

Cazenovia Zoning Board of Appeals

Meeting Minutes

September 24, 2012

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

Members absent:

Others present: Wendy Reese, Esq.; Graham Egerton; Anne Redfern; Kola Stucker; Mark
Woods; Brian Gardner; Michael Curley

C. Fischer called the meeting to order at 7:30 p.m.
The next regularly scheduled meeting is October 22, 2012.

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

Motion by G. Smith, seconded by R. Sheridan to approve the August meeting minutes as submitted
was carried as follows:

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

C. Fischer told the Board there were a couple of additional items for the agenda which were published.
He said, however, in the interim, the applicants withdrew their applications and the withdrawn
applications were:

File # 12-850	William and Rebecca Ballard	Stone Quarry Rd.	Special Use Permit
File # 12-851	William and Rebecca Ballard	Stone Quarry Rd.	Area Variance
File # 12-857	Scott and Paula MacHose (Mary Jo Thomas - owner)	4 South Ten Eyck Ave.	Area Variance

Stearns, Melvin – #05-250 – Special Use Permit Renewal – 2639 Mill Street, New Woodstock

C. Fischer stated it was a renewal for a special use permit to raise goats for children's 4H.

C. Fischer stated that R. Cook inspected the property on September 21, 2012 and found no items of non-compliance.

C. Fischer said he hasn't heard of any complaints.

Motion by C. Fischer, seconded 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 reapprove the Special Use Permit under the same terms and conditions as currently exist was carried as follows:

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

Stucker, Kola – #12-849 – Area Variance – 4474 Lincklaen Road

D. Silverman, Board member, joined the meeting during this discussion.

Kola Stucker, owner, and Michael Curley, contractor, were present to represent the application.

C. Fischer said the applicant is looking for an area variance because they want to replace a porch on the property which would be too close to the road. He said it is more of a replacement than new construction.

M. Curley showed the Board two pictures; the house in its current state and a picture from 1953. He said they want to get the facade exactly like the picture from 1953. He said it is in line with the neighbor's house and had photos of a front porch addition the neighbors did that showed it was in line. He stated from the center line of the road to the neighbor's house (North on Lincklaen); there is 54' to the house, proper. He further stated to the center line of the road to K. Stucker's house is 56'. He stated the neighbor's porch is an 8' addition and K. Stucker would have a 9' porch and her addition would be 1' further back from the road, than the neighbor's. He said Dr. Kane's lot is to the South but there is no house, it is just a lot with a driveway going back. He stated K. Stucker's porch would be right in line and not jutting out. He said it would be an unheated, 1-story porch with all the historic elements.

M. Curley confirmed it would be open and reconfirmed he is working from the picture in 1953. He showed the Board photos of adjacent properties. He thought the roof line for the current portico was 7' out which would come off.

C. Fischer said it would only be 2' out further from the existing.

C. Fischer asked when the porch was removed, originally?

K. Stucker said she thought her parents took the porch off in about 1954.

M. Curley said K. Stucker's house is 56' from the center line of the road. He said 9' from the 56' would make the porch 47' from the center line.

W. Reese said since this is in the RA zone, the minimum front yard setback is 85' from the center line of the abutting street.

M. Curley said they were also going to do the 3 windows upstairs and the whole facade will look like it used to look.

C. Fischer said at the September 6, 2012 Planning Board meeting, the Board voted unanimously on a positive recommendation for the area variance.

C. Fischer stated he had proof in the file that the legal notice was published in the *Cazenovia Republican*.

C. Fischer said the applicant sent letters to all the adjoining landowners.

C. Fischer stated it been 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.

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

C. Fischer asked the Board their thoughts?

L. Orbach stated he is a neighbor across the street and he thought it would be a desirable change and in character with the neighborhood.

The other members of the Board did not have any concerns with the project.

R. Sheridan said the setback would be 1' back from the adjoining property.

Motion by G. Smith, seconded by D. 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, to approve the area variance for the addition of a front porch to the residence with a setback of 47' from the center line of the road with a variance of 38' was carried unanimously.

