

Town of Cazenovia Planning Board

Meeting Minutes

November 2, 2023

Members Present: Robert Ridler, Chairman; Anne Ferguson; Jerry Munger; Dale Bowers; Thomas Clarke; Gerald Rasmussen; Mary Margaret Koppers; Roger Cook, Alternate Member; Linda Cushman, Alternate Member

Members Absent:

Others Present: John Langey; John Dunkle; Chuck Ladd; Mark Jenner; Matthew Vredenburgh; Craig Zinserling; Lori Zinserling; John Watson; Adrian Arias; Andreas Echer; Rob Seeley; Jo Anne Gagliano; Rick Ruggaber; Chris Montante; Brian Keeler; Berta Keeler; Gail Azeredo Woods; Charles (Sam) Woods; Bruce Race; JoAnne Race; Thomas Anderson; Marc Schappell; Jonathan Brodock; Sheila Fallon; Dennis Gregg; Brody Smith; Kyle Reger; William Zupan; High School Students

R. Ridler asked all attendees to sign the sign-in sheet provided for this evening's proceedings.

R. Ridler called the meeting to order at 7:30 P.M.

Roll was taken.

The next regularly scheduled meeting will be Tuesday, December 5, 2023.

R. Ridler noted the upcoming December Planning Board meeting will be the first

Tuesday of December rather than the first Thursday.

The next deadline day will be Wednesday, November 15, 2023.

The next regularly scheduled work session will be Thursday, November 30, 2023.

Motion by A. Ferguson, seconded by T. Clarke, to approve the October 5, 2023 meeting minutes was carried unanimously.

LAND DISTURBANCE/SITE PLAN REVIEW/SUBDIVISION

*Ross, Brian & Deann – Site Plan Review Revision – 3532 Cobblestone Drive, Cazenovia
File # 23-1479 (Jerry Munger) Cunningham, Phillip*

R. Ridler explained there was a previous site plan approval, but there was now a request to rotate the position of the house 90 degrees and with a new design for the house. There will be no other changes to the original approval.

Motion by J. Munger, seconded by G. Rasmussen, to approve the site plan revision for a new home as most recently proposed was carried unanimously.

*Jenner, Mark & Christine – Site Plan Review – 3328 West Lake Road, Cazenovia
File # 23-1491 (Mary Margaret Koppers)*

Mark Jenner was present to represent the file.

R. Ridler reminded the Board that Mr. Jenner had not received the Madison County Planning Department General Municipal Law Recommendation Report (GML) in time for the last meeting.

M. Jenner said he has since received a copy of the GML.

M. Koppers noted additional plans were received November 1, 2023 and asked if there were any changes to the (proposed) structure.

M. Jenner explained he wanted the Board to have the most recent material.

A. Ferguson asked what has been updated.

M. Jenner answered the measurements from the boundary lines which had not been included on the previous plans have been added to the recent drawing.

J. Langey informed the Board this would be a Type II Action in regard to the State Environmental Quality Review (SEQR).

Motion by M. Koppers, seconded by A. Ferguson, to approve the site plan for a 28' X 30' garage addition as most recently submitted was carried unanimously.

*Curtin, Cythia Maxwell – Line Change/Minor Lot Alteration – 5561 Rathbun Road,
File # 23-1492 (Robert Ridler) Cazenovia*

R. Ridler noted no GML was required for this application for a minor lot alteration and the Board had no issue with the proposal.

This was a Type II Action regarding SEQR.

Motion by J. Munger, seconded by M. Koppers, to approve the line change/minor lot alteration as most recently submitted was carried unanimously.

*HaleMack Heritage, LLC – Site Plan Review – 5254 Owera Point Drive, Cazenovia
File # 23-1499 (Mary Margaret Koppers)*

Matthew Vredenburgh of MDLA and Craig and Lori Zinserling were present to represent the file.

M. Vredenburgh explained the Zinserlings recently bought the property in May of this year and they are endeavoring to make a few site improvements. He said the first thing they would like to do is to add a new grass ramp to carry canoes and kayaks safely to the water's edge. The ramp would be approximately a 10% slope and the area disturbed to create the ramp would be replanted with plants on the approved list found in the *Cazenovia Lakefront Development Guidelines*. The second improvement would be a small retaining wall made of limestone boulders. It would start flush with grade at one end and at the bend it would be "five (5) feet tall for a short span... hunkered into the hill and then it steps down." He said the reason it would be five (5) feet high at the bend is because of an existing 36" oak tree, a 12" maple, a 24" oak, a

20" cedar, and three (3) 12" cedars. If they were "to go lower with the wall", the root system of these trees could be impacted. He felt the best option was to install a ten-foot section of the wall which would be five-feet high. He said it would not rise above the bank; the bank was 1202 and the wall would be 1197.

