

**REGULAR PLANNING BOARD MEETING
MONDAY, MARCH 13, 2023
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NY – 13901**

Approval of the February 13, 2023, Regular Planning Board Meeting Minutes

Present: Brian Donnelly, Chairperson
 Thomas Eldridge, Vice Chair
 Jamie Szenher, Board Member
 Mura Cooley, Board Member
 Gerald Smith, Board Member

Also Present: Alex Urda, Town Engineer
 Nicholas Cortese, Planning/Zoning Attorney

Absent: Gavin Stiles, Code Officer
 Michael Boland Board Alternate

Brian Donnelly Call the March 13, 2023, Planning Board meeting to order. The first order business is the approval of the February 13, 2023, meeting minutes. Does anyone have any changes? Would someone like to make a motion to accept them?

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

Thomas Eldridge: Second.

Brian Donnelly: Ok, we have a motion and a second, can we have a vote?

Diane Aurelio	Mr. Boland, Alternate Board Member	Voted: Absent
	Mr. Smith, Board Member	Voted: Aye
	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chair	Voted Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of:
Ayes- 5 Nays- 0 Absent- 1 (Boland)

NEW BUSINESS

- **2023-PB01 - Ryan A Mills** -10 Harmony Ln. -TM#095.14-1-36 – Application for a special permit to allow (6) chickens in a Residential Zone and short EAF.

Alex Urda:

This is a review for the referenced application for a special permit to have 6 chickens in a Residential Zone. The chickens will be located on the parcel area adjacent to Broad Street.

Discussion:

The application package included:

- Planning Board Special Permit Application w/ Permissions
- Applicant's Letter
- Broome County Parcel Mapper with sketches
- Pictures of chicken shelters
- Short EAF

Dated:

2/16/23

2/16/23

Rcvd:

2/17/23

2/17/23

2/17/23

2/17/23

We offer the following comments:

1. Project is subject to 239 review within 500 feet of Broome County facility.
2. SEQR Short EAF a. Part 1 - 1 Answer "No"
- b. Part 1 - 6 Answer "Yes."
- c. Part 1 - 12.b Answer "Yes" (SHPO map is sensitive area)

We have no engineering objections.

Brian Donnelly: Is the applicant here? No, ok I'll open the public hearing. This is where the public can comment on the application. Is there anyone that wishes to be heard? There being none I'll close that portion of the public hearing. Does any of the board members have any questions or concerns?

Thomas Eldridge: Are there three (3) accessory structures on the property? Difficult to tell on the GIS map. Is it already on the property? They will need a building permit for the chicken coop so, code office will handle that.

Nicholas Cortese: We can alert Gavin about the accessory issue. We can also add a special condition if a variance is required. Now we can start on the SEQR review. As you all know all know the drill, I'll read the questions on Part II and you will verbally answer with a yes or no for small to no impact or for moderate to large impacts.

EAF SHORT FORM PART II

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? Boards response- No.
2. Will the proposed action result in a change in the use or intensity of use of land? Boards response – No.
3. Will the proposed action impair the character or quality of the existing community? Boards responses- No.
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? Boards responses- No.
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 walkways? Boards responses- No.

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? Boards responses- No.

7. Will the proposed action impact existing:

a. Public/private water supplies? Boards response- No.

b. Public/private wastewater treatment utilities? Boards responses- No.

8. Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources? Boards responses- No.

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora, and fauna)? Boards response- No.

10. Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems? Boards responses- No.

11. Will the proposed action create a hazard to environmental resources or human health? Boards responses- No.

Nicholas Cortese: Ok that is all of the questions; you have answered them all no. So, my presumption would be you will be making a "Negative Declaration" for this Unlisted Action. If that is true, I just need a motion and a second to make that "Negative Declaration" for this Unlisted Action as defined under SEQR.

Thomas Eldridge: I make a motion to adopt a "Negative Declaration" for this Unlisted Action under SEQR.

Jamie Szenher: Second.

Brian Donnelly: We have a motion and a second can we have a vote.

Diane Aurelio	Mr. Boland, Alternate Board Member	Voted: Absent
	Mr. Smith, Board Member	Voted: Aye
	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chair	Voted Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of:
Ayes- 5 Nays- 0 Absent- 1 (Boland)

Nicholas Cortese: Before we make a motion on the special permit lets go over standard template of conditions for allowing chickens. We just want the applicant to be aware.

Applicant's application 2022-PB16 for a special permit to harbor six (6) chickens at 1967 NYS Rte. 12, Tax Map No. 078.19-2-6, subject to the following condition(s):

1. No more than six (6) chickens shall be harbored on the property at the same time.
2. Applicant shall not harbor any roosters on the property at any time.
3. The chickens shall be kept in an appropriate enclosure designed to prevent their escape and shall not be permitted to roam freely about the Applicant's property.
4. If a court of competent jurisdiction should issue a judgment, order or other final ruling that chickens are being harbored on the property in violation of Article II of Chapter 32 of the Chenango Town Code, as may be amended from time-to-time, this special permit shall become null and void.
5. If no chickens are harbored on the property for a period of 365 consecutive days, this special permit shall expire.

Would the Board like to include another condition that no additional land use approvals are required. It will read like this: if the board agrees.

6. This Special Use Permit shall not be effective until the Code Enforcement Officer determines that no additional land use approvals (*e.g.*, variances) are required, or until such additional land use permissions are obtained.

Be it further resolved. that this resolution shall take effect immediately.

Brian Donnelly: Does the Board agree, can we have a motion and second.

Gerald Smith: Motion to adopt the resolution for the record.

Thomas Eldridge: Second.

Brian Donnelly Ok, can we have a vote Ms. Aurelio.

Diane Aurelio	Mr. Boland, Alternate Board Member	Voted: Absent
	Mr. Smith, Board Member	Voted: Aye
	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chair	Voted: Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of:
Ayes- 5 Nays- 0 Absent- 1 (Boland)

Brian Donnelly: Ok the special permit is approved with the conditions noted.

ADVISORY OPINIONS/REFERRALS

- **2023-V01 – Bealbe LLC. -Bert J. Adams** – 820 Oak Hill Rd. – TM#067.02-1-5.1- Application for an area variance to construct a pole barn exceeding the allowable size from 1500' to 3500' in an Agricultural Zone & short EAF & Agricultural Data Statement.

Alex Urda:

The referenced application is from the ZBA for an area variance to construct a pole barn exceeding the allowable size from 1500 s.f. to 3500 s.f. in an Agricultural Zone.

Discussion: The application package included:

	Dated:	Rcvd:
• Application to Zoning Board with permissions	2/21/23	2/21/23
• Applicant Letter of Intent	---	2/21/23
• BC Parcel Mapper and Aerial with Site Sketches	---	---
• Architectural Plans of Pole Barn	1/27/23	2/21/23
• Agricultural Data Statement	2/21/23	2/21/23

The application required Broome County 239 review. (Within 500 feet of NYS Agricultural District)

There are similar instances of structures this size or larger in the adjacent neighborhood.

We have no engineering objections.

Brian Donnelly: Is the applicant here? Yes. Does anyone have questions of the applicant? There being none can we have a motion on this area variance.

Jamie Szenher: Motion to forward a favorable advisory to the Zoning Board of Appeals.

Thomas Eldridge: Second.

Brian Donnelly: Ok, we have a motion and a second, can we have a vote?

Diane Aurelio	Mr. Boland, Alternate Board Member	Voted: Absent
	Mr. Smith, Board Member	Voted: Aye
	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chair	Voted: Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of:

Ayes- 5 Nays- 0 Absent- 1 (Boland)

Brian Donnelly: This will go to the Zoning Board of Appeals with a favorable advisory from this board. Next step is the public hearing with the Zoning Board of Appeals scheduled for March 28th.

- **2023 -V02 -Linda E. Vick- 323 Port Rd. – TM#078.10-1-1.121-** Application for a triple area variance to create two non-conforming lots with less than required road frontage from 240 to 150' and 240' to 126' and less than required acreage from 2 acres to 1.5 acres in an agricultural zone & short EAF.

Alex Urda

The referenced application from the ZBA for a double area variance to create two non-conforming lots within an Agricultural Zone. The applicant intends to subdivide 323 Port Road (TM# 078.10-1-1.121) into two parcels. I will refer to them as

323 Port Road (remainder)

New Port Road parcel (# to be determined)

Discussion: The application package included:

- Application to Zoning Board with permissions
- Applicant Letter
- Sketch of Site
- Broome County Parcel Mapper with Sketch of Lots
- Short EAF

Dated:	Rcvd.:
2/19/23	2/21/23
2/19/23	2/21/23
---	2/21/23
---	---
2/19/23	2/21/23

The variance request is for lot frontage reduction on both parcels, as well as an area reduction on the new parcel as follows:

1. 323 Port Road (remainder) a. Reduced frontage from roughly 276 feet to 126 feet which is less than the 240 required.
2. New Port Road parcel a. Frontage created at 150 feet which is less than the 240 required.
b. Lot size created is 1.5 acres which is less than the 2.0 acres required.

It is unclear as to why both parcels need to result in non-conforming frontages, versus just one.

It is also unclear as to why the new parcel will be created at smaller than required acreage.

Please note that the applicant needs to consider the location of the neighboring on-site septic systems and wells, as well as the future on-site septic system and well prior to creating the substandard lot to assure that the lot created is 'buildable.' The well to septic separation distance (including 100% future replacement area on new lot) shall be 100 feet away for wells uphill of septic, or 200 feet if the wells are downhill of septic.

The application does not require Broome County 239 review. We have no engineering objections if well/septic layout works. Please request the applicant to discuss exiting well and septic locations with their neighbors and compare to the new lot engineering design for well/septic.

Brian Donnelly: Is the applicant here? Yes. You're their son.

Todd Vick: Yes.

Alex Urda: Just keep in mind the smaller the acreage requires a look at the septic I caution the well and septic location with the neighbors.

