

Cazenovia Zoning Board of Appeals

Meeting Minutes

August 22, 2022

Members present: Thomas Pratt; David Silverman; Gary Mason; David Vredenburg; Luke Gianforte; Michael Palmer, Alternate Member

Members absent:

Others present: John Langey; Chuck Ladd; David Peterson; Matthew Vredenburg; Jonathan Brodock; Beecher Graham; Kyle Reger

T. Pratt called the meeting to order at 7:31 p.m.

Roll was taken.

Motion by G. Mason seconded by L. Gianforte, to approve the July 25, 2022 meeting minutes was carried unanimously.

The next regularly scheduled meeting will be Monday September 26, 2022.

There will be a work session Tuesday, September 20, 2022.

T. Pratt asked that the rustling of papers, the clicking of pens, and other background noise be limited for the benefit of the recording.

T. Pratt said regarding public speaking, please come forward, provide one's name and address, present to the Board not the Applicant(s), refrain from asking questions but rather make statements, and refrain from repeating items if they have been already been stated once during the time for public comment.

Sovik, Charles - #08-565 – Special Use Permit Renewal – 3813 Number Nine Road

T. Pratt said the special use permit renewal was for farm animals. He said the inspection was completed August 3, 2022, and there have been no complaints or issues.

Motion by D. Vredenburgh, seconded by D. Silverman, to renew the special use permit for another year with the original terms and conditions was carried unanimously.

Peterson, David - #21-1 – Bed & Breakfast Special Use Permit Renewal – 2964 West Lake Road

David Peterson was present to represent the file.

T. Pratt said the special use permit was issued for a Bed & Breakfast (B & B) and the Board has received some complaints regarding that use, and he was hoping a resolution of the issues could be achieved. He said Mr. Peterson provided the Board a rough floor plan. Referring to the resolution written for the original approval in June of 2021 and the recorded conditions including those for Code Enforcement review, he believed the Code Enforcement items had not been completed until Mr. Peterson actually filed for the B & B permit June 10, 2022, yet it appears Mr. Peterson had been operating in the interim.

T. Pratt then reviewed the conditions of the approval. He said Mr. Peterson was required to be on the premises when having guests, particularly between the hours of 7:30 P.M, and 7:30 A.M., and he was to be available at all times. He said he was “somewhat under the impression that hasn't happened, “and asked if Mr. Peterson had been present between 7:30 P.M – 7:30 A.M.

D. Peterson asserted he had been present those hours “every time.”

T. Pratt continued by saying the maximum number of guests permitted at any one time was six (6). When he checked the website listing for the property, he noted it advertised it could accommodate ten (10) guests.

D. Peterson responded he had some bookings that were reserved prior to his original approval which he honored. He thought he could use three (3) bedrooms and now understands he can only fill two (2). He said there had been two (2) instances when he booked more than six (6) guests, but “the vast majority” of times when they exceeded that number was when they were accommodating relatives or friends.

T. Pratt stated the B & B was not to exceed six (6) people.

D. Peterson expressed confusion regarding his entertaining family and friends, and said he would choose having them over having a B & B.

J. Langey explained that Mr. Pratt was taking issue with a listing for ten (10) [paying] guests. He said Mr. Peterson would not be advertising to have relatives stay. He cautioned Mr. Peterson to comply or the Town of Cazenovia would be compelled to take him to court.

D. Peterson expressed understanding, saying his daughter listed the property, but he acknowledged his responsibility.

J. Langey agreed Mr. Peterson was responsible and repeated that the website listing needed to be changed to reflect the correct number of guests.

D. Vredenburg had checked the website today and noted it was listed correctly.

G. Mason said the website he checked today was not listed correctly.

T. Pratt explained the property was listed as two (2) separate sites.

D. Peterson said one member had seen the listing for the “right side”, and the other member had seen the listing for the “left side.” He said he thought he had changed it (for both).

D. Silverman asked about the right side versus the left side.

D. Peterson said after Roger Cook had informed him that he could only rent two (2) rooms, he listed one room in each wing, explaining the house was connected by a breezeway.

M. Palmer elaborated the six (6) person maximum was for the entire house, not six people for each wing.

D. Peterson expressed understanding and apologized for not realizing that.

J. Langey spoke about a case he had in Skaneateles saying that Town hired a private investigator to rent a room in a B & B that was not operating in compliance who documented the infractions with an affidavit that went to court. He reiterated that Mr. Peterson must abide by the regulations created by the Town to use his property for a B & B. He repeated Mr. Peterson cannot have more than six (6) guests for the B & B use of the property.

T. Pratt continued by saying no events, meetings, or activities were allowed beyond the overnight guests. He understood part of the advertisement said 25 or more people could be accommodated for an event.

D. Peterson thought that was in reference to a party he had hosted with friends where they floated Chinese lanterns.

G. Mason said the listing he printed mentioned the ability to host events of that size. He said it was not about Mr. Peterson's friends on boats. He said it was in print and he found that today.

D. Peterson responded, "I won't fight you on that."

T. Pratt said in addition, parking was limited to overnight guests, so no parking was to be used for events either.

T. Pratt read another condition was to maintain a register of guests with dates of stay.

T. Pratt said a lock box was unacceptable as a means of check-in, yet the listing stated there was a lock box for checking in.

D. Peterson said there was no lock box and asserted he was present whenever guests arrived.

T. Pratt noted what the Board is seeing does not correspond to what Mr. Peterson asserts.

T. Pratt saw there was a requirement for Mr. Peterson to move the fire pit. He asked if that was done.

D. Peterson said, "Yes."

T. Pratt asked about the septic system approval.

D. Peterson said he "got that done."

M. Palmer asked Mr. Pratt what kind of approval was done for the septic system.

T. Pratt answered Mr. Cook was "looking into that," and asked what Mr. Peterson did for an approval.

D. Peterson responded that he "got a permit." He explained the septic currently goes into a gravity-fed septic tank which was pumped to his pasture with an appropriately-sized drain field.

T. Pratt asked if it had been inspected after completion.

D. Peterson said they have not had the work done; they just obtained the permit to do the work.

T. Pratt believed these items were to be completed last year.

D. Peterson responded he had not intended to do the septic tank, apologizing for any miscommunication, and explaining he could not afford it last year. He elaborated that Mr. Cook had visited the site a few months after the approval was given and he had inspected everything. Mr. Cook found 5 - 6 items that needed to be completed, which Mr. Peterson completed “within a week,” but Mr. Peterson had not been able to get Mr. Cook back for the final inspection. He said they had spoken several times, and he had provided Mr. Cook with photographs. He said Mr. Cook checked to see the relocation of the fire pit, the fire alarm, railings, the 5/8-inch fire wall, and all the Certificate of Occupancy items.

T. Pratt countered the fire wall was just finished.

D. Peterson explained the fire wall had been completed quite some time ago, but there was a broken pipe that required the removal of a section of the fire wall, and he had forgotten to reinstall that section until recently.

T. Pratt said he had a problem with Mr. Peterson’s agreement with the approval when he was present during the meeting, but the Board’s seeing that many of the conditions have not been met, particularly regarding the website. He recalled Mr. Peterson telling the Board he would take care of correcting the website after the meeting (a year ago) and he did not correct it.

D. Peterson replied he thought he had done it. He said he thought the changes that he made he believed corrected both websites.

M. Palmer asked Mr. Peterson if he checked his own ad.

D. Peterson responded that he didn’t.

T. Pratt saw that Mr. Peterson responded to comments guests left on the website.

D. Peterson agreed, pointing out that over the past 4 -5 years, almost all 30 bookings had given him 5-star reviews. He said when responding to the emails on the website, he did not see his listing details.

T. Pratt informed Mr. Peterson the Board questioned whether they should renew this.

D. Peterson responded that he understood.

T. Pratt was concerned about Mr. Peterson’s claims to adhere to the regulations when the appearance was otherwise.

G. Mason commented the facility looked very nice on the website.

D. Peterson said they built it for their personal use, “not to make money on it.” He added they reduce the cost for guests’ stays equal to the receipts they can produce showing their expenditures within the Town during their stay, saying they love the Town, and they built the house themselves.

G. Mason was concerned about the listing which advertised more than the maximum allowed number of guests, self- check-in, accommodation for 25 attendees of events, and a space where guests can cook their own meals – all being contrary to the rules governing B & Bs in the Town.

D. Peterson explained the space for guests to cook their own meals was a nice barbeque area he provides outside.

G. Mason said his issues were found “in black and white.”

M. Palmer asked if any physical modifications needed to be done to the property at this point or if all those items have been satisfied.

D. Peterson said Bill Carr inspected the site in Mr. Cook’s absence and he passed everything.

T. Pratt said the Board was unaware of any physical modifications remaining.

M. Palmer concluded the biggest issues were then the way the property was being advertised and used.

L. Gianforte asked about the septic.

T. Pratt said the question was whether the septic system was adequate for the current usage.

D. Vredenburgh, reviewing the minutes from the approval, said Mr. Cook believed the septic system was adequate, but there was mention that Mr. Peterson was looking to install a new system at some point.

D. Peterson said he was not upgrading the system because Mr. Cook felt it was inadequate; he was upgrading the system because he wanted to know where it went.

M. Palmer asked if Mr. Peterson built the house and if the septic system was already in place.

D. Peterson answered, “Yes,” to both questions. He explained that he did not remove the existing house, but he added onto it. He was told there were three (3) 1500-gallon tanks; they had one pumped and which was actually 2000 gallons. He stated they have never had any septic overflow, or any other septic-related problems, but he did not like the possibility of any septic going into the lake.

T. Pratt believed there were eight (8) bedrooms in the house.

D. Peterson replied there were six (6) bedrooms and eight (8) bathrooms.

T. Pratt questioned if the septic system was adequate for six (6) bedrooms.

D. Peterson countered that Mr. Cook believed it was.

G. Mason asked if there were two (2) tanks.

D. Peterson said there were two (2) existing tanks, one held 1500 gallons and the other held 2000 gallons.

M. Palmer asked if the septic tanks were in sequence.

D. Peterson said, “No.”

M. Palmer asked if there were two (2) separate septic systems, each with a tank, a distribution box, and a leach field.

D. Peterson affirmed there were, and said he knew approximately where they were located, affirming they were in place when he modified his house.

M. Palmer presumed Mr. Cook would have considered the septic system when he permitted the expansion of the house.

T. Pratt did not think the additions were necessarily bedrooms, he thought some rooms may have been converted into bedrooms.

D. Peterson explained it was a two (2) bedroom house, and they added three (3) more bedrooms when they modified it, and then when they got the permit for the last addition, Mr. Cook assessed the septic system again before issuing the permit.

D. Vredenburgh felt his issues had been addressed, saying changing the website, regarding the number of guests, the self-check-in, and the accommodation of 25+ patrons, was one of his priorities. He asked if the fire pit still burned wood or if it had been converted to propane use.

D. Peterson said it was wood.

D. Vredenburgh noted Mr. Peterson had stated (in 2021) he would convert it to propane.

D. Peterson asked the Board if he had to do that, saying it isn't used often. He said he switched from propane to gas with a 1200-foot pipe to the house, but he didn't want to have the gas pipe in the yard until he completes the installation of the new septic system.

T. Pratt recalled the issue was the amount of smoke burning wood produced which was a problem for neighbors.

D. Peterson said he moved the pit to the center of the property and he prohibited guests from using wood; he provides wood blocks that are used to heat homes which “are virtually smokeless.”

D. Silverman asked about trash storage near property lines and the burning of trash.

D. Peterson denied both, but said he had a tree fall, which took him a long time to clear, and he burned a big pile of debris before the Conans returned home when the wind blew toward the lake.

D. Silverman said he shared Mr. Peterson's love of the neighborhood and the lake, but in his opinion, there are two (2) properties along the lake that have "a huge amount of activity," and Mr. Peterson's property is one with a tremendous amount of boating.

D. Peterson asserted there have not been loud parties since last year, saying they were no louder over the 4th of July than their neighbors. He admitted they had been too loud in the past.

D. Silverman said there were conditions, and it appears those conditions have not been met, which was what the Board was endeavoring to address, but he was unsure how to ensure this property was adequately permitted and operating like any and every other B & B that has come before the Board when the Applicant states issues have been addressed but there was no evidence of its being in keeping with the letter of the zoning laws. He sought confirmation that the original special use permit requirements were met before he could be comfortable with a renewal. He repeated the Board's requirements were equal and fair to all with the goal the Town, the neighbors, and Mr. Peterson were protected.

M. Palmer asked again if there were any physical aspects of the property that needed to be brought into compliance.

It was noted that Bill Carr had done the inspection for the Town, and Mr. Carr considered the inspection acceptable.

M. Palmer again stated the issue was how the property was being used.

T. Pratt added an issue also was how the property was being advertised.

M. Palmer asked if there was a limit on the number of nights Mr. Peterson could operate.

There was not.

M. Palmer agreed with Mr. Silverman that it appeared that Mr. Peterson agreed to all the conditions and then operated as he chose rather than as he agreed. He asked Mr. Peterson how the Board could know that after this meeting and verbal assurances that problems would be corrected.

D. Peterson responded that he needed to be more diligent and change his website, believing that would fix most of the problems.

M. Palmer said restricting the number of guests was needed.

Discussion followed regarding whether the number of family members and friends was included in the count of paying guests.

J. Langey explained the regulations apply to the commercial use of the property, stating whether a property can be granted the commercial use of a B & B was at the discretion of the Board. He said the Applicant has already admitted he was not compliance with a handful of the strict conditions set forth in the law permitting the commercial use. The Applicant was before the Board to determine if the Board was willing to renew the B & B use for another year. The Board could deny the operation, or they could postpone a decision until a later time to determine if the Applicant could be brought into compliance. In answer to the question regarding the number of people, the only restriction for the combination of family and friends in addition to the maximum number of paying guests was the capacity of the septic system.

T. Pratt added Mr. Peterson was responsible to keep all guests, paying or personal, under control. Personal guests were not allowed to have wild parties.

D. Peterson said that has not been an issue this year, finding being on site at all times has “made a huge difference” this year.

M. Palmer asked the number of future reservations at this time.

D. Peterson said they have six (6) people who came last week and will be staying the week of Labor Day; they have five (5) people coming September 28th – October 3rd; and they have four reservations in May for graduations.

T. Pratt asked how Mr. Peterson proposes to resolve the situation.

D. Peterson said he took the physical items needing to be done seriously and promptly – within 60 – 90 days of his approval. He said Mr. Cook had five (5) things on his “punch list.” He addressed those items and sent Mr. Cook photos, but then Mr. Cook had his accident and other reasons that detained him.

T. Pratt noted Mr. Cook’s accident was recent and a year elapsed between the original approval and Mr. Peterson’s obtaining his B & B permit.