A. Ferguson asked how the wall would be seen from the water.

M. Vredenburgh showed a mock-up that he had created to address that vantage point entitled *Zinserling Residence 5254 Oweria Point Drive Cazenovia NY Boulder Retaining Wall Photo Simulation*. He thought the rendition exaggerated the appearance of the wall from the water, but thought it was better to show it more visible than it might actually be.

R. Ridler asked the kind of stone that would be used.

M. Vredenburgh answered it would be natural limestone.

M. Vredenburgh listed the proposed plantings at the water's edge saying aromatic sumac, juniper, winterberry, panicum, and native perennials would be used.

A. Ferguson asked if some plantings that would spill over the wall could be considered to soften the appearance.

M. Vredenburgh thought the sumac "would sort of flop," and said there would be junipers as well. He added they would be planted on top of the wall.

M. Vredenburgh explained they propose to also modify some of the plants in the shady, bare areas to address erosion, and the new ground cover would be pachysandra, added to the pachysandra that already grows there.

M. Vredenburgh said the steps would be replaced with stone or faux stone/concrete steps. There would be 22 risers with a landing in the middle and a landing at the bottom.

M. Vredenburgh stated they are also proposing a wood deck close to the ground, and being only a platform, it would not be a visual impact from the water. He explained they chose wood since it was semi-pervious and water could "get through it."

A. Ferguson believed there was no change in the impervious surface percentages.

M. Vredenburgh confirmed there would be no change.

M. Vredenburgh said the final part of the proposal was the removal of a 32" oak tree. He said the acorns dropped on the deck, on the glass furniture, and on people on the

deck. He commented the acorns were a slip-hazard. The proximity to the house was another issue since the house has a flat roof and the collection of organic matter was a problem. He said he looked through the Code to see the reasoning for not cutting trees in the Lake Watershed Zone and did not find anything.

J. Langey believed tree cutting in the watershed was something the Code Enforcement Officer addressed, but something he could also refer to the Planning Board.

M. Vredenburg said he found that guidance for the Critical Environmental Area (CEA), but not outside the CEA. He said this tree was 108 feet from the water. He felt the trees provided screening and also helped dissipate rainfall, helping prevent saturation of the soil. To reestablish and increase the canopy, they propose to plant two (2) 2 ½ inch caliper trees, which would be 14 – 16 feet tall at installation. He said one or both could be red oaks, or one could be a maple. He said oaks grow 1 ½ - 2 feet per year, so in 25 years the trees would be 65 feet tall. He recalled Don Ferlow emphasizing the importance of establishing trees for the future. He named other residences where trees were planted to offset tree removals.

R. Ridler asked the locations of the proposed trees.

M. Vredenburg asserted they would not be planted in the septic field.

R. Ridler expected they would not be planted where they would impact the roof in the future.

M. Vredenburg responded that the trees would be planted farther away from the house (than the tree to be removed). He thought the nearest tree would 40 - 50 feet away.

M. Koppers asked the location of the septic field.

M. Vredenburg showed where they believe the general area of the septic field to be.

M. Koppers wondered what the low area/gully area was, remarking that it was “a little hazardous.” She remarked that the septic field should be located before equipment drives on the site.

M. Vredenburg responded, “Absolutely, absolutely.” He said the last thing they would want to do was to replace the septic field, especially if it is within 100 feet of the lake.

M. Koppers said an argument for removing the tree was that it was very close to the house.

M. Vredenburg believed it was less than ten (10) feet from the deck.

M. Koppers said there would be three (3) trees that would be removed for this project. She believed there were two (2) trees being removed at the water.

M. Vredenburg responded that was correct; one was a cedar “leaning out” and another tree in the middle, as well as a stump.

J. Munger asked if the other tree was a cedar also.

M. Vredenburg said it was not a cedar, but was unable to recall what it was.

R. Ridler expressed his concern regarding the septic and its impact on the lake. He thought it would be good to know where the leach field was and if it was impacting the lake water.

M. Vredenburg asked Mr. Cook if it was a consistent requirement to do as-built surveys of leach fields in Madison County.

R. Cook answered if one was getting a permit to put a septic system in, they would be required to provide a site map showing the location, the size, dimensions, and all those details. He added if it were a conventional system, the Town Code Enforcement Officer could approve it. If it were an unconventional system, Madison County Department of Health would review that.

