

ZONING BOARD OF APPEALS
REGULAR TUESDAY AUGUST 27, 2024
7:00 P.M. – TOWN HALL
1529 NYS RTE 12
BINGHAMTON, NY 13901

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

Also Present: Nathan VanWhy Planning/ Zoning Attorney

James Brewster: I have 7:00 so welcome everyone. I will open the Town of Chenango Zoning Board of Appeals meeting, the regular August meeting to order. Can we have a roll call:

Adam Donahue: Mr. Miller will be absent today.
Mr. Wolters: present, Mr. Miller: absent, Mr. White: present, Mr. Smith: present, Ms. Kinne: present Mr. Brewster: present

James Brewster: We have a quorum plus and therefore will continue with the meeting. The first order of business is the approval of the minutes; however, the minutes were not completed yet, I emailed Diane today about it. So, we will piggyback them on next month's meeting. It is likely to do with the transition in the front office. Mix up what was done and not done.

Aleta Kinne: She told me the new system there is no one around to teach her the new system.

James Brewster: That is right she left before the new system.

Aleta Kinne: Gavin was not sure enough. She got to get somebody to instruct her on that. She will be doing the minutes.

James Brewster: It is not the system that we were talking about.

Aleta Kinne: She had a name for it.

Adam Donahue: First that I heard of it. It is I Compass, or Diligