

Cazenovia Zoning Board of Appeals

Meeting Minutes

December 28, 2011

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

Members absent: David Silverman

Others present: John Langey, Esq.; Roger Cook; Joseph Sutherland, Patricia Sutherland; Robert Germain; Ralph Bear; Tom Douglas; Michael Stone; Bridget Stone; JoAnne Bronson; Paul Pappard

C. Fischer called the meeting to order at 7:30 pm.
The next regularly scheduled meeting is Monday, January 23, 2012.

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

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

Wondrack, Robert - #01-186 – Special Use Permit Renewal – 4893 East Lake Road

C. Fischer stated the ZBA secretary sent out a renewal notice and did not receive a response. He said he had the secretary send out a second reminder notice and the Board still has not received a response. He suggested the Board adjourn the file for the month and if the Board does not get a response; the secretary will send out a letter stating, “If there is no response within an additional 30 days, the special use permit will expire.”

C. Fischer stated the Board will keep the file in abeyance.

Henneberg, Werner & Shirley - #04234 – Special Use Renewal – 3104 Thompson Road

C. Fischer stated the renewal is for their “Bears & Chairs” business which is in an accessory building. He said R. Cook did an inspection on December 15, 2011 and there were no items in non-compliance.

R. Cook stated they are currently not operating the business. They are keeping their permit open, in the event that they decide to pick the business back up.

Motion by C. Fischer, seconded by G. Smith to renew the special use permit under the same terms and conditions as previously approved by the Board and reaffirm the SEQRA determination was carried unanimously.

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

C. Fischer stated that the application has been adjourned for a couple of months. The Hazer's application to be included in an agricultural district has been approved at the County level, which is step 1 of a 3-step process. Now they need County Supervisor approval and then, lastly, it will go to the state level. He further stated the Hazer's believe they will get formal approval or denial in March or April. He said depending on the outcome, it will determine if it is a use variance or special use permit. The Hazer's sent C. Fischer a request asking to adjourn the file and they will continue to give an update as the file proceeds.

R. Cook stated the Hazer's have continued to make improvements to the complaints that the neighbor had in regards to dust. He said they planted trees on the Northwest & West sides of the riding arena.

C. Fischer stated he has been continually in contact with Mr. Merrill, the neighbor, and he sent C. Fischer an email reiterating his concerns, which has been added to the file. C. Fischer further stated he will let the inclusion or exclusion into the agricultural district take place and then the Board will have a better idea on the review criteria.

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

There was no public comment.

Motion by C. Fischer, seconded by G. Smith to adjourn the file and keep the public hearing open, until next month; when the Board is give direction by the applicant was carried unanimously.

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

Robert Germain, Esq. was present to represent the application for the Wells.

C. Fischer stated three of the Board members were able to go to the site after the Wells had the property line staked. He further stated the members that went, met with Mr. Wells and the neighbors, the Sutherlands, and reviewed it.

L. Orbach recused himself from the application because his firm, Bond, Schoeneck, and King has represented Michael Wells, as well as, their business interests.

R. Germain stated the Wells have a house and they have put stakes out because there was some confusion about the location of the actual property line and “who owns the trees, so to speak” and where the line is, in relation to the property. He stated the Wells want to build a 6’ chain link fence. The fence company’s materials refer to it as a “deer fence.” Butler is the company that was going to install the fence.

R. Germain stated the fence would go down along the property line. He stated the Wells were planning on putting it all the way up to the road. The intent of the fence is because there is a lot of geese and deer which disturb the Wells and their property. He further stated there is a hedgerow along the property line. The trees are located on the Wells side of the property. The line is next to the hedge. He reiterated the Town’s ordinance, which states the fence needs to be put 1’ in from the property line. He explained to the Board, his perspective, on the intent of the ordinance is that a property owner is not trespassing when maintaining the other side of the fence.

R. Germain stated the line is located very close to the trees and there is not room to put the fence 1’ in like the ordinance states.