M. Vredenburg thought this system would predate that.

R. Ridler said as a matter of good stewardship of the lake, the Owners ought “to figure out what’s going on there.”

M. Vredenburg said they would be very careful of “going around that” and taking extra precaution.

M. Koppers remarked that this project “does open up the land a little bit.” She noted from there one could see the open view of the houses on Owahgena Terrace. If she were to stand on Owahgena Terrace, she believed the removal of two (2) trees and the installation of a wall would change the character of this wooded side of the lake.

M. Vredenburg countered the open view would only be 50 feet long and would be considerably wooded on either side.

D. Bowers asked Ms. Koppers her recommendation.

M. Koppers thought an argument could be made for removing the oak tree.

J. Langey led the Board through Part 2 of the Short Environmental Assessment Form (SEAF)

Motion by M. Koppers, seconded by A. Ferguson, to appoint the Planning Board as Lead Agency for the purposes of the SEQR, to affirm the matter an Unlisted Action and make a Negative Declaration based upon the review of the SEAF, to approve the site improvements including a new grass ramp, stone steps, plantings, and the removal of one (1) oak tree with the replacement of two (2) new trees as well as the removal of two trees and a stump at the shore as most recently submitted was carried unanimously.

R. Cook cited section 107-7 in the Code regarding the Code Enforcement Officer's prerogative regarding the removal of vegetation in the Lake Watershed.

*Love Frazee Assoc with Pushlar, Paul — Site Plan Review – Route 20 with Route 20 &
File # 23-1497 (Robert Ridler) Fenner Road, Cazenovia*

John Watson, Adrian Arias, and Andreas Echer of Quantum DPI Group Inc were present to represent the file.

J. Watson distributed several copies of two aerial photo simulations showing the project.

J. Watson explained he was a partner at Quantum Group. He said they were proposing to develop a 5-megawatt (MW) community solar farm on the Love-Frazee property behind Cazenovia Equipment. He said he considers himself a community solar farmer and said he's been developing small-scale solar projects in New York State since 2019. He gave some of his personal background saying his traditional work experience was in oil and gas and traditional power generation working as a marine engineer on oil tankers in the Far East as well as New York City with steam power plants before he "got into renewable energy." He related that the company has been developing renewable energy on six continents since 2012. The company is comprised of engineers, architects, environmentalists, farmers, and community leaders. Unlike other renewable energy companies, they do not espouse "that solar energy is the absolute and only best way to move forward," but they believe "a balanced energy mix of oil and gas, hydro, community solar, rooftop solar is the best way forward." He explained they love community solar because it gives every landowner of ten (10) acres or more the ability to become a power generator, creating income for their family and providing energy for their neighbors. If projects are well-sited and hidden from view, he asserted they become an asset to the community, increasing the tax base without stressing the infrastructure – "we're not sending kids to school, we're not putting people

on the road.” Meanwhile they provide constructions jobs, apprenticeships, and long-term maintenance jobs for “some of the local trades and businesses that want to get involved in the project.” He said they look forward to getting to know the local Planning Board and Zoning Board of Appeals as they cooperate with those boards over the next year. He said their promise to them and to the community was to “be a respectful, quiet, and good neighbor, and a productive member of the community.”

J. Watson explained the project would be a 5 MW community solar farm and would be part of the New York State Energy and Development Authority (NYSERDA) New York Sun Program. He believed the Board has approved a solar project in the past. This project would be located on 2 Remington Park Drive behind Cazenovia Equipment off US Route 20 on the most eastern edge of town, being the last parcel in the Town of Cazenovia. The zoning is Rural B (RB). He stated 100% of the project would be on the Frazee family property. They mentioned they also have leased some area on the adjacent properties “in order to maintain the right setbacks”, so they will have some leased area under their control. He said they have option-to-lease agreements, and which are registered with Madison County already, and the landowner’s attorney is Paul Curtin. He said the parcel would have a mixed use. The front of the property is a tractor dealership.

A. Ferguson asked the size of the parcel.

J. Watson answered it was 65-66 acres.

R. Ridler clarified it was 65.59 acres.

J. Watson explained their fenced area would be “just under 22 acres for the project.” He elaborated they would be extending the Remington Drive road with a 20 foot wide gravel access road and they would be connecting their project to the existing 13.2 kV distribution line.

A. Ferguson asked if that was shown on the photo simulations that were distributed to the Board.

J. Watson said it was. He pointed out the proposed road extension, explaining it was currently a dirt path used for the tractors that access the fields. They would convert it to a gravel path. He said the photo does show the simulated poles, although they are very small and difficult to see.

