

ZONING BOARD MEETING
TUESDAY—APRIL 23, 2024
ZONING BOARD OF APPEALS
7:00 PM—TOWN HALL
1529 NYS RTE 12
BINGHAMTON, NY 13901

Present: James Brewster, Chairperson
Aleta Kinne, Vice Chairperson
Scott Smith, Board Member
Jon White, Board Member
Ed Miller, Board Member
Dan Wolters, Alternate Board Member

Also Present: Nathan VanWhy, Attorney
Gavin Stiles, Ordinance Officer

James Brewster: Welcome, everybody. It is 7:00, it's time for me to open the April meeting of the Town of Chenango Zoning Board of Appeals. First off, we'll have an attendance roll call.

Adam Donahue: Mr. Wolters; present, Mr Miller; present, Mr. White; present, Mr. Smith; present, Mrs. Kinne; present, Mr. Brewster; present.

James Brewster: We have a quorum therefore we will continue with our meeting. Just a few housekeeping things, opening rules for those of you who haven't been here. We actually have a pretty full agenda tonight so what we do is conduct new business which are new applications for us to review and move on to the Planning Board meeting next month and then to our board meeting toward the end of next month and there's no participation unless we have questions for the applicants on that. That should go fairly quickly. We have four public hearings tonight, three of which are interpretations and one of which is a sequence of area variances. We'll go through all the public hearings one by one, the applicants will have a chance to present their side or the information required for an area variance and then the citizens will have, just like the Town Board meetings, five timed minutes to present their comments and then we'll close each public hearing separately and then the Board will move on to discussing the applications in order to come up with a conclusion and a resolution. A little more housekeeping for the board tonight, members, approval of the March meeting minutes. Does anybody have any corrections or issues with that? If not I'll seek a motion to approve those.

Aleta Kinne: I make a motion to accept.

Jon White: I'll second it, Mr. Chairman.

Adam Donahue:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5 Nays – 0

- James Brewster: March meeting minutes are approved. On to new business, we have application 2024-V06 and that's for 258 Brooks Rd, Avdo Mujcic, area variance to build a home at 258 Brooks Rd with less than required acreage from two acres to 1.9 acres in an Ag zone and we'll conduct a short EAF with that. Board members, on the application anything to note?
- Aleta Kinne: There were a few things he didn't fill out.
- Jon White: On the short EAF.
- James Brewster: Maybe we can take care of those right now.
- Aleta Kinne: Page two, number five and number six and number nine.
- Jon White: Number one, too.
- James Brewster: Ok, let's take these. Number one, does the proposed action only involve legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?
- Nathan VanWhy: The answer's no.
- James Brewster: The answer's no. We'll make question number one 'no.' Number five, is the proposed action permitted under the zoning regulations and consistent with the adopted comprehensive plan?
- Jon White: Yes and yes I would say.
- James Brewster: So the proposed action is building a home so yes, and yes. You're correct, so we'll make five 'yes' and 'yes.' Number six, is the proposed action consistent with the dominant character of the existing built or natural landscape?
- Aleta Kinne: Yes.
- James Brewster: Building a home, is it consistent with the natural landscape or character of your neighborhood, we'll put 'yes' for question six. Number nine, does the proposed action meet or exceed the state energy code requirements? I would imagine if he's building a home it at least meets it because of code.
- Ed Miller: Yes.
- Jon White: I would assume so, too.
- Scott Smith: That's what code looks at, part of what they look at.
- James Brewster: Is everybody good with question nine?
- Board: Yes.
- James Brewster: Number ten, will the proposed action connect to an existing public/private water supply? He says private water well so I guess...
- Nathan VanWhy: The answer would be 'no.'
- James Brewster: Question ten, 'no', and then he's going with a private well.

Aleta Kinne: Then the biggie, number 17.

James Brewster: Will the proposed action create stormwater discharge, either from point or non-point sources?

Aleta Kinne: It's on a hillside I think.

James Brewster: Whatever the Board's consensus is on that, we'll evaluate it anyway.

Ed Miller: I'd say no.

Jon White: I'd go no.

Aleta Kinne: I said yes. Whatever, we'll get it next month.

James Brewster: Will there be stormwater due to building of a house and on the property if there's elevation? Yes. Is it classic stormwater as in a big commercial project that has to move stormwater? Probably not.

Aleta Kinne: No.

Nathan VanWhy: Mr. Chairman, I think the answer is probably a 'yes' because there will be stormwater discharge created because something is being constructed there. Yes, there will be. Is it going to be directed anywhere? I guess that'd be up for the property owner to say whoever is designing his house, what are they doing for stormwater discharge? Are they directing it anywhere? You folks probably don't know that, that's why part one is supposed to be filled out by the applicant. They're the ones with the information to say yes, in fact, there will be and this is what we're going to do with it or no we don't plan on doing anything with it because we don't need to because it's a 2-acre parcel of land and we're building a house in the middle of it. It's just going to discharge to the environs, there's no indication of runoff problems.

Scott Smith: So, our answer should be 'yes' and the second part should be 'to be determined.'

Ed Miller: We shouldn't even be answering it.

Nathan VanWhy: Right, the applicant needs to answer that question. You can ask him, he's there. He might not know the answer in which case you would say, you need to find out the answer and tell us what you're doing, because you need that in order to move forward with an environmental review.

James Brewster: Do you anticipate any stormwater discharges on your property due to the construction of the home and whatever developments such as a driveway and so forth, and if you do, do you know if they will flow onto adjacent properties and if so, do you plan on creating any runoff and storm drains?

Avdo Mujcic: There's already runoff and storm drains. There used to be a house on that property. There's a septic, there's a well and there's electrical and everything there. There's a French drain around it so all that's already taken care of.

James Brewster: So, would you like question 17 to be, for us to record as 'yes' or 'no'? What would you prefer?

Nathan VanWhy: Mr. Chairman, I think what he's just said is yes there's probably going to be stormwater discharge. Will it flow to adjacent properties? No. Will stormwater be directed to

established drainage systems? Yes. And then the brief description is, existing stormwater drains and French drains.

James Brewster:

We all good with that?

Board:

Yes.

Aleta Kinne:

I had one more thing. He's got two different addresses for where he lives. He's got Beartown Road in Port Crane and he's got East Hill Road.

Avdo Mujcic:

It's Beartown.

James Brewster:

Are we all set? If that's the case, I will accept a motion to move that application on to next month. Before we get to a motion on that, next month we have a potential conflict with Grievance Day. In the past they've had it upstairs.

Aleta Kinne:

We always still met on that day.

Scott Smith:

When we were in the courtroom then we had it here but since that changed we've been upstairs.

James Brewster:

Ok, so I don't see the urgency of the phone call I got today about changing our meeting.

Scott Smith:

We usually don't and we've got backup for me.

James Brewster:

Then I'm satisfied with keeping it at the same date, we'll keep it on the same May date which is the 28th. The motion will be to move the application through Planning and then to our May 28th meeting. Anybody accept that?

Jon White:

So moved, Mr. Chairman.

Ed Miller:

I'll second.

Adam Donahue:

Ed Miller, Board Member	Voted: Aye
Jon White, Board Member	Voted: Aye
Scott Smith, Board Member	Voted: Aye
Aleta Kinne, Vice Chairperson	Voted: Aye
James Brewster, Chairperson	Voted: Aye

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

Ayes – 5 Nays – 0

James Brewster:

Make it so. On to application 2024-V07, this application is Keystone Associates, represented by Keith Barney, 1322 Upper Front St, an application for a triple area variance to open a 7 Brew with less than required lot size from six acres to .612 acres, less than required lot width from 350' to 150.81', and less than required lot depth from 450' to 106.24'. This is in a PDD-C and a CD zone with a short EAF consideration. Comments on this one, Board?

Jon White:

I think everything was there that we need to look at.

Aleta Kinne:

I'd like to say one thing though. Whether it'll save some time if I say it tonight, we're not going to be able to move forward without a study from DOT on left-hand turns.

James Brewster:

Is that a Planning consideration?

Aleta Kinne: We'll end up with the problem that they had at Dunkin Donuts so we really have to get DOT involved.

Nathan VanWhy: That's certainly something that will get brought up at the site plan review itself.

Aleta Kinne: I just wanted to mention it.