Gardner, Brian – #12-846 – Area Variance – East Lake Road

Brian Gardner was present to represent his application.

C. Fischer said it was listed as an area variance and is an informal for the meeting, tonight. He said the applicant owns vacant land on East Lake Road that wraps around to the Mount Pleasant cul-de-sac and his long term plan is to build a house and his short term plan is to build a storage building prior to the house.

C. Fischer said, under the Town of Cazenovia zoning ordinance, you cannot have an accessory structure without a house. He said he was unsure if it was an area variance and had talked with counsel and they thought it might be a use variance. He said it is the use, not the traditional area variance, such as a setback, etc.

B. Gardner said he purchased the property 4 years ago and the intentions then are the same as they are now. He referred to the site map and said the driveways are already in and opened up. He stated the house will be built on the hill and the storage building will be about 700' back off of East Lake Road. He stated, in regards to the view from the road, it is a big building, but you might just see the peak of the roof and maybe the cupola. He said he has been maintaining the property for 4 years now by doing brush hogging, mowing and he said he has to transport equipment 20 miles from his existing shop, on a monthly basis. He stated he is trying to avoid transporting the equipment and he wants to store some of the equipment to maintain the 44 acres. He pointed out an area to the back of the property which he said is farmed. He said he has some trails that lead up to where he will be building. He further stated he would additionally like the barn so he can stage materials as the house is being built. He said he is asking for permission and his intentions are true and the house will be built, but he wants to build the storage facility from a practical standpoint, prior to the construction of the home.

C. Fischer said the Planning Board's concern was how to structure the construction time period and how to enforce the construction of the house within a reasonable time frame. He said the Board ultimately issued a negative declaration.

B. Gardner said the proposed building is 60'x100'. He said the unanimous vote came at the end, but as they went around the Planning Board table half the people did not have an issue with it.

B. Gardner said he wants to build once and not build again. He stated he has a lot of hobbies and he will store some tractors and equipment, and also have a workshop.

G. Smith inquired if a business will be run out of the building.

B. Gardner said they have a family-owned business that runs out of Chittenango, near Bridgeport. He said he has no intentions of doing anything out of this building. He stated they have a general commercial contracting business known as W.A. Gardner, Inc.

C. Fischer reiterated he was unsure if it was a use or area variance. He said, in New York State, there are five criteria for a use variance, as well as, an area variance, but they are different criteria. He said

the criteria for an area variance are considerations-things that the Board needs to take into consideration. He said a use variance is more stringent and rigid. He stated one of the criteria is the hardship can't be self-created and he is unsure how the applicant can get around that. He said the second criteria is one, that is virtually impossible, which is to show there is no other economic benefit to the property other than what is being proposed and he gave the applicant an example.

C. Fischer said the Board needs to let legal counsel and the Codes Enforcement Officer make the decision of what type of variance it is.

C. Fischer said the concern is how to enforce.

B. Gardner said that was the "road block" with the Planning Board.

D. Silverman said, conceptually, it is a big building, but it is a big piece of property. He said one of his biggest hurdles would be if there were a concern of neighbors. He further stated from an accounting standpoint, it makes a lot of sense.

B. Gardner explained the topography of the land and explained the layout of the structures on the property.

C. Fischer said one of the potential solutions from the Planning Board was to push the start of the construction of the building so it is a little closer to the time of the construction of the house. He said then one building permit would be issued for both, basically. He said building permits are good for a year and can be extended for a year. He said this would allow a two-year time frame to get both constructed.

G. Smith said if he did not build the house, the barn would have to come down.

B. Gardner said he was fine with that. He said his son just turned two and their goal was to be living in the house by the time their child starts kindergarten. He said that puts him closer to the three-year marker and not the two-year marker. He said if this is his best case scenario, it is fine. He said he spoke with R. Cook, theoretically, about a timeline. He said he would pull the permits for both things March 29, 2012. He said on March 29, 2015 the house is up and aesthetically from the road it is fine, but he does not necessarily have the Certificate of Occupancy and they would still be trimming inside. He said he would be putting in a good faith effort into getting it done. He inquired what would happen March 29, 2015, would he be back to the Zoning Board of Appeals or what would occur?

