

PLANNING BOARD
REGULAR APRIL MEETING
MONDAY, APRIL 8TH, 2024
7:00 PM—TOWN HALL—1529 NYS RTE 12
BINGHAMTON, NY 13901

Present: Brian Donnelly, Chairperson
Thomas Eldridge, Vice Chairperson
Jamie Szenher, Board Member
Maura Cooley, Board Member

Also Present: Ryan Ballard, filling in for Alex Urda
Gavin Stiles, Code Officer
Nathan VanWhy, Attorney

Absent: Michael Boland, Alternate Board Member

Brian Donnelly: Being 7:00, I'll call the Planning Board meeting for April 8th to order. I think we need a roll call.

Adam Donahue: Ms. Cooley; present, Mr. Szenher; present, Mr. Eldridge; present, Mr. Donnelly; present.

Brian Donnelly: First off on the agenda, we need to do the approval of minutes for two meetings. We'll do the January 8th, 2024 meeting. Does anyone have any discussion? Would anyone like to make a motion to approve?

Jamie Szenher: I'll make a motion to approve the minutes.

Thomas Eldridge: Second.

Adam Donahue:	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chairperson	Voted: Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:
Ayes—4 Nays—0 Absent—1 (Boland)

Brian Donnelly: And on March 18th 2024, we had a special meeting. Any discussion on those minutes?
Motion?

Maura Cooley: I'll make a motion.

Jamie Szenher: Second.

Adam Donahue:	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chairperson	Voted: Aye

Mr. Donnelly, Chairperson

Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—4 Nays—0 Absent—1 (Boland)

- Brian Donnelly: We don't have any new business this month and so moving on to the advisory opinions referrals. First on the list is Peter Walsh, 100 Chenango Bridge Rd, application for a zoning interpretation regarding a code official's denial of a building permit application for self-storage. Self-storage is currently not allowed in any zone of the Town of Chenango. Mr. Ballard, could you read us Mr. Urda's letter?
- Ryan Ballard: Sure. Mr. Walsh is contesting the Code Officer's, Gavin Stiles, denial of an application for self-storage. The application package included an application to the Zoning Board, Letter of Intent, Notice of Appeal to the Zoning Board of Appeals, Site Layout Plan and Rendering, Purchase and Sale Contract for Commercial Property, Applicant purchase offer and copy of check. 239 review not required for interpretation. We defer to the Town's Legal Counsel for clarification.
- Brian Donnelly: Mr. Stiles, do you have any comments at this time?
- Gavin Stiles: I do not.
- Brian Donnelly: The applicant is here? No, ok. Do we have any legal counsel clarification that could be added at this point?
- Nathan VanWhy: Well I guess the question would be if you folks have any specific questions about the applicant's letter, what they're asking for and I know Gavin, I think Mr. Walsh submitted a letter as an additional explanation of his request.
- Gavin Stiles: As they all do in some capacity.
- Nathan VanWhy: Ok. Referring to that letter you can see what he's saying and then I think from there it's incumbent on the Planning Board to review each of the Zoning districts that apply to the specific request, so each property is in a district so looking at the uses in that district and referring to the definitions in the Town Zoning Code, potentially reviewing or referring to a dictionary if common ordinary words have meaning. We're not going to pretend they don't so look it up and see if you can find a storage facility use like what is being proposed here, as a primary use of the property, whether that's an allowed use under the particular zoning district classification that each one of these properties sits in.
- Thomas Eldridge: Gavin do you know what they are because it doesn't say on here what they are?
- Gavin Stiles: I think Bert Adam is Neighborhood Commercial, the BEALBE LLC, and I believe that the one in back of the Spot Restaurant on Prescott is PDD-C and I think the one that Webb Sisson owns is CD, Commercial Development.
- Thomas Eldridge: Prescott is Niles Park, LLC.
- Nathan VanWhy: I'm not sure which Zoning District the Planning Board would like to look at first.
- Thomas Eldridge: We'll just start with Peter Walsh first and go to Chenango Bridge, which you said was CD.

Nathan VanWhy: You have in front of you handouts of copies of the CD regulations along with all the others. I would just ask you all to review that and do you see for the permitted uses, any permitted use that would appear in your opinion to allow a primary use storage facility? You've got the definitions from the zoning code and he's got a dictionary handy if you're questioning any particular meaning of the words.

Thomas Eldridge: I don't see why it wouldn't be fine there. All of these things for the most part have a larger impact than a storage facility ever would.