Nathan VanWhy: I've got two things to say. First, my office does have a conflict on this. We did flag that to the Planning Board when it came in originally as a site plan application. It didn't flag to me that it was a variance application until just tonight. It did come across my desk a week ago as a variance application but I thought it was part of the site plan. I'm not involved with it, I sent it off to Nadine Bell so Nadine Bell's already on board to help the Planning Board on this particular project. They'll get somebody for advising you folks as well. Because of the need for both variance and site plan approval and the issue that you just brought up for example, obviously I'm not going to give you specific advice on this. I would say Nadine might recommend this as well, you may want to coordinate review between the Zoning and the Planning Board so that way only one of you is doing the environmental review. All these issues are going to come up and usually it's easier if one board does it and usually that's the Planning Board in a situation like this because their purview is the site plan itself and not the variance criteria. That's something Nadine is going to have to discuss with each board. The Planning Board would likely declare itself lead agency at the next Planning Board meeting and then you'll have an opportunity to weigh in on that. These types of concerns, everybody's going to be raising them and then it just seems more streamlined to handle it in that fashion.

Aleta Kinne: We've already had that sort of problem so, just looking ahead.

James Brewster: Excellent point. Thank you, Nate for your disclosure on that as well. Thoughts on what we need to do tonight with this application? As far as our purposes go to consider the variances, I don't see what's preventing us from moving it forward.

Jon White: Correct.

James Brewster: As long as we make a note or advise the Planning Board that this is one of our concerns is to have some sort of a DOT review. You're the applicant, I assume?

Keith Barney: Yes, Keith Barney. I think Gavin, everything got turned in for 239?

Gavin Stiles: Yeah.

Keith Barney: Right, so DOT will look at it during the 239 process and comment and we actually did have a traffic study done and they have results that we did submit already to the Planning Board.

James Brewster: All right, so it sounds like there's documentation coming about traffic.

Keith Barney: I think I also submitted as part of this application on page 3 of the narrative, it was a trip generation summary.

James Brewster: Oh yeah, that's the one that's sideways.

Keith Barney: So that was site-specific to our location. They didn't see any issues. Our exiting is going to be through Lowe's parking lot to the traffic signal.

James Brewster: Ok, so we do have some documentation and I expect we'll get more once the Planning Board sees it, or at least commentary about that.

Jon White: Even Broome County Planning is going to comment.

James Brewster: Right , and 239.

Jon White: And anything from Alex also. I think it would be good to accept it and move it forward. That'll be my motion.

Scott Smith: I'll second that.

Adam Donahue:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5 Nays – 0

James Brewster: Application V07 can move forward and application number 2024-V08, Serena Brown, 1605 NYS Rte 12, application for an area variance to extend an existing driveway on the north and south sides with the north side coming within three feet of the property line where only ten feet is allowed in an Agricultural zone and a short EAF to be considered. Thoughts on this application, members?

Jon White: I thought everything was complete on this also.

Aleta Kinne: Yes.

James Brewster: I'll seek a motion to move application number V08 forward to Planning and our May meeting.

Ed Miller: I'll make the motion.

Jon White: I'll second it.

Adam Donahue:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5 Nays – 0

James Brewster: Ok, application 2024-V08 has been moved forward so any applicants who are here, we will see you next month for a public hearing and consideration of your application. We're going to go through the public hearings, open-close for each one of them so at this time I will open the public hearing for application 2024-V02, Peter Walsh, 100 Chenango Bridge Rd, application for a zoning interpretation regarding the 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. Walsh, you have the floor to provide us your information. Mr. Miller will be recusing himself from this.

Peter Walsh:

Thank you everyone for letting us present today. I'm Peter Walsh, I'm representing this project, that's my brother Matt Walsh. What we're looking to do, the property is 100 Chenango Bridge Rd, it's adjacent to gymnastics, Beacon Water, the veterinary hospital and then Batch Coffee on the other side. Over the past few years Mr. Sisson has filled the site. There's a large portion of it that is above the floodplain and that's where we're looking to build the majority of this project. We're kind of through the conceptual phase here. This is essentially what it's going to look like, it's drive-up storage, we have a very similar property in Vestal. Customers rent a storage unit, come up, place their personal belongings, a lot of times it's contractors. A lot of people have small businesses set up, whether it's small retail. A variety of different rental uses. That's essentially the overall concept. Here's a rendering. It's going to 5000-15000 square feet of climate-controlled storage and 30000-40000 square feet of dry storage. Similar to our other property, it's very secure. There's a perimeter fence around the entire property and a gate at the entrance where you can only get in if you have access, security cameras and lighting throughout. And obviously, this rendering shows we want to dress it up from the Chenango Bridge Road side. We want it to look as aesthetically pleasing as possible for the Town and for our customers to kind of set us apart.

At the last meeting when you guys were looking to push our application on, you were looking at the definitions of zoning versus self-storage. We did a little bit of research and looked into Commercial Development. Typically in Commercial Development there's a landlord who builds a property and leases it to a tenant and that tenant is going to be selling services or goods and products out of that property to the end user being the customer. When looking at self-storage, it's a very similar concept where the landlord is building the property and instead of renting to a business who is going to sell their goods and services, it's renting directly to the customer itself, so trying to draw some similarities between self-storage and Commercial Development. After doing this research we also wanted to go through the County and look at where self-storage is in other municipalities and as you can see, just about every other municipality has self-storage in a commercial or business-type zoning. Here's almost all of them in Broome County. Like I said as you can see there, in a commercial zone, general business zone, or something very similar to the Commercial Development zone that we're looking to put this project on. After that we looked through the Town of Chenango to see if the Town has self-storage or anything similar to self-storage and we've outlined mainly one property that has specifically self-storage in a Planned Commercial Development and many other properties that have storage of some kind that are associated with their businesses. We can go through these pretty quick because there's quite a few of them and actually looking at some historic maps we did see that at one time the subject property that we're looking to build on had some sort of container storage of some sort. This is a property in Chenango. The storage units aren't specifically for their business, they're for general renting on the website it shows. On their website it shows that retail customers can and rent self-storage out. This is a Planned Commercial Development zone, obviously we're in a Commercial Development zone, it's very similar zoning classifications. Then looking through the rest of the town, there's Amish shed retail sales. There's a very similar property in Sayre, PA that uses Amish sheds for self-storage. That's in a Commercial Development zone. Another property has had it looks like some storage container on site. There's other properties throughout the town that have storage of all

sorts. That's essentially where we're at. We have this Commercial Development property that we're looking to develop self-storage on and mainly looking at the similarities between the first property, the SSR Power Sports property where they specifically have self-storage units. We went and submitted this application to Gavin for a building permit and we were kind of surprised that self-storage wasn't allowed on the Commercial Development property when it currently is on a Planned Commercial Development property. That's essentially the presentation. Do you guys have any questions?

James Brewster: Any questions from anybody? I do have a couple. The definitions you provided, Commercial Development, self-storage, do you have reference on those? Where did those come from?

Peter Walsh: I don't. I can find them. I pulled them from a line somewhere.

Nathan VanWhy: So they're not definitions from the Town Code?

Peter Walsh: Correct. I don't know if you guys have definitions, you guys have the outlines that show all the zoning.

Nathan VanWhy: There's a definition section.

James Brewster: I think it was with the Amish sheds, the lower picture.

Peter Walsh: That's another property, its just drawing a comparison.

James Brewster: That's down in Pennsylvania?

Peter Walsh: Correct.

James Brewster: Ok.

Aleta Kinne: That's a sales lot, not a rental.

Peter Walsh: Yeah the one on Front St is for sales but it's showing that there are entities that use those same Amish sheds as rental units.

Nathan VanWhy: But not in the town.

Peter Walsh: Not in this town.

James Brewster: That's why I wanted clarification on that. I thought I caught it but I wanted to clarify that because I saw them say storage plus so...

Nathan VanWhy: Mr. Chairman I've got a follow-up question. All the properties that you have listed as being in the town showing some storage that's present at the property. The Zoning Code allows as accessory uses customary to the primary use and so how is all the examples you cited, and I'm just asking for purposes of the Board, how is that accessory use something that you can rely on to have a primary use as storage? It seems like all the examples you gave, there's a primary business there and the storage is an accessory to the business's operations like the HVAC place, they repair things and they store stuff in the back. The new car storage, I'm assuming there's a car lot very close to there and this is where they store their new cars. The other examples, it seems like it would be reasonable for the town to interpret that all the uses you're pointing to are accessory uses to a principal use and that a principal use as a commercial storage facility is not authorized.