R. Germain stated to put the fence 1’ inside the property line is a problem. He provided the Board with a letter from a title company. He said, “When attorneys see fences inside property lines, sometimes it creates a title problem.” He further stated if the fence is inside the line, it can create a problem with two things: adverse possession and prescriptive easement. R. Germain stated it automatically creates a question that has to be cured. R. Germain referred to a recent case that said you can’t use an affidavit to cure title, you have to get an actual boundary line agreement or in some cases, a quit claim deed to the land in question. He stated the fence inside the property line in this situation creates a title problem. He said it is not as bad if you are in the country with a lot of acreage. He said, “1 foot-the rule is de minimis.” He said, in the country, 1’ might be de minimis but on the lakefront, 1’ of the property, they argue, is more than de minimis. He said, in this situation with lakefront property, it creates a title problem for the Wells. He said the fence ordinance creates a problem.

He said in regards to the standards of proof for the requested area variance:

- 1) Whether or not it can be achieved by other means by the applicant? He responded with “no” and stated anytime you put the fence inside the property line, you still have a title problem. He stated he knows they have the right to take out the trees and put the fence 1’ in and plant on the other side. He said they do not want to do that, or think it is a viable option. He said they would rather not remove the trees. He further stated they will do it if they have to, but it is not their preferred method.
- 2) Whether or not it would create an undesirable change in the neighborhood? R. Germain did not think it would. He said there are many fences along the lake and it will not change the character of the whole neighborhood. R. Germain stated, “when the test is applied, it is to a substantial portion of the neighborhood, that is the legal test-we don’t believe that it would.”

3) Whether the request is substantial? R. Germain stated they are asking for approximately 11" in relief. He stated he does not believe that 11" in relief is substantial.

4) Whether there would be an adverse effect on the environment? R. Germain stated there will not be a change in the environmental factors. It will not stop or impede the flow of water, or any other impact on the environment. He further stated they do not believe it will have an adverse effect.

5) Whether or not the alleged hardship is self-created? R. Germain stated they struggled with the question. He stated, in this case, "no." He said the ordinance that calls for the fence to be 1' in creates the hardship. He feels every time that the other side of the fence is maintained, a property owner has to trespass due to the size of a mower being more than 12". He said with a chain-link fence, the maintenance that would be required could be done from the Wells side of the property and they would not have to trespass on the neighbor's property.

He reiterated that he was asking for an area variance to allow the fence to be 11" in from the setback, up the line.

R. Germain stated to the Board that he did go to the property site.

The Board asked R. Germain how the fence can be constructed without trespassing on the neighbor's property.

R. Germain replied by stating the fence would have to be installed from the Wells side of the property.

The Board did not think it was possible because the arborvitaes are in the way.

R. Germain stated he would ask the fence company if it is possible to install the fence from the Wells side without trespassing on the neighbor's side.

G. Smith stated when they originally started to put the fence in 1" from the line; the fence company was putting the base of the rods on the neighbor's property.

R. Germain stated when he learned of the bases, he had them pulled out and start again so they were not in non-compliance. He further stated they started the work without a permit and started it without applications. He said, in regards to the base of the fence, itself, the question is, if there is concrete in the ground and some of it is to going on the Sutherland's part, they will have to cure also.

R. Germain stated the fence company told him they can put the fence in a way that it does not go on the Sutherland's part. He further stated that could be made a condition of any approval that may or may not be granted.

R. Germain reconfirmed to the Board the Wells want to build a fence on their own property but fit it in as far as they can on the side of the trees. He stated they do not want to cut down the trees if they do not have to.

The Board suggested putting the fence on the other side of the trees.

R. Germain stated they do not want to put the fence on the other side of the trees because the title problem that would be created would get even worse. He stated adverse possession accrues over time.

G. Smith stated they have the right to put a fence up but the question is where to place the fence.

R. Germain restated the fence cannot be placed where the ordinance says because of the tree line.

G. Smith stated the ordinance says a minimum of 1' off the property line. He said the fence could be placed far enough back so it clears the trees on that side.

C. Fischer stated the title problem is a simple question. He asked R. Germain, if the Sutherland's have been asked if they would be willing to enter into a fence line agreement?

R. Germain stated, if there is a misplacement, then a borderline or boundary line agreement could cure it. An affidavit in terms of maintenance would not cure the title defect.