Brian Donnelly: You understand the engineers' concern about the well and septic placement, yes.

Alex Urda: That is why we have lot size requirements. It was very nice of you to come to the town first before splitting the parcels. Nick, we have to discuss how we handle parcels being split. Usually, they get filed and we find out later when they try to get a building permit the lot is not in compliance.

Todd Vick: The septic is along the side of the existing house.

Alex Urda: Then you should have plenty of room.

Todd Vick: The driveway goes back and turns like an I shape. Tired to replicate the flog lot. If it was further back it would be within twenty (20) feet of the driveway.

Gerald Smith: It's all flat area.

Todd Vick: There is a small crown that is a little bit higher.

Gerald Smith: The driveway to the existing house?

Todd Vick: Yes.

Brian Donnelly: Any other comments or questions? If not would someone like to make a motion and second.

Thomas Eldridge: Motion for a favorable advisory to the Zoning Board of Appeals.

Jamie Szenher: Second.

Brian Donnelly: Ok, we have a motion and a second, can we have a vote?

Diane Aurelio	Mr. Boland, Alternate Board Member	Voted: Absent
	Mr. Smith, Board Member	Voted: Aye
	Ms. Cooley, Board Member	Voted: Aye
	Mr. Szenher, Board Member	Voted: Aye
	Mr. Eldridge, Vice Chair	Voted Aye
	Mr. Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of:
Ayes- 5 Nays- 0 Absent- 1 (Boland)

Brian Donnelly: So, this will go to the Zoning Board of Appeals with a favorable advisory from this board, and the public hearing will be held on March 28th where you will get your final answer.

Todd Vick: We will be unable to attend that meeting> is it ok to send our contractor in our place?

Nicholas Cortese: As long as we get authorization from the owner that he will be representing you at the ZBA meeting.

OLD BUSINESS

- **2022-PB19 -Yellow 20, LLC- Chris Stroud** – 42 Smith Hill Rd. Rear- TM#128.01-2-6- Application for site plan review for a Solar Farm in an Agricultural Zone and full EAF.

Brian Donnelly: For old business we did have Yellow 20 LLC. However, my understanding is the Town Board did approve the moratorium on the solar farms. Basically, for us it puts everything on hold. They might have to reapply and comply with the new regulations they set forth by the Town Board.

Thomas Eldridge: How long is the moratorium?

Nicholas Cortese: I believe six months. If they can't do it in six months, they will reenact for another six months. It depends on what you want to do with your law. Generally, we have done a lot of these for communities all over the place solar law. Generally, we advise whatever you want to do with your law try to get it enacted within a year instead of running the moratorium for an unreasonable amount of time. Then it is considered a long period of time then brings a notion of liability for the town's failure to act. No one has ever objected to a year. I'm not telling the board what to do but I would like to think the town board can do it in six months, but they will have a year to make it happen. My advice is to get it done within a year to avoid liability to the town.

Alex Urda: Do they have your draft already?

Nicholas Cortese: Draft of what the solar law, they approved it and that's been long been done.

Gerald Smith Does the applicants have to start all over again?

Nicholas Cortese: No, it might be necessitated by the new regulations. But all these applications will still be pending they can't advance until new legislation is passed. Once new legislation is passed my strong guess is that it is going to require the applicants to produce a whole bunch more stuff than what they have been producing up to this point. It may cause them to withdraw but that will be up to them. For the time being all the applications are pending and will be acted upon after the moratorium

Thomas Eldridge: Hopefully the new legislation will require a public hearing.

Nicholas Cortese: I would hope that would be a feature of the new legislation.

Gerald Smith: Yes, I was concerned about that with this application. I know if I lived there, I would want to know this is happening.

Nicholas Cortese: I think that is part of the reason, really there are a lot of reasons. The Town of Chenango Solar Law has been a very permission law for development. Not very Town centrist but come and build solar here type of law. I think the Town wanted to strike a better balance. And they're in the process of doing that. We have passed a lot of solar

laws for towns in the last year. Because a lot of this is ramping up everywhere you go, not just in the Town of Chenango. You guys will all be better served by an update.

Alex Urda: Should we expect Yellow 20 LLC to request their funds back? Is that just ours to hold onto it.

Nicholas Cortese: So, my thought on that is because the application has been submitted and because they have incurred costs related to that application. I believe that we should be holding on to their fees. Unless they withdraw their application, we will not be refunding their application fee. Certainly, you would be the one who stands to lose out by giving all their money back. Alex, have you reviewed the SWPPP already?

Alex Urda: I have a little bit of time to bill against that. We did have the pre-application meeting does that come out of the escrow fee and give the remainder back?

Nicholas Cortese: Not unless they withdraw the application. We would remove everything that is billable. The SWPPP cannot be split. They would have to withdraw their application entirely for a refund minus the already billed items.

There being no further business before the Board a motion by Mr. Szenher second by Mr. Eldridge to adjourn the meeting at 7:30 p.m.

Respectfully submitted,



Diane Aurelio
Ordinance Secretary