

**Village of Cazenovia
Zoning Board of Appeals
Meeting Minutes
November 17, 2016**

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Present: Phil Byrnes, Chair; Jane Nicholson-Dourdas; Lynn Hart; and Cindy Bell.

Absent: Sally Ryan.

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Others Present: James Stokes, Village Attorney; R. Shain Emerson; Madeleine Hartt; Judy Gianforte; Bob Ridler; Sarah Webster; Capt. Michael Wright; Jody Reynolds; Anne Ferguson; John Henry Light-Olson; Will Kmetz; Brice Basic; and a few more who did not sign in. There were 12 people in the audience.

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P. Byrnes called the meeting to order at 7:00 p.m. and introduced the Board.

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P. Byrnes asked for any changes to the minutes of September 19, 2016. There were none noted. J. Nicholson-Dourdas made the motion to approve the minutes as drafted. L. Hart seconded. The motion carried with 3 in favor, 1 abstention (P. Byrnes), 0 opposed.

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Empire Farmstead Brewery, Rippleton Road, Trail Identification Sign, Shed

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Nick Irvine came forward and explained: He has been with Empire for almost five years and has been involved with the design and development of the project and has been in front of many of the boards. He presented some drawings and photos of the shed and the sign. The brewery has a good relationship with Cazenovia Preservation Foundation (CPF). The brewery’s property connects to the corner of Lorenzo, which connects the Burlingame and Fairchild trails. There are 11 miles of hiking, biking, and horseback riding trails. The brewery wanted to promote the trails, be good neighbors, and let the public use them. A trailhead sign was built when the brewery first opened. It contains information about the trails, what is/is not allowed and how to get to them. The trailhead sign was built just south of the parking lot area and they did not realize it needed to be on the site plan. He talks with CPF regularly. The big thing with the trails is getting people to use them properly. That is in the best interest of the neighbors. CPF does not want to have people wandering around, so the best way is to educate them properly on where the trails are and where they need to go and that is what the brewery is trying to do with this sign. He has talked with CPF about doing an actual brewery trail that the brewery maintains, is very well marked, is close to the brewery property, keeps people off of other properties, and keeps them directed and close.

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P. Byrnes noted that the Board has received a GML report from Madison County Planning Department and they have returned it for local determination.

P. Byrnes entered into the record a letter to the ZBA from CPF and he read it aloud:

50 *Tonight the ZBA will address a variance for placement of a sign at Empire Brewery that
directs their customers to the nearby trails on lands of Lorenzo and the Cazenovia
Preservation Foundation. The trails in the properties adjoining Empire Brewery can be
confusing as there are multiple property owners (CPF, Lorenzo, and private landowners)
as well as trail sections that are dedicated to special uses like the Limestone Creek Hunt
Club and the Lorenzo Driving Competition.*

55 *Therefore CPF feels that it is important that trail visitors coming into the trail system from
the Empire Brewery property are directed and informed and supports an informational
trail sign on the Brewery property.*

60 *CPF has already and will continue to work with Empire to ensure that trail information is
correct and that users coming from the brewery are able to enjoy the adjoining trail
network while respecting the current use patterns.*

65 *Thank you.
Judy Gianforte, Conservation Manager*

70 Mr. Irvine continued and addressed the 12 foot by 12 foot shed. It served as a construction office
during construction. After construction, it was moved to a more convenient place to store some
agricultural equipment around the corner and at the back side of the brewery. It is a good looking,
functional shed. He believes its current location is the most convenient for access and is the most
tucked away around the corner.

P. Byrnes entered into the record a letter to the ZBA from Jody Reynolds and read it aloud:

75 *We share a long common border with Empire and are subjected to all types of noise, loss of
privacy, intrusion of people onto our property, smell, occasional loss of water pressure, and
a very real concern about liability.*

80 *Being Empire's closest neighbors, we are concerned about how frequently Empire builds
first and asks permission when only caught afterward. Since our land was part of the Lake
District before the land north of us was annexed by the Village, in the back portion of
Empire's land unquestionably drains into Caz Lake, this is a special area of concern. The
fire pits, which we understand continue to be used and promoted despite being prohibited,
are just one example of how Empire flouts Village law.*

