

ZONNING BOARD OF APPEALS  
REGULAR MEETING NOVEMBER 26, 2024  
7:00 PM-TOWN HALL  
1529 NYS RTE 12  
BINGHAMTON, NEW YORK 13901

Present James Brewster, Chairperson  
Aleta Kinne, Vice Chairperson  
Scott Smith, Board Member  
Jon White, Board Member  
Edward Miller, Board Member

Also Present: Nathan VanWhy Planning/ Zoning Attorney  
Gavin Stiles, Ordinance Officer  
Dan Wolters, Alternate

James Brewster: I have 7:01 p.m. I will open the Town of Chenango Zoning Board of Appeals meeting, for the regular November meeting to order. First order of business to call the roll please.

Diane Aurelio: Mr. Wolters: present, Mr. Miller: present, Mr. White: present, Mr. Smith: present, Ms. Kinne: present, Mr. Brewster: present.

James Brewster: Ok we have a quorum. Welcome back, Altea, we are glad you are here. We have one new business and one public hearing. But first is the approval of the October 11<sup>th</sup> special meeting minutes. Does anybody have any issues with that Any issues or corrections? I will seek a motion to approve the minutes from October 11, 2024, minutes.

Jon White: So moved Mr. Chairman.

Ed Miller: Second.

James Brewster: Can we have a call please.

Diane Aurelio:	Dan Wolters, Board Alternate	Voted: Aye
	Edward Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Absent
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of 5 to 0

Ayes- 5                      Nays – 0                      Absent - 0

James Brewster:                      Ok now for the October 22,2024, regular meeting, any changes? If not, can I have a motion:

Jon White:                              I thought they were fine.

Scott Smith:                              Motion to approve October 22, 2024, Zoning Board Minutes.

Jon White:                              Second.

James Brewster:                      Can we have a call please.

Diane Aurelio:	Dan Wolters, Board Alternate	Voted: Aye
	Edward Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Absent
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by roll call of 5 to 0

Ayes- 5                      Nays – 0                      Absent - 0

James Brewster:                      The minutes are approved and will be processed and added to the website whatever needs to be done.  
We have new business before us that is:

- 2024-V16- Peter Walsh -100 Chenango Bridge Rd. – TM#112.06-6-3.121- Application for double area variance to construct a self-storage facility with less than required front yard setback from 35’ to 5’ & side yard setback from 15’ to 5’ in a Commercial Development zone & short EAF.

Does anybody have anything that may send it off track?

Jon White:                              thought it was complete. I do not think I missed anything.

Board:                                      Looked good.

James Brewster:                      Has a letter for the five factors, diagrams, what about the EAF any questions?

Edward Miller: I have a question on number seven Critical Environmental area. Being the river.

James Brewster: Looks like all the check marks have been made can we move forward with this.

Diane Aurelio: Was it confusing having one 239 review sheet for the application for the site plan and variance. Broome County suggested it would be better to do that. I can change it if you are not comfortable with it.

James Brewster: I was not confused but I am now.

Diane Aurelio: Instead of two 239 review sheets I made out one with both application requests for site plan and variance requests. Their application will be heard by the Planning Board on December 9<sup>th</sup>, both the site plan and variance advisory. Then on December 23<sup>rd</sup> public hearing for the variance.

James Brewster: I was contacted about this, and I meant to send out an email to everyone. I agreed to move the Zoning Board meeting from Christmas Eve to Monday December 23<sup>rd</sup> at 7:00 p.m. for our next regular meeting. It seemed to be the best course of action. If we push it back, you are going into New Years. Can everyone attend that meeting.

Jon White: I would rather have it on Monday than Christmas Eve.

Board: Unanimously agreed to make that change.

James Brewster: If we feel everything is in order and does not need anything else or corrected at this time, we can accept it and schedule the public hearing on Monday December 23<sup>rd</sup> at 7:00 p.m.

Edward Miller: I have a question on number seven does the proposed action located within the state listed State Critical Environmental Area. He answered no. Being the river.

James Brewster: I do not believe we have any crucial Environmental Area in the Town of Chenango.

Nate VanWhy: The river is not listed as a crucial Environmental Area.

James Brewster: That is a good question, and this has come up before. I was always under the impression they are not defined. We could go to the SEQR Manual. We can investigate that anyway. Any concerns.

Edward Miller: I might become an issue later.

James Brewster: Are you by chance looking up the definition.

Nate VanWhy: I can but my understanding there are none.in the Town of Chenango.

James Brewster: I did not want to move forward if you were looking that up. That was my understanding too.

Nate VanWhy: That has to be designated by a local or state agency as a specific geographical area as Critical Environmental Area. The Town has not designated that. And if you go on NYS DEC they have a tool when you put it in it will automatically fill in responses to questions. I have never seen one come up for a Critical Environmental Area. A good example in the Village of Owego there is an area, the Kopernik Observatory it is called the brick yard or brick town property it is a marsh it is a protected area useful for birds and all those things that is a Critical Environmental Area. Not aware of anything in the Town of Chenango that triggers that. If Alex were here, he could bring that right up for you and define it for you.

James Brewster: If everyone is satisfied, I will accept a motion to schedule a public hearing for our December 23<sup>rd</sup> meeting and send it through the Planning Board.

Scott Smith: So moved Mr. Chairman.

Aleta Kinne: Second.

James Brewster: We have a motion from Mr. Smith, Second from Ms. Kinne can we have a vote.

Diane Aurelio:	Dan Wolters, Board Alternate	Voted: --
	Edward 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 roll call of 4 to 0

Ayes- 5                      Nays – 0                      Absent - 0  
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PUBLIC HEARING

James Brewster:      We have a public hearing tonight on application:

- 2024-V15- James Weidman -1320 River Rd. – TM#079.18-1-9- Application for a double area variance to create a buildable lot with less than required acreage from 2 acres to 1.239 acres and road frontage from 240’ to 150’ in an Agricultural zone and short EAF.

Aleta Kinne:              Do we have to have a motion to move that application to Planning Board and to next month for the public hearing, or did we do that already? I do not think we voted on it.

James Brewster:      Didn’t we just vote on that to have the application scheduled for a public hearing and to move it to the Planning Board. Or did you mean to move the date.

Aleta Kinne:              No. We usually say we move this.

James Brewster:      Scott already did this, and you seconded that. If I am right.

Scott Smith:              Yes.

Aleta Kinne:              I am sorry.

Scott Smith:              You just missed that little detail.

Aleta Kinne:              I thought we just changed the date.

James Brewster:      They were intertwined that was the full motion. To approve / accept it and move it to Planning and schedule a public hearing on December 23<sup>rd</sup>. at 7:00 p.m. I did interact by the way we are changing our meeting. I can see your confusion. Next is the public hearing for:

- 2024-V15- James Weidman -1320 River Rd. – TM#079.18-1-9- Application for a double area variance to create a buildable lot with less than required acreage from 2 acres to 1.239 acres and road frontage from 240’ to 150’ in an Agricultural zone and short EAF.

However, we have a small error with the legal notice that went out with the meeting time of 5:00 p.m. instead of 7:00 p.m. That is technical flag where we can go through the public hearing and have comments go through the factors for Mr. Weidman. But I am afraid at the end of the day we will have to table and leave the public hearing open until next month. Re-notice it for December come back and if nobody shows immediately close it and move onto the SEQR and then discussion and the formality of the resolution. Hope you understand we cannot work our way around that.

Scott Smith: All the people that were here at five o'clock call and have them come back in.

Gavin Stiles: You can.

James Brewster: We can check the cameras and try to identify who showed up at five o'clock.

Nate VanWhy: There is no good way of fixing it other than re-noticing the action unfortunately. I am very surprised that it happened. Your meetings are always at seven o'clock, I do not know why it said five.