Nathan VanWhy: The issue is not whether it should be allowed. That's a Town Board issue, should the Town Board choose to amend the code. The question for you is, does the commercial storage facility meet or fall into any of these definitions?

Thomas Eldridge: Fall in there currently.

Nathan VanWhy: Correct.

Gavin Stiles: Can you find where the puzzle piece would fit? That's the hook.

Brian Donnelly: No, because it doesn't fit into the current usages and there's alternate avenues people can take, meaning getting a zoning change through the Town Board or getting an amendment from the Zoning Board.

Thomas Eldridge: Starting with the silly little note at the bottom that basically makes it so that you can't do anything extra in the Town of Chenango. That should be the first thing that the Board should change, personally.

Gavin Stiles: Any use not expressly permitted is hereby expressly excluded, that one? That one's awesome, I read it all the time.

Nathan VanWhy: That's very common in Zoning Codes that there will be phrases like that, that are exclusionary zoning, if it's not listed it's not allowed. Then when you look at the actual lists of uses that are allowed you'll see references to other similar uses. Retail, for example, lists a bunch of retail stuff and then other similar uses. That is where the Zoning Board's ability to interpret the code and the code officer's ability to interpret the code come into play. It's meant to protect the Town from somebody saying, since you've never listed a nuclear power station as being excluded, I can build a nuke. That's the idea, anyway, whether you agree with it or not is up to you but that's the thought process.

Thomas Eldridge: What's the definition of public utilities?

Gavin Stiles: Allow me to present you with my piece of literature. We had talked about this at the ZBA. I said I'd bring a dictionary to poke around.

Thomas Eldridge: That's the only one on there that I don't know, public utilities.

Gavin Stiles: We'll have to find the word 'public' and then the word 'utilities.'

Jamie Szenher: Public utility is water, sewer, gas, telephone, and similar services.

Nathan VanWhy: So the public utility structure definition is in the code.

Thomas Eldridge: So we would say no, it doesn't fit into any of those.

Nathan VanWhy: Is that the consensus among the Planning Board, that it does not fit into the CD district? Then it would just be a motion to recommend an unfavorable advisory opinion to the Zoning Board regarding this particular request for an interpretation, in the Commercial District.

Jamie Szenher: This one is the one on 100 Chenango Bridge Rd.

Brian Donnelly: That being said, does anyone want to make that motion?

Maura Cooley: I'll make the motion for the unfavorable recommendation.

Jamie Szenher: I'll second.

Adam Donahue: Ms. Cooley, Board Member Voted: Aye
Mr. Szenher, Board Member Voted: Aye
Mr. Eldridge, Vice Chairperson Voted: Aye
Mr. Donnelly, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:
Ayes—4 Nays—0 Absent—1 (Boland)

Jamie Szenher: Did the Zoning Board address this at their last meeting?

Nathan VanWhy: Not directly. They referred it to you for advisory opinion and then they'll be doing this same exercise at their next meeting with your advice taken into consideration.

Brian Donnelly: Next on our agenda is 2024-V03, BEALBE LLC, 115 Prentice Rd, application for a zoning interpretation regarding storage units not being an allowed use in any zone of the Town of Chenango. Do we have Mr. Urda's message?

Ryan Ballard: BEALBE, LLC is appealing relative to an interest in self storage development. The application package included an application to the Zoning Board, Letter of Intent, Notice of Appeal to the Zoning Board of Appeals, and a floor plan. 239 not required for interpretation, and again we defer to the Town's Legal Counsel for clarification.

Brian Donnelly: Mr. Stiles, do you have any comments?

Gavin Stiles: No, I do not.

Brian Donnelly: We can go through the same process that we just went through previously. Is the applicant here? No, ok. That's under Neighborhood Commercial District. It looks like the same stuff.

Thomas Eldridge: It's the same but actually with less stuff.

Jamie Szenher: Less uses.

Brian Donnelly: Being that the principal uses are basically the same, a little bit different from the previous one, does anyone have any questions on any of the uses or some clarification? I think the legal interpretation is going to be exactly the same as it was previously. I don't see anything, does everyone basically agree that there's no principal use there that considers storage units?

Board: Yes.

Brian Donnelly: Does someone want to make a motion for an unfavorable advisory?

Thomas Eldridge: I'll make a motion for an unfavorable advisory to the Zoning Board.