85 *We understand that Empire is seeking a variance on Thursday for the shed they placed
approximately 25 feet from our property. The ZBA agenda states they are seeking approval
for the shed to be 40 feet from the property line they share with us. We have not wanted to
trespass on their land to take an exact measurement, but we believe the shed to be 30 feet or
less from the stake they placed to mark our border. They removed our marker.*

90 *We assume this means they are willing to move the shed somewhat since it is currently closer
than 40 feet to our border. Unfortunately, this will not make a difference in our exposure to
their operations.*

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Empire has stated at Planning Board meetings that we don't use the area next to or see this shed. But that is not the point. As we have told Empire and the Planning Board repeatedly, we are concerned about the shed for two reasons:

100 *That land, when part of the Town, was Lake District land and subject to severe restrictions*
and penalties due to the potential for negative impact on Caz Lake. Empire has all types of
materials (or did prior to it becoming a zoning issue) stored outside the shed in a
lake-sensitive area. I have photos of this growing stack of bagged items, some of which
 105 *looked as if they could be harmful to Caz Lake. Also, they are not supposed to store anything*
outside the main building.

Empire has a dirt farm road leading to the shed. When people who've been drinking walk
along the trails as they are encouraged to do, they frequently walk or drive vehicles past the
 110 *shed. Empire has installed a fence to protect the neighbor behind us from intrusion (he had*
to call the police during one Empire event). This fence actually is one foot from the property
line, which we also believe should have required Village approval and/or a variance as it
touches our property. This issue has been ignored by the Village. But there is no fence
along our wooded property that extends behind the shed (to the south/east).

115 *Regarding the shed placement, kids often play in Empire's back fields and they are attracted*
to trees. And if someone wanted to relieve themselves, they might wander into the woods
behind the shed and onto our property for privacy. Our woods look inviting, but under a
lovely layer of greenery are many downed branches and trees, which are dangerous, and
 120 *especially so to people who've been drinking. We have asked repeatedly for a fence along*
our property. It won't help with the cars that come racing through our driveway having
missed Empire, but it would help keep people out of the woods. We have reluctantly placed
"No Trespassing" signs along the border, but that won't stop people and hasn't in the past.

125 *We will not protest if Empire meets the following criteria: We will not protest Empire*
placing the shed 40 feet, which requires moving it between 10-15 feet or more from our
property, provided they install a security fence to keep people who walk or drive the "shed
trail" out of our woods and store all materials inside the building. We would also ask that
no materials that could possibly damage the lake ecosystem be placed outside the shed.
 130 *Otherwise, we will protest strongly for reasons of security and environmental concern for the*
lake. In fact, they can leave the shed where it is if they will fence off our property. But under
no circumstances should they be allowed to store materials outside at that location.

All of Empire's neighbors have experienced intrusion from its visitors, some polite and
others not. If Empire wants to draw people to its borders, it needs to protect its neighbors
 135 *(and itself) from intrusion and liability. Here are a few photos:*

- *The shed with a property marker of ours (survey 2015 by Hannig) on downed tree--which Empire later removed without consulting us.*
- 140 • *Two shots of the shed with construction materials alongside (lots more added).*
- *The canopy of greens that hides dangerous downed trees and branches in our woods.*

- *The fence—installed practically touching the neighbor’s border (please note metal survey stake to left of posts about 1-2 feet away. Shouldn’t this have required a permit in a lake-sensitive area?). Please note that visitors can easily go around the corner of this fence and onto neighbors’ properties.*

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*Thank you.
Jody Reynolds
Mike Wright*

Mr. Irvine said it was measured from Empire’s side, but it was not surveyed.

155 Mr. Stokes advised that the published Public Notice was for 40 feet. If the Board grants 40 feet and it turns out it is closer, the shed will need to be moved again.

160 P. Byrnes inquired what type of materials are being stored outside of the shed. Mr. Irvine answered that right now there is wood, siding from the building, split rail fence materials, and some tin roofing. The area has been cleaned up as much as possible and the goal is to keep it as neat and clean as possible.

165 P. Byrnes asked Mr. Stokes about restrictions on keeping things picked up. Mr. Stokes stated that it is a property maintenance issue under the State Code that the Zoning/Code Enforcement Officer, Bill Carr, would address.