- Peter Walsh: Correct. I guess I'm just drawing the comparison that some properties currently have much larger storage than others and some of them it does appear might be the primary. I don't know what business is actually happening at the property other than storing items. But yes, the majority of those were accessory uses.
- Person 1: Precast isn't really considered storage, it's going to get loaded onto an 18-wheeler.
- James Brewster: You'll have your time here. Sorry about that, I just want to kind of keep things in order but you're welcome to speak because I'm just about ready to open up the public hearing to public comments. Anything else from the Board? Ok, thanks. If we have follow-up we know where to find you. With that, would anybody like to make comments about this application/presentation? You may have the floor first.
- Person 1: I just wanted to comment that precast products are not stored, they are made and set aside while they finish doing their thing and then they are loaded onto an 18-wheeler and shipped to the job site. It does fluctuate different times of the year at all three of our plants. That's all.
- Webb Sisson: A facility such as this, the town has had many arguments about containers on properties. I know, I had one and I have one for the Boy Scouts on my property. And everybody is wanting to put a container of some sort on their property that's become an eyesore they say. If this facility is there, you wouldn't have the need, I wouldn't have a need for containers on my property. My next door neighbor wouldn't either at the gymnastics school. This would be a way to improve the town, get rid of the containers that they don't want to see anymore. It would do nothing but accent the Town of Chenango. You would see people and then if you have another storage facility and another one, yeah, we would get rid of a lot of containers and then it would make it easier for our gentleman over there to have to go out there and say you can't do that. I'm just saying it would accent the Town of Chenango.
- Person 2: I just want to chime in that sometimes in some of these businesses it seems to be a problem, especially in bigger cities, that you have derelicts and vagrants that just rent units and move right in and you can try to get them out but then the next day another person is renting another unit and sometimes the economy, when it falls on hard times, these people look at these places for living and we could have some squatters living in there before you know it. I'm not against it or for it, I just wanted to point that out.
- Peter Walsh: In our Vestal facility we actually have a smart lock on the doors. You can see when customers are coming and going, there's also an infrared and motion sensor within the unit so if that door is closed and that sensor picks up heat or motion inside it sends us an alert that says that someone or something is inside the unit that's living. That's how we combat that, and we haven't even actually had to use it.
- James Brewster: Thank you for that and thank you for the rebuttal. Anyone else? Ok. I have some correspondence to read into the record. This did get sent to the County and they responded that Zoning Interpretations are not subject to 239 review. Town Planning Board referred this application to the Zoning Board of Appeals with an unfavorable advisory. Our Town engineer also took a look at the application and stated that a 239 review was not required for an interpretation and he defers to the town's legal counsel for clarification, just reading that into the record. We don't have any other correspondence so therefore if anybody has anything else before I close the public hearing, going once, going twice...the public hearing for 2024-V02 is hereby closed. At this time I will open the public hearing for application

2024-V03, BEALBE LLC, 115 Prentice Rd has an application for a zoning interpretation regarding storage units not being allowed in any zone in the Town of Chenango. Applicant, you have the floor.

Bert Adams: I just was trying to get a clarification if I could build something there or not because I was told you can't have storage units so I didn't proceed with anything until we get a clarification on it. Until someone says you can build a storage unit on that property or anywhere else then I'll submit but basically I'm just going to start out small, 30'x150', I forget how many units would be in there, fence it in, and go from there. If they come around then I add on. It would be quite lowkey, nothing fancy.

James Brewster: Is there anybody here from the public that would like to make comments on that? Board members?

Nathan VanWhy: Mr. Chairman, a question I guess for the applicant. I should've it asked of the Walshes and I'm not sure if you'll let them also answer the same question and then I'll also ask it of the third one too, but in the list of principal uses in the Neighborhood Commercial zone, which is where the property you've applied for is, is there a specific listed use that you think commercial storage facility falls in? You would say this is what a commercial storage facility is, a commercial storage facility should be allowed because that is allowed and we meet that definition. Is there a specific listed use that you think it meets? I'm asking that because I'm curious which of the six listed principal uses you believe a commercial storage facility fits in.

Bert Adams: I'm not really sure how to answer that. I just figured it was a commercial property, it would be a commercial business of some sort. People would be renting a space and that would fall under the zoning of what the property is zoned for. I could understand you not wanting to put them in a residential area, agricultural or some place like that but something that's zoned Neighborhood Commercial, Industrial, and they're building a respectable site, it's money to the town, they're going to tax it.

Nathan VanWhy: This is helpful for the Board to understand and we talked a little bit about it at the last meeting, the Board's role in an interpretation is to review the code as it exists and interpret it and the code is written as an exclusionary zoning, the use has to be listed specifically or be a reasonable interpretation of something that's listed specifically in order to allow it. Anything that's not listed is not allowed and that's why I asked if there's something that you can say yeah, I fit as this.

Bert Adams: The Board would have to change it then, why couldn't they vote on changing that? I can put a bar on that piece of property.

Nathan VanWhy: I think at the end of the day, depending on what the Zoning Board does, it's possible they agree and say oh yes we interpret the code and it does allow it, but if the Zoning Board ends up denying the interpretation request then it would be an application to the Town Board to amend the use table to allow a commercial storage facility.

James Brewster: Last call for anyone in the public?

Webb Sisson: The attorney made a comment that it's not allowed in the town. The Town Board has made that decision to allow storage facilities by having one up there at SSR in Castle Creek so that

interpretation is wrong, I think, by saying the Town Board hasn't allowed it. They said we allow it, they allowed that facility to be built.

James Brewster: I can take that one. So just to clarify a few things on that comment, the Town Board never had a say in that per se, it was a previous Zoning Board specifically granted a use variance for that property. I will not make any comments right now as to whether or not...

Gavin Stiles: Mr. Chairman, not true.

Nathan VanWhy: Mr. Chairman, in anticipation of someone bringing that up because it's a known self-storage facility, as part of the Power Sports property use there, the code officer did review the record, it was actually the Planning Board that approved it, it's a site plan update that allows an accessory use to the sale of the recreational vehicles there. It was presented as, don't quote me as I don't have the materials in front of me, my understanding of it was it was presented as an accessory use to the sale of recreational vehicles because individuals who purchase recreational vehicles like snowmobiles and ATVs might not have a place to store it and so you purchase an RV or ATV, snowmobile from them, you can rent a storage space also from them to hold it there, I believe was the analysis back then. It was 2014, 2015, before my time. There was no interpretation done at the time, the Planning Board approved it as part of a site plan update.

Aleta Kinne: I believe it was part of the original site plan, anticipating people needing a place after buying the motorcycle to keep it.

Nathan VanWhy: Right. But, to the Chairman's point, the Town Board did not take any action to approve that as a use at that particular place. The Town Board has not made a decision on the question of commercial self-storage within the town. Everything has been handled by the Planning Board and the Zoning Board and that one application that we're aware of, that's how it appears to have been handled.

James Brewster: My apologies, Mr. Sisson. I was under a different impression but I've been straightened out. Thanks. Board members?

Jon White: I'm good for now.

James Brewster: All right, into the record. For this application we received an advisory from our Planning Board, which they came back also with an unfavorable advisory. The engineer, same thing, 239 not required, defer to the town's legal counsel for clarification, and I do not see a 239 response which is fine because they established that they do not need to do them for interpretations therefore that's all the correspondence I have. At this time I will close the public hearing for application V03 unless there's any objections from the Board. Ok, so next up. Mr. Miller, can he come back now?

Nathan VanWhy: Yes.

James Brewster: The next application is 2024-V04, 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. Are the representatives here tonight? No, ok. Would anybody like to speak on a storage facility interpretation at 10-12 Prescott Rd?

Karen Roberts: I'm Karen Roberts, I live at 38 Prescott Rd, and I have concerns regarding the proposed application for storage units. First, as a resident for 19 years, I feel that storage units are an

ill-proposed use of the land in our residential neighborhood. The use should be compatible with the surrounding land use and character of the neighborhood, which this project is not. My opinion based on my experience as a realtor of ten years of working with homebuyers, having a storage unit next door to a residence could be a negative when it comes to the buyer choosing the home. On the flip side, it also works against the homeowner when they're trying to sell their home, receiving less than the best price for their property. I also have a legal question, how would this not be considered spot zoning, which by definition is a singling out a small parcel of land for a use classification totally different than that of the surrounding area for the benefit of the owner, to the detriment of the others around them? In general, I give some of the same concerns as traffic in and out. The road is very narrow, it's a dead-end road already. It narrows down from when you come in around behind The Spot, it's very narrow. Theft at storage units is an issue when you research it. I would be concerned, it's a quiet out-of-the-way neighborhood. If you have theft and you can't get into a storage unit, there's 27 little houses back there. That's a concern. If there were, what policies would you put into place for traffic, any construction getting in and out of there, snow removal, water runoff neighboring to the neighbors, fencing, lighting, security, hours of operation, there's a lot of issues that come up when you're in a residential neighborhood so thank you for considering our concerns as residents of the neighborhood.