Maura Cooley: I'll second the motion.

Adam Donahue:	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chairperson	Voted: Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—4 Nays—0 Absent—1 (Boland)

Brian Donnelly: That will go to the Zoning Board with an unfavorable advisory. The next thing on the agenda is Niles Park, LLC, 10-12 Prescott Rd, application for a zoning interpretation regarding storage units not being an allowed use in any zone of the Town of Chenango. Mr. Urda's comments?

Ryan Ballard: Niles Park II, LLC is appealing relative to an interest in self storage development. The application package included an application to the Zoning Board, Notice of Appeal, NPC Realty letter, and project site plans. 239 review again is not required for interpretation and again we defer to the Town's Legal Counsel for clarification.

Brian Donnelly: Mr. Stiles, do you have any comments?

Gavin Stiles: I do not.

Brian Donnelly: Is the applicant here? No. We'll go through the same procedure and review the principal uses in the PDD-C zone. Does anyone see anything that we need to question? Any possibilities that we can discuss? Do we have any other comments from Legal?

Nathan VanWhy: No.

Jamie Szenher: I'll make an unfavorable recommendation.

Thomas Eldridge: Second.

Adam Donahue:	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chairperson	Voted: Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—4 Nays—0 Absent—1 (Boland)

Brian Donnelly: That will also go to the Zoning Board with an unfavorable recommendation. Next on the agenda would be Danielle Wood, 125 Kennedy Rd, application for a quintuple area variance to build a home on a lot with less than required lot size by 4600 sq ft, less than required side

yard setbacks from 10' to 5', less than required front yard setback from 30' to 15', and less than required house size from 750 sq ft to 500 sq ft in a Residential zone with a short EAF. Mr Urda's comments?

Ryan Ballard:

The package included a zoning board of appeals application with permissions, letter of intent, site sketch, purchase and sale contract for residential property, and short EAF.

1: Variances: Can they provide the building dimensions to help understand the need for the variances?

a. Lot size: no engineering concerns

b. Side Yard House reduction to 5 feet. It would appear they have room to meet the 10 feet. I don't follow the flood concern relative to the side setback. It would be preferred if they still meet the 10 feet. Providing building size/dimensions would help understand the spacing.

c. Side yard garage 10 feet reduction to 5. There are similar instances of this in the neighborhood. If they give building dimensions it would help understand the need (Why the gap between house and garage? Why detached vs attached?)

d. Front yard at 15 feet...house to the southwest is 15± feet from GIS and the one across the street has a covered porch at 10 feet. 15 feet seems to fit the neighborhood. The Board might consider "no closer than the adjacent structures."

e. House size...I have no issues with 'tiny homes' as long as they meet all building codes via code review (ex. Minimum room sizing).

2: floodplain. They noted in the EAF that they are in the 100-year for the site. The house location seems to be on higher ground. Applicant shall provide a floodplain development permit form to Gavin S. as floodplain manager to set terms.

3: 239 review parcel is within 500 feet of State road.

We have no engineering objections.

Brian Donnelly:

Mr. Stiles, do you have any comments?

Gavin Stiles:

I don't really. I think they can ask for whatever variance they want. I don't know how you can steer them in any direction. They can ask for five feet, ten feet, they can ask for whatever they want. I don't see any reason to steer them. That's all I have to say about it.

Brian Donnelly:

Is the applicant here? No.

Gavin Stiles:

I'm certain they will be at the public hearing but you guys won't be.

Thomas Eldridge:

Not to be a broken record but I just feel it's important to bring this up, what's the road frontage in residential? Is it the hundred minimum width? It doesn't say road frontage it just says minimum width.

Gavin Stiles:

I don't know, I know it's a minimum of 12000 square feet to build. If you look at the square footage in residential to build, it's like less than a quarter acre.

Thomas Eldridge:

It says minimum width and minimum depth 100 feet, whereas on Agricultural it just says width 240 feet.

Gavin Stiles:

We might have to talk to the Town Board about that too, I didn't make those rules up. Whatever variance these people would like to ask for, rock and roll. If they want to ask for

two feet or three feet or five feet, maybe we can steer them in a direction that's arguable more amenable to what would be agreeable, but they can ask for whatever they want.

Jamie Szenher: All the lots on that street are exactly the same size, about 50x150.

Thomas Eldridge: I assume it had a house on it at one point.

Gavin Stiles: It burned and they tore it down.