170 P. Byrnes wondered where the dirt road accesses from, whether patrons use it, and if there is a way to close it off to keep the public from using it. Mr. Irvine responded that it comes from the employee parking lot and the public is not supposed to be back there. It is for a gator or truck to get materials. He agreed to put up a chain to keep the public out. It is crushed stone on a track.

Mr. Irvine said he would like to keep the shed where it is, but if it is not at least 40 feet from the property line, he will move the shed to make sure it is 40 feet from the property line. He will get the surveyor there to make sure it is.

175 C. Bell asked if the plantings shown on the plan are done yet. Mr. Irvine answered they are about three quarters done.

180 J. Nicholson-Dourdas inquired if an alternative shed site has been considered. Mr. Irvine replied yes, but there is nothing as convenient and that is why they decided to bring it to the ZBA.

Capt. Wright asked if there is language on the trail sign prohibiting disposable items in the woods. He is concerned that the woods might become trashy since there are no trash receptacles in the woods.

185 Mr. Irvine answered that the information on the 61-inch by 53-inch sign changes as he works with CPF to get what they want on there. There is a laminated sheet that says what crops are growing right now and where the trails are. The information on the sign is not permanent, but the signboard is permanent.

190 P. Byrnes asked who would be responsible for keeping the sign updated and if there would be any advertising on it. Mr. Irvine said it has been Empire’s materials on there and it is strictly for directions to the trails and the crops.

195 Ms. Gianforte asked how people are encouraged not to take disposables into the woods. Mr. Irvine said the sign would have rules. The trails do not belong to Empire, but the sign directs people to go there. Empire wants to make sure people are adhering to the CPF rules, but cannot be responsible for people. Empire wants to share as much information as possible to make sure people are using the trails responsibly.

200 P. Byrnes asked if Empire maintains a mowed strip when vegetation is high. Mr. Irvine answered yes, it is a cut through to Lorenzo.

205 Anne Ferguson noted that the shed was never on the original site plan, which should be the real issue.

Mr. Stokes stated that there is no problem legally with having an accessory structure. Ms. Ferguson is right that it was not on the site plan. But in order to have it on the site plan, they need a setback variance so the Planning Board can approve it.

210 Ms. Ferguson commented that this sign is bigger than most signs and that has been acknowledged. She questioned: In terms of the concern of the neighbors, it is possible that a compromise can be reached whereby there is a sign denoting the crops and not reference the Burlingame Trail so that people are not directed to go across the neighbor’s properties? She believes this is creating unnecessary friction.

215 Mr. Stokes pointed out for the record that the trail was always contemplated as part of the original plan when it went before the Planning Board. It is referenced in the Planning Board approval.

220 Ms. Ferguson thinks trail access was an altruistic goal, but was not vetted with the neighbors or CPF. She continued that this is creating an issue that did not exist and it could be avoided.

Mr. Stokes said the sign was not vetted.

225 Mr. Irvine stated that Empire is committed to making this as seamless as possible for the neighbors and CPF and that means continually working with the neighbors and CPF.

P. Byrnes inquired if the trail system has been well used since the brewery opened. Mr. Irvine answered that he runs the trails at noon with people from work and he sees people back there.

230 Ms. Gianforte stated that CPF has not worked with Empire on the content of the sign, but feels it is really important to do so. If there are going to be people walking from Empire, it is important for people to know where they are going. Because of the multi-use area and multi-ownership area, the signage is confusing. The neighbors have really suffered from it. They have had lots of people wandering around on their properties, even when there have been fences put across. That does not bode well for keeping the trails operative. Perhaps the Planning Board would want a requirement
235 that the sign be carefully done with an option that if it does not work and people are still trespassing, it needs to be stopped.

Mr. Irvine agreed that if CPF says to stop, Empire would discontinue immediately.

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Capt. Wright pointed out that scheduling should be considered. It would be a terrible thing to have hikers out there and all of a sudden there are 20 horses and some dogs bearing down when there is a hunt going on.