James Brewster: Thank you. You had your hand up next.

Person 3: We're zoned as Planned Development Commercial, our whole block. We're not a residential which sucks. I don't want any kind of storage, it's two doors down from my house. The person who wants to put the storage there is the trailer park owner who is already across from our homes at the end of the street. Whether they're going to do commercial-type storage like these gentlemen were showing or he's just going to fence it off and put his things there, however he determines to use the property as storage, I think storage should go to Industrial-zoned areas in the Town of Chenango. That way there is an outlet for these individuals who want to have public or private storage. Industrial properties aren't ones that you're going to build a house on. They're industrial for a reason and if I had known that our whole block was issued as Planned Development Commercial I probably wouldn't have bought my house there. I assumed since day 1 of the nearly 15 years I've lived there it's been a residential neighborhood. That would be my suggestion is that Industrial properties get the go-ahead for storage units in the Town of Chenango.

James Brewster: Anyone else? Yes, sir.

Person 4: I'm a friend of the Vetrinos who live right next door to the properties 10-12. According to the map we were given there was an illustration of how the layout would be and we're looking at her house and the fence would be five feet away from her windows which is not acceptable. It's a neighborhood and people should live as such in a neighborhood. She also had a few words to say. There are many reasons why I feel this project should not be considered in a residential neighborhood. This residential neighborhood has families and children. The increase in traffic and construction will only put adults and children more at risk. The air quality will suffer and living next door, the dust and vehicle exhaust could become a health issue extending long after the construction is completed. The exhaust fumes from idle vehicles and dust can permeate a home, not to mention the amount of noise that will be generated during the construction alone being that close to her house will be very hard to manage. The homes on Prescott Road were originally built as cottages along the river many

years ago. The river was moved to allow for the construction of Route 81. These homes are in very close proximity to each other already, and this project will be built within ten feet of her home. The road is very narrow with only one way in and one way out since Maines built their store and Riverview Road was closed off from Front Street. There's no turnaround spot other than the homeowner's driveway. The entrance off Front Street for Prescott Road is wide but as soon as you make the righthand turn to get behind The Spot restaurant parking lot the road decreases in width to 15 feet. Two cars can pass with minimal room, any large vehicles, construction or otherwise are going to have a much harder time navigating that road. Prescott Road near the project site is already in need of repair and how will these heavy commercial vehicles that travel day by day during construction, how is that going to affect the road and the quality of that road? The plowing of the snow was already mentioned. Where is the snow going to go? Before when they plowed they would plow it on to the land of 10-12 on Prescott. If that is full of buildings there's no other place to go unless you're going to come in and bucket-load it out with big dump trucks. The properties that were listed as references to show other storage units built in the town are not in residential neighborhoods. They are located in areas of business and there's ample space around them. There's no homes with children and they have ample room to be where they are. They are not affecting people. I would please ask that you give this project enormous thought and consideration. What would be the potential impact to the people living in this neighborhood, especially to the people who are living next door? And then I would ask you how you would like to wake up each morning, open up your windows, and look at a fence ten feet from your window every morning? Thank you.

Person 5: I happen to live next door, the other side of the house. I've lived there 25 years. I bought my house there because I like the area and they are right. It is a narrow road and there's not a lot of room to do what you want there. I even took my front yard and made it a driveway so I could turn around in my yard because I didn't want to back into the road and I'm talking 25 years I'm afraid to back into that road because of the trailer park with people coming in and out because they don't care. And if you put that storage unit over there, they're going to care less. Those people don't care about up and down, up and down and I'm afraid and I'd move tomorrow but my wife won't move out of New York State because she has family so I have to stay here. And that's about all I had to say.

James Brewster: Anyone else for commenting on this interpretation?

Person 6: You've heard several residents here say how it's a narrow road, that is a fact. It's an idealic neighborhood because it is a dead end and it's quiet. The only nuisance is the trailer park itself. It's a nuisance property, you have cops being called there rampantly and it's outgrown itself. There's rampant drug use, rampant fights, rampant altercations, and it sounds like the trailer park needs an overflow lot and in fact they owned the lot directly next to the trailer park. It's a wooded lot that's undeveloped that they started to clear out and I don't understand why don't they make use of that lot? They can park their tractors, trailers, plows, construction materials, dump, whatever it is, why don't they use the land that's directly next to the existing trailer park and why go across the street like you heard the residents say, directly between the two houses and put a commercial overflow lot for his own business? This isn't a business I think that's going to be like these guys. They are going to try to rent to tenants and uphold a certain decorum as business owners. This is let's face it, a slumlord. That trailer park is dilapidated, they're shoddy, they're old. It's a nuisance

property and to harbor or foster that is misguided and I think would be ill-advised at this juncture.

James Brewster: Thank you. Any further comments?

Karen Roberts: If this is allowed for one location does it make it allowed for all locations?

James Brewster: So the ultimate thing is these folks have come through for a building permit and it was denied and so they have appealed that decision to us to interpret whether or not the declaration by the code officer is correct. That's essentially all we're doing right now. Each zone has to be considered individually. There's a lot of similar themes but ultimately it's three separate applications, three separate considerations.

Person 6: This isn't going to be a commercial storage facility that's renting to tenants. It's going to be a self-storing place that he's just going to store his junk and overflow trash in. Tractors and trailers and plows and that property's already a nuisance and like you said and it's a fact, he plows all the snow out into the road and it infringes on the traffic, it impacts the neighborhood and he runs it all night long and he doesn't care scraping all night and it wakes up the whole neighborhood and he doesn't care and you can tell that he rents to just about anybody that shows up and we have problems with the tenants there all the time. They're transients, they're derelicts, and I'm not speaking ill about everybody there. You have some senior citizens there and they're stable but they themselves scratch their heads wondering why he rents out and it sounds like he just has an interest that's beneficial to his cost purposes that this makes sense to him. But, like I said he does own the lot next to the trailer park that is wooded directly adjacent, directly next to it. Why doesn't he utilize that if he needs an overflow?

James Brewster: Anyone else? Ok. Thank you all for your comments, very thoughtful, all sessions. Let me just read in a couple of things for the record. Planning Board refers application V04 to this Zoning Board of Appeals with an unfavorable advisory. The town engineer said 239 is not required and he defers to the town's legal counsel for clarification, and there were no Broome County comments for 239 so I have completed the correspondence into the record and I have been amiss in the other two so I need to go to the Ordinance Department and if you could address your comments for this zone and then make a few brief comments for the other zones, we'll capture you in the record here.

Gavin Stiles: Just my humble opinion?

James Brewster: No, your factual arguments.

Gavin Stiles: I use the analogy that you've got a jigsaw puzzle and there's a piece and that piece was the missing language. I couldn't find, for example, if I could see propane tank storage maybe I would look at uses customary to a gas station. I can't find anything that makes me think that this thing is expressly not disallowed. The language couldn't be worked. Usually if I can draw a connection I can make an argument. I couldn't make an argument for this one.

James Brewster: And that's applicable to all zones we're considering tonight?

Gavin Stiles: Yeah.

James Brewster: So townwide. Ok. Thank you, any questions before I close this public hearing? No, ok. Public hearing for application V04 is closed and now we'll move on to application

application 2024-V05, Danielle Wood of 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. Ms. Wood, you have the floor to discuss a little bit about the project.

Danielle Wood: We're asking for the variance, we're buying the property I'd like to help my son buy this house. I'm financing it. The reason we want it closer to the road is because the floodplain in 2011 showed that the back half of the property did take on water and flooded but the front part was high and dry. Then because of that, the shape of the property, the home that we wanted to build would be closer to the property lines because the property goes in like this. It's not as wide in the front as it is in the back so it would be closer to the property lines for a house and a garage on a part of the property that we're sure would not flood and would not require additional flood insurance. We'd like to do it as a small house to start because I don't want to take out a mortgage. I want to finance it as I have the money planned out. It'll start as a 500-sq ft house and then in two years add a garage and then hire someone to enclose between the garage and the house making it a larger house. We just simply don't want to take out a mortgage, we want to do it over a ten-year span.

James Brewster: Ok. There are five factors that we consider for an area variance, I'll go over a few of those just so we can capture anything that you may not have said in your presentation. Do you think that all of these changes to what's allowed in the zoning will produce an undesirable change? Will your building of this home and the way you've placed it on the lot, will it produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Danielle Wood: Absolutely not, that's why we want to take time with a ten year plan and start small. He wants to live there and we want it to be attractive, we want to raise the value. It's not going to be ugly or an eyesore. We think it's going to enhance it.

