

Cazenovia Zoning Board of Appeals

Meeting Minutes

February 27, 2012

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

Members absent: Richard Sheridan

Others present: John Langey, Esq.; Ann Redfern; Graham Egerton; Tom Douglas; David Cook; Ellie Cook; Vince Taylor; Andrew Ramsgard; Neil Goldberg; Cort Reed

C. Fischer called the meeting to order at 7:30 pm.
The next regularly scheduled meeting is Monday, March 26, 2012.

C. Fischer stated due to a lack of agenda items there was no January meeting.

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

Motion by G. Smith, seconded by C. Fischer to approve the December minutes was carried unanimously.

Christakos, Donald & Patricia – #97-106 – Special Use Permit Renewal – 3903 State Route 13

C. Fischer stated it was for a renewal of a special use permit and the Board had not received the renewal application back. He stated the file will be “pushed” for the month. C. Fischer stated he will have the Z.B.A. Secretary send out a reminder letter to the applicant.

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

C. Fischer said the applicant had a special use permit for a number of years. He stated when the renewal was sent this year; Mr. Wondrack called the Z.B.A. Secretary and advised her that he is retired and no longer wants or needs the special use permit.

C. Fischer stated based upon J. Langey and R. Cook’s recommendation a motion should formally be made acknowledging.

Motion by C. Fischer, seconded by G. Smith to terminate the special use permit upon the applicant's request was carried unanimously.

C. Fischer said it should be noted if the applicant decides to change his mind in the future that he will have to start a new application.

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

C. Fischer reminded the Board that the file has been on the agenda for several months as the applicant made application to the County, and then through the County, to the State to have their land designated primarily as agricultural land. C. Fischer stated Mrs. Hazer advised him last week that the State Department of Agriculture and Markets finally approved their application. C. Fischer stated the Hazer's forwarded the Board information from the State and the County.

C. Fischer said the file started out as a special use permit and then once it was reviewed; the determination was made it needed to be a use variance application. C. Fischer said, in light of the State Agricultural determination, it can go back to being a special use permit.

G. Smith said he did not see anything in the file that stated it was specifically for the Hazer property.

C. Fischer stated the County designation is by "lots," as in larger section lots. He said Scott Ingmire at Madison County Planning confirmed that the Hazer property was in a lot that was approved.

C. Fischer confirmed they are adjoining properties already in the agricultural district.

C. Fischer suggested that we renote for a new public hearing next month for a special use permit. He further stated the Hazer's will have to renote everybody about the public hearing.

G. Smith stated they have planted a lot of evergreens.

C. Fischer stated the Hazer's have considered the Board's comments and relocated the manure pile, planted a screening and have done various other things.

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

C. Fischer stated that Mr. Scripa has formally withdrawn his application.

The Board acknowledged he voluntarily withdrew his application. C. Fischer stated if he changes his mind in the future; he will have to start the process with a new application.

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

Tom Douglas was present to represent the application. He stated that Mr. Germain was not present because he had a conflict with another meeting.

C. Fischer stated to the Board there were 3 parts to the application, initially: the overhang on the barn, replacement of the walkway, and designated parking.

T. Douglas confirmed the designated parking had been eliminated.

C. Fischer said there are two area variance applications before the Board. He said the applications are for the setback from the road for the overhang and the walkway. C. Fischer stated the Town of Cazenovia Planning Board had requested a letter from the County D.O.T.

C. Fischer stated there is a letter in the file from January 31, 2012 from Madison County Department of Highways. C. Fischer read the letter to the Board which stated the Department did a visual inspection of the Crawford residence and they looked at the roof overhang on the barn and they determined there was no adverse impact on the highway activities related to the overhang.

C. Fischer said there was a question on the walkway whether it was replacement of an existing walkway or a new installation.

T. Douglas said it was simply a repair and the walkway was from the original dairy barn, which was how the farmer accessed the barn from the road. T. Douglas said Clay Coleman, a local landscaper, did the hardscapes for the Crawford's. T. Douglas stated C. Coleman said there was concrete underneath and he had to remove a portion of it due to the elevation. They wanted to make sure the elevation was below the road so a plow didn't catch the pavers. T. Douglas said they made the area smaller and he thought the new area was 6'x8'. T. Douglas said the landscaper went over what was already there.

C. Fischer said he had a similar conversation with Clay Coleman and he indicated that the concrete was there, and they removed some and kept some.

J. Langey stated if it is just a replacement, it is an interpretation for R. Cook. He said Roger may say it is a simple "swap in-swap out" since it is something that is already there and perhaps the area variance isn't necessary. He stated he will discuss with Roger.

