

ZONING BOARD MEETING
TUESDAY—JULY 26, 2022
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

Also present: Nicholas Cortese, Attorney
Gavin Stiles, Ordinance Officer
Kari Strabo, Zoning Secretary

Absent: Ed Miller, Board Member
Dan Wolters, Alternate Board Member

James Brewster: At 7:02, I'll call the meeting of the Zoning Board of Appeals to order. Thank you everyone for coming, we've got a fairly busy agenda tonight so just an overview of some things of the way it goes. We'll take care of some administrative business first and then we go to the new business which is fairly quick, we go over the new applications that come in and make a decision to move them on to our next meeting. Then we'll have our public hearings where we'll ask the applicant to answer the five questions again for the record that pertain to area variances. The public will have a chance to comment on each and any of those and once all of the hearings are closed we'll cycle back here as a Board to discuss them in order again and come up with a resolution one way or the other. First off, Kari can we get a roll call on the Board Members please?

Kari Strabo: Mr. White; present, Mr. Smith; present, Mrs. Kinne; present, Mr. Brewster; present

James Brewster: Even though we have a couple absent we do have a quorum and we will continue on with our meeting and the first order of business tonight is to approve the minutes from June 30, 2022. Does anyone on the Board have any questions, comments, corrections for those minutes? If not I'll seek a motion to accept them.

Scott Smith: So moved, Mr. Chairman.

Aleta Kinne: I'll second.

Kari Strabo:	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 – 4 Nays – 0 Absent—2 (Miller, Wolters)

James Brewster: Minutes from June are hereby approved and can be posted to the website as soon as possible. Now we'll move onto new business. First application up is 2022-V12, New York Power Authority

for 1166 Castle Creek Road, application for a triple area variance to construct four electric vehicle charging stations in front of the principal structure, less than minimum required lot size from 6 acres to 2.5 acres, and less than minimum required lot depth from 450' to 264.3' in a PDD-C zone and a short EAF. Board Members, any comments or questions on this application?

Aleta Kinne: Yes, I do. Is there someone here to represent them?

Nick Cortese: I don't believe so.

Aleta Kinne: Ok. So I'm talking to the Board. I thought their application was excellent. I appreciate their giving us as much information as they did with the site plan. It helps us to be able to answer our five questions at the end a little bit. I have a couple things that I wanted to bring out and if we talk about them tonight perhaps it'll save time of having to skip another month to get them. On their EPA, number 20, the question was answered 'no' and it should say 'yes.' The property was in remediation at the time of the Tier Oil closing, it was polluted, I know that personally. In 2004 it was condemned and 14 wells were put in. A report in 2007 showed great improvement so in 2009 they gave Mirabito permission to start construction but they kept the remediation open until they completed construction. So, it was terminated in 2010. If they could change that simply and put in that it has been corrected, that would help us.

James Brewster: Just for the record, number 20, and this is on the SEQR application 'has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?' The applicant chose 'no' and Mrs. Kinne suggests that it should be changed to 'yes.'

Aleta Kinne: And if it's a yes, they can specify it's been corrected. The other one is number 16, the flood plan. It is in flood plan A, so I think that should be a 'yes' instead of a 'no.' Ordinance?

Gavin Stiles: I don't feel the need to weigh in.

Aleta Kinne: Ok. From 2009 when Mirabito was under construction I have papers that say that they had also marked 'no' on their EPA and Mr. Gant, the engineer at that time, specified that it was flood plan A. The 100-year flood plan, they were going by the results of 2006 and gave the elevation for the flood level was 830 so they suggested that the building be filled and raised so the first floor of the gas station is 853 and I was out there today and you can definitely see it so I really didn't get to go over their grading plans that much but I'm wondering if they won't have to fill for the charging stations to be raised like the gas station is.

Gavin Stiles: If the Board takes issue with it we should bring it up with Alex.

Aleta Kinne: Ok, I didn't know if it had to go to DEC.

James Brewster: I think your points are very valid and we can use this to seek more information or new information on that.

Aleta Kinne: Yeah, but should they be notified before next month?

Gavin Stiles: Well, they can't move forward without you guys and we can get Alex in the mix and have him speak to the appropriate people.

Aleta Kinne: Believe me, the neighborhood needs this and I hope it can go forward but the other thing I was wondering was that retaining wall behind the gas station, if they would want the owner to extend that because I know that creek very well and it gets very angry.

Gavin Stiles: If who would want it?

Aleta Kinne: DEC. I know every time we get one of those floods the banks on our land move.

Gavin Stiles: If we can get a list of questions together for Alex to address that would be good.

Aleta Kinne: I'd like that one, extend the retaining wall behind there.

Gavin Stiles: If necessary, absolutely.

Aleta Kinne: Those were the points I wanted to make. Maybe, would Alex's report be sufficient for us to work from or do we need a statement from DEC?

Nick Cortese: On what?

Aleta Kinne: On the creek issue.

Nick Cortese: In all likelihood it's probably not going to be pertinent to your variance analysis in any event. Is there a site plan requirement with this?

Gavin Stiles: Planning Board.

Nick Cortese: All that stuff is more appropriately considered by the Planning Board in any event.

Gavin Stiles: And Alex will be there.

Aleta Kinne: But it also has to be considered in the five questions that we have to answer for the variances. If we could get that information it would help us next month. Thank you.

James Brewster: Or I think we can entertain the idea of conditioning this movement to our meeting that these pieces of information you want are satisfied with the final package that we receive before our August meeting. That would be my suggestion, to have it conditioned in a motion and then we've got it on record that this is what we want, this is what we feel in order to go through the SEQR we feel we need to have that information. Sound good?

Aleta Kinne: Yes.

James Brewster: Any further questions on that or any of your own?

Jon White: No.

Scott Smith: Well covered.

James Brewster: If everybody's satisfied with that we can entertain a conditional motion to do what we do and move it along to Planning and then schedule it for our meeting as long as they satisfy the conditions of answering the questions and getting us the information.

Jon White: Because this isn't just an advisory to the Planning Board, they actually have to do a site plan review and then we put those conditions in that they can do that during the review process to make sure they're satisfied for us when it comes back to us.

James Brewster: Yes, because I don't think we can go through SEQR without answering some of those questions.

Nick Cortese: I think considering you're the first Board to get a crack at this, passing on Aleta's specific concerns is valuable because then that'll direct their conversation. I think just generally it's good for your two Boards to be able to talk to each other through correspondence and if they know how to direct their questioning that'll make for a better site plan review and then also a

better recommendation for you guys when it comes back to later in the month when you're considering variances.

James Brewster: All right, so does anybody want to make that motion?

Aleta Kinne: I'll so move.

Jon White: I'll second.

James Brewster: Motion made and seconded to the conditional approval of this application to move through to Planning and to be scheduled on condition on our meeting in August as long as we have the information addressed by Planning or the applicant or the engineer.

The following questions will make up the condition:

- 1) Question 20 in SEQR part one (has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?) should be a yes instead of a no, and applicant should specify this has been corrected
- 2) Question 16 in SEQR part one (Is the project site located in the 100-year flood plan?) should be a yes instead of a no, will the charging stations need to be raised up like the gas station was during its construction?
- 3) Will the DEC need to weigh in on the application?
- 4) Will the existing retaining wall behind the gas station need to be extended behind the charging stations?

Kari Strabo:	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 – 4 Nays – 0 Absent—2 (Miller, Wolters)

James Brewster: We can schedule that and forward it along to Planning as we usually do. Thank you, Aleta. Thank you everybody. All right, onto the other application for new business, 2022-V13, Nancy Karns of 85 Aitchison Rd, application for an area variance to have a detached garage in front of a principal structure in an Agricultural Zone and a short EAF. Is the applicant here tonight? (Her son was present). It's all right, you didn't have to be, its just for if we have any questions but usually we evaluate and go through. Does any Board Member have any questions or comments?

Aleta Kinne: I was there today and spoke with the lady. It looks like a good application and a good situation to me.

Jon White: Yeah, I'm good with things.

Aleta Kinne: I'll move that we accept the application.

Scott Smith: Second.

James Brewster: Motion made and seconded to move the 2022-V13 on to Planning and on to our August meeting.