James Brewster: The next question I have for you is, should you get this variance approved and a building permit and so forth and start the building, do you see that this would have an impact on the physical or environmental conditions of the neighborhood, meaning are you going to be tearing up the land significantly to affect the neighbors and for short and long term?

Danielle Wood: No. There was a bungalow previously that burned and it was a little bit farther back. There's sewer and water and we're not going to put in a basement, we're going to put in a foundation.

James Brewster: Anybody from the public want to speak on application V05?

Harold Wales: My name is Harold Wales and I live right next door to the property. I'm looking at the setbacks from 10' down to 5' means that it's going to be closer to my property and the property on the other side. I've lived up there 60 years and when the house that was up there burned, the wind was coming from the southwest and it blew the heat and the flames kind of went to the other side. The other house that was over there, it melted all the siding off the house and I don't know if it did any damage inside but we were lucky that time. Another house that's built there will probably not be cinder block and so the fire could break from that house and my house is probably ten feet from the line right now on my side and it could be fire damage there. I always felt that the setbacks that the town had set up were for those purposes, for fire protection and so if the houses do catch on fire there's plenty of

room to get in there and put them out. Thank goodness the fire company did get up there when they did because they were able to cut it down before it did any real damage. That's the only real question I have about that.

James Brewster: Thank you for the comments. We'll consider all that in the next phase. Anyone else?

Craig Finch: My name's Craig Finch and I own the property and I had the house that was on it that burned down. What Mr. Wales is talking about is the trailer, there was a trailer that the siding got heated and melted but it didn't do no damage inside the home. Luckily the people that owned it were gone but they did come back and I talked to them and they have now sold it and the place is getting relived in right now. I don't see a concern with anything because the way it faces you're not going to get the wind because they built a big addition on the back of the existing place next door which would hold any wind. A tree could fall on her home, you can't predict what's going to happen or not. I would just like to see this kid get on his own and live his life. I'm asking for your permission to let it happen.

James Brewster: Thank you. Anyone else? Ok. Gavin from Ordinance, any concerns or comments from you?

Gavin Stiles: None from Ordinance.

James Brewster: All right, we have the full compliment of correspondence tonight for this application. County Planning for the 239 Review stated that they have not identified any countywide or intercommunity impacts associated with the proposed project, however they had the following comments: The project site is located, as she noted, partially within the special FEMA flood hazard area, also known as the 100-year flood plain. The town should exercise caution in approving and the applicant should know the risk of placing a project located within the special flood hazard area. That's from the county. Town drainage coordinator submitted his form with an approval, meaning no drainage issues according to his perspective. Town Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory. From our engineer, this one's a bit more lengthy.

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.
Any questions at this time, Board member?

Aleta Kinne: I missed, did she say it's municipal water or private water?

Danielle Wood: It's municipal water.

James Brewster: Anything else? Ok. Last call for the public?

Craig Finch: I've lived there since 1998 and even when we had the floods during '05 and '11, whenever it was, it never got flooded there. I feel that it's kind of a waste to have flood insurance at that particular spot. Granted, all areas around there were flooded but I didn't get nothing there. Just thought I'd throw it in.

James Brewster: With that I will close the public hearing for application V05 and that brings us to the end of our public hearings tonight so at this time we will undertake comprehensive discussions on these applications with the Board only. We may ask the applicants if we have specific questions that need to be answered for some follow-up. Mr. Miller, I'll excuse you to the back of the room while we start on application 2024-V02.

Aleta Kinne: Can I begin with something?

James Brewster: Can I interrupt you real quick? I do want to ask the Walshes the same question that the attorney asked at one of the public hearings, is there any specific part of the zoning code that you believe would fall into that?

Peter Walsh: There was nothing specific that we could necessarily find.

James Brewster: Ok. Mrs. Kinne, you have the floor.

Aleta Kinne: This has been quite confusing. I took Nate's advice with the dictionary and I looked up some meanings and so forth and first of all, I want to say that our applicants have asked for an interpretation, not a variance. We're getting way off on variances here. An interpretation is an action of explanation. Another thing, not to change the subject but Mr. Sisson I respect you dearly, but I have to disagree with what you are saying about the containers. We went through the shipping containers before. They're mostly associated with businesses and the type of storage in them is not personal storage like what would be in self-storage units. Do you see the difference, what I'm trying to say? The self-storage units that we are to interpret are rental for self-storage. I don't believe you're going to see some of these businesses run over there to store.

Jon White: Well they're not, if they can store it for free why are you going to pay somebody? That's just common sense. Let's put in the perspective of, they're getting paid to store. What I put in my storage unit, I'm not paying to store it. It's my stuff in my unit on my property in an allotted use, whether it's nonconforming or not. So this, basically what were looking at, is a principal structure on these vacant properties and the principal structure use on the zoning sheet does not say anything about a self-storage unit. Anything that has been brought to us by Mr. Walsh has been an ancillary thing to help with an existing business which is an accessory structure. That falls under different guidelines. You've got to look at the use part of it, I feel, not what the true intention is because the true intention is to make money with this and good for them. That's what they want to do but this is a use thing, a principal use

structure on a vacant piece of property which is not allowed in their zone that they have right now.

Aleta Kinne: May I finish?

James Brewster: Yes, you may.

Aleta Kinne: I went down through all these different things and it goes warehouse, merchandise, commodities. There's nothing that goes with our codes as they are. I feel that we need to bring it to the Town Board or maybe the applicants need to take it to the Town Board and suggest that we get a code for this type of thing instead of trying to wedge it in between a medical office and a church or something. They aren't here on these papers.

James Brewster: That's a very valid point, extremely valid.

Aleta Kinne: I don't know the system for requesting a code on something the proper way. I know I would just go to the Town Board and say look, we need your help here but there's probably a special way of doing it.

James Brewster: There is, and as a member of this Board that's not our job even collectively. I would imagine that as a citizen you could but that gets gray. As a Board that's not what we do.

Aleta Kinne: Right, but we can tell them we need a code?

James Brewster: I don't think we can.

Aleta Kinne: Nate?

Nathan VanWhy: I have other clients with zoning boards who if they see an application come to them and they feel like the code requires them to deny it but they feel like maybe it shouldn't, it's just an advisory opinion. It has no force or effects. If you choose to uphold Gavin's interpretation, commercial self-storage is not allowed in the town, it's just not, we don't see as you say, we don't see anywhere to wedge it in, you could then pass those resolutions and then do a resolution that's just a request that the Town Board consider amending the code to allow this, just to consider it. You don't have to do that, it's not binding on anybody but it's a way, it's a mechanism to communicate to the Town Board what you as the Zoning Board feel might be appropriate or not. I don't have any issue with you doing that. It's not in your authority to do that type of thing but lots of public bodies make messaging statements about things at various times. You don't have to if you don't want to.

James Brewster: Well, at least that clears up that procedural thing anyway.

Nathan VanWhy: Zoning boards often don't want to get into that because your authority is variances and interpretations but if you felt like this was something that maybe should be addressed, I'm not going to stop you from choosing to message to the Town Board that you feel like something needs to be done in this case. To Aleta's point, certainly the applicants can turn around and say hey I just got denied, I can't build this, the Zoning Board agrees it's not allowed anywhere. Town Board, do something and ask the Town Board to do that.

James Brewster: Ok, we'll consider that after we consider all the rest of our business, if we do consider it.

Aleta Kinne: I'm not saying that some of these are not a good idea and even the location they want to be in is a good idea, but it's just I feel we cannot do it because it just isn't there.

James Brewster: That's a valid opinion. Mr. Wolters?

Dan Wolters: When I look at the various zoning districts I think there's one area where quite possibly it could be massaged enough to fit in. With a storage unit you're paying a certain rental fee for the space to put stuff and in a sense one might be able to argue that a hotel/motel in the Commercial zoning or kennels are listed there. You're renting the space to put an animal for a period of time, or a hotel for a day or a week or longer. Possibly you can massage that enough to fit but I think it would be disingenuous to do so. I would much rather have the Planning Board include a specific definition of storage unit but to me that's the only place where it could possibly fit.

James Brewster: I like your thought there, I'll have more comments on that. Anything to weigh in with, Scott?

Scott Smith: If we were to do so I would suggest including zones you can and zones you can't. They clearly don't belong among houses but when you look at the current existing one on Castle Creek Rd or just off it, that's nowhere near a neighborhood. The closest neighborhood is a couple hundred yards in one direction and a half a mile in another direction. That kind of gives us the idea that that has been here a long time and it seems to be okay. If you put one on 12A for example, there's lots of businesses and it's a business entity so why not? Putting it in a residential neighborhood might not be such a great idea.

Aleta Kinne: We would have to have that in writing, they would have to make up the code.

James Brewster: We're getting ahead of ourselves on that one but I understand your point.

Scott Smith: Just set a few rules because clearly it's a commercial thing.

Aleta Kinne: Another thing which came up tonight was you can't live in, set up residence in a storage unit.

Scott Smith: There's different ways to enforce that too.

Aleta Kinne: It's a big thing. It isn't something for us to try to piece together.

James Brewster: The first order of business is still interpreting whether or not Gavin was correct in denying the building permit so I do have questions for the Board. In the Town Code were any of you able to find a definition for storage?

Jon White: The only definition for storage was 'the placement of a recreational vehicle within the Town for a cumulative time period exceeding 96 hours in a calendar month.'

James Brewster: I concur, that is what I found. I found nothing else.

Jon White: So, then the only other thing that I would find is building and that says 'any structure having a roof and intended for shelter, housing or enclosure of persons, animals, or chattels, other than a boundary wall, retaining wall, or fence.' That could mean that we store stuff in a building but when you go to the principal use on each one it doesn't specifically say storage units.

James Brewster: I concur. I did not see that under CD specifically. To your point, on finding one that was marginally possible, the only thing that I saw that possibly there would be some wiggle room, which we are not concerned with tonight but I'll just put it out there, the synonyms for 'storage unit' was 'storehouse', also a synonym to 'warehouse' which is allowed in an Industrial District. A bit of a gray area, but nonetheless we're not talking about that right

now but I do want to get that in there. As far as the Commercial District goes, what is our interpretation? Do we have an interpretation that we'd like to carry forward at this time?

Jon White: I would say that due to the definitions in Chapter 73 of the Town Code, they don't agree with what are the accepted uses adopted by the Planning Board and the Town Board.

James Brewster: Ok. I would also add to that the footnote underneath all of these zoning attachment codes for the different zones: 'Any use not expressly permitted under this section is hereby expressly excluded.' To me that's unfortunately kind of the cement.

Jon White: Right, because if it's not listed, it don't go.

James Brewster: Right. Anybody have any questions for Mr. Walsh?

Jon White: I will say you guys want to do a nice building. I think once its agreed upon by a higher board than us and decided upon I think it would be a good project for the town. It'd be revenue for the town and revenue for you guys. This is nothing that any of you that are looking to do this, it is nothing against you guys. It's, we've got to determine what's put in front of us.

Aleta Kinne: That's what I say, they're nice looking plans.

Jon White: Yeah, it's going to generate tax revenue for the town.

Aleta Kinne: Needed in the town.

Jon White: Might it cut down on some trailers? It probably very well could. Right now, the way things are, the way this is wrote, I don't see where we could conceivably allow it.

Aleta Kinne: If we do our job the way we should.

James Brewster: Ok. Do you have a flavor of where we're going on that there, so we can introduce the resolution? Are we ready to introduce it, that's the question?

Nathan VanWhy: Let's have just a brief discussion about what you've actually said is the reasoning not to grant the requested interpretation. I think it's because the zoning district, in this case CD, does not list any principal permitted uses that can be reasonably interpreted to allow commercial self-storage as a primary principal use. That's the main reason. That's after reviewing the zoning definitions and generally understood definitions of those uses. Is there anything else that you feel like is underpinning that statement or that reasoning?

Jon White: I think Jim touched on it with the footnotes underneath in the 'any use not expressly permitted under this section is hereby expressly excluded.' I agree with Jim that that's the cement.

James Brewster: The Town Code does not define a storage unit and I don't know if that's redundant to what you've written but as another bullet point.

Nathan VanWhy: So, in addition to saying after viewing the town zoning definitions and generally understood definitions of terms not defined in the zoning code. Does that phrasing make sense? It's a little wordy.

James Brewster: To me it does.

Jon White: I'm good.

Nathan VanWhy: I think then, the resolution I've prepared a skeleton for an interpretation that circulated a week or so ago and so I think it would basically be that and now therefore be it resolved that the requested interpretation is not granted because after reviewing the record and zoning definitions and generally understood definitions of the terms used in the zoning code where the zoning code does not provide a definition, the zoning district does not list any principal permitted uses that could be reasonably interpreted to allow commercial self-storage as a primary principal use. In addition the zoning district expressly excludes any uses not listed in the use table.

James Brewster: And just for clarity, the skeletons of the resolutions that we get have the locations and the codes for the application number and everything but no reasoning. That's what he's typing. I just wanted to make sure everybody understood that.

Nathan VanWhy: If the Board is good with that explanation, then I think a motion to approve the resolution as discussed and vote.

Aleta Kinne: I so move.

Scott Smith: I'll second that.

James Brewster: Ok, motion made and seconded. What's the exact wording on that sentence?

Nathan VanWhy: To not grant the requested interpretation.

Dan Wolters: So a yes vote would deny it.

James Brewster: Correct.

Adam Donahue:	Dan Wolters, Alternate Board Member	Voted: Aye
	Ed Miller, Board Member	Voted: Recused
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:
Ayes – 5 Nays – 0 Recused – 1 (Miller)

James Brewster: The denial of the building permit has been upheld by the Zoning Board. Moving onto application V03, which is the one for a Neighborhood Commercial district.

Aleta Kinne: I thought that was for all three.

Nathan VanWhy: No, we do one at a time so that was for the first one but I think the rationale unless you see something different in this particular district, the rationale and the explanation will be the exact same.

Aleta Kinne: They aren't there.

James Brewster: Specifically speaking to the theme, the underpinning theme has been established. What I think we should go over now is in a Neighborhood Commercial district, is there anything that stands out to us?

Nathan VanWhy: And to the extent that you thought the prior discussion was about all three of them, then that's okay because you've already indicated your position on Neighborhood Commercial district and it's going to be the same decision ultimately.

James Brewster: Ultimately but let's just take a quick look at the zoning codes to make sure if there's anything and then we can just confirm.

Jon White: I don't see anything.

James Brewster: No, not as a principal and the same expressly permitted is hereby expressly excluded statement underneath. I'm still open for thoughts if there are any on that Neighborhood Commercial district, if there is anything. All right, I guess if we're satisfied with that, take us through that resolution.

Nathan VanWhy: It will just be a repeat of what we voted on previously. The requested interpretation is denied because after review of the record and review of the Town zoning definitions and generally understood definitions of the uses where the zoning code does not provide a definition, the zoning district, Neighborhood Commercial, does not list any principal permitted uses that can be reasonably interpreted to allow commercial self-storage as a primary principal use. In addition the zoning district expressly excludes any uses not listed in the use table.

James Brewster: I will seek a motion on application V03 for this resolution.

Jon White: So moved, Mr. Chairman.

Dan Wolters: I'll support.

Adam Donahue: Dan Wolters, Alternate Board Member Voted: Aye
 Ed Miller, Board Member Voted: Recused
 Jon White, Board Member Voted: Aye
 Scott Smith, Board Member Voted: Aye
 Aleta Kinne, Vice Chairperson Voted: Aye
 James Brewster, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:
 Ayes – 5 Nays – 0 Recused – 1(Miller)

James Brewster: Application V03 has passed with upholding the determination of denial of a building permit by the Ordinance office. Number V04, we have in a PDD-C zone. Do you want to come back in Ed, for this one?

Ed Miller: Yes.

James Brewster: Anything folks, on the PDD-C? Anything special?

Jon White: There's nothing I see in that that stands out to support it either.

James Brewster: Okay, you can carry us through that again, just for the read-through.

Nathan VanWhy: The requested interpretation is denied because after review of the record and review of the Town zoning definitions and generally understood definitions of the uses where the zoning code does not provide a definition, the zoning district, PDD-C, does not list any principal permitted uses that can be reasonably interpreted to allow commercial self-storage as a

primary principal use. In addition the zoning district expressly excludes any uses not listed in the use table.

James Brewster: Everybody good with that reading?

Jon White: I'm good.

James Brewster: I'll seek a motion to approve the resolution essentially upholding the Ordinance office's denial of a building permit.

Ed Miller: I'll make a motion.

Aleta Kinne: Second.