C. Fischer stated he was not referring to an affidavit, but rather an agreement that could be recorded.

R. Germain stated he has not asked the neighbors if they are willing to enter into any type of agreement. He said he would enter into any agreement that would allow them to have the fence in this spot.

R. Germain stated that in case law, that the affidavits and agreements don't work because through the acquiring of time they have already obtained adverse possession. He used an example by saying, if in this situation, 10 years go by and try to give an affidavit, the courts would say it is no good, you already obtained title by virtue of adverse possession. He said after a certain amount of time, title transfers.

R. Germain inquired if the Board is asking for the Wells to agree with the neighbor that if the fence is placed 1" in, that they obtain title to the extra 1". He stated if he is being asked if they would give the 1", he can ask his client.

C. Fischer stated to R. Germain the applicant cannot take the trees down without Planning Board approval because the property is in the lake watershed district. He further stated they should not have started to dig into the land for the fence installation without site plan approval which is a violation.

C. Fischer stated the town law is the law that has to be abided by. He further stated the ZBA is bound to comply with the current Town of Cazenovia zoning ordinances.

R. Germain stated he respectfully disagreed. He feels as the Zoning Board of Appeals that they have the ability to override what the Town of Cazenovia ordinance is in the event of hardship.

C. Fischer stated the hardship was self-created. He stated the requested variance, 11/12 of the required setback is substantial.

R. Germain stated he did not think it was the case that he has to uphold the town law.

D. Sheridan stated to R. Germain he did not think it was very prudent what the Zoning Board of Appeals was being asked to approve.

R. Germain stated he is not asking for permission to go on the neighbor's land from the ZBA. He said he knew if they had to go on their land they would need to get permission from the neighbor's. He further stated he does not want to go on their land.

R. Germain, once again, stated he would need to check with the fence company if the fence can be installed from the one side. He further stated he has been to the site since the survey stakes have been put in place.

R. Germain stated that every time the Wells have to cut the lawn they are going to have to trespass on the neighbor's property.

The Board stated to R. Germain that they felt there was nothing to cut.

C. Fischer stated initially the Board was told the fence was needed to protect the trees. He said the fence company cut all the lower branches on the trees that were being protected. He stated that may have been an error by the fence company. He further inquired how the fence deters the geese from coming around the end off the lake. He said the reasoning does not make sense.

R. Germain said the applicant told him that they want to control the deer and the geese that come through. He further stated that he does not feel it is part of the legal test whether or not the Board likes their reason for the fence.

C. Fischer stated it is a continuation of a public hearing and asked if anyone was present to speak for or against the application.

Paul Pappard stated the line location has been determined and been agreed upon, the fence needs to go 1' in and not on the Sutherland's property.

R. Germain stated he would like the chance to provide information on the question that was asked by the Board, since he does not know the answer.

R. Germain restated they do not want to, nor do they plan on going on the Sutherland property- that has never been the case.

C. Fischer stated to the Board two things can happen: the Board can close the public hearing or keep the public hearing open and provide the applicant one more month to answer some of the questions and possibly any legal issue regarding the potential title problem and coordinate that

with the town attorney so there is a better guidance to that issue. He further stated another option would be to move forward with the application tonight.

C. Fischer asked the Board their opinion.

D. Sheridan and G. Smith felt the Board should move forward.

J. Langey said, as the attorney in the case, the applicant has counsel and the neighbor's have counsel, just as a protection to the Board, he would allow the applicant to present as much evidence as they feel the Board needs to have and then make the determination at that time just for purposes of substantiating the record in the case. J. Langey further stated this was his advice, but the Board did not have to follow it.

D. Sheridan stated that he would not be at the meeting next month. He will not be back until the end of March.

R. Germain stated it would not matter to the applicants because they would not be able to do anything right now anyway.

J. Langey stated that would be an issue because there are recusals. He said L. Orbach recused himself and D. Silverman felt conflicted, as well. J. Langey stated with a 5-man Board, you need at least 3.

R. Germain confirmed that he filled-out the short form SEQRA.

R. Germain agreed with J. Langey that it was a Type II action.

Patricia Sutherland inquired where the fence would end and the height of the fence.