D. Peterson explained Mr. Cook visited the site in October, gave Mr. Peterson the list of five (5) items to address, but didn’t return to the site. He was scheduled for a visit March 19th, but that didn’t work out. He asserted he asked Mr. Cook to come several times, understanding Mr. Cook was very busy.

T. Pratt again asked how Mr. Peterson plans to resolve the situation.

D. Peterson answered he would “fix the website” and restrict the number of guests.

T. Pratt asked if Mr. Peterson would provide evidence of the compliance for every condition listed in the original resolution.

D. Peterson said he would gladly provide it.

T. Pratt asked that the Board receive it no later than September 19th, a week prior to the next meeting, so the Board would know if there was an issue in advance.

D. Peterson responded it was doable on his part and deserved on the Board's part.

M. Palmer asked if Mr. Peterson has the list of conditions.

It was confirmed Mr. Peterson has a copy of the resolution.

T. Pratt added the Board would like to see a letter if there are any outstanding Code issues, the permit, proof of insurance, a Certificate of Occupancy, and proof that there is no lock box.

J. Langey said the Applicant could submit a sworn affidavit to regarding the lock box.

D. Peterson asserted he never had a lock box; that was something his daughter checked on the listing when she created it.

T. Pratt believed a lock box was mentioned in the guest comments.

D. Peterson said no one has entered without his giving access.

L. Gianforte asked Mr. Pratt if the Board should also see a copy of the register.

D. Peterson said he could provide that.

D. Silverman said that would tie into the tax receipts paid.

D. Peterson said they pay those taxes to Madison County every quarter.

T. Pratt repeated evidence of compliance should be received by September 19th and compliance was expected "from now on."

D. Peterson agreed and expressed gratitude.

D. Vredenburgh asked if Mr. Peterson would be operating under the initial permit given.

J. Langey explained the Board was continuing the consideration of the request, so the B & B has not yet been given approval for another year.

Although this was not a public hearing, at the prompting of a couple members, Mr. Pratt asked if there was anyone in the audience wishing to comment. There was not.

Motion by G. Mason, seconded by D. Vredenburgh, to continue the file with the requirement that verification of compliance to the resolution be presented by September 19th for the next meeting was carried unanimously.

T. Pratt said the sooner the Board received the requested information, the better.

Skanda Farms LLC/ Mahoney, Ingrid - #21-1404 – Area Variance – 2684 US Route 20 East, Cazenovia

Skanda Farms LLC/ Mahoney, Ingrid - #22-1433 – Major Special Use Permit – 2684 US Route 20 East (David Silverman)

Matthew Vredenburg was present to represent the file.

David Vredenburg recused himself for this application and Michael Palmer assumed the role of a voting member.

T. Pratt explained the proposals was in the RB (Rural B) Zone, one being an area variance and the other being a major special use permit. He said the area variance was for an increase in impervious surface coverage from 20%, and the major special use permit was for the expansion of the adjacent storage area into the next neighborhood. He said they have received a business plan and a site plan showing phasing of development. He asked M. Vredenburg to describe the phasing.

Referring to the drawing he created L-204 entitled *Cazenovia Self Storage 2685 Route 20 East, Town of Cazenovia, Madison County, New York Site Plan – Town of Cazenovia Site Plan Review* dated 6/22/2022, M. Vredenburg showed the two (2) storage buildings in the northeast corner of the lot which would be the first phase of development, stating the other three (3) buildings shown would be part of future phases.

T. Pratt said relief from the 20% maximum impervious surface requirement was being sought and asked the amount of increase.

M. Vredenburg responded they wish to have 10% more so the total would be 30%.

T. Pratt pointed out another way to view the request was that it would be an increase of 50% of what was allowed.

M. Vredenburg agreed.

T. Pratt reported that John Dunkle, the Engineer for the Town, has commented on the proposed storm water management plan for the full project, but did not believe his comments addressed the first phase.

M. Vredenburg responded he had asked Mr. Dunkle if he wanted the numbers before Mr. Vredenburg tested the soils and Mr. Dunkle had not responded. He started soil testing today and would finish testing tomorrow.

T. Pratt stated the Board was seeking a conceptual review not a full review.

M. Palmer asked why the review for Phase 2 was done before the review for Phase 1.

T. Pratt explained the whole drainage plan was presented and then the extent of the Phase 1 development was submitted later. The question to Mr. Dunkle was if the project could accommodate an eventual increase of 50% of impervious surface area.

M. Vredenburg described the existing condition of the drainage on site, describing a ridge that runs east – west causing half the site to drain to the northwest corner and the other half to drain to the south. When the first two (2) buildings are built the stormwater facility in the northwest corner will be installed to facilitate the first phase. When the second stage of development “comes online,” it will be accommodated by the south facility. He said the existing drainage areas will remain consistent with the post-construction condition. He clarified the same amount of water would drain into the northwest corner after the second phase that will drain there after the first phase.

J. Langey elaborated that the post-construction condition for drainage would be the same as the pre-construction condition. That was a requirement that must be confirmed and followed.

M. Vredenburg had calculations illustrating that achievement and explained the findings which show the amount of water leaving the site will actually be reduced.

T. Pratt noted this was in the aquifer recharge area and spoke about the importance of the location.

M. Vredenburg responded that Mr. Dunkle’s recommendation was infiltration which was what had been designed. He described the design as “a treatment train,” saying there would be a pretreatment area that would capture the initial runoff allowing the sediments to settle out, followed by an infiltration trench which was a trench filled with stone that acts as a reservoir, then anything in excess, when big storms occur, would flow into detention ponds.

T. Pratt asked if it would be a stepped system.

M. Vredenburg affirmed it would be because flat grades would be needed for the storage buildings.

T. Pratt then asked about emergency vehicles.

M. Vredenburg said after the first phase tractor trailers could be accommodated, so accommodating emergency vehicles would not be an issue. He bumped out a section of pavement for the second phase to accommodate the turning radius for larger vehicles.

T. Pratt believed some acknowledgement of adequacy was required in the Code.

T. Pratt then asked about the Town of Nelson’s input (since access for the Cazenovia portion of the business will remain on the Nelson property).

M. Vredenburg responded that the Town of Nelson was unsure how to proceed. He planned to speak to their Board informally to help Nelson decide if any further action would be required.

J. Langey instructed Mr. Vredenburgh to have the Nelson Chair contact Mr. Langey when the project is added to the Nelson agenda so he can explain what Cazenovia is seeking from the Town of Nelson Planning Board.

T. Pratt said the business plan had been submitted and asked if the lights could be extinguished at 10:00 P.M.

M. Vredenburgh said the current business plan had the lights being turned off at midnight.

T. Pratt asked if they could be off earlier or perhaps motion activated.

More discussion followed regarding the two (2) options, including the time other businesses' lights were on, and the differences between an industrial zone and the commercial RB zone.

M. Palmer asked the hours of operation.

M. Vredenburgh answered access was given 24 hours per day at the existing facility and were proposed for this. He commented he doubted many would need access late at night.

G. Mason asked the time the lights were extinguished at the existing facility.

M. Vredenburgh replied, "Midnight." He felt Ms. Mahoney would be agreeable to either option at the new facility.

J. Langey recommended one option or the other be chosen for clarity.

M. Vredenburgh believed the 10:00 P.M. shut off would be acceptable.

J. Langey stated the lights were to be downcast, shielded, dark-sky compliant, and would not spill onto neighboring properties.

M. Vredenburgh agreed, adding there would be no site lighting, just lights mounted on the buildings, with zero spillage over the property line.

J. Langey said the idea was to limit impacts to the surrounding properties.

M. Vredenburgh believed vegetation would also be a barrier to the lights' impact.

T. Pratt asked if the entire property would be fenced.

M. Vredenburgh said it would and it would occur during Phase 1.

D. Silverman asked the type of fencing.

M. Vredenburgh said it would be consistent with what was on the existing self-storage parcel, which was black, vinyl-coated, chain link.

T. Pratt said no traffic impact was anticipated. Construction would be completed within a year, and a Storm Water Pollution Prevention Plan (SWPPP) would be provided.

M. Vredenburg affirmed that was all true, and he said the SWPPP was almost completed.

Next T. Pratt initiated a discussion regarding the containment of gas and oil where recreational vehicles (RV) would be parked.

M. Vredenburg said Ms. Mahoney has language in her contracts restricting the storage of any hazardous materials within the buildings or on the site. In addition, the manager of the facility walks the site daily looking for leaks coming from any vehicle stored on the property.

T. Pratt asked about a method of secondary containment.

M. Vredenburg believed the rules that apply to any spill would apply and it would be subject to the New York State Department of Environmental Conservation (DEC) standards.

T. Pratt expressed concerns about the water supply and said spills could not happen in this sensitive area. He said one method of prevention was to only store RVs on the original site.

M. Vredenburg wondered what was required of businesses such as Aldi's which were over the aquifer.

Because those were Village of Cazenovia projects, it was not known what was required of them.

J. Langey believed Mr. Pratt's question was fair since the request was to store large vehicles which might contain large quantities of fuel.

M. Palmer commented that numerous safeguards could be required, however, it was a question of enforcement.

M. Vredenburg repeated the DEC has protocol for spills.

T. Pratt said spills should be prevented from needing that type of clean-up. He stressed that he did not want spills to get to the ground.

M. Vredenburg said if one were storing large amounts of fuel or propane, typically an earthen berm would be built around the storage area and the berm would be lined with a mastic, but he felt that measure was excessive for this situation, and it would complicate the surface drainage.

M. Palmer spoke about the inefficacy of that method if the berm fills with water.

T. Pratt spoke about the challenges of an oil and water separator.

D. Silverman asked how that issue was being handled on the property already operating the storage of boats and RVs, and what percentage of her business came from that type of storage.

M. Vredenburg indicated engineering could accomplish the goal perhaps with a berm.

L. Gianforte asked how many vehicles would be accommodated on the new site, believing the number would not be many especially after Phase 2 for the buildings was completed since vehicles could not be stored over grass.

M. Vredenburg said they were unsure how many to anticipate so there was not a strict area dedicated for that type of storage.