C. Fischer said the application had been referred to the Madison County Planning Department and they returned and said the overhang or the paved area would have no negative County wide impacts.

C. Fischer said at the December 1, 2011 Planning Board meeting the Board voted 5 to 2 to give a negative recommendation on the two variances.

C. Fischer said some of the negativity may have been because it was asked for "after the fact."

T. Douglas stated there was a building permit for the barn. He wanted the Board to understand that he came into the project late and tried to “fix some wrongs.” He further said, since he has been involved, he has discussed everything done with R. Cook.

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

No one was present to speak for or against the application.

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

C. Fischer said the barn is 8’ back (10’ with a 2’ overhang). He said in the lake watershed the setback is 50’. He stated the applicant needs 42’ relief on the overhang and 50’ relief for the walkway.

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 and approve the two requested front yard setback variances one to include 42’ relief for the setback for the overhang that is attached to the existing barn, and the other for a front yard 50’ relief for the pavers that replace the existing concrete subsurface was carried unanimously.

J. Langey stated the reasons supporting the variance are the proposed overhang and hardscape are improvements over the previous existing condition and compliment the parcel. He referred to the criteria of an area variance and asked can the benefits sought by the applicant be achieved by no other feasible way. J. Langey said the overhang must be attached to the existing building, and it is existing. He said the pavers were merely a replacement of the subsurface. He said it is substantial, but it is substantial because it is being measured from an existing structure that is already encroaching within the front yard setback and you are simply building from that. He asked the question regarding the criteria, will the variance have an impact on the physical or environmental conditions of the property. He stated “no” and the County has approved the location in the right-of-way. J. Langey asked the question was the hardship self-created. J. Langey said “yes” but that is not necessarily a determining factor in this instance.

Taylor, Vincent – #12-812 – Area Variance – 5150 Ridge Road

Vince Taylor was present to represent his application.

C. Fischer said that Mr. Taylor wants to build a building and due to the configuration and topography of the lot, as well as how the house is positioned on the lot, it needs to go in front of the house. He stated that the Town of Cazenovia zoning requires that such an accessory building needs to go in the back of the house.

V. Taylor said they want to build a building so they do not have to leave various items in the yard such as a tractor. He described the setting of his property. He said the houses were built on a ridge line to take advantage of the view. He stated as you get past the house line-things drop off quickly. He said another limiting factor is the electrical service and pointed it out on the photograph. He said to put it behind the house would require a retaining wall. He showed the location on the photograph of where they want to place the building. He stated they can place it behind the trees and take advantage of the parking lot that is already there.

V. Taylor confirmed it is 400' back from the road. He said some of the barns in the neighborhood are already closer to the road which he understood some of them may have been grandfathered in.

C. Fischer said such a building would not be completely out of character with the other properties in the neighborhood.

V. Taylor stated that Mr. Pratt of the Planning Board was concerned about breaking up the openness of the area and was the one dissenting vote. V. Taylor said the trees that line the driveway already break up the openness and they want to place it behind the trees. He stated the building at the top will be 20'. He thought the trees were about 35' and the shortest one, about 18'.

V. Taylor stated that he has talked with all the neighbors that would have gotten the notice. He said the two that would be most affected would be The McCrinks who live next door. He further stated that they are supportive and he submitted a letter to the file showing their support. He said Dave and Ellie Cook, the neighbors to the West, would be the other neighbor affected.

C. Fischer said that Madison County Planning Dept. returned their report and said the barn would have no county wide impact and returned it for local determination.

C. Fischer stated at the February 2, 2012 Town of Cazenovia Planning Board meeting, they voted 5 to 1 for a positive recommendation for the variance.

J. Langey said it should be noted what the Board is agreeing to; the location of the structure in the front yard. He further stated the current code states no accessory structures in the front yard.

V. Taylor said he measured 400' back from the center line of the road to the closest corner. He said the building would be 60'x40'.

J. Langey referred to the impervious surface calculation page and said there is a 400' setback from the road and 60' off the North property line.

C. Fischer said the applicant provided a letter from the McCrinks which stated they are in full support of the Taylor's building a 40'x60' building on the North side of the Taylor property. The letter said the McCrink's is the nearest house that would see the barn and they are in support of the application.

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

The Cooks, the neighbors across the street, stated they were "for" the application. David Cook stated he thought they would see the changes more than anyone else because they are directly across the road. He stated they have no problem with it.

There was no further comment from the public.

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

G. Smith stated there isn't a good alternative to place it where zoning would allow the building and it is not going to be out of character with the neighborhood.

V. Taylor stated the existing Austrian Pines will provide fairly good screening. V. Taylor confirmed the building will be used for private use.