R. Germain said the variance that they are asking for would go all the way to the property line.

R. Cook stated the fence needs to set back out of the highway right-of-way.

Motion by G. Smith, seconded by C. Fischer to close the public hearing was carried as follows:

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

C. Fischer stated with the public hearing closed, the Board needs to do the limited SEQR review.

J. Langey stated as part of the overall determination it is going to include a finding that it is a Type II action which means it is such a low impact, environmentally, that the Board does not need to take any further review.

J. Langey reviewed with the Board the standards for an area variance where the Board makes a decision if the standard has been met or if it hasn't been met and reasons for their answer.

J. Langey stated the request is for an area variance for a 6' high chain-link fence on the bordering property to the North with a setback of 1" which is not consistent with the 12" setback which is the ordinance. He said it was a Type II action and the questions and factors to be considered are:

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the new variance.*

J. Langey explained by saying if the Board allowed them to set the fence on the property line or an 1" back would it be a detriment to nearby properties and character.

G. Smith felt "yes." R. Sheridan felt it was out of character for the neighborhood.

G. Smith did not think there were any other chain-link fences around that area.

2. *Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.*

D. Sheridan stated "yes, alternative method." J. Langey stated the Board's earlier comment, that the parcel was large enough to have it setback at the setback required by the Code or further back.

3. *Whether the requested variance is substantial.*

C. Fischer stated 11 out of 12 inches is substantial.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

The Board agreed, "No." J. Langey stated there have been no identified environmental impacts.

5. *Whether the alleged difficulty was self-created.*

The Board felt there was an alternative and adequate land area, so thus the difficulty was self-created.

J. Langey stated with all the questions being answered, the ultimate question is whether the Board will grant or deny the variance based upon the factors discussed.

Motion by D. Sheridan, seconded by Gene Smith to deny the application based upon the factors that the Board just reviewed was carried as follows:

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

J. Langey stated he will prepare the document and forward to the Town Clerk and C. Fischer will sign and it will get filed in the Town Clerk's office. R. Germain will receive a courtesy copy.

C. Fischer confirmed to R. Germain that he does not need to provide further information about construction of the fence without trespassing.

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

C. Fischer stated the Board has received a letter from Mr. Scripa that he intends to withdraw his application but asked the Board to adjourn for a month or two to allow him to look at his options at the property, but more so, to find more suitable property. C. Fischer stated that Mr. Scripa applied for a building permit for the accessory building that was built, retroactively, and will deal directly with R. Cook on that application. C. Fischer stated that Mr. Scripa assured the Board that he would not be using the accessory building for dogs.

R. Cook clarified and said he is not using the accessory building for purposes of a kennel. R. Cook stated it was made clear to Mr. Scripa that he is allowed to have 5 dogs on his property without anyone's approval as long as they are registered and licensed. He is allowed to use the accessory structure to put his dogs in without the Board's approval. R. Cook stated he made it clear to the applicant that he does not want to hear that there are 6 or more dogs.

C. Fischer summarized Mr. Scripa's letter to the Board which said they had decided not to build the dog kennel. C. Fischer wanted to adjourn the file for the month rather than making Mr. Scripa file a new application.

Ralph Bears, a neighbor, stated that Mr. Scripa did not notify the neighbors of the public hearing.

R. Cook stated the Town posted the sign Wednesday for the public hearing and Mr. Scripa had until last Friday to send the letters.

R. Cook stated that Mr. Scripa is, potentially, looking at some property on Bingley Road which would still be in the Cazenovia School District.

C. Fischer stated that the application will be adjourned for a month.

Crawford, Albert & Michele - #11-802 – Area Variance – 4989 East Lake Road

Tom Douglas, the contractor, and Robert Germain, Esq. were present to represent the application for the Crawford's.

T. Douglas stated he did work on the house, as well as, the barn, across the street. He stated the area variance is for two issues: the 2'x8' overhang at the entrance to the barn and the walkway. He said the walkway consists of concrete pavers that went over the top of a concrete walk and they did not enlarge the size of the walk.

T. Douglas said the barn is a separate tax parcel and has 1.9 acres on the barn side. The area being discussed is less than 1%. He further stated it is approximately 80 sq. ft.

T. Douglas showed a picture of another barn to the Board what they were trying to replicate with the design. The purpose is because they are close to the road and the barn does not have gutters so it provides protection for the small children when they are trying to access the barn.