More discussion followed about how parking could be arranged on the lot.

M. Vredenburg knew storage of vehicles was important to Ms. Mahoney.

J. Langey believed outdoor storage was limited to 5% in the RB Zone.

M. Vredenburg recalled during earlier discussions it was determined no more than 2% -3% would be used for that.

J. Langey asked for clarification of the area, wondering if it was the aquifer recharge zone, the wellhead protection area, or the zone of contribution.

M. Vredenburg clarified it was referred to as the zone of contribution in Steven Winkley's report of 2007.

J. Langey said a good rule of thumb was to consider how the project would be viewed if one were to read in the news about an issue that arose. He advised it would be prudent to plan for measures to prevent regrets if unfortunate events in the future occurred.

M. Vredenburg explained the storage area with a berm need only be designed for vehicles that would drive onto the site; Ms. Mahoney would mandate that vehicles such as boats that were towed onto the site be drained of fluids. He suggested they commit to developing a containment area for the storage of vehicles that meets the Engineer for the Town's approval.

The Board expressed approval of the idea to resolve that containment issue with the Engineer for the Town.

J. Langey commented this would not normally be an issue for a project like this, but the location of the site made this issue sensitive and important.

G. Mason asked if the entrance to the facility would impact an existing pipe associated with an existing pond..

M. Vredenburg was unsure of the capacity and function of the existing pond, but he knew there was a pipe draining across the property. The swale capturing runoff from the two (2) buildings could also be designed to pick up additional water from the area in question. He explained how the watershed there now was small.

T. Pratt invited public speaking at this time.

It was determined the Board was ready to take action, so the motion by M. Palmer, seconded by G. Mason, to close the public hearing was carried unanimously.

J. Langey explained the State Environmental Quality Review (SEQR) was not a Type I Action, but being a major special use permit, the Full Environmental Assessment Form (FEAF) was required and M. Vredenburg had completed Part 1. He then led the Board through Part 2 and Part 3 of the FEAF. No large impacts were identified based upon future acceptable engineering being designed and implemented.

Motion by M. Palmer, seconded by D. Silverman, to appoint the Zoning Board of Appeals as Lead Agency for the purposes of the SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration, based upon the Board's review of the FEAF for both the area variance and the major special use permit files.

T. Pratt then led the Board through the criteria for the consideration of granting the area variance for 50% more impervious surface coverage. First, he asked if it would result in an undesirable change to the neighborhood. He felt it was in keeping with the neighborhood. Next, he asked if there were an alternate solution. He did not believe there was. Then he asked if there would be physical or environmental impacts. He noted the storm water would be controlled, plantings would be installed to shield visual impacts, and the gas and oil hazards would be controlled by the Designer and the Engineer, so he felt any physical and environmental impacts would be mitigated. The next question was whether this would be considered a self-created condition, which it was. The final question was whether this would be considered a substantial variance. Being 50% it would be, however with storm water mitigation and impacts minimized by the design, this could be evaluated as less significant.

Motion by M. Palmer to approve the area variance, seconded by D. Silverman, conditioned upon:

- 1) the perimeter fencing being chain-linked, black vinyl, and as shown on the drawings,
- 2) lights on the buildings will be terminated at 10:00 P.M., and the hours of operation will be per the submitted business plan,
- 3) the Applicant will obtain and submit some written form of acknowledgment from the Town of Nelson Planning Board that they are aware and have no objection to the approval,
- 4) verification of emergency access by the local fire department will be provided,
- 5) Phase 1 of the development will consist of the first two (2) proposed buildings, as shown on the drawings, with the associated plantings, which shall be maintained in a healthy fashion continuously throughout the use of the premises for this purpose including replacement plantings for dead (and dying) material,
- 6) the variance only applies to the use requested for a storage facility,

7) lighting shall be dark-sky compliant, shielded, downward facing, and contained on the premises,

8) gas and oil containment shall be designed by the Applicant in corroboration with and approved by the Engineer for the Town,

9) the storm water agreement must be entered into and recorded,

10) storm water shall result in less than the existing condition,

11) water to the zone of contribution shall be maintained and protected at all times,

12) additional plantings will be installed for boat, and RV storage screening,

13) screening will be a mixture of deciduous and conifer trees, 10 – 12 feet in height at planting,

14) the first phase will be completed within 12 months of obtaining the building permit,

and as most recently submitted was carried as follows:

Thomas Pratt	Voted	Yes
David Silverman	Voted	Yes
Gary Mason	Voted	Yes
Michael Palmer	Voted	Yes
Luke Gianforte	Voted	Yes.

J. Langey said the specific findings regarding approvals for major special use permits were found in section 165-114 of the Town Code which he reviewed for the benefit of the Board and the Applicant, saying:

Major projects. Before granting a major project special use permit, the reviewing board shall make specific written findings that the proposed major project:

(a) Will comply with all provisions and requirements of this chapter and of all other local laws and regulations and will be consistent with the purposes of the land use district in which it is located, with the Comprehensive Plan and with the purposes of this chapter.

He felt the Board had thoroughly vetted that, and asked if the Board was comfortable affirming that.