R. Ridler believed the poles would be connected to the Ballina Road substation.

J. Watson replied that was correct. He said that was the reason the project was named the Ballina Road Solar Project. He said they were completely agreeable to renaming the project (if the Board felt it was confusing for residents).

R. Ridler said they would think about that.

J. Watson said there would be two (2) landowners involved – Bob Frazee and the Frazee family, and Paul Pushlar.

J. Watson said they would be sending a supplementary submission by the middle of the month that would include the geotechnical engineering which has been completed and which “has very good results;” the wetland delineation has been completed and “is in the package already.” The submission would also include the photo simulations that were being displayed. He asked if everyone saw the County’s GML where it was correctly stated that the viewshed was one of the most important assets of the community, so in the simulation they would show the proposed hedgerow of mixed evergreens. He said the simulation shows how it would look screened properly. Among the species that would be used would be Norway spruce, white pine, and another pine. He said they would rely on the Board’s expertise to massage the planting plan.

J. Watson remarked that there were 20 attachments in the binder of the application that they would be working through over the coming months, and they welcomed the Board’s feedback, suggestions, and comments.

A. Ferguson asked if they came with the site plan of the existing conditions tonight. She also asked if the plans were numbered so they could be referenced for the record going forward.

J. Watson clarified the drawings in the first submission were labeled, but the photo simulations have not yet been attached, adding they would be included in the visual simulation attachment.

J. Watson said Drawing #3 in the site plan set does show the existing conditions.

M. Koppers asked about the use of the building to the east of Cazenovia Equipment. She was told it is now an apartment complex.

R. Ridler said the County in the GML addressed the need for screening the array from Route 20, and perhaps Fenner Road which was a county road. He noted in the submission it was mentioned that the height of the panels would be 12 feet, but the maximum allowed in the Town of Cazenovia was ten (10) feet.

J. Watson said they “should be able to do it for under ten (10) feet,” and they would amend the height to comply.

Referring to the drawing entitled *Ballina Solar Farm LLC 2 Remington Park Drive, Cazenovia, NY 13035 NY-LAY-003 Existing Conditions* created by Quantum DPI Group Inc dated Sept 15, 2023, J. Watson said the parcel was outlined in red with the aerial

showing Cazenovia Equipment at the front of the parcel, and he showed where the access road would be built, as well as the inverter pad and the switch gear pad, which would be at the edge of the access road. He continued saying it shows the topography from their topographical survey, and the wetland delineations. He said this was also the clearing plan, saying the site was “nearly shovel ready.”

J. Watson stated the only clearing needed was .09 acres, about 4000 SF, to connect the different arrays which would entail the clearing of a small portion of trees, 20 feet wide in two (2) places.

T. Clarke asked if the land was currently farmed.

J. Watson answered, “It is.” He said it is mixed hay and corn and was being farmed by the neighbor Mr. Pushlar. He noted that farmland was one of the points the County made. He said there was a procedure to deal with the farmland and it involved monitoring the construction and topsoils. He said they considered themselves as being organic, and they would not use herbicides or pesticides.

A. Ferguson asked if the existing conditions topography would have any significant alteration for the proposed plan.

J. Watson answered there would be no significant grading whatsoever. He stated there would no grading at all.

A. Ferguson asked Mr. Dunkle if he was satisfied with the drawing being used as the topographical drawing for both the current and the proposed.

J. Dunkle said he would compare the existing topography to any proposed grading on the site plan.

A. Ferguson said the Applicants were saying there would not be any grade line changes.

J. Watson affirmed that statement, saying “we don’t need to grade.”

J. Dunkle said that would be verified.

R. Ridler said the Board would also be verifying that the line of sight along Route 20 would not be impacted by the array. He asked the Applicants how they propose to achieve that.

J. Watson said they could do line of sight cross sections showing the elevations over the site. He said the existing topography helps screen the sight due to the elevation

difference. He said, “anything we do will improve it even more.” He said they would take photos from Route 20 diagonally and will simulate trees and the array.

R. Ridler asked if they could do the same from other locations, such as Fenner Road.

J. Watson responded, “Anywhere you want to get viewsheds from.”

A. Ferguson said they would want them from every vantage point – north, south, east, and west.

A. Ferguson asked if there was a map showing the landscaping plan.

J. Watson referred to the drawing entitled *Ballina Solar Farm LLC 2 Remington Park Drive, Cazenovia NY 13035 NY-LAY-018 Landscape Details* by Quantum DPI Group Inc dated Sept 15, 2023 which showed a coniferous tree planting detail. He showed a staggered row scheme of evergreen plantings as the proposed plan.