Kari Strabo:	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 – 4 Nays – 0 Absent—2 (Miller, Wolters)

James Brewster: Just to review, there will be a Planning Board meeting to discuss this and then you'll come back in August and we'll go through a public hearing and so forth. Speaking of public hearings, we begin our public hearings tonight. Are the Owens here? I will open the public hearing for 2022-V09, David Owen at 6 Pine Dr, application for an area variance to construct a front porch with less than required front yard setback from 30' to 24' in a Residential zone and a short EAF. I'll read the legal notice into the record.

**TOWN OF CHENANGO ZONING BOARD OF APPEALS
 NOTICE OF PUBLIC HEARING**

TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on July 26, 2022 at 7:00 p.m. at Chenango Town Hall, 1529 NYS Rte. 12, Binghamton, NY upon the application of David Owen regarding property located at 6 Pine Drive in the Town of Chenango, Tax Map No. 079.17-2-28, and located in a Residential Zoning District. The application is for an Area Variance to construct a front porch with a setback of 24 ft., which is less than the minimum front yard setback of 30 ft. in said District. The Board will review the environmental significance of the requested variance, if any, at said hearing.

This Area Variance application is open to inspection at the Town of Chenango Ordinance Office, 1529 NYS Rte. 12, Binghamton, NY. Persons wishing to appear at the hearing may do so in person or by other representation. Persons who require assistance in attending said public hearing, or in furnishing comments and suggestions, should contact the undersigned to request such assistance.

Dated: July 18, 2022

James Brewster, Chairman
 Town of Chenango ZBA

James Brewster: I've opened the public hearing. Mr. Owen, what we do for the public hearing is we have five factors to address for area variances which I'll ask you and you can just fill in the details how you can best answer the question. Number 1-- 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?

David Owen: No.

James Brewster: Is there any reason why you think that?

David Owen: There's other properties that have the same exact front porch in the neighborhood so it'll be cohesive.

James Brewster: Ok. Any questions on that, Board Members?

Jon White: Did something happen to your house where you're rebuilding?

David Owen: Yeah, we had a fire August 5th so we're rebuilding.

Jon White: So, you're using the existing foundation.

David Owen: Correct.

Jon White: To minimize cost and rebuild the house so then that puts you in the sticky wicket of not being able to move it back the six feet.

David Owen: Correct.

Jon White: That would be my only question.

James Brewster: Which is a really good segue to the next question, can you achieve the goal of your project by some other method that won't require a variance?

David Owen: No, because of the existing foundation.

James Brewster: Everybody good with that, anybody else have any questions? No, ok. Is your variance request substantial? In other words is it a big change from what the existing zoning allows?

David Owen: No, it won't be a big change at all. It's just a small porch.

James Brewster: And you're asking for 24 feet instead of the required 30 feet. Ok, thank you. Anything on that? No, ok. Number four-- will the granting of this variance have an adverse effect or impact on the physical or environmental conditions of the neighborhood or the district? It sounds like number one but in reality it's as you build it or after you build it will it have an environmental impact?

David Owen: No.

James Brewster: Small footprint?

David Owen: Small footprint.

James Brewster: Any questions on that?

Board: No.

James Brewster: Number five-- is the difficulty encountered by your proposed project request for relief self-created? Typically, this answer is always yes 99.5% of the time. What do you think in the case of rebuilding after a fire? Is that still self-created?

Nick Cortese: There are very few scenarios where the hardship wouldn't be self-created from a technical standpoint. Obviously, the circumstances under which you're rebuilding your home are not self-created but what's meant by self-created is, did you know what the zoning code is and then despite that did you ask for the variance? It's self-created but it's a non-determinant factor.

David Owen: Yes.

James Brewster: Ok, we'll go on the record with yes.

Nick Cortese: It's kind of hyper-technical but we'll go with yes.

James Brewster: And I should make the discussion point here that these five factors are just to leverage information. If one that we say is a 'no' then we consider it but it's not an immediate disqualification. Other variance types, if you "fail" one question it's an immediate no, so the area variances are not. It's a fact-finding mission. Nobody has to be apprehensive about

answering the questions, they're just for information for the record. Those are the five questions and thank you very much for answering them. Is there anyone here tonight from the public who wishes to speak for or against this application? You have the floor if there's anyone. I don't see anybody therefore I'll move on. Ordinance?

Gavin Stiles: No issues with Ordinance, we're good.

James Brewster: We send out letters to various Boards in the town and the county to evaluate these variance request applications and they come back with correspondence. So, in summary I will go through the letters and emails that we've received. The town engineer had a favorable referral for this and has no engineering objections. Our Planning Board sent us back a favorable referral and no comments. The town drainage coordinator submitted an approval on his form. It went to Broome County Planning and they are favorable with no countywide impacts detected and none of the other county departments had any comment at all. We did not receive any written correspondence from the public at all. With that, now I can move along and close this public hearing. I will hereby close the public hearing for 2022-V09 and again we'll go through all the public hearings then cycle back and discuss your application and then you'll know. Next public hearing that I will open for tonight is 2022-V10, Kathryn Mace of 194 Smith Hill Rd. Ms. Mace, are you here?

Katie Mace: Hi.

James Brewster: Ok. Let me just read the legal notice.

**TOWN OF CHENANGO ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on July 26, 2022 at 7:00 p.m. at Chenango Town Hall, 1529 NYS Rte. 12, Binghamton, NY upon the application of Kathryn Mace regarding property located at 194 Smith Hill Rd in the Town of Chenango, Tax Map No. 128.01-2-5, and located in an Agricultural Zoning District. The application is for an Area Variance to allow two (2) accessory structures to be located ahead of the front line of the principal structure on said property, which is not allowed as of right in said District. The Board will review the environmental significance of the requested variance, if any, at said hearing.

This Area Variance application is open to inspection at the Town of Chenango Ordinance Office, 1529 NYS Rte. 12, Binghamton, NY. Persons wishing to appear at the hearing may do so in person or by other representation. Persons who require assistance in attending said public hearing, or in furnishing comments and suggestions, should contact the undersigned to request such assistance.

Dated: July 18, 2022

James Brewster, Chairman
Town of Chenango ZBA

James Brewster: Being the second one to go, you had everything set up for you and what to expect so here we go.

Aleta Kinne: Can I ask a question? Does your deed say that that was part of the Smith Hill ski tow?

Katie Mace: I've heard it was. We've had people come visit that have told us about that. I'll have to look into that.

Aleta Kinne: We were there today. We both skied that many years ago.

Katie Mace: I heard it was a risky lift.

Aleta Kinne: It brought back a lot of memories. I was afraid of the hill but my husband skied that every day it was open. That was before Greek Peak. So I figured the buildings were maybe part of that but they look very, very new.

Katie Mace: No, it was the previous owner.

Aleta Kinne: That just brought back memories for us.

James Brewster: All right. Question one-- 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?

Katie Mace: No, there's two other properties that have other structures in front of the principal residence. I have photos and a map of those and I have letters signed by our surrounding neighbors that are in support of the variance.

James Brewster: Would you like to submit those to the record?

Katie Mace: Sure.

James Brewster: I'll read them when we get to the correspondence part. I'll pass these around. These actually already exist, correct?

Katie Mace: Yes.

James Brewster: So some of the wording here is a little awkward, that's why I paused last time. Can you achieve the goal of your project by some other method that will not require a variance?

Katie Mace: No.

James Brewster: Any questions about either of those?

Jon White: I do have a question. Why did you put the house where you did?

Katie Mace: There was no other usable area closest to the road front.

Jon White: Right, because you have to be on the other side of the crick.

Katie Mace: That was previously cleared prior to the purchase.

Jon White: Ok, that's my only question.

James Brewster: In your opinion, is your variance request substantial? In other words is it going to be a big change from what the existing zoning allows? In this case we allow none so it'd be two more than what's allowed. We don't allow anything in front of the principal structures.

Katie Mace: We own about 1000 feet of roadside and we have 30 acres, so even though it is against code, it's not in front of our primary residence at all. And, those maps were submitted to the County.

Aleta Kinne: I think we have to consider that parcel, that they are not an inconvenience on that parcel where on another parcel they might be.

James Brewster: Ok. Anybody have any questions on the substantiality question? No, ok. Will the granting of this variance have an adverse effect or impact on the physical or environmental conditions of the neighborhood or the district?

Katie Mace: No.

James Brewster: They exist so you're not tearing any land up or anything because it's not really a project. Number five-- is the difficulty encountered by your proposed project request for relief self-created?

Katie Mace: Yes.

James Brewster: In a technical sense, yes. Any questions on four or five, Board Members?

Aleta Kinne: You said yes, self-created?

Scott Smith: They were there when she bought it.

James Brewster: They were but...

Nick Cortese: Many times the law is not the most logical thing. It just is what it is sometimes. The fact that she built her house and those structures were there, it's a self-created hardship but again, as we know, that has a limited significance.

Aleta Kinne: Ok, thank you.

James Brewster: Anything further? Otherwise I'll move onto the public. Is there anyone here from the public tonight?

RC: My name is Rob Collins, I actually live kitty-corner to the property. It would have no adverse effect on our neighborhood, on noise. It's not even visible from the street really. It's set back very far. Prior to her purchase that was a small hunting lodge and it was totally off the grid. It would have no adverse effect on the neighborhood as far as I see it. I'm totally in favor.

James Brewster: Thank you for your comments. And she had public letters come later. I'll start by going to Ordinance.

Gavin Stiles: No problems in Ordinance.

James Brewster: Letters were sent to our town engineer, he replied favorably with no objections. Planning Board replied favorably with no comments. Our town drainage coordinator submitted an approval form and Broome County Planning said there were no countywide impacts therefore their referral was favorable. The other departments, Health, DPW, DOT, and BMTS had no comments and we did not receive written comments through the mail but we do have some that were just presented to us.

The letters all read "I support the area variance for the property located at 194 Smith Hill Rd, Binghamton-Town of Chenango" and were submitted by Charles Punako, Rob Collins, Barbara Paratore, a resident from 204 Smith Hill, a resident from 166 Smith Hill, Stephen Harris, and Jerri Harris.

That takes us through the correspondence. Anything else? All right, I'll close this public hearing then. 2022-V10 is now closed and we'll move on to our next public hearing for Mr. West. Are the Wests here tonight? Yes. 2022-V11, Kenneth West. Let me get the legal notice.

**TOWN OF CHENANGO ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on July 26, 2022 at 7:00 p.m. at Chenango Town Hall, 1529 NYS Rte. 12, Binghamton, NY upon the application of Kenneth L. West regarding property located at 2537 NYS Rte. 12 in the Town of Chenango, Tax Map No. 067.08-1-33, and located in a Residential Zoning District. The application is for an Area Variance to construct a detached garage with a side yard setback of 7 ft., which is not allowed as of right in said District, inasmuch as the footprint of the principal structure including any detached or attached garage must have a side yard setback of least 10 ft. in said District. The Board will review the environmental significance of the requested variance, if any, at said hearing.

This Area Variance application is open to inspection at the Town of Chenango Ordinance Office, 1529 NYS Rte. 12, Binghamton, NY. Persons wishing to appear at the hearing may do so in person or by other representation. Persons who require assistance in attending said public hearing, or in furnishing comments and suggestions, should contact the undersigned to request such assistance.

Dated: July 18, 2022

James Brewster, Chairman
Town of Chenango ZBA

- James Brewster: Mr. West has already been through this on the previous variance and we uncovered the need for another variance. Do we need to take him through this again or can we just submit his previous answers from his previous application?
- Nick Cortese: Just go ahead and talk about it generally. You don't need to go through each individual question, it's the same property and the same set of facts. Just chat about it generally with Mr. West and amongst the Board Members obviously keeping in mind the fact that we've already granted a very similar variance on this property.
- James Brewster: All right, so Mr. West, same properties that we're talking about as last time. Will they have any detriment to the nearby properties? Are you going to tear up a lot of land to hurt the environment or anything like that?
- Kenneth West: No and as a matter of fact the variance we're discussing right now is within the variance that I was already approved for so there would be no change to anything that I've already answered with this variance.
- Nick Cortese: does anybody have any new questions for Mr. West regarding this property?
- Jon White: Nothing's changing, he's doing the same building size, same site plan basically.
- Nick Cortese: Your plans are all the same as they were before, right?
- Kenneth West: Right.
- Jon White: Nothing's changing so I'm good with things.
- Nick Cortese: I think it's kind of reaching a point where it's an unnecessary exercise.
- Scott Smith: As long as Gavin's good.
- James Brewster: We'll get there. We'll go through that part. Is anybody here from the public tonight to speak for or against this application? No, ok. Ordinance, still good?
- Gavin Stiles: All good.

James Brewster: Ok, the engineer has no engineering objections, favorable. Planning Board was favorable on their referral, no comments. Town drainage coordinator also was favorable and sent an approval form. Broome County Planning was favorable and similar to last time. NYS DOT did comment as they did last time, same things apply, a highway work permit would be required if work is done in the right-of-way and no adding a driveway, same thing we discussed last time from their comments. I did not receive any letters from the public and therefore without any further questions we can close down this public hearing.

Jon White: I'm all good.

James Brewster: I will close the public hearing for 2022-V11. Now it looks like we're back to application 2022-V09 for further discussion. For V09 do we need to go through the SEQR on that one?

Nick Cortese: No, this is a type II action under SEQR because it is a request for an individual setback and that is classified as a type II under the regulations so no.

James Brewster: Ok, and in essence we did address it. Any discussion on V09 for Mr. Owen?

Jon White: What he's looking for is minimal. There's two or three houses that have the same style covered porch.

Scott Smith: More than that within a half a mile.

Jon White: I just looked in the immediate area.

Scott Smith: I didn't measure them but there's a bunch.

Jon White: And then to put a cover on it, from snow and ice and stuff. It's not substantial, he's only asking for six feet. It's not like he's looking to stay ten feet off the edge of the road.

Scott Smith: And as always, comply with Gavin.

Nick Cortese: Building permit required?

Gavin Stiles: Building permit will be required, other than that it's your decision.

Aleta Kinne: His house burnt down and he's having to rebuild so now is the time to do the porch.

Scott Smith: Sorry for the loss of your house.

James Brewster: I guess we're ready to be taken through the resolution.

Nick Cortese: Sure. So, lets just go through the fact-finding real quick if we can. Will or will not the requested variance produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Can the benefit sought by the applicant be achieve by some other method?

Board: No.

Nick Cortese: Is it or is it not substantial, the variance?

Board: Is not.

Nick Cortese: Would it or would it not have an adverse impact on the physical or environmental conditions of the neighborhood?

Board: Would not.

Nick Cortese: And we've decided that it is self-created?

Board: Yes.

Nick Cortese: Is this a motion to grant, deny, or grant with conditions?

Board: Grant.

Nick Cortese: Any conditions?

Board: No.

Nick Cortese: Everything is now set with this resolution and if you are ready to make a motion to grant the variance you can do so by making a motion to adopt the resolution, granting the variance.

**ZONING BOARD OF APPEALS
Town of Chenango, Broome County, New York**

In the Matter of the Application #: 2022-V09 of David Owen
for an area variance to construct a front porch exceeding the
minimum front yard setback of 30 ft. in a Residential District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V09

WHEREAS, on or about May 18, 2022, David Owen ("Applicant"), duly filed an application for an area variance for property he owns within the Town, located at 6 Pine Drive in the Town of Chenango, Tax Map No. 079.17-2-28, and located in a Residential Zoning District, wherein Applicant requested an area variance to construct a front porch with a front yard setback of 24 ft., which is less than the required minimum front yard setback of 30 ft. in said District; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on July 26, 2022 that the requested variance constitutes a Type II Action as defined under said regulations and, thus, no formal review of the potential environmental impacts of said variance is required; and

WHEREAS, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on July 26, 2022 at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as the reports and recommendations, if any, of the New York State Department of Transportation, Broome County Department of Planning and Economic Development, the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant's application.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

1. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.

3. The requested area variance is **not** substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request is self-created.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #: 2022-V09 for an area variance to construct a front porch with a front yard setback of 24 ft., which is less than the required minimum front yard setback of 30 ft. in the Residential District, is **granted**.
8. This Resolution shall take effect immediately.

At a meeting of the Zoning Board of Appeals of the Town of Chenango, held on July 26, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Jon White and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4-0-2 absent (Miller & Wolters).

James Brewster: We've adopted the Resolution and it is granted.

David Owen: Thank you.

James Brewster: Time to move onto discussion for 194 Smith Hill Rd, application V10. Do we have any Board discussion on that?

Jon White: Really, she bought the property with the two buildings intact. The one, that little hunting cabin, you couldn't live in. As long as she doesn't rent it out I don't see any problems with doing that. The other building is a storage building. If she's going to put another shed up there and she's going to put it behind the house she'd have to go to the Planning Board anyways for a special permit to have any more buildings so at this point she'll have to deal with what she has or she'll have to see the Planning Board. I know where she built the house, she's got room and it's over that hill. The crick that that crosses, that thing gets crazy when that water comes down there it gets crazy. And the poor people at the bottom of Smith Hill that see the wrath of it come all the way from the top. But, it's a nice little hunting cabin. You wouldn't want to see it demolished and the shed's still decent and you don't see them six months out of the year. I don't see a problem.

James Brewster: And they've been there for a while.

Jon White: You can't penalize her for something she didn't really know about. Should the builder have put these buildings on the site plan to begin with so she could address the situation earlier? Absolutely, but that's not her fault. I'm good with things.

Aleta Kinne: I'm good with it, I hesitate to even call them sheds. I'll call them accessories because they're in very good condition. They've been maintained well.

James Brewster: All right, SEQR on this one?

Nick Cortese: We do have to do SEQR on this one. This one is for the positioning of sheds that's not expressly made a type II action by the regs so we do have to go through the short form part two. So everybody, we know how this works but for the public's edification I'll ask the Board Members a series of questions related to the potential environmental impacts of this project. Answering 'no' by the Board means that no or small impact may occur and 'yes' means a moderate to large impact may occur. So, I will start now:

Number 1--Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Board: No.

Nick Cortese: Number 2—Will the proposed action result in a change in the use or intensity of use of land?

Board: No.

Nick Cortese: Number 3—Will the proposed action impair the character or quality of the existing community?

Board: No.

Nick Cortese: Number 4—Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

Board: No.

Nick Cortese: Number 5 – Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking, or walkway?

Board: No.

Nick Cortese: Number 6 – Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

Board: No.

Nick Cortese: Number 7 – Will the proposed action impact existing:

- a. public/private water supplies?
- b. public/private wastewater treatment utilities?

Board: No to both.

Nick Cortese: Number 8 – Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources?

Board: No.

Nick Cortese: Number 9 – Will the proposed action result in an adverse change to natural resources (e.g. wetlands, waterbodies, groundwater, air quality, flora, and fauna)?

Board: No.

Nick Cortese: Number 10 – Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems?

Board: No.

Nick Cortese: Number 11 – Will the proposed action create a hazard to environmental resources or human health?

Board: No.

Nick Cortese: You've answered 'no or small impact' with respect to part two of the EAF, so under part three my assumption is that you'd be making a motion for a negative declaration under SEQR. If that is the case you are free to make that motion at any time.

Scott Smith: So moved.

Aleta Kinne: I'll second.

James Brewster: And this is for a negative declaration. Roll call, please.

Kari Strabo:	James Brewster, Chair	Voted: Aye
	Aleta Kinne	Voted: Aye
	Scott Smith	Voted: Aye
	Jon White	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4-0-2 absent (Miller & Wolters).

James Brewster: Negative declaration is satisfied for SEQR. Any further discussion on this, or let's go to the resolution?

Aleta Kinne: Resolution.

Jon White: I'm good unless Scott or Aleta has something to say.

James Brewster: Ok, let's go ahead.

Nick Cortese: Will or will not the variance produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Can the goal be achieved by some other method other than getting a variance?

Scott Smith: Well, destruction of the building.

Aleta Kinne: They're nice buildings.

Scott Smith: That would be silly so no.

Board: No.

Nick Cortese: Is the variance substantial or is it not?

Jon White: Yes. Because you've got two buildings in the front.

Scott Smith: Yes in that it may impact future decisions if she wants to build yet another building.

Board: Yes.

Nick Cortese: Would or would not the variance have an adverse impact or effect on the physical or environmental conditions of the neighborhood?

Board: Would not.

Nick Cortese: And we decided that it is self-created?

Board: Yes.

Nick Cortese: Is this motion to grant, deny, or grant with conditions this variance?

Board: Grant.

Nick Cortese: No conditions?

Board: No.

Nick Cortese: Ok, so this is all set to go and when you are ready you can make a motion to grant the variance.

**ZONING BOARD OF APPEALS
Town of Chenango, Broome County, New York**

In the Matter of the Application #: 2022-V10 of Kathryn Mace
for an area variance to allow two (2) accessory structures to be located
ahead of the front line of a principal structure in the Agricultural Zoning District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V10

WHEREAS, on or about June 6, 2022, Kathryn Mace ("Applicant"), duly filed an application for an area variance for property she owns within the Town, located at 194 Smith Hill Road in the Town of Chenango, Tax Map No. 128.01-2-5, and located in an Agricultural Zoning District, wherein Applicant requested an area variance to allow two (2) accessory structures to be located ahead of the front line of the principal structure on said property, which is not allowed as of right in said District.; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on July 26, 2022 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

WHEREAS, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on July 26, 2022 at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as the reports and recommendations, if any, of the New York State Department of Transportation, Broome County Department of Planning and Economic Development, the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant's application.

NOW, THEREFORE, BE IT RESOVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

1. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.
3. The requested area variance is substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request is self-created.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #: 2022-V10 for an area variance to allow two (2) accessory structures to be located ahead of the front line of the principal structure on property located at 194 Smith Hill Road (Tax Map No.: 128.01-2-5), is **granted**.
8. This Resolution shall take effect immediately.

At a meeting of the Zoning Board of Appeals of the Town of Chenango, held on July 26, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Aleta Kinne and seconded by Jon White. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4-0-2 absent (Miller & Wolters).

James Brewster: The resolution is adopted for approval of the variance. Discussion on 2022-V11, the Wests at NYS Rte 12.

Jon White: Been there, done that. I think we're ready to go for it.

James Brewster: I think we can carry on with this Resolution.

Nick Cortese: Obviously this is a setback so we don't need to do SEQR on this. Will it produce an undesirable change in the neighborhood?

Board: No.

Nick Cortese: Can it be achieved by another method or not?

Board: No.

Nick Cortese: Is it substantial or is it not?

Board: No.

Nick Cortese: Will it have an adverse impact on the physical or environmental conditions of the neighborhood?

Board: No.

Nick Cortese: And it is self-created we decided, yes?

Board: Yes.

Nick Cortese: This motion will be to grant, deny, or grant with conditions?

Board: Grant.

Nick Cortese: Any conditions?

Board: No.

Nick Cortese: Ok, resolution is ready to be adopted and the variance granted. You can make that motion at any time.

**ZONING BOARD OF APPEALS
Town of Chenango, Broome County, New York**

In the Matter of the Application #: 2022-V11 of Kenneth L. West
for an area variance to construct a detached garage with a side yard setback of 7 ft.,
which is less than the minimum setback of 10 ft. in the Residential Zoning District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V11

WHEREAS, on or about June 22, 2022, Kenneth L. West ("Applicant"), duly filed an application for an area variance for property he owns within the Town, located at 2537 NYS Route 12, designated as Tax Map No. 067.08-1-33 and located in a Residential District, wherein Applicant requested an area variance to construct a detached garage with a side yard setback of 7 ft., which is not allowed as of right in said District, inasmuch as the footprint of the principal structure including any detached or attached garage must have a side yard setback of least 10 ft. in said District; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on July 26, 2022 that the requested variance constitutes a Type II Action as defined under said regulations and, thus, no formal review of the potential environmental impacts of said variance is required; and

WHEREAS, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on July 26, 2022 at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as the reports and recommendations, if any, of the New York State Department of Transportation, Broome County Department of Planning and Economic Development, the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant's application.

NOW, THEREFORE, BE IT RESOVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

1. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.
3. The requested area variance **is not** substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request **is self-created**.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #: 2022-V11 for an area variance to construct a detached garage with a side yard setback of 7 ft., which is not allowed as of right in said District, inasmuch as the footprint of the principal structure including any detached or attached garage must have a side yard setback of least 10 ft. in the Residential District, is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on July 26, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Jon White and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4-0-2 absent (Miller & Wolters)

- James Brewster: Resolution adopted, variance approved. Thank you for your patience on that one. Thank you everybody for your attention tonight and coming through with your applications. Anything else for the good of the order?
- Jon White: For Electrify America, could we get a bigger site plan to look at?
- Kari Strabo: I have a few, I just didn't have enough for everybody.
- Nick Cortese: We just have to make sure that there's enough for Planning Board.
- James Brewster: Ok, in that case and without any objection, I will adjourn the meeting for July. (7:56 PM)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kari Strabo". The signature is fluid and cursive, with a large, stylized initial "K".

Kari Strabo, Sr. Clerk