the Daggett's own. He also showed the additional lot that the Daggett's bought which is the lot in question. He said several decades ago the Daggett's got a line adjustment eliminating the lot line. L. Orbach stated they would like to buy the lot because it contains their leach field.

L. Orbach stated they do not plan to do anything with the property other than its current use. He said Bill Daggett mows it and they may add some fruit trees.

Kenneth Kelchner inquired about the current property line. He stated that he liked the empty, undeveloped lot.

L. Orbach stated they are before the Board because their lot and the Daggett's property are grandfathered non-conforming lots in regards to the size. He said neither lot is 3 acres. He said his lot is 1.9 acres and the Daggett's lot is approx. 1.6 acres. The Daggett's would need an area variance because their lot will become a little smaller and still non-conforming, and the Orbach lot will become a little larger and still non-conforming.

R. Cook stated a variance is needed for the Daggett's because they are making a non-conforming lot, more non-confirming.

R. Cook confirmed, back-in-the-day, the lot was a confirming lot and the lot where the Daggett's live is essentially going back to its original size.

C. Fischer stated at the November 3, 2011 Town of Cazenovia Planning Board meeting they voted unanimously to give a positive recommendation to the area variance.

Motion by C. Fischer, 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 was carried as follows:

Chris Fischer:	yes
Gene Smith:	yes
Louis Orbach:	abstain
David Silverman:	yes
Dick Sheridan:	yes

G. Smith did the calculations and the final lot size of the Daggett's lot will be a little larger than .8 of an acre.

C. Fischer stated the relief would be approx. 2.2 acres.

C. Fischer stated this application has been scheduled for a public hearing and asked if anyone was present to speak for or against the application.

K. Kelchner made a statement earlier as noted on page 8 of these minutes.

No one else appeared to speak for or against the application.

C. Fischer closed the public hearing.

Motion by G. Smith, seconded by D. Sheridan to approve the area variance was carried as follows:

Chris Fischer:	yes
Gene Smith:	yes
Louis Orbach:	abstain
David Silverman:	yes
Dick Sheridan:	yes

Motion by D. Sheridan, seconded by G. Smith to adjourn the meeting was carried unanimously at 9:04 p.m.

Zoning Board of Appeals Secretary – Connie Sunderman – December 1, 2011