James Brewster: On the presumption that nobody was here. And from the testimony that was given off the record that nobody was here. But we cannot presume that won't be the case next month.

Jon White: Basically, make it legal with the correct date and time.

James Brewster: With that without objection I will open the public hearing on this application. Open the floor to Mr. Weidman to give an overview of your project and the basis of your application and why you need these variances. Then I will cover our five factors. I know you are familiar with that you sat through one of our meetings previously. Tell us about your project in general.

James Weidman: Basically, I have too much lawn to mow. The neighbor indicated some interest in purchasing a piece of the property to have a buildable lot there.

James Brewster: So, is there anything else you would like to add. If not, we will go through the five factors.

Number 1. The first factor is requesting these variances. Whoever you may sell it to for a buildable purpose will it have an undesirable change in the character of the neighborhood or a negative impact on nearby properties.

James Weidman: Should not all the rest of the houses around there are much smaller lots.

James Brewster: The intent is to have a buildable lot where somebody will put a house on it.

James Weidman: Yes.

James Brewster: Anyone else have anything to add about number one.

Aleta Kinne: The 3.73 is the whole thing. After the acres are taken out.

James Weidman: That is the whole property acreage.

James Brewster: That is actually a good lean into just to be clear. The new lot will be 1.239 acres. Your existing lot where you live will be the remainder of that.

James Weidman: Correct.

Aleta Kinne: I'm trying to figure if.

James Brewster: The remaining lot will still be 240 feet of frontage; your lot will be in compliance. Not creating a conforming lot into a non-conforming lot. And it meets the acreage requirement for the district Will be left with 2 acres.?

James Weidman: Yes, I will be left with 2 acres, and 240 feet of road frontage.

James Brewster: I was wondering why it was a specific reason for the 1.239 acres to the thousands.

Gavin Stiles: I asked him to ensure his remaining lot stays in compliance.

James Weidman: I cur 150 feet off based on keeping it as a rectangle, that is how it came out on acreage. I will have it surveyed.

Nate VanWhy: This is one of the issues with the request that you have. You asked from the Zoning Board about the minimum size of the lot. So, your surveyor needs to know that. So, they in fact create a lot that meets or is slightly larger than whatever the Zoning Board ends up approving.

So, if the Zoning Board grants a 1.239-acre variance for the lot size. And It is 1.238. You need it to be that. Sometimes it is better to come in with a survey already. I understand you do not want to spend the money until you have the sense that the variance is going to be granted. So, then you know exactly what your variance is granting. So, you will want to keep your surveyor informed of what we are exactly granting what the board does approve.

James Brewster: Anybody else have any questions.

James Weidman: The back end of the lot is the low water marker of the river.

Nate VanWhy: And that is changing from year to year.

Edward Miller: You are going to need a survey anyway to split the lot.

Nate VanWhy: I assuming the board will authorize the number, he gets a survey. The surveyor is going to make to that number or ruffly to that number or larger than. This is saying minimum lot size.

Jon White: He has a little bit of play on his lot, he can make it 240 and 2 acres and give the rest to the other lot and make it bigger than he is asking now.

Nate VanWhy: Really the road frontage is the limiting factor.

Jon White: As long as his house is conforming. He is not making two unconforming lots. He is exactly 240 and 2 acres he is good.

James Brewster:  
Number 2. You already covered this already. But I will ask it anyway. Is there any other way you can comply with this request without a variance.

James Weidman: No.

James Brewster: Everybody is good.

Number 3. In your opinion, which you did answer do you feel this request is substantial from what the code allows.

James Weidman: Somewhat yes.

James Brewster: We just want your opinion; it is a hard decision with the calculations and everything. But we would like to ask you as well.

James Weidman: It is definitely smaller than what code requires. It does fit into the neighborhood with the size of the house and the lots around that.

James Brewster: I appreciate that answer. Anybody else substantiality questions ?

Number 4. Your main action here is asking to divide the land. Do you think from that request that you will have any adverse effect on physical or environmental conditions of the neighborhood or district.?