Nathan VanWhy: How long ago was the fire?

Gavin Stiles: Six years ago. Those lots are really small, the house next door I think is a single wide trailer with an addition on it. They're little tiny lots and we don't currently allow for tiny homes. The smallest home we allow is 750 sq ft, I don't know what she was asking for.

Thomas Eldridge: 500.

Gavin Stiles: I didn't think it was quite that small. Then we can start treading into tiny home territory as long as they meet energy code then so what.

Thomas Eldridge: It's easy to meet energy code, 500 sq ft.

Gavin Stiles: A little spray foam, you basically make a Yeti cooler.

Brian Donnelly: There are some other smaller houses in the Town. I don't exactly know what their square footage is.

Thomas Eldridge: I think as far as the setbacks like Ryan said, it would go with the rest of the neighborhood.

Brian Donnelly: Going on the information that we do have and the discussion we've just had, does anyone know why there's that space between the house and the garage that much?

Jamie Szenher: It is a big space, isn't it?

Gavin Stiles: They may have misinterpreted fire code with looking for a fire separation. It's not a reality, I'm not designing their house for them but if they were to narrow that say hey we need to do this because of so on and so forth...I think they're really spitballing. They're saying we want to buy this, but we're not if we can't do anything we want to do. The contract is contingent on can I do anything I want to do here? That's all. That's the nuts and bolts.

Brian Donnelly: It seems maybe the space there between the two is so that they can access the back end of the property.

Gavin Stiles: It drops off too. It goes flat and then it drops off. I told her, you want to be 30 feet away from the road and she was like can we put it back where the other house was? And I said you can ask the Boards if you're allowed to do that. The house that burned was probably ten feet off the road, whatever it was I don't remember.

Jamie Szenher: It does drop a bunch off the back, at least four feet or so.

Gavin Stiles: Yeah it drops off.

Brian Donnelly: We don't need to do any other things because we're just making an advisory, I just want to clarify that. Does anyone want to make an advisory on it? With the information we have and the questions we had for the applicant and them not being here we're just stuck with the information we have, clarification can also be done with the Zoning Board and at the public hearing.

Gavin Stiles: Bringing in fill in that back lot would be a loser because it's in a floodplain and they'll freak out about bringing fill in.

Thomas Eldridge: I would make a motion for a favorable advisory based on the information we have. The setbacks are within the scope of the rest of the neighborhood and as long as Ordinance is okay with the smaller square footage house.

Maura Cooley: I'll second the motion.

Adam Donahue: Ms. Cooley, Board Member Voted: Aye
 Mr. Szenher, Board Member Voted: Aye
 Mr. Eldridge, Vice Chairperson Voted: Aye
 Mr. Donnelly, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:
 Ayes—4 Nays—0 Absent—1 (Boland)

Brian Donnelly: So we will be sending that to the Zoning Board with a favorable advisory. Any other business? I did get a message that the training that needs to be done is four hours for sitting members and new members need to do six hours.

Nathan VanWhy: You have to file the certificate with the Town Clerk's office. Mr. Chairman, there is one thing I just wanted to flag. I did send it in an email to the Planning Board, mentioning that my office has a conflict with the Brew Family Development project. It's on your agenda for the May meeting probably to accept as the first meeting and then you'll likely really dig into it in the June meeting. If you're in need of legal counsel for those two meetings then Nadine Bell's office needs to get contacted so I'm bringing it up now because we're at the beginning and now would be a good time to reach out before that if you need it or want it, which I'm sure that you would.

Thomas Eldridge: We appreciate that because we're used to hearing about it the day before and not having counsel.

Nathan VanWhy: Trying to fix that.

Gavin Stiles: We can buzz Nadine easy enough if you guys think you want counsel. I talk to her pretty frequently so it's not a big deal.

Brian Donnelly: Yes.

Gavin Stiles: I don't know if it's really my place to ask her but I can fire a warning shot over her bough and then she can contact HR or whoever.

Nathan VanWhy: I can send an email to her and copy Brian and Gavin.

Jamie Szenher: She's done stuff with the Town before, right?
Gavin Stiles: Several times.
Brian Donnelly: Anything else?
Jamie Szenher: I'll make a motion to dismiss.
Thomas Eldridge: Second.
Brian Donnelly: All set for today.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Kari Strabo". The signature is fluid and cursive, with the first name "Kari" written in a larger, more prominent script than the last name "Strabo".

Kari Strabo