J. Langey told T. Douglas the County Planning Department letter is different from a County D.O.T. letter. He stated to T. Douglas that a letter would be needed from the County D.O.T. stating it is not in the right of way.

T. Douglas stated, "when I contacted the County, the County D.O.T. said this letter was their opinion and they referred it back to the Planning Board."

J. Langey asked T. Douglas to get a letter from the County stating the above statement. He further stated he needed D.O.T. sign-off for the file.

T. Douglas said the thought was to save the barn, yet be useful. The lower level is storage and the first floor is an exercise room/game room for the kids.

C. Fischer said the variance is two-fold. The applicant built the overhang without a building permit, site plan approval, or area variance.

T. Douglas stated there was a building permit on the barn.

R. Cook stated the building permit did not include the overhang.

T. Douglas agreed with R. Cook's statement.

C. Fischer stated to T. Douglas that he needs to comply with the Town with what the requests are. He said the Board is not moving forward until they have the information from D.O.T. He also said he thinks it is substantial that 2 out of the 5' have been taken up in the area between the barn and the road. He said it is not the overall size of the lot; the focus is on the area between the road and the barn. C. Fischer did not take issue with the walkway as much as the overhang. He further stated when they were doing construction at the house; they had numerous violations and had to go back, after the fact. Therefore, the applicant knew what the Town law and zoning code was and ignored it.

T. Douglas stated that once he got involved with the project, permission was asked, not forgiveness. Since his involvement, he asked, reviewed, and discussed with R. Cook each step of the process and made sure they were in compliance. He further stated the overhang on the barn was his error and not the Crawford's. The overhang on the barn was his idea and he did not

understand that he was in the easement and violating the building permit since it was cantilevered and not on the ground. He stated he did not think they altered the footprint of the structure. He said R. Cook informed him otherwise and that is why they have a variance application.

R. Germain stated he was just contacted and the applicant wants clarification on what their rights are. He said the applicant wants to ask for a variance to allow the overhang to stay.

R. Cook reminded the Board that the current structure is already within the highway right-of-way and is pre-existing, non-conforming. He said the building code requires any structure to be back 85' from the center line of the road.

C. Fischer stated the County sent the GML referral back for local determination for parking, the walkway and the overhang.

T. Douglas said the parking has been removed from the table.

C. Fischer said he has a letter from the December 1, 2011 Planning Board meeting, the Planning Board voted 5 to 2 to give a negative recommendation to the Zoning Board of Appeals.

T. Douglas stated the Planning Board asked for photos of where the overhang was on another barn in the same time period. He showed the Zoning Board of Appeals a barn on South Eagle Village Road with a similar overhang.

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

Mike Stone and Bridget Stone stated they were against the application. He said they live at 4999 East Lake Road which is north of the Crawford's. He said in the past year they have endured hardship because one of their trees was taken down and invisible fence was installed. He feels there has been a detriment to the value of his property. He showed the Board on his computer a Google map of the property. He explained the layout of the properties. He further stated there was never a concrete walk leading to the barn and showed it on the map. He said it possibly could have been buried under the dirt but it was just a grass area and not visible. He said he thinks it is a barn, in the process of, becoming a house or a home office. He said it has double hung windows, French doors and shutters. He also stated in the summer time; there are cars all over the street and people sleeping in the structure. He thinks it is significant, substantial and a detriment to his property value.

T. Douglas stated that the walkway was buried under the dirt.

R. Germain asked M. Stone if he had an objection to the overhang above the door.

M. Stone stated he does have an objection to the overhang. He feels it is out-of-character to the neighborhood and does not look like any other barn. He thinks an overhang is meant to be a gathering place and this is only 2-3' off the road. He also said it is right across the street from his house.

M. Stone said the tree that was cut down has not been replaced. He further stated that the Crawford's view has improved of the lake and his has gotten worse. He said they have not complied with any of the site plan, in regards to the tree plantings, that have been approved.

M. Stone stated that he has a problem with the Crawford's doing changes to the properties without getting approvals in advance. His concern is over time and what will become of the property.

T. Douglas stated that he has conformed to the site plan which was submitted by EDR which was approved by the Planning Board.