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, to approve the area variance for a 60'x40' building with the western most point of the building being 400' from the center line of Ridge road and the northern most point being 60' from the northern property line was carried unanimously.

C. Fischer signed the 2 diagrams as approved. C. Fischer stated any construction will have to be done pursuant to what was approved.

Goldberg, Neil - #12-813 - Area Variance - 5043 & 5057 East Lake Road

L. Orbach recused himself because of business-potential conflict.

Andy Ramsgard of Ramsgard Architectural Design, Cort Reed of EDR Companies and Neil Goldberg were present to represent the application.

Andy Ramsgard showed the Board a large drawing. He stated the Goldberg's have an agreement to purchase the Green's property, which is directly adjacent to the South. He pointed out on the map the existing location of the Green's garage and the house. He said the Goldberg's had an opportunity to purchase the house next door and it had beautiful lawns and gardens. A. Ramsgard said there are 2 "curb cuts," one for the Goldberg's and the Green's have one directly to the South. He said it is a much better spot to enter the properties because the sight lines are better. He said for a multitude of reasons they want to preserve location of the existing house and garage. He said the garage is currently built 4' off the Southern boundary line and it makes sense with how the driveway comes in. He said they are proposing to put a new hip roof on the garage, re clad the exterior and create a guest house. The guest house will be a 2-bedroom house attached to the garage space which will allow them to preserve the garden space between the existing house and garage.

A. Ramsgard stated that the Tullys (the neighbors) had forwarded a letter to the Town which initially had some objections. He stated once Neil Goldberg found out there was some objections he met with the Tullys. He said they worked out a plan for screening the adjacent property. A. Ramsgard stated he knew Mr. Tully sent a second letter to the Town which referred to the discussion and said they were in favor of the area variances because they worked out a planting plan along that side. A. Ramsgard stated it would screen the existing structures and still allow for some open views to the North.

A. Ramsgard pointed out on the drawing the area that the Tullys were concerned with screening. A. Ramsgard said they would screen the area but with only 4' to the property line you can't get a decent size tree. He said the Goldbergs and Tullys worked out an idea for planting evergreens, similar to the ones that were planted on the North side of the Goldberg property, so they would screen out. He said Mr. Tully is fine with the trees being partially or wholly on his property so they can utilize a decent size tree.

C. Fischer inquired about the plan to make it official. He said he is not comfortable having the Board approve a plan that has plantings on someone else's property. He asked if there would be a fence line agreement, easement, or maintenance agreement.

N. Goldberg stated he spoke to the Tullys a couple of times. He stated that when he spoke to them, they realized they couldn't put the evergreens in 3 1/2'. He said, currently, the Tullys look at the back of Mr. Green's garage.

J. Langey said if it is part of the landscaping plan that it is going to be planted on a separate parcel; there needs to be something in the file.

A. Ramsgard stated the plantings will be on the existing grade.

J. Langey said they need to show that part of their landscaping plan is taking place on someone else's property. He said, if there is a more formalized agreement between the Tullys and the Goldbergs, hypothetically, a future owner can't say that they are not maintaining them and it was a condition of the approval. J. Langey further stated there would be no enforcing mechanism after they are planted and if they were to die.

A. Ramsgard stated they have to have a formal planting plan for the Planning Board. He said in the interim; they can work out some thoughts or ideas with the Tullys.

N. Goldberg said he can get a letter that they can agree on.

J. Langey said he is open to whatever proposal the Tullys and Goldbergs come up with.

A. Ramsgard said the variance they are looking at is the side yard variance.

C. Fischer stated it is currently 4'. He said due to the construction they have to reapprove the existing setback.

Also, A. Ramsgard said it is technically one property and there is more than one accessory building on the lot.

A. Ramsgard stated the property line between the lots has not been removed yet and it is pending with the Planning Board.

J. Langey stated that the site plan review and resubdivision/lot elimination will be a condition of approval of the variances.

A. Ramsgard stated you have to have a variance in preparation for the removal of the line because it technically becomes a non-confirming issue.

J. Langey stated in the Lake Watershed District you are allowed to have a primary structure, accessory structure and a lake structure.

A. Ramsgard confirmed they have applied for a side yard variance and an accessory structure.

J. Langey said since it is lakefront property, the area near the road is the rear yard because the front yard is near the water.