C. Fischer said he did not know the answer for that question.

B. Gardner reiterated his intentions were true. He further stated he does not want to squeeze this in, financially, either.

C. Fischer said, since he is in the commercial construction business, he mentioned a bond of some type. He said it would be additional security that might make the Planning Board more comfortable with their decision.

B. Gardner said he understood that it is a legal way to make everyone comfortable.

B. Gardner said there would be a lavatory in the barn. He said he has known the rules since he bought the property and he has thought of every option to make this work.

B. Gardner said he has worked with Finger Lakes Construction, but has not signed anything yet, until he knows the status. He stated he can wait until Spring and he showed the Board a preliminary plan from an architect-friend.

D. Silverman asked about seeing the building from roads.

B. Gardner stated the land dips down quite a bit. He said he is back 700' and there is a tree line where the driveway edge is located. He said on a 5 12 pitch, it would be around 32' and if you drive by and are looking for it you might see the peak or the lighted cupola, but you will not see a big barn up there.

D. Silverman said in this type of situation, they sometimes have the applicant do a test balloon so the Board members can drive by and check it out.

C. Fischer said if there was a house it would be just a normal accessory building as long as there was no commercial activity.

B. Gardner said they have two big shops they have used for 30 years and they have no intention of changing that.

R. Sheridan inquired about the applicant's plans for the property 10 years from now.

B. Gardner showed an area on the map that was presently cleared. He stated he wants to have a big house with a walk-out basement. He said he was granted an easement from his neighbors, The Wheeler's, on the upper portion, so he has a driveway that comes in from Mount Pleasant Drive. He said he wants to have as big of a yard as he can and have a garden. He said he has planted more trees than he has taken out to put in the driveways. He said he tries to maintain the streams and the ditches.

C. Fischer said the application was sent to the Madison County Planning Department. He said when it was sent there was no site plan. Therefore, the GML that came back said there was no site plan but based on the language, and there is no county-wide impact.

B. Gardner confirmed he is in the lake watershed.

C. Fischer said the north edge of the Gardner property is the north edge of the watershed district.

C. Fischer said the first step is to find out if it is an area variance or use variance. He further stated it would be a combination of R. Cook, the Codes Enforcement Officer, and consultation with the attorneys for the Town. He said they need to go in that direction to get an opinion which will drive everything else.

C. Fischer said the other practical issue is the Board needs to be careful of setting precedents that they have to keep.

B. Gardner said he will not be the only one building the house, and it will be built in a reasonable amount of time.

C. Fischer said he will contact the Codes Enforcement Officer and the Attorney for the Town and have them talk and take a look at it and come up with an opinion. He stated then they will get back with the applicant.

C. Fischer said the applicant will stay on the agenda for next month and the Zoning Board of Appeals will be in touch with him before then.

B. Gardner said if they want to look at the property, the Board members can help themselves. He said the lot is cleared out and the driveway to the house will be at the end of the Mt. Pleasant cul-de-sac.

B. Gardner said the water line on the map is the Mount Pleasant "pump house." He thought it served Huntington and Mt. Pleasant.

C. Fischer said he will try to move this along if something formal is going to be done. He said there is a time frame as far as a legal notice and notification to the neighbors, so he will notify the applicant as soon as a determination has been made.

C. Fischer said there is a zoning training opportunity at Bond, Schoeneck & King. He said the Syracuse class is November 16, 2012 and it is 1 ½ credit hours. The Board went over their training hours. The members hours were as follows:

- C. Fischer – in compliance
- L. Orbach – needs 3 hours
- R. Sheridan – needs 1 hour
- G. Smith – in compliance
- D. Silverman – needs 4 hours

Motion by C. Fischer, seconded by G. Smith to adjourn the meeting was carried unanimously at 8:14 p.m.

Zoning Board of Appeals Secretary – Connie Sunderman – September 27, 2012