

Cazenovia Zoning Board of Appeals

Meeting Minutes

June 25, 2012

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

Members absent: David Silverman

Others present: John Langey, Esq.; Roger Cook; Graham Egerton; Anne Redfern; Phillip Cunningham; Tracie Cunningham

C. Fischer called the meeting to order at 7:30 pm.

C. Fischer said there is nothing on the agenda for the July meeting.

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

Motion by C. Fischer, seconded by G. Smith to approve the May meeting minutes as amended was carried unanimously.

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

C. Fischer said there have been repeated requests to the Christakoses and they still have not submitted a letter formally withdrawing, dismissing or renewing their special use permit.

C. Fischer suggested making a motion to formally terminate the special use permit due to lack of renewal so it can come off the agenda. He further stated if the Christakoses decide they need the special use permit in the future, they can come back and go through the process.

R. Cook stated the building is for sale.

J. Langey said the Board should vote if they are going to "extinguish" the special use permit.

Motion by C. Fischer, seconded by R. Sheridan to terminate the special use permit at 3903 State Route 13 South due to a failure to renew pursuant to the Town code was carried unanimously.

Critz, Matthew – #01-176 – Special Use Permit Renewal – 3232 Route 13 South

C. Fischer stated, in light of the last meeting, a letter was sent to the Critzes asking them to formally withdraw their special use permit applications. He further stated the Board received a letter formally withdrawing and didn't think anything further needed to be done.

Critz, Matthew – #04-235 – Special Use Permit Renewal – 3232 Route 13 South

See above file #01-176.

Cunningham, Phillip & Tracie – #12-838 – Area Variance – 4304 Route 92

Phillip & Tracie Cunningham were present to represent their application.

P. Cunningham said he would like to put a new deck across the front of his house. He pointed out to the Board on the site plan the concrete slab that is near the deck that partially wraps around the house. He further pointed out to the Board the various structures on the property. He said they took the steps off the deck because they were falling apart. He said they want to build a deck 6' out and 14' out and put stairs coming down both ways. He stated they will remove the concrete that is near the deck and he has already gotten rid of the shed and the concrete under that structure.

R. Cook gave the Board an idea of the location of the property. He said looking up from the State parking lot at the end of the lake it is the camp that sticks out on the west side.

C. Fischer said basically an outdoor space is being replaced with an outdoor space.

C. Fischer said at the June 7, 2012 Planning Board meeting the Board voted unanimously on a positive recommendation for the area variances.

C. Fischer said the project was referred to the County Planning Department. He said a response was received and he has talked with J. Langey and R. Cook because they all are unsure they agree or follow the response. He said however, the matter was returned for local determination. He read the comments from the Planning Department which said: The removal of a 12'x12' shed and concrete pad and removal of a concrete patio to be replaced with a wooden deck along with repair to the seawall and boat house foundation will cause no adverse county-wide impact. Overall, these improvements will decrease the amount of impervious surface on the property which is favorable as impervious surface increases stormwater runoff which can be detrimental to the protection of Cazenovia Lake, a priority with the community. However, it appears the new deck (568 square feet) is being enlarged beyond the dimensions of the existing (26'x14' or 364 square feet) concrete patio. If this is the case, 165-106B states that "no [non-conforming] structure shall be altered or enlarged unless the use thereof shall thereafter conform to the use

regulations of the zoning district in which it is located." And while neither setback measurements or the layout of the current concrete pad are provided in the submitted site plan, it seems allowing this variance would increase the non-conformity. If this is the case, we would recommend the Town, at most, allow for only a replacement of the same size.

J. Langey said he tried to call Scott Ingmire (Madison County Planning Department Director) several times and they kept missing each other. He said his reaction is he does not understand the comment. He said he does not see it as an increase to a non-conformity and how it is any different than when any applicant wants to build a deck and the deck is going to be too close to the line; it is dealt with as an area variance. He said he spoke with R. Cook and they both agree they look at it as a variance. He further stated it is returned for local determination.

The Cunninghams confirmed the deck is going to be closer to the lake than the patio was. He stated on the one side it will be closer but on the other side it is the same.

T. Cunningham said the house is a little over 50' from the shore.

J. Langey asked how close the deck would be to the lake? He stated the required setback is 100' from the lake.

C. Fischer stated it been noticed for a public hearing and asked if anyone was present to speak for or against the application. He further stated the applicants submitted a copy of the letter to the file that was sent to the adjoining landowners.

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 stated he had two letters that should have been read during the public hearing period and read them to the Board. He said they will be added to the public comments. He read a letter submitted by David Silverman. The letter said: Regarding the above matter that is currently in front of the ZBA, I will recuse myself as the applicants have currently purchased property near my house. I would like to advise the Board that as a citizen and neighbor, I fully support the applicants. They have taken an old, run-down property and are doing a wonderful job improving it.

C. Fischer read another letter submitted by Dan Kuper. The letter said: May this letter serve to inform you that I am in support of Phil and Tracie Cunningham's desire to build a deck on the front of their house located on Cazenovia Lake. I am quite certain any changes or improvements they wish to make will be beneficial to the property.

C. Fischer said specifics are needed for R. Cook's benefit. He said the closest point to the lake needs to be considered.

J. Langey said his map copy was reproduced so he could not scale from it.

C. Fischer said the measurements were not in the file.

The Board spent some time working with the Cunninghams to come up with the setback and the amount of relief that was needed.

G. Smith said the Board needs a plot plan with specific dimensions so R. Cook has something to go by for enforcement.

C. Fischer said they are allowed to give enough as is needed, but not allowed to give more.

P. Cunningham said on the front they are coming out 6' and going across the front and on the side they are coming out 14'. He said there were steps with a roof and the steps have been removed.

R. Cook said that both sides of the house and proposed deck are considered "front yards," since both yards are lake front.

J. Langey stated two variances are required since they are both front yards and the setback is 100'.

J. Langey needed the exact information for his resolutions. He worked with the Board for details and it was determined to be no closer than 16' at the southern shore line and 84' of relief and no closer on the eastern shore line than 38' and 62' of relief. He said the mitigating factor in the analysis is, it is not that much closer than the existing patio and the shape of the lot.

C. Fischer said it is replacing the existing patio, but in a different form.

R. Cook said it extends the whole length of the east side.

J. Langey said it should be plotted out before it is built so R. Cook can check it. He said they can snap a line, stake it out and R. Cook can sign-off on so there is not a discrepancy after it is built.

P. Cunningham said a carpenter is doing the deck.

C. Fischer put the setbacks on the submitted site plan drawing.

C. Fischer said the discussed dimensions have been off the sea wall.

P. Cunningham said he has to contact the D.E.C. regarding fixing the boathouse.

R. Cook thought the sea wall was about 1' thick.

R. Cook said the lakeside of the seawall should be considered.

Motion by C. Fischer, seconded by R. Sheridan 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 two front yard area variances,

one on the south side of the house for 84' of relief for the construction of a deck and on the eastern front yard setback 62' of relief for the construction of a deck was carried unanimously.

J. Langey told the applicants they needed to come back to the Planning Board for the site plan on July 5, 2012.

C. Fischer said a notice came in the mail regarding New York State Association of the Towns Planning and Zoning summer schools. He said the training is in Albany, Amherst, Fishkill or Fairport with a variety of topics.

The Zoning Clerk stated she will email the notice to the Board members.

Motion by C. Fischer, seconded by R. Sheridan to close the meeting was carried unanimously at 8:00 p.m.

Zoning Board of Appeals Secretary – Connie Sunderman – June 28, 2012