A. Ferguson said for the previous approved commercial solar project, the Board had not wanted an English hedge look for the landscaping; more indigenous, natural species were preferred over a premeditated hedgerow of evergreens. She asked that they rework their planting plan with spacing and selections, being cognizant of the vantage points.

J. Watson consented.

R. Ridler suggested a mixture of species, that would screen the array year-round.

D. Bowers suggested using some deciduous species as well, to vary the appearance of the screening.

A. Ferguson agreed.

J. Watson said they could use the staggered coniferous with a blending of deciduous “to break up” the appearance.

A. Ferguson suggested the deciduous be used where the array would not be seen. She repeated the Board would want the simulations for the views from key vantage points.

T. Clark asked about the glare factor.

J. Watson said a glare study would be included in a supplemental submission, but the conclusion was that, with the screening, the glare would be “a nonfactor.”

J. Watson explained the panels would be single axis solar tractors, and often glare studies are needed especially near airports, however, with software, the azimuth of the array can be adjusted to avoid any glare.

T. Clarke asked if there would be plantings in an eastern portion of the parcel, stating the building to the east was an apartment complex, and implying those views should be considered as well.

J. Watson expressed their willingness to any suggestions.

A. Ferguson asked if the removal of any trees would be limited to the two (2) areas mentioned (that would be needed for the access road). She asked how many trees would be removed.

J. Watson described the areas as “scrubby.” He said the descriptions would be seen in the Threatened and Endangered Species and the Wetland Delineation; he stated, “It was not an amazing forest or timber even,” and he was unsure of the exact tree count. He said they could get that information for the Board and repeated it would be .09 acres.

R. Ridler mentioned the Board has made site visits in the past and suggested the Board meet there as well.

J. Watson expressed his approval.

Returning to the tree removal, A. Ferguson asked if it would near the wetland, saying she was wondering about the impact upon that area.

J. Watson said they will have to cross a wet area, saying it was not a marsh, but was considered wet and they would need Nationwide Permit 14 and Nationwide Permit 57 for that from the Army Corp of Engineers (ACOE). He remarked that was common.

J. Dunkle asked if any of his comments were needed at this time or if the Board wanted those later.

The Board asked for those later.

J. Watson said they have a Storm Water Pollution Prevention Plan (SWPPP) that would be ready soon.

R. Ridler said upon reviewing the application, he noted it was stated that the existing use was a car dealership.

J. Watson responded that was the designation given by Madison County, but it was clearly a tractor supply dealership.

R. Ridler said it sold farm machinery implements.

J. Watson offered to change that on the application.

J. Langey instructed the Applicants to ensure their paperwork was “very accurate,” and said he had noticed that as well. He said he had a handful of notes on the Environmental Assessment Form that needed addressing that were either missing or inaccurate.

R. Ridler noted there was a list of property owners (within 500 feet of the proposal) that would also be verified as the complete and accurate list of property owners.

R. Ridler commented that it was stated the geotechnical report was pending.

J. Watson stated that has now been completed.

R. Ridler saw that soil types had been identified.

R. Ridler also noted the Environmental Assessment Form (EAF) had been started, as mentioned by Mr. Langey.

J. Langey repeated that was incomplete, and suggested the Applicants review it to answer all questions and to correct typographical errors and misspellings. He specifically referred to Part B where Involved and Interested Agencies should be listed before the Board requests Lead Agency status. He felt at this point, the application was not yet ready for that. He also noted that in the section listing existing community services that the Cazenovia Police Department was listed, however, the Town does not have a police department, the Village of Cazenovia does. He reiterated that at this point the EAF was an incomplete form. He also noted a place on page 7 of the Full EAF where the Applicants had checked the box stating there would be a substantial increase in traffic above present level or generate substantial new demand for transportation facilities or services, which he felt was inaccurate. He said under section K iii on the same page it was stated that a new or upgrade to an existing substation would be needed, and asked if that was accurate.

J. Watson answered when they performed the interconnection studies, they were given a list of things they would need to do, and he believed there would be some upgrades for the substation.

J. Langey also noticed in the section listing the hours of operation, there was a typo. He advised the Applicants to ensure all the questions were answered by reviewing the form

page by page. He concluded that he was not comfortable “pushing this form to the Involved and Interested Agencies tonight.”

R. Ridler asked Mr. Langey how that should be resolved.

A revised Part 1 of the Full EAF should be submitted.

J. Watson said that would be easy and apologized, saying he would “fully scrub that personally, and make sure by the next time we have it.” He said he could submit it prior to the next meeting.

R. Ridler asked how the Applicants could be sure they picked up on all the items Mr. Langey found.

J. Langey offered to let the Applicants photograph his copy of the form with his notes at this time if he could have it back by the end of the evening.