The Board was.

(b) Will not result in the release of harmful substances or any other nuisances, nor cause excessive noise, dust, odors, solid waste or glare.

He noted the Board has spent a great deal of time discussing how that could be controlled. Matt Vredenburg has explained how he will examine that with Mr. Dunkle.

(c) Will not cause undue traffic congestion, unduly impair pedestrian safety or overload existing roads, considering their current width, surfacing and condition.

The Board found that to be true.

(d) Will have appropriate parking and be accessible to fire, police and other emergency vehicles.

A condition of the approval was the submission of a letter to that affect.

(e) Will not overload any public water, drainage or sewer system or any other municipal facility or service, including schools.

That was also true.

(f) Will not degrade any natural resource, ecosystem or historic resource, including Cazenovia Lake.

The Board agreed that would be the case.

(g) Will be suitable to such conditions on operation, design and layout of structures and provision of screening, buffer areas and off-site improvements as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town.

J. Langey noted the Board has spent a good deal of time to achieve this noting that Matt Vredenburg has altered his plan several times to comply.

(h) Will be consistent with the community's goal of concentrating retail uses in the Village and the Hamlet, avoiding strip commercial development and locating nonresidential uses that are incompatible with residential use on well-buffered properties.

J. Langey said this was not exactly pertinent, not being a retail use or strip commercial development, but the endeavor would be well-buffered.

(i) Will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right.

J. Langey noted this was an allowed use subject to the granting of a special use permit. He felt all the findings had been met, and he would incorporate those findings and the aforementioned conditions into the resolution for the major special use permit approval.

T. Pratt added one additional condition, that no water would be shed on Moseley Road.

M. Vredenburg said that was a requirement of the DEC.

M. Palmer asked if water currently sheds unto Moseley.

M. Vredenburgh explained water diverts into two (2) culverts along this section of Moseley Road, stating less water would divert into those culverts after development than goes there now.

T. Pratt explained drainage was his concern because that was a concern of the neighborhood to the west of Moseley Road.

M. Vredenburgh expressed understanding.

Motion by G. Mason, seconded by L. Gianforte, to approve the major special use permit with the aforementioned findings and conditions, and as most recently proposed, was carried as follows:

Thomas Pratt	Voted	Yes
David Silverman	Voted	Yes
Gary Mason	Voted	Yes
Michael Palmer	Voted	Yes
Luke Gianforte	Voted	Yes.

The file will now go before the Cazenovia Town Planning Board at their September 1, 2022 meeting.



Brodock, Jonathan - #22-1435 –Special Use Permit – 5125 Temperance Hill Road, Cazenovia (Luke Gianforte)

Jonathan Brodock was present to represent the file, and his wife Beecher Graham was in the audience.

T. Pratt explained the proposal was in the Rural A (RA) Zone and the Applicant was requesting an area variance to place an accessory building in the front of the house.

L. Gianforte reiterated the Applicant was seeking an area variance to put a storage shed in front of the house. Elevation drawings were submitted today showing how the building would look. He asked Mr. Brodock to give an explanation for the proposed location.

J. Brodock explained the location of his house as it appeared on the site plan drawing that he submitted with the elevations earlier today. His house sits perpendicular to Temperance Hill Road, so to put the building behind the build line of his house would either put it in his main viewshed to the south, or would require him to extend his driveway to accommodate its location behind his build line to the north. He also mentioned locating it in the northeast corner of his property would put the structure in his neighbors' view.

M. Palmer asked about the line that appears on the drawing to the south of the house.

J. Brodock explained that was a dirt farm road which was now covered with grass.

J. Brodock said the spot he chose would be 20 feet off his driveway and 117 from the center line of Temperance Hill Road.

M. Palmer asked which direction the doors would face.

J. Brodock answered the doors would face the driveway and the structure would be angled from the road, so the doors would not be visible from the road. He stated he felt the only place to have the little barn was in the location chosen now that his house was built; he said otherwise he would not want it.

M. Palmer asked when the house was built.

J. Brodock answered they have had the house a year.

T. Pratt asked if the structure could be attached to the house, noting no variance would be needed if that were done.

J. Brodock said it was possible, but he would not opt to do that, saying it would be impractical and it would not “look good.”

M. Palmer asked where the garage was located.

J. Brodock responded it was attached on the side of the house nearest the road.

M. Palmer asked the size of the structure.

J. Brodock replied it would be 16’ X 22’. He explained he has a row of pin oaks along the road that were approximately 35 feet tall, and behind that row was a row of blue spruce that were about 15 feet tall. He felt the trees would block the structure from sight and the barn would fit in well in the location.

T. Pratt said his observation was that 85% - 90% relief was being sought, which was substantial.

M. Palmer asked how it would look if they moved it across the driveway and closer to the house, thinking a less significant variance might be more palatable.