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Sarah Webster, a resident of Burlingame Road, spoke. Her property abuts the Burlingame trails. She handed out printouts of the trails from the CPF website. She pointed out that some of the trails are not for public use. In the ten years she has lived there, she has seen vast changes. This past summer, when the brewery opened, she noticed changes that were not pleasant. There were more people wandering around. There were a lot more bicycles. At one point, she was in her driveway

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and watched a pack of about 20 bicycles zoom along her driveway on a trail that was on private property. They got to the neighbor's house and realized they were not on a public trail and turned around and came back. This has happened multiple times with single bikes and walkers. She has had confused people on her property. There was an elderly man who was very dehydrated and did not know where he was. These trails have not been properly marked. Until this summer, the only access was a small parking lot on Burlingame Road that is currently on private property and that is renewed regularly. It can only hold 5-6 cars. Then there is the parking lot at Fairchild Hill that only holds 5-6 cars. She believes that when CPF opened the trails, CPF talked to all the neighbors and had agreements with them. This summer, the trail sign went up and nobody talked to anybody.

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Nobody was informed that there was going to be a parking lot with 66 spaces and Empire would be promoting the trails. It has made a difference. Neighbors are putting up chains. Access is being limited to everyone, even Cazenovia residents, and the people who are coming to the brewery who are being encouraged to use the trails. As seen on the trail maps, a lot of the CPF trails are landlocked. If people are not able to get to those trails, there is no sense in having them. The frustration level has risen to the point where something needs to be done. Judy (Gianforte) has informed Ms. Webster that things are being done by CPF and they want to mark the trails. But until that happens, Ms. Webster feels the sign should not be at the brewery. She does not want people getting lost. She has been walking them for 30 years and knows them better than a lot of people and she can still get lost. To blindly send people up from the brewery is not an ideal situation. The Limestone Hunt Club is allowed to cross the properties and the landowners have all agreed. A week ago, a hunt went through her property. Instead of going straight with the hunt master, the hounds went off to the right. They were chasing a dog that was out with a runner. The runner's dog was not on a leash and the hounds went after it. The hunt master was hysterical. The dog owner was hysterical and had to look for the dog. It was complete chaos. All the landowners get a copy of when and where the hunt is going to take place. She does not let her cat out and all the landowners know to keep their animals in. Just casual people coming onto the trails don't know that. And they don't have dogs on leashes. It has become a problem. One of the neighbors has installed security cameras, has fenced off their property, has put up lights, has put up chains, and has put up "No Trespassing" signs. It is a burden on the private property owners because it is becoming more of a public use than was ever communicated to any of the landowners. She believes all of the property owners, not just some, should all sit down and develop a plan. There is a liability issue for everybody if somebody strays over and breaks a leg. Why should landowners be responsible for that? Landowners are not inviting them. Other people are inviting them onto the properties, yet it is becoming the landowners' responsibility. She is not willing to accept it and she should not be forced to. Until a plan is created, she thinks the sign should not be there. Maybe by spring, the neighbors will have a plan and it can be posted and opened. But it needs to be with some control and

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assurances for the private property owners that they are not liable and the properties are protected. A number of houses along the trails are very isolated and seasonal homes. At least one house has been broken into. She is not claiming it is because of the brewery or CPF. People using these trails can notice there is not a lot of activity around some of the houses. She is asking the Board to consider all of that when making a decision about a sign at the end of a parking lot that has 66 parking spaces and the landowners do not know who is coming and going.

P. Byrnes asked Ms. Gianforte if there is a plan by CPF. Ms. Gianforte stated that an initiative was started last week for a new marking system. People don't always follow marked trails, so they are putting fencing in place, which is problematic because of the horse use. Many players need to work together to figure out the best way to make a public and private area work for everyone. That has been exacerbated by the increase in users.

Madeleine Hartt, a resident of Old Trees Lane, spoke. She has lived there 36 years and she knows the trails, but can still get lost. Under the snow, there are roots and trees that are down. She does not see why anyone would encourage people who may have had a beer or two to go walking in woods they don't know. She said it would be fine to have signs and trails all around the brewery, but not out in the wild. She hears the brewery keep saying they want to be a good neighbor. The two just don't jive. You don't drink and drive. You don't drink and go boating. Why would you drink and hike?