A. Ferguson recapped that the Applicants would return with a revised landscape plan and with photo simulations of various views for the next meeting. She asked if the SWPPP would be done by then as well.

J. Watson thought the SWPPP might already be complete.

R. Ridler responded that the Engineer for the Town would review what was submitted.

J. Watson affirmed there was a draft SWPPP in the submission and if the final SWPPP was not complete, it would be midmonth.

J. Dunkle did not see any pre or post development hydrology analysis. He commented, “There's not much there in the SWPPP yet.”

A. Ferguson expected they could review the equipment and the specifications for it and the fencing, etc. at the next meeting as well.

J. Watson listed the revised landscape plan and photo simulations as items for the next meeting.

J. Langey interjected by asking Mr. Watson if there was a technology that showed a video simulation of how the site would look driving on Route 20. He felt the visual impact for travelers in both directions would be one of the bigger issues of this proposal because of the scenic byway designation of the site.

J. Watson spoke about a software program that they have used in the past, but it required them “to build the entire scene.” He offered to look into that.

J. Langey asked the Board if they were interested in looking at that before the Applicants undertake the effort.

A. Ferguson answered even if the Applicants could not produce the video, they could take the photos at various points along Route 20, going each way, just as the previous solar applicants had taken views from Route 13 and Barrett Road.

J. Watson thought the static photos would be better because they would be of the actual landscape whereas the video would be a built set.

D. Bowers advised the Applicants to review the GML thoroughly.

M. Koppers said she would like to visit the site “sooner than later.”

R. Ridler asked Mr. Watson his availability for a site visit.

D. Bowers said the Board could visit “by ourselves.” He felt the location of the arrays would be “pretty obvious.”

J. Watson suggested the Board reach out to Mr. Frazee at their convenience. He said he would be in the area getting photographs at some point, so he would think about the timing for that as well.

J. Dunkle asked if the Board was ready for his comments or if they wanted to go through a few more things first.

D. Bowers and R. Ridler answered, “Let’s wait.”

Motion by D. Bowers, seconded by T. Clarke, to continue the file was carried unanimously.

HEARINGS

*EBAC, LLC/ Owera Vineyards – Site Plan Review – 5276 East Lake Road, Cazenovia
File # 22-1428 (Robert Ridler)*

Rob Seeley and Jo Anne Gagliano of Environmental Design & Research (EDR), Rick Ruggaber of Owera Vineyards, and Chris Montante of Pemco were present to represent the file.

R. Ridler said they would resume the public hearing and invited comments at this time.

Brody Smith of Bond, Schoeneck & King PLLC, who represents JoAnne Race and who had compiled comments from neighbors along that portion of East Lake Road, came to the table and said he appreciated having the opportunity to speak. He said he would talk about three things: potential impacts that were appropriate for consideration under site plan review; potential conditions; and finally, some issues related to New York State Department of Agriculture and Markets (Ag & Markets) law that he thought were relevant for the Board's consideration.

B. Smith said regarding impacts, he believed the Board had previously heard from the public that light, traffic, and noise were considerations. It was their understanding that the Applicants have endeavored to attenuate some noise, but it was his experience that when he was "around these types of facilities – event facilities - wedding venues – that even if a great deal of sound insulation is done on a building, "people have to leave." He stated when people leave a wedding, late at night, and at the same time, "it is very loud." He said this is a residential area with people living next door and across the street (from the Winery). He stated that "was very much out of character of the neighborhood," and he thought it was an appropriate consideration under the Board's site plan review principles.

B. Smith said traffic was a consideration. He said where large events venue were permitted, obviously "lots of traffic would be coming and going simultaneously," and it would sometimes occur late at night, and sometimes it would be after events with drinking; he did not believe that would be appropriate for "a road that was not set up for that sort of thing." He described the area as a rural, residential area without intersections and turn lanes, and believed it would not be "appropriate for that sort of intense use," with "large events that were letting out all at once."

B. Smith continued saying lights would be an issue too. He said not just the headlights of cars coming and going, but "lights for the pedestrians and internal circulation of the facility" would be an issue.

B. Smith said the Board has the ability to require additional information from an applicant. He said it is the opinion of the neighbors that on issues of noise, traffic, and light, the Board should ask for more information either through the SEQR process or through factors available to the Board under their own legislative controls that allow the Board to consider those types of impacts. He said they do not believe the information on those subjects have been developed to the degree that they can be. He said the Board was "entitled to the entire story," before it was forced to make a decision on imperfect or incomplete information.