A. Ramsgard stated they want relief on the minimum side yard from 25' to 4' and it is an existing structure to the property line. He also stated they want relief from the maximum of one accessory structure allowance including the ornamental garden feature, gazebo. He went through the 5 criteria of an area variance. He stated #1) **an undesirable change would not produce a change in the character of the neighborhood or a detriment to nearby properties.** He said the structure is existing and they are not changing the location, it already exists. The existing vegetation lawn on the south line they will extend along that side. He said the gazebo is a significant distance from the south property line. He said it is 124' from the south line and about 163' from East Lake Road and it is a small structure that is open to the air and you can see through it. He stated it will visually connect the property as one. He stated #2) **the benefits sought by the applicant cannot be achieved by any other feasible means.** He said relative to the side yards, the building is existing and the gazebo is the center point between the two houses that already exist. He said since it is centered, it visually connects them and is an appropriate location. He stated #3) **the requested variance is not substantial.** He said the building is existing and they are not making it any closer to the side yard. He said they are reducing the size of the structures that are currently on that property. He said the gazebo piece is not substantial. He said #4) **the proposed variance would not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.** He said the buildings are existing. He stated, in regards to the gazebo piece, it is a decorative feature.

A. Ramsgard said one of the benefits of the impact on the physical and environmental conditions of the neighborhood is at the Planning Board meeting, there is now a stormwater management plan in place to deal with the property on the South side and at the original date of the structures, there weren't any of those plans in place. He said the management system that will be put in place will treat all the stormwater from the pervious and semi-pervious pavement materials. He said that is something that does not exist right now so that will benefit the health of the lake.

He said **#5) is the need for the variance self-created.** He stated “no” because the existing structure is already 4’ away. He further stated the gazebo is self-created but it is an ornamental feature in the landscape and is a comprehensive part of the design.

G. Smith had concern with 2 houses on one parcel.

J. Langey stated R. Cook made an interpretation that it is allowable as presented by the applicant.

C. Fischer stated there are limitations, for example, in regards to, a kitchen facility.

J. Langey stated that will be an enforcement issue for R. Cook and he will work with the applicant.

C. Fischer said it cannot be a stand-alone house.

A. Ramsgard said it will be a two-bedroom house. He said there is no kitchen. He said all the utilities will be tied together to try to make it one parcel. He showed the proposed structure to the Board. He said there is a open living floor, powder room, staircase, two bedrooms and two bathrooms.

A. Ramsgard said all the materials will match the main house, so it all ties together.

C. Fischer stated it was a concern of the county referral with keeping the two parcels separate but creating only one driveway. C. Fischer stated that is a non-issue now. He further stated they returned it for a local determination.

A. Ramsgard said all the drawings and approvals are based on it becoming one parcel.

C. Fischer stated there was a letter in the file from the Town of Cazenovia Planning Board February 2, 2012 meeting and they voted for a positive recommendation on the two variances.

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

No one was present to speak for or against the application.

C. Fischer stated his biggest concern is the neighbors because of the variance and the screening and he wants to make sure that is covered.

C. Fischer said he is looking for two things; a specific authorization from the Tully’s or a formal legal agreement.

J. Langey said Mr. Tully is a lawyer and he could do an agreement. He said, at the Planning Board and ZBA level, it is important that there be an agreement on record acknowledging that the trees if they are planted on Tully’s property that they will be maintained. J. Langey said whatever is agreed upon Mr. Tully should sign off on. He stated if they can get this by Thursday night (Planning Board meeting) it would be great.

C. Fischer said there needs to be permission to have the Goldberg plan on the Tully lot and some type of maintenance agreement.

J. Langey said in the resolution it can be stated that the variance is not effective unless/until there is a more formalized acknowledgement by the neighboring property owner regarding the plantings on his parcel and a form of agreement on the maintenance/replacement as the parties may contract for. He further stated it can be put as a condition of the Board's approval. J. Langey stated he will make it contingent on full site plan review including the Southern side plantings and contingent on the lot line elimination approval.

A. Ramsgard said the gazebo is approximately 11'x13'. The height is 10' to the plate line and 15' at the highest point.

N. Goldberg said he thinks it does benefit the lake. He said it takes two other fully occupied properties with people living in both houses and creates less density at the lake.

C. Fischer stated that he agreed with Mr. Ramsgard that it is more of a glorified garden structure than a true building.

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

Motion by D. Silverman, 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 two variances: the side yard and additional accessory structure; conditions for approval are the Tully agreement, Town of Cazenovia Planning Board granting site plan approval including the plantings on the South side of the site, and lot line elimination approval was carried as follows:

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

J. Langey stated he has standard conditions that it has to be built exactly as the plans show.

C. Fischer stated the gazebo plans refer to EDR Plan L1.1 (site location), and Ramsgard Plan A1.3 (construction).

Motion by C. Fischer, seconded by G. Smith to adjourn the meeting was carried unanimously at 8:53 p.m.

Zoning Board of Appeals Secretary – Connie Sunderman – February 29, 2012