R. Cook stated the site plan and planting plan that was approved by the Planning Board; the permit has a 1-year expiration. He said at the end of the year, the Board will anticipate compliance. He said, at that time, an inspection will be done to make sure it has been executed as on the paper drawing.

C. Fischer said the issue before the Board is the walkway and the overhang. He said if the existing walkway was already there, it is a lower standard. This means they can replace but not expand.

M. Stone stated the walkway has not been visible in 10 years.

R. Cook said he has never seen anything except a grass ramp. He said he is unaware of what was underneath the grass. The walkway was not part of any of the overall site plan approval that was done.

T. Douglas stated the Crawford's thought they were replacing an existing concrete walkway that was failing. He said there was grass and dirt that did accumulate over the walkway throughout the years. He said there is concrete underneath and some has been removed so the grade did not get too high. They wanted to make sure they stayed below the shoulder.

M. Stone suggested they take the overhang down if they never wanted it and it was the contractor's idea.

R. Germain and T. Douglas stated the applicant wants the overhang to remain. T. Douglas said they are willing to comply with however the Board rules.

C. Fischer suggested the file be adjourned until there is clarification from County D.O.T.

C. Fischer stated to T. Douglas that the Zoning Board of Appeals would need a copy of the required letter.

C. Fischer suggested to the Board that they adjourn for a month and continue the public hearing.

T. Douglas said he had a piece of the concrete that was removed from the pre-existing walkway so it did not interfere with the shoulder of the road and he can bring to the next hearing. He further stated Clay Coleman did the work and he can come to the meeting.

C. Fischer stated that the walkway is a concern and asked T. Douglas to bring proof that it is a replacement.

Bronson, JoAnne - #11-807 – Special Use Permit – 1930 Chard Road

J. Bronson stated she is applying for a special use permit for a limited bed and breakfast. She said she is not sure of the time frame due, to ill, elderly parents that live with her at the property. She said it will be an upscale bed-and-breakfast with a word-of-mouth clientele. She said it will be a way to keep the property in her family.

J. Bronson said it will be possibly two rooms that would be rented out.

R. Cook stated the limit is up to 5 rooms, which mimics the New York State building code.

J. Bronson said there is plenty of parking because there is a parking pad on the site and she pointed out for the Board on the pictures that were submitted with her application.

J. Bronson confirmed the house was not visible from Chard Road.

J. Bronson confirmed her parents are the actual owners of the property and she built the house.

C. Fischer stated one of the requirements is for the owner of the property to live in the bed and breakfast.

J. Bronson said her parents will continue to live there because she is there sole caregiver.

J. Bronson said there would be no signs.

C. Fischer reviewed for the Board the bed-and-breakfast requirements. They are:

- The owner shall live on the premises.
- No alteration to either the exterior or the interior shall be made which changes the character of the structure.
- The maximum number is 5 bedrooms/10 people.
- Breakfast can only be served to overnight guests.
- No events or other special events without a special use permit by the Zoning Board of Appeals.

J. Bronson said she is not planning on making any changes except maybe to paint interior walls.

C. Fischer stated the requirement is not to turn it into a commercial establishment and it needs to maintain the residential feel.

C. Fischer stated at the December 1, 2011 Town of Cazenovia Planning Board meeting, they voted unanimously on a positive recommendation for the special use permit.

C. Fischer said the Planning Department returned their recommendation and stated they felt the bed-and-breakfast fit into the character of neighborhood since the district is surrounded by residential homes.

R. Cook stated that he had two neighbors inquire about the application; R. Cook explained the application to Mrs. Harlow and she was okay with it. He further said the neighbors to the South who own 50 acres, were also fine with the application.

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

There was no public comment.

R. Cook stated there is no annual review since the zoning has changed.

Motion by C. Fischer, seconded by G. Smith to close the public hearing was carried unanimously.

Motion by C. Fischer, seconded by G. Smith 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 to approve the bed-and-breakfast application for a maximum of 2 bedrooms as proposed by the applicant was carried unanimously.

The Board discussed education requirements briefly.

The meeting ended at 9:12 p.m.

Zoning Board of Appeals Secretary – Connie Sunderman – January 1, 2012