B. Smith continued saying secondly, he would like to discuss conditions. He said a similar application was made in the past and in August of 2015 the Madison County Supreme Court upheld this Board's decision to impose conditions on that very similar application.

Those conditions included restrictions on noise, hours of operation to be no later than 9:00 PM, limitations on the size of the events, and requirements for the Applicant to provide detailed information on a regular basis. He repeated those conditions were imposed by this Board, and the Applicant, not wanting to abide by those conditions, challenged them in court, and this Board won. Those types of conditions, that protect the quality of life for the neighbors, were appropriate, and have been found by the Judge McDermott of the Madison County Supreme Court to be enforceable and appropriate. He said “it would be odd,” even perhaps “arbitrary and capricious,” to not impose those same conditions that were deemed appropriate by this Board and by the New York State Courts in the past for “a virtually identical application” some years later.

B. Smith said the third point he wanted to discuss was Ag & Markets. He said everyone knew that this area is not zoned for restaurants or event centers, and this conversation would not be happening if the Applicant did not assert an exemption pursuant to the Ag & Markets law. He stated that in order for the Applicants to be exempt from the Town Regulations, they must be a farm operation pursuant to section 301 of the Ag & Markets Law. He said in order to be a farm operation, they must show that on-farm marketing of wine is predominantly produced from grapes as part of the farm operation, “so 51%.” He said here we have a business that operates a lot “like a neighborhood bar.” He reported Owners offer an extensive menu and if one looks at the website, at least eight (8) different varietal types of grapes are incorporated in the wine, and the two (2) varietal grapes produced on approximately seven (7) acres are Frontenac and La Crescent. He said selling six (6) other varietals with very few acres of grapes makes it hard to imagine that the majority of their wine is produced by on-farm production of grapes, which is the requirement under Ag & Markets Law.

B. Smith went on to say there is a procedure for Town's to utilize to question (adherence to Ag & Markets requirements). He cited Ag & Markets Law section 305a which he said states an inquiry can be made to Ag & Markets “and they can verify that kind of thing.” He asserted that's what should happen (for this project). He said it was not “up to this Board to be out there trying to count grapes.” He said there is a procedure for this type of information to be audited by Ag & Markets, and he stated that should happen before the Board “was forced to make a decision on imperfect information.” He implied one did not need to be a farmer for it to be evident that this information needed to be examined much more closely.

B. Smith then spoke about related products. He said on-farm wineries may sell a certain amount of related products according to Ag & Markets, who states the amount of sales of such products must be consistent with the size and scope of the farm operation. Those sales must be incidental to the annual sales of farm's distilled or brewed products or wine. He explained the concept was that if one had a vineyard, Ag & Markets allows one to sell one's wine, and one may also sell an incidental amount of other things related to one's wine. He said, however, “The exception can't swallow the rule.” One

cannot have most of the business coming from the sale other things. He alleged it was a full restaurant at the café. He said the website calls it farm-to-table and they are selling products they primarily produce on their farm, but the menu features scallops, shrimp, salmon, tuna, crab dip, Tandoori Chicken, pork, steak...He said, "Something is fishy about that menu, if it's all supposed to be farm-to-table and supposed to be produced on that facility." He stated, "It doesn't feel incidental," and he thought it was "worth looking into more."

B. Smith said Ag & Markets does say that events can be part of that related incidental business. He stated the regulations say, "These activities are evaluated on a case-to-case basis to determine whether they are protected as part of a farm operation." He continued saying Ag & Markets gives four factors to be evaluated:

- 1)are those events directly related to the sale and promotion of beverages;
- 2)are they incidental and subordinate to the retail sale of beverages;
- 3)are they hosted by the farmer;
- 4)do they feature the beverage produced at the farm, by at least 51% of grapes produced on the farm.

B. Smith said with seven (7) acres of grapes, a restaurant with what appears to be a delicious seafood menu, and proposing to have year-round event activities without limits on the head count, the activity does not "feel incidental according to the verbiage of Ag & Markets."

B. Smith said according to Ag & Markets, it is also appropriate to limit the number of events, and place appropriate restrictions that are proportionate to the size of the farm operation. He said, "For example, where a farm has a limited amount of crops – beverages to sell – 1,000 gallons of wine, for example, would not need multiple, large-scale events to market such beverages." He repeated, "if you don't grow a lot of wine, you don't need year-round, large events to market that wine."