Adam Donahue:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5 Nays – 0

James Brewster: Ok, application V04 resolution has been approved to deny the interpretation and uphold the Ordinance office's denial of a building permit. Thanks everybody for your patience. On to application 2024-V05 which is a quintuple area variance. Board members let's take them one at a time since there were specific concerns about at least one of these setbacks.

Aleta Kinne: She explained the questions that Alex had, that she's going to join them all together eventually. You said you were going to join the house and the garage together?

Danielle Wood: Yes, that's why they are separated right now. We want to connect them and attach the garage eventually.

James Brewster: I believe she also addressed the flood hazard area. Part of the setback issue is because of the rear part of the yard is within the flood hazard area. Unfortunately that means that the whole property is considered in it but that's for insurance purposes, not us.

Jon White: The 15-foot frontage setback is somewhat consistent with the neighborhood so that I definitely don't see an issue with. It is a smaller lot but they're looking to do a smaller house too. I do get concerned about the side setbacks. I wonder if things could be done a little different so they could stay within that 10-foot side setback.

Ed Miller: That's what Alex was saying.

Jon White: I know what the potential homeowner is looking to do, having a ten-year plan to try to pay for it out of pocket.

James Brewster: The gentleman's concern with the five feet on the house side, it's not come up but as far as I understand there's a 20-foot building to building requirement which is for fire. That's my interpretation.

Jon White: We ran into this here not too long ago.

James Brewster: Yes we ran into a couple which actually needed that variance so I'm guessing that when you looked at things you didn't determine whether there's a 20-foot requirement between the buildings. He said they're 10 feet from the line.

Jon White: And if she's five foot from the line that's only 15 feet building to building.

James Brewster: Correct. The engineer stated that it looked like on the house side you could keep the 10-foot requirement. Is there any reason that you can't?

Danielle Wood: We can do that, keep to the ten feet on the house side.

Jon White: Because essentially she'd have to come back in two more months for another variance.

James Brewster: Right, so there's another factor that you didn't bring for us but that's fine. If you kept the ten feet and the gentleman said he's ten feet off his property line, there's a building to building requirement and correct me if I'm wrong it's 20 feet and that's a fire consideration.

Jon White: Correct.

Gavin Stiles: It's in the remarks in the Residential, number three: 'No above ground structures other than trees, landscaping, or a fence shall be permitted closer than 20 feet from an adjacent single family home' and I suspect that that is taking the fire code into account.

James Brewster: I thought it was in our Zoning code.

Jon White: It is, Gavin just read it.

Gavin Stiles: We did encounter it.

James Brewster: We don't know about that right now, I'm just presuming but if she can keep the ten feet then we can step back on one of the variances and you wouldn't have to come back in case we found out, let's say we allowed the five feet and it turns out you're only 15 feet building to building, then you'd have to come back and request another variance.

Jon White: She would just rescind part of her variance.

James Brewster: That's the procedure but would we recommend that she does that?

Aleta Kinne: I'd say so.

Danielle Wood: I'm okay with the ten feet on the house side. Do we have to change the ten feet on the garage side also though?

Jon White: How far away is the building on the other side?

Danielle Wood: I think on the house side the building is closer but I'm not positive. I don't know how far, it has like a weird junky trailer thing on the other side.

Jon White: Because that was a garage that we discussed a while back with the 20-foot. Her garage would essentially fall under the same guidelines.

James Brewster: Right, it's considered a building so it would fall under the same thing.

Jon White: But if she stayed ten feet off the property line she's within Town Code anyway so what the neighbor does on the nonconforming use is really not her problem, nor is it considered our problem.

Ed Miller: How would that work, a neighbor that had a house that wasn't the right setback and you are at the right setback and wanted to build?

James Brewster: We would grant a variance.

Nathan VanWhy: I think the thing to remember is there was a structure there that burned down. I'm going to take a wild guess and say that the whole neighborhood is nonconforming when it comes to setbacks.

Gavin Stiles: Those houses are shoehorned over there.

Nathan VanWhy: Yeah, so I think Gavin for the fire codes, if you're closer than 20 feet then you have to have extra fire...

James Brewster: So there's mitigation.

Gavin Stiles: There's garage to dwelling, if you're anything closer than three feet then you have to add a bunch of extra sheetrock.

Nathan VanWhy: So the town apparently by enacting a remark that says structures can't be any closer than 20 feet together is trying to keep buildings far enough apart for fire purposes. Also, for potential aesthetic reasons and keeping the character of the neighborhood together but if there's concern about fire, it's a building code issue as soon as they get too close together. That could mitigate the fire potential.

Gavin Stiles: I think to be able to get equipment to a fire too.

Jon White: Overall, you're only talking ten feet for the whole project. Even if she had to move the building back in, or the garage back in too, to the 10-foot mark. Would you be willing to, I know you kind of want to keep the garage out there, but for purposes or another variance for you, would you be willing to move the garage in to the 10-foot mark too?

Danielle Wood: I think we can.

Jon White: Because you're only talking ten foot overall.

Danielle Wood: Yeah, it's more narrow up front where he had the house originally. The property is wider back there but I think there will still be enough room. I'm willing to move the garage over five feet.

James Brewster: The flood hazard area, is it on Kennedy side?

Danielle Wood: It's in the back.

James Brewster: It's in the back, okay. That's what I thought, so we don't want to move you that way.

Jon White: And the 15 feet in the front is kind of aesthetic.

Aleta Kinne: The others are already there.

Jon White: Right, it's just the side setbacks are kind of the sticky wicket for what's already wrote in our zoning code.

James Brewster: The square footage, what do we require?

Jon White: 750. And they're asking for 500.

James Brewster: There was a 4600 though.

Jon White: That was not square footage. What's the minimum amount of square footage?

Gavin Stiles: 12000 square feet. Roughly a quarter of an acre.

Aleta Kinne: I don't want to get it involved with this one but I think it would be nice if the Town Board gave some thought to tiny houses. They're coming and we have nothing, no code on tiny houses.

James Brewster: So we've got a difference of 250 square feet for now but there's an intent to expand.

Jon White: Essentially, that will be able to be removed.

James Brewster: But it will run with the property. And then it sounds like she'll rescind the two sides and then we've got the lot size which is fairly consistent with the neighborhood, right?

Scott Smith: About half of them, yeah.

Aleta Kinne: You want it all in one motion? Or one for each?

Jon White: Do we have to do SEQR on this one?

Nathan VanWhy: SEQR regulations make this a type II action because this is an area variance related to a single family home and it's four area variances, all area variances so it's a type II action.

James Brewster: Type II, I'm good with us declaring it a type II. I don't see just off the cuff from her discussion and she's going to address flooding. Obviously it's a small house, it's a house. She's not going to tear the place up like a big commercial development. Type II we don't have to discuss anyway I'm just throwing that out there.

Jon White: I'm fine with that, the disruption is going to be minimal.

James Brewster: Let's take the SEQR motion first. The motion would be for the ZBA to declare this is a type II action.

Jon White: So moved.

Scott Smith: Second.

Adam Donahue: Ed Miller, Board Member Voted: Aye
Jon White, Board Member Voted: Aye
Scott Smith, Board Member Voted: Aye
Aleta Kinne, Vice Chairperson Voted: Aye
James Brewster, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:
Ayes – 5 Nays – 0

James Brewster: Ok, type II for SEQR. Now, let's craft what we want to craft. Are we going to do this as one billet there, Nate?

Jon White: Do we have to make a motion to rescind the side setbacks?

Nathan VanWhy: You would ask the applicant to withdraw or rescind that from her application.

James Brewster: In our discussion would you be willing to rescind the side setbacks for the house that you're asking for which would then just put it at the code allowance of ten feet and also on the garage side?

Danielle Wood: Ok, both of them.

Nathan VanWhy: So the applicant rescinded the side setback parts of the application. We're left with the lot size, building size, and front setback from 30' to 15'. What do you folks want to do? Do you want to do three separate 'Now therefore be it resolved's'? That's clear, nice and clean and then if for whatever reason there's a difference in any one of them, that's the technically accurate way to do it.

James Brewster: It would be one resolution but a bunch of 'whereas.'

Nathan VanWhy: Yeah, so what I'll do is the draft that was circulated previously, it's four separate variance requests. One is the lot size, two is the side yard setbacks, three is the front yard setback, four is the size of the house. She's rescinded variance request two so then we'll only address variances one, three, and four in the resolved. First will be now therefore it be resolved as follows concerning variance number one, that's the lot size and then I'd say Mr. Chairman walk through the criteria and analysis factors and then we'll go to the next requested variance.