Mr. Irvine said the goal is to work alongside and promote CPF as best they can. He wants to be part of trail planning as well. Whatever the solution is in the meantime until CPF and the neighbors come to an agreement, Empire is 100% on board. The information is there for people to use the trails that are not Empire's. If that information should not be there, whatever the plan is, Empire wants to adhere to that and work with neighbors and CPF. It does not benefit Empire to send people out onto the trails. Empire is doing it because it is a great part of the area and an awesome thing for the community. If it means taking every piece of information off of that sign until there is a meeting to figure everything out and have a consistent plan, Empire is 100% on board with that.

Capt. Wright commented that his summer neighbor, who is an attorney for ski resorts, was at a show in western New York where Empire had a booth actively promoting getting snowmobiles on those trails.

Mr. Irvine said that is completely false and would never promote that. Everybody knows there are no motorized vehicles allowed on the CPF trails and Empire would never promote that. If somebody finds their way legally on a snowmobile, Empire will not turn them away. Empire will never promote them getting there illegally.

Capt. Wright said the unspoken phrase throughout the entire brewery process is "attractive nuisance."

Ms. Reynolds commented that because the brewery has inadequate parking for their guests, people are using the little farm road by the shed to get to the employee parking lot.

People wander around the back field because it is part of Empire. That field abuts her property and she shares 1,000 feet of property line with Empire. She has the same concerns as Ms. Webster. She does not want to be responsible for people wandering in her woods and getting hurt. That is why she

335 believes Empire should run a fence all along the woods for their own protection. She said she does
not have a problem with the shed, but she does not want people in her woods or anywhere on her
property. She has enough people driving through her property, which is another issue. She would
love to have a bigger sign by the road so they don't miss the brewery and come into her driveway.
All the neighbors to the south of the brewery are getting constant drive throughs. She continued that
340 she has ridden those CPF trails for 60 years and can still get lost. If the CPF trails are closed off,
then the immediate neighbors are even more at risk because people are going to wander around and
the only place they can wander is onto neighboring properties. She already has "No Trespassing"
signs up. It is a little thing, but if somebody falls on her property, it becomes a very big thing.

345 L. Hart asked if there is a visible trail to Lorenzo. Mr. Irvine answered there is a cut through in the
hedgerow down farther. It is behind the sign. L. Hart said it seems like it would eliminate the
problem if the flow of walkers was directed over to Lorenzo.

350 C. Bell agreed and said that Lorenzo is more wide open and is part of the trail system. This would
keep people out of the nearby woods. It would channel them to a really good guide where CPF
would be in control of what the signs say for the trails.

Ms. Webster emphasized that until the signs are clearly marked, it is dangerous for everybody.

355 P. Byrnes asked if this could be a condition the ZBA imposes. Mr. Stokes answered that it could be.

Ms. Webster stated that time is needed with CPF and it could be months before an agreement is
reached for the private property areas. In the meantime, Empire's sign has been up for six months
without approval. She wants the sign completely removed until there an agreement—at least all of
the trail information.

360 Mr. Irvine said he would be happy to take all information off of the sign until an agreement is
reached with CPF. He will find a better place for the signs that tell about the honey and the
lavender, etc. There will be a new plan in the spring for Empire's property.

365 Ms. Gianforte inquired about the procedure when planning a future sign. Mr. Stokes replied that it is
a matter of agreement between the parties. There are two issues: The sign and the content of the
sign. He continued that he has not heard a lot of criticism of the location or the sign itself, only the
content. As a condition of approval and the Board making its findings that there is no adverse effect
on neighboring properties, it may make logical sense in that respect.

370 Capt. Wright suggested that the Board approve the sign and shed with CPF's oversight.

P. Byrnes asked if CPF is contemplating meeting with the neighbors. Ms. Gianforte stated that
375 putting signs on the trails is complicated and involves all of the neighbors.

Mr. Stokes recommended that a simpler condition might be to require a letter from CPF approving
the agreement that is reached. Then Bill Carr could issue a permit based on that. The sign would
not need to be taken down as long as the content has been removed.

380 Ms. Webster questioned if Bill Carr would want to take responsibility for people injured on the
neighbors' properties. Mr. Stokes replied that the neighbors should consult their own attorneys, but

there are statutes in New York State that protect property owners in the case of recreational users that come onto your property with or without permission as long as you don't set a trap. Ms. Gianforte stated that CPF has extensive insurance.

385 P. Byrnes asked for any other comments or questions. There were none. He asked the Board if they were comfortable closing the public hearing. All agreed.

390 C. Bell made the motion to close the public hearing. L. Hart seconded. The motion carried with 4 in favor, 0 opposed.

All members agreed to handle each item separately and would go through the five criteria for the shed first.

- 395 1. *Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?* All four members in attendance answered no.
- 400 2. *Could the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?* All four members answered yes because there are plenty of other places where the shed could be located to meet the 150-foot setback requirement.
- 405 3. *Is the requested area variance substantial?* All four members answered yes because the Code says 150 feet and the applicant is asking to place the shed 40 feet from the property line.
- 410 4. *Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* All four members answered no, not as long as there are no chemicals stored outside of the shed. This would have more of an aesthetic impact than environmental impact. This location is the least obtrusive.
- 415 5. *Is the alleged difficulty self-created?* All four members answered yes because there are plenty of other places where the shed could be located.

C. Bell wondered who polices the items outside of the shed. Mr. Stokes answered that would be a Zoning/Code Enforcement Officer issue. It would be a violation of the property maintenance Code.

420 P. Byrnes inquired what types of materials Empire anticipates storing outside—if there would be anything environmentally invasive. Mr. Irvine replied that there would be lumber scraps, sand, mulch, and topsoil for patching the lawn.

425 Ms. Hartt asked about fertilizers, pesticides, fungicides, herbicides, or any other cides. Mr. Irvine stated that fungicides are kept in his office. Any spraying of the hops would require a license, so it would be hired out.

C. Bell asked who would check to make sure the shed is 40 feet from the property line. Mr. Stokes answered that Bill Carr would check that.

430 R. Shain Emerson asked why the Board would consider granting the variance if some of the answers to the five criteria were no. Mr. Stokes stated that it is an overall balancing test to determine if the benefit to the applicant outweighs any detriment to the neighborhood and the public in general.

435 Mr. Stokes advised that since this is a modification, a deviation, of the site plan, the Board should make a State Environmental Quality Review Act (SEQRA) determination of Unlisted Action. The Planning Board has made reference that they do not see anything that would alter the original SEQRA determination.

440 P. Byrnes made the motion to declare this an Unlisted Action under SEQRA as there is nothing presented in the application that warrants a deviation or reopening of the previous negative declaration for the project. J. Nicholson-Dourdas seconded. The motion carried with 4 in favor, 0 opposed.

445 P. Byrnes made a motion to grant the variance based on the following conditions:

1. The shed shall be 40 feet from the property line.
2. There shall be a chain or gate across the farm road to preclude the public from driving vehicles through there.
- 450 3. There shall be nothing environmentally hazardous to surrounding properties or the lake watershed area stored outside of the storage shed.

J. Nicholson-Dourdas seconded. The motion carried with 4 in favor, 0 opposed.

455 The Board continued the discussion regarding the trail sign. Mr. Stokes noted that there was a discussion of the Planning Board in 2013 to make sure people left the brewery property and exited to Lorenzo and not directly to the trails. He believes that is not being adhered to, but it is relevant to the content of the sign.

Mr. Stokes read from the Planning Board minutes of September 9, 2013:

460 *D. Webb pointed out that Madison County Planning Department (MCPD) is interested in the public trails that cross the brewery property as stated in their comments of September 6. They urged that the brewery project be connected to the surrounding trails.*

465 *R. Huftalen noted that prior resolutions stated that trails should exit the brewery property to the north to the Lorenzo boundary. J. Gavidondo added that it was in the recommendations to the Village Board for the zone change. The purpose was to avoid having an impact on the neighbors.*

470 *A. Walburger maintained that the Cazenovia Preservation Foundation (CPF) trails go through Lorenzo and back around, so they are connected to the brewery property, which meets MCPD's requirement.*

475 Mr. Stokes asked if there is a physical trail that is not identifiable that is going directly onto the adjoining private properties as opposed to Lorenzo. Mr. Irvine answered that there is a cut back in the back side (northwest) of the field, which is a way to access the CPF trails.

Ms. Gianforte clarified that access is to Lorenzo from the sign that is diagonally northwest onto Lorenzo property and Lorenzo's trail before getting to CPF's trails.

480 The Board decided to go through the five criteria for the sign.

- 485 1. *Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?* All four members in attendance answered no for the physical blank sign. It is the content of the sign that could be detrimental. P. Byrnes suggested that the content be agreed upon by CPF.
- 490 2. *Could the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?* All four members answered no.
- 495 3. *Is the requested area variance substantial?* All four members answered yes due to the number of signs on the property. Mr. Stokes noted that it is unique in that it is the only 22-acre parcel within the Village.
- 500 4. *Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* All four members answered no.
- 505 5. *Is the alleged difficulty self-created?* All four members answered no because Madison County Planning Department has requested that the trails be available to the public, CPF supports public trail use, the Planning Board wants the public to have trail access, and the trails are already there.

505 P. Byrnes made a motion to allow the sign with the following conditions:

- 510 1. There shall be nothing on the sign and it can remain where it is until such time as CPF, Empire, and the neighboring property owners come to an agreement as to the content of the sign so it will direct trail users to the Lorenzo property as was stated in the Planning Board meeting minutes of September 9, 2013.
- 515 2. Any physical indication of a trail connection from the brewery directly to the trails shall be removed.

515 C. Bell seconded. The motion carried with 3 in favor, 1 abstention (J. Nicholson-Dourdas), 0 opposed.

P. Byrnes instructed Mr. Irvine to remove all information from the sign. He informed him that this application still needs to go before the Planning Board.

520 Mr. Stokes commented that this sign does not fit any definition for signs in the Code, but this is a good resolution.

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525 **Brenda Mae Switzer, LLC, 6 Albany Street, Area Variance Rear Yard Setback, Construction of Entryway**

There were no representatives present.

530 P. Byrnes explained that the application is to construct a 11-foot by 15-foot entryway which would encroach into the 30-foot rear yard setback requirement. The house at 6 Albany Street with the deck that is already there backs up to another property owned by the applicant. Both houses are rental properties. The survey shows a shed, but that has been removed according to the diagram. This is an L-shaped lot and part of what is being proposed would actually meet the requirement. The house is only 18 feet from the fence line. The deck comes off of the house at least 10 or 11 feet now.

535 P. Byrnes indicated that the measurements do not add up to what the application says.

Mr. Stokes stated that the Board cannot grant more of a variance than what the public notice says. He suggested that the Board hold this to another meeting when a representative can be present. Or the Board can grant the variance as per the public notice and then the applicant would have a choice to accept that or come back to the ZBA and ask for a revision.

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C. Bell wondered if the yellow public notice signs were placed in front of Empire. J. Nicholson-Dourdas answered no.

545 C. Bell wondered if the yellow public notice signs were placed in front of this application. J. Nicholson-Dourdas answered no.

550 P. Byrnes observed that this property is in the Historic District. He believes this application would need to go to the Planning Board for architectural review. Mr. Stokes stated that it would need to go to the Historic Preservation Committee (HPC) if it is visible from the street. P. Byrnes said that it is not visible from Albany Street, but is visible from Forman Street and questioned if it needs to go to the HPC. Mr. Stokes replied that if it is visible from any street it needs to go the HPC. If the HPC issues a Certificate of Compatibility, it does not need to go to the Planning Board. The ZBA could grant the variance the way it was published, but have the issuance of a building permit be conditioned upon HPC or Planning Board approval as applicable.

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J. Nicholson-Dourdas commented that the Board needs accurate dimensions in order to make a decision.

560 Mr. Stokes said if it is the Board's decision to hold this to another meeting, the Board needs to adjourn it so a public notice will not need to be published again.

P. Byrnes made the motion to open the public hearing. J. Nicholson-Dourdas seconded. The motion carried with 4 in favor, 0 opposed.

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P. Byrnes made the motion to continue the public hearing to November 29, 2016, at 7:00 p.m. J. Nicholson-Dourdas seconded. The motion carried with 4 in favor, 0 opposed.

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P. Byrnes made the motion to adjourn the meeting. J. Nicholson-Dourdas seconded. The motion carried with 4 in favor, 0 opposed. The meeting was adjourned at 8:33 p.m.

Respectfully submitted,

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Marlene A. Westcott
Recording Secretary