B. Smith said finally, Ag & Markets provides in section 305a a process by which the Department could review the matter, and review whether the farm operation is eligible, and whether or not to extend the sale of products or events. He concluded, there are impacts, and the Board should ask for and require the Applicants to provide more information about the scope of those impacts. Secondly the Board should impose strict conditions – there is no reason this should be open later than the other businesses in the Town, and the Courts have "backed you up when you've done that before on this exact, same property, for the exact same type of application." Finally, the Board should absolutely ask Ag & Markets to evaluate the farm application exemption in this case. He asserted the document he read from was the guidance document from the Department of Ag & Markets. He said this was not his letter and these were not his words; these were the words of Ag & Markets. He repeated it was worth a review and

further consideration. He submitted the documents for the Attorney, and suggested it would be wise for the Board to enter into Executive Session with the Attorney.

R. Ridler asked if there were any other comments from the audience.

Marc Schappell replied that the neighbors all agree (with the comments from Mr. Smith).

Tom Anderson believed he represented many of the people in the neighborhood. He talked about the unpleasantness caused in the neighborhood in the evenings for the neighborhood, and he asked the Board “to take a look at this.” He said the neighborhood was questioning whether (the Winery) complies with Ag & Markets “at all anymore.” He said they don’t want “it to shut down,” and asserted, “they have done a beautiful job – it looks really great.” He said they “all think that (it) is nice for the community.” He said Mr. Smith was the Attorney for the Village of Skaneateles, and asked what time the vineyard there closes.

B. Smith answered 7:00 PM.

T. Anderson said it was the same in Virginia, in South Hampton, and on the eastern shore of Maryland. He asked why was this (winery) was open at 9:00PM in a residential community. He asserted, “This is wrong.” He said they (the neighbors) were not happy, and they (the neighbors) would not stop. He said the Applicants “keep coming to the table, pushing, pushing, pushing, so we’re going to push back.” He said they have “a bar, a restaurant, and a party house” in their backyards. He said, “We want the hours cut back. They should close at 7:00PM like everything else.” He stated, “Enough. We’re done. One family does not deserve to ruin a residential neighborhood – that is not right.” He asked the Board to reevaluate what they “are putting the neighbors through.” He questioned the ability of the neighborhood regarding the health, welfare, and enjoyment of their property during weddings with noise, and the building of structures for the sake of confining music. He asked the Board to “please help us.” He has heard some discussion about the purview of the Board, and asked whose purview it was (regarding Ag & Markets).

M. Schappell pointed out that this was happening while the Town was in the midst of revising the Comprehensive Plan.

T. Anderson thanked the Board for the privilege to speak, saying they did not “want to make this difficult,” they “just want this to stop, to pull it back.”

R. Ridler said this was the second public hearing and he was getting the impression that all the comments have been heard. He asked if anyone else wanted to speak about any other topic for consideration or if there were any other statements to be made.

Motion by D. Bowers, seconded by M. Koppers to close the public hearing was carried unanimously.

R. Ridler said the Board would now consider the information and he reiterated that the Board has reviewed the extensive information included in the file, displaying the physical file itself. He mentioned another correspondence that just was received and considered today. He expressed his appreciation for the submissions and assured those in attendance that the Board reviewed all information received. He stated the Board would continue to evaluate the concerns expressed. He said the Board would also listen to the Applicants' requests.

D. Bowers asked for comments from the Representatives of the application.

J. Gagliano responded they were there to listen this evening. She said they have taken notes and will refer to the meeting minutes as well.

A. Ferguson said at the last meeting there was discussion regarding restricting the hours of operation from 10:00 PM to 9:00PM on Fridays and Saturdays with perhaps some cutback of hours on weekdays, she asked if there had been any internal decisions regarding that.

J. Gagliano answered, "No," saying they wanted to hear what was said this evening. She said they would return at the next meeting.

R. Ridler believed he was hearing that the Applicants were taking this information, and noted the Applicants have been copied on the emails regarding concerns received to date. He anticipated the Applicants returning next month with their response.

J. Gagliano replied, "Yes."

R. Ridler asked Mr. Langey if he had anything to add.

J. Langey answered he was taking his own notes as well, that he has been reviewing the record, and that he has attended most of the meetings. He complimented the community on doing a good job expressing itself. He also acknowledged the Applicants have been very professional throughout the process. He assured those present that this Board cares about the Applicants and they care about the community, and asserted that like the last time, the Board will "do a good job on this."

Motion by A. Ferguson, seconded by G. Rasmussen, to continue the file was carried unanimously.

R. Ridler noted there were other applications pending Zoning Board of Appeals approval. He felt no discussion was needed regarding these projects at this time.

Motion by D. Bowers, seconded by T. Clarke, to adjourn the meeting at 8:50 P.M. was carried unanimously.

Sue Wightman, Planning Board Secretary – November 3, 2023