D. Silverman asked if that would impact the neighbors’ viewshed.

J. Brodock was unsure if the neighbors would care.

T. Pratt displayed a picture of the view down the driveway he had taken from his car.

J. Brodock asked if any of the other members had driven by.

T. Pratt did not see any barrier that would be between the building and the road from this vantage point.

L. Gianforte also visited the site and said the trees were installed and established.

M. Palmer did not think the pin oaks had much foliage toward the bottom of the trees.

J. Brodock asserted he had to duck when he was mowing under them. He also indicated a section on the site that he does not mow, liking the look of the tall grass.

T. Pratt reminded the Board this file will not be going to the Planning Board for site plan review, so they must address site issues as part of the area variance considerations. He said one question was whether the Board felt the design was appropriate to the neighborhood.

T. Pratt believed the style of the house was contemporary whereas the barn was more traditional.

J. Brodock felt the location would make it far enough from the house to make it its own element and in keeping with other barns along the road.

M. Palmer asked if additional planting could be installed to help screen the structure from the road.

L. Gianforte thought because it was relatively close to the road and close to the driveway, one would not see it through the trees, but it would be visible looking down the driveway.

M. Palmer asked if plantings could be installed to buffer that view.

L. Gianforte believed they could, or the structure could be moved farther from the road and a bit farther from the driveway, and then the elevation change would also help shield part of it.

J. Brodock found that location to be less practical.

G. Mason commented if he was going to expand the driveway, he could expand it to locate it behind the house or closer to the garage.

M. Palmer thought because the house was contemporary, one would not want to locate the board and batten structure near the house. He thought moving the structure another 25 – 30 feet from the road with some additional screening might be a better option.

J. Brodock felt moving it farther down the driveway would make it more visible as one drove by. He encouraged the Board members to visit the site where he has it staked. He said aesthetics were very important to him and he felt there was a lot of vegetation already in place to shield it, but he said he had no problem installing additional bushes once the building was erected.

D. Silverman asked if waiting for the Board to visit would affect Mr. Brodock's timeline.

J. Brodock responded he did not have an issue with that.

B. Graham mentioned that if they were to consider moving it in, they would have to consider the oak trees.

T. Pratt asked if there would be any lighting on the structure.

J. Brodock affirmed there would be no exterior lighting.

L. Gianforte interjected there would be no electricity associated with the building.

J. Brodock added there would be no water associated with the barn either.

J. Brodock had planned to install a plank floor, but after speaking with his contractor, he was advised to use a slab.

M. Palmer asked what would be stored in the building.

J. Brodock answered a utility trailer and a small boat trailer for a sunfish.

L. Gianforte said the siding would be wood left to weather naturally.

Motion by L. Gianforte, seconded by D. Vredenburg, to open the public hearing was carried unanimously.

There were no comments at this time.

T. Pratt felt another month should be given to allow the members to visit the site, repeating that the variance as proposed was substantial.

B. Graham asked for clarification regarding the meaning of a variance being substantial.

T. Pratt explained how the percentage was calculated.

There was discussion regarding the adequate distance from the center of the road.

J. Langey explained the aesthetic reasoning for restricting structures being placed between the road and the primary structure. He also explained the levels of substantiality, and the balancing test the Board was required to use by the State of New York factoring the five (5) criteria mentioned in the discussion of the last area variance application.

D. Silverman acknowledged the request was for the first accessory structure, the location was already a good distance from the road, and there already were trees between the road and the structure. He felt a site visit would be beneficial.

J. Brodock asked if it was “bad to give substantial variances.”

J. Langey explained it was part of the consideration of whether the “bad impact” of allowing it outweighed the “good impact” for the Applicant. He said in any given case the amount of substantiality might weigh more or less in the overall decision. He said another factor that would weigh against an applicant was the fact that the condition was a self-created hardship.

M. Palmer added another consideration was that Mr. Brodock did have other options to achieve his goal whereas other projects did not have alternatives.

D. Silverman said in the Applicant's favor, his neighbors were not opposed to the proposal.

J. Brodock said going along Temperance Hill Road there was a barn that was only 20 feet from the road, and others that were also much closer (than his proposed location).

J. Langey said that would be a consideration for the Board as well.

D. Silverman remarked another month would also give Mr. Brodock time to consider his alternatives.

J. Brodock commented that they would not consider having a barn if it had to be placed in front of the house.

M. Palmer understood and did not think Mr. Brodock would be asked to do that.

J. Brodock expressed that if he had to choose another location, they would probably not do the project. He commented it would be unexpected if he could not construct a barn on this (22 acre) property.

The Board countered he could have one anywhere he chose behind the leading edge of the house.

L. Gianforte asked the reason for angling the barn.

J. Brodock thought the angle was advantageous for the view.

L. Gianforte remarked regarding the character of the neighborhood, all the other barns along the road were parallel to the road.

B. Graham offered it was a matter of aesthetics for Mr. Brodock, but they did not have to angle it.

When asked if he was willing to wait another month, Mr. Brodock answered, "Sure.

Motion by D. Vredenburgh, seconded by L. Gianforte, to continue the file and the public hearing was carried unanimously.

Motion by D. Silverman, seconded by G. Mason, to adjourn the meeting at 9:35 p.m. was carried unanimously.

Sue Wightman, Zoning Board of Appeals Secretary – August 23, 2022