James Brewster: Ok. So, why are we giving her the reduction to 4600 square feet of lot size allowance versus 12000?

Ed Miller: Size of the house?

Aleta Kinne: Why?

James Brewster: Yeah, we have to define a quick sentence as to why.

Jon White: It originally was a building lot.

Scott Smith: Because it's consistent with a very good percentage of lots in that neighborhood. There's a lot of 100-foot but there's also a lot of 45-55 foot wide lots that size or thereabouts.

Nathan VanWhy: It previously had a house on it, right?

Scott Smith: Trailer.

James Brewster: No, it had a bungalow-type building. I think he was referring to the next house over, was a trailer. Not the gentleman that spoke. One was the gentleman concerned about the fire, he has a house and then the actual property owner was here and he spoke and he described a trailer on the other side. But, still a structure and a lot and a home.

Ed Miller: A dwelling.

James Brewster: He built it, yes. Are we good?

Nathan VanWhy: Yeah, I've gotten that down for the first factor and now we're on to the second one.

James Brewster: Second one is the setback from 30' to 15'.

Nathan VanWhy: No sorry I was thinking of the five area variance factors.

James Brewster: Can she achieve the goal of her project with some other method that won't require a variance?

Board: No.

James Brewster: Is the variance request substantial?

Board: Yes.

James Brewster: Will the granting of this variance have an adverse effect or impact on the physical or environmental conditions?

Board: No.

James Brewster: Is the difficulty encountered self-created?

Board: Yes.

Nathan VanWhy: How long ago did the property residence burn down? It was more than a year, right?

Board: Yes.

Nathan VanWhy: Ma'am, when did you purchase the property?

Danielle Wood: I haven't yet. The sale is contingent on these variances.

Nathan VanWhy: Ok.

James Brewster: So on the area variance it's a culmination of these five factors that we go through in discussion with you. No single one is cause for failure, it's a pull it all together with the evidence and then we decide. Other variances are different, just laying that out there.

Nathan VanWhy: The next one that we have in this is the entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance outweighs / does not outweigh any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.

Ed Miller: This might be a stupid question but, if she doesn't own the property how can she get a variance on it?

Nathan VanWhy: She, with the permission of the property owner, has applied and she has standing now as in the shoes of that property owner. It's really not her variance, it's the property owner's variance.

Ed Miller: So the variance goes with the property.

Nathan VanWhy: Correct.

James Brewster: Yeah, it's as if somebody came in representing a company or another interest.

Ed Miller: Ok, I just wanted to make sure we're not doing this in vain.

James Brewster: Good point. So, outweighs?

Board: Yes.

Nathan VanWhy: And then just move on to variance number three.

James Brewster: I guess you threw me for a curveball, we're putting these all on the same document.

Nathan VanWhy: We're putting them all on the same thing.

James Brewster: So you want the factors for the front yard setback. So, will the granting of this variance and your proposed project produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Board: Will not.

James Brewster: Setbacks are similar to existing nearby properties. Can the project be achieved by another method?

Board: No.

James Brewster: Substantial request? 50%?

Board: Yes.

James Brewster: Will the granting of this variance have an adverse effect on environmental conditions in the neighborhood?

Board: No.

James Brewster: Is the difficulty encountered self-created?

Board: Yes.

James Brewster: Do the conditions and factors outweigh or not outweigh?

Board: Outweigh.

Nathan VanWhy: I can take a crack at kind of rewording the format that we've been using to phrase it a little bit differently. It is like, what are we doing here, is it a yes or a no?

James Brewster: Next one is the square footage for the house. Will the granting of this variance produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Board: No.

James Brewster: I don't really have a reason why it will not.

Ed Miller: It will look proportional on the lot.

Scott Smith: Yeah. That works.

James Brewster: Proportionality of the home is still satisfactory.

Nathan VanWhy: Proportional to the existing lot and neighborhood.

James Brewster: Can she achieve the project by some other method than a variance?

Nathan VanWhy: On this one she could build a 750 square foot home on the lot today.

James Brewster: It could be done.

Jon White: Eventually will be.

James Brewster: If the correct answer is yes we can answer yes and just take it all into consideration.

Board: Yes.

James Brewster: Is the variance request substantial? 750 to 500 square feet?

Board: No, is not.

James Brewster: Will this have a physical or environmental effect on the neighborhood?

Board: No.

James Brewster: Is the difficulty self-created?

Board: Yes.

James Brewster: So taking those five factors into consideration for the adjustment of the square footage, does it outweigh or not outweigh?

Board: Outweighs, approving.

James Brewster: So let's say outweigh. If anybody wanted to vote no they can vote no.

Nathan VanWhy: So the resolution's got three resolves, each addressing each of the three variances that she's moved forward with all with the answers to the questions that you have just now outlined. The motion to be adopting the resolution as discussed and presented then we'll shoot it over to Adam and we'll be good.

James Brewster: It sounds like a pretty good motion I can accept if anybody wants to state that.

Scott Smith: So moved, Mr. Chairman.

Ed Miller: Second that motion.

Adam Donahue: Ed Miller, Board Member Voted: Aye
Jon White, Board Member Voted: Aye
Scott Smith, Board Member Voted: Aye
Aleta Kinne, Vice Chairperson Voted: Aye
James Brewster, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:
Ayes – 5 Nays – 0

James Brewster: So you have your remaining variances.

Danielle Wood: Thank you very much.

James Brewster: So that brings us to the end of our scheduled business for this evening. Did we want to entertain anything that has come up tonight as a Board?

Jon White: Didn't we send a letter of recommendation to the Town Board once before?

Aleta Kinne: Yes, we did. On a garage.

Jon White: Would we want to consider doing that with the storage malls?

James Brewster: That's up to you. If anybody wants to move that.

Aleta Kinne: I do.

Nathan VanWhy: I would suggest that, I think the thing I recommend you do is to say something simple like: 'We had three requested interpretations for a commercial storage facilities. We denied each of them because we don't see any reasonable interpretation of our code that allows them. We recommend that the Town Board consider amending the Town Code to allow them in some fashion. If you'd like assistance with that, please let us know.' And if they want to ask you to weigh in on specifics of like special use permits, which zones, setbacks from residential et cetera, then you can get in the weeds otherwise you might be wasting a lot of time doing something that they don't want you to do.

James Brewster: Right. Now that I understand that it would be okay to, I have opinions on other things. It's not my opinion, I've been collecting stats on everything that comes before us on a spreadsheet and there are some patterns that I've seen over time that should probably be addressed. Now that I understand we have a vehicle where we can do this, can we defer?

Aleta Kinne: Let's get this one going. This fella's been waiting since 2022.

James Brewster: We have a first motion out there, does anyone want to second Aleta's motion which would, if she's okay with this, I would agree with Nate's statement, something very brief and simple. Was there any specific wording you had?

Aleta Kinne: No.

James Brewster: Ok.

Aleta Kinne: Nate does a wonderful job writing it up.

Jon White: I'll second it.

James Brewster: We have a motion on the floor to just send a recommendation letter to the Town Board stating...

Nathan VanWhy: That the Zoning Board recently heard three interpretation requests regarding commercial self-storage facilities that the Zoning Board found no reasonable way to interpret the zoning code to allow commercial self-storage facilities and recommending to the Town Board it consider authorizing commercial self-storage facilities in the town in some fashion and offering your services as a Zoning Board to assist in crafting regulations for implementing that, if desired.

Jamie Szenher: Can the Zoning Board kick the can down the road to the Planning Board? We felt the same way, it can just add more power to the letter.

James Brewster: Let's vote on this just to get it done, and then we'll figure out who writes it later.

Adam Donahue: Ed Miller, Board Member Voted: Aye
 Jon White, Board Member Voted: Aye
 Scott Smith, Board Member Voted: Aye
 Aleta Kinne, Vice Chairperson Voted: Aye
 James Brewster, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:
 Ayes – 5 Nays – 0

James Brewster: We're charging somebody to write that letter, shoot it to me and I'll sign it and scan it and send it to the Town Board through the Town Clerk.

Aleta Kinne: To the next meeting if they can.

James Brewster: As soon as I get it I'll print it, sign it, rescan it, and fire it off.

Jon White: Some of your other ideas, Jim, you can send them in a group email to us.

James Brewster: Yeah, I like what Aleta said. Get this one done.

Aleta Kinne: We've got to watch those alarms.

James Brewster: Without any objection, I'll call this meeting adjourned. Any objections?

Board: No.

James Brewster: Meeting adjourned, at 9:25 PM.

Respectfully submitted,



Kari Strabo