James Weidman: No.

James Brewster: I will just ask the board if they have any other questions. Obviously, there is another intent for the project. We can assume something will be built. Anyone has questions on that in respect to the environmental conditions, neighborhood detriment to the physical aspect.

Edward Miller: I have Google maps up and it appears that there are three solar panels that your neighbor has. Will a house interfere with that, being in the shade?

James Weidman: It is unlikely. When they built my house closer to the road. Assuming that the new building would do something similar. It would not interfere with the solar panels.

Nate VanWhy: The neighbor is aware of this. Your intension.

James Weidman: I have not talked to him.

James Brewster: I presume that a post card. More likely within five hundred feet of your house or the property lines receive a postcard. We can assume he was notified. Anybody else before I say what I have to say on environmental issues.

Edward Miller: Do you have water and sewer connections at your house?

James Weidman: No private well and septic.

James Brewster: We will probably go over this again for the SEQR Review. I am just going to state it now. By the nature of what I do for work I have a bit of a problem, a professional problem with buildable lots in a floodplain. So, I am not sure of how I would approach this application based on that. I am wondering if it will not affect my management of this application. If we do not have a deeper discussion later under SEQR ratifications of this property in a floodplain. Perhaps condition things for later to at least to ensure there are engineering requirements and building permits, code and floodplain requirements. That should address this but, in good faith I would have a hard time just blanket

says yes to the application in a floodplain. I mite have to abstain my vote later on. Unless we have further discussion, I can mitigate my professional dilemma. It is literally in my job description to protect life and property.

Nate VanWhy: Mr. Chairman I was just looking at the Town's Floodplain Law regarding the commercial self-storage facility they indicated they are in the 100-year floodplain And the Floodplain Law, which I am sure you are familiar with. Requires the first floor can be elevated to above the floodplain elevation that can be two feet plus. The base flood elevation that contains numerous measures and that an application requires a variance from that it will come back to the Zoning Zoard. So, the whole point in the Floodplain development Law is they comply with the Uniform Code and Floodplain Standards for residential facility and if they need a variance it is going to come right back to you folks. For discussion of what the variance that they need is. If you are not satisfied with the residential construction standards under the Floodplain Law. That would be a very different discussion. I certainly understand your relentless desire to discuss the impacts of construction within the floodplain. There is an outlet for that to happen. The entirety of the property in the floodplain within the 100-year floodplain. I know you mentioned your own residence was constructed towards the road. The area near the road outside of the 100-year-old floodplain or would it need to be elevated.

James Weidman: It is outside of it.

Nate VanWhy: So, a portion of it would be. Sounds like it is buildable. A survey of not just the boundaries but the topographical telling where the elevations would be helpful. There is a mechanism which Gavin I am sure will be well on top of.

Gavin Stiles: Broome County would have to sign off on his well and septic their engineers will stamp off on that. It got to get engineered up.

James Brewster: He testified his house was built that way anyway so

James Weidman: I was there for the 2011 flood the after would have to come up five feet high before it would get level with the basement. So, it did not get up to the leach field for the septic.

James Brewster: How about the 2006 flood.

James Weidman: I was not there.

James Brewster: Somebody would have to disclose when you bought the property. Nobody said anything about that. Because that was the worst. Knowing we have a pretty solid Floodplain Law; I am better now at this point for this purpose and move on if it comes back, we will have a separate discussion that may not change at all. Hopefully you can see where I am coming from.

James Brewster: The last question

Number 4. Is the proposed project self-created? Typically, under the rules and laws 99 percent of the time these are self-created. Because you are asking for relief from zoning. Again, these five factors are a balancing act. One or two of the factors do not fail in our minds and are not detrimental overall. We just balance the five factors on everything. Any questions or anything else? I can read the correspondence we have into the record:

Planning Board: They met on November 12th and recommended a favorable advisory.

Town Engineer's comments-:

A little bit extensive the parcel is in the 500-year floodplains. With the unapproved preliminary firm indicates less buildable areas which should be reviewed. Any future home construction needs to consider this. The parcel will have a private well and septic. 239 Review is within 500 feet of a state or county road and a NYS Agricultural District.

Broome County Health Department:

Reviewed the owner's existing septic system and indicated the owner shall ensure all components of the system will remain on the owner's parcel and if not provide an easement to reach those utilities. Also consider the system's location for developing the well. All adjoining parcels are located within an Agricultural District, which appears to be active cropping within 500 feet west and south of the proposed parcel.

Agricultural Data Statement:

I assume the Planning Board went over this is not required for area variances. By you I mean Nate.

SEQR- Is deferred to you and then to us. Multiple similar size parcels or smaller are developed in with residences adjacent to the parcel area and overall and the engineer had no engineering objections.

Town Drainage Coordinator: Did not receive correspondence that it was is missing.

Broome County 239 report Which was covered in the engineer's report so I will do a brief scan. They talk about the special flood hazard area and that we should be cautious to approve an applicant, and they should know the risks developing in a special flood hazard area.

Broome County Health Dept: About the septic system also indicated in the engineer's report.

County DOT: Said no apparent impact to the Broome County infrastructure.

County DPW: Has no comments related to the project.

That is the extent of the Broome County comments.

Aleta Kinne: Mr. Chairman I did have a drainage report signed in my packet dated October 7th.

James Brewster: Ok I did not have it in mine. You can go ahead and read that into the record.

Aleta Kinne: The drainage coordinator is not applicable.

James Brewster: That concludes the correspondence, nothing from private correspondence to this application. That is all we have, at this point we have limbo time where normally we would close the public hearing. But given the situation that I aligned before I will take a motion to leave the public hearing open and to table the application until next month and re-notice the application for our December 23rd meeting.

Jon White I will make that motion

Edward Miller: Second vote.

Aleta Kinne: I was just thinking is he going to run into trouble with the Health Department on the road to get a private septic there on the size of the lot.

Gavin Stiles: If he does he does that is Broome County Health Department, They have engineers that stamp off that stuff.

Jon White: The construction has to be done by a private engineer anyway. Whoever builds on that lot will have to have a topo to build that anyway.

Gavin Stiles: That problem does not live here.

Nate VanWhy: To your question when he looks to sell the property and whoever buys it should definitely consult with an engineer whether they can place a septic system and a well in a location that will be approved by the Broome County Health Department. Pretty sure the County doesn't want septic in the floodplain. All that stuff needs to be out of it, that is why you get a topo to have enough space to place all those things on the parcel that is successful. There are engineering solutions for everything.

Gavin Stiles: They will not let you have a holding tank to pop up out of the ground and float down the Chesapeake. They would have to figure some stuff out.

Jon White: You have to keep the house higher than the floodplain.

Gavin Stiles: There is not going to be any crawl space and all that kind of nonsense. If it didn't get wet in 2006.

James Brewster: We will not see another 35 I can almost assure you of that. Short of Whitney Point Dam going. We have a motion, from Jon White and a second from Edward Miller can we have a vote please

Diane Aurelio:	Dan Wolters, Board Alternate	Voted: --
	Edward 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 roll call of 5 to 0

Ayes- 5

Nays – 0

Absent - 0

James Brewster: just a recap it pushes you up a month so we can properly get things dotted and tees crossed. We will see you right before Christmas.

James Weidman: A couple questions I assume it is likely to be approved therefore is it safe for me to get a survey now?

James Brewster: I would wait on that.

Nate VanWhy: Hard for the Board to say. Because they have not acted on this application.

James Brewster: We got to go through SEQR that we have to consider and when we get past that and then a more general discussion. I do not think it would be lengthy, that is all I can say. Whether it goes up or down I am not able to say. It is not the first house on River Road either. Any further questions, then that will end our meeting. Motion to adjourn the meeting at 7:43 p.m.

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Respectfully submitted,



Diane Aurelio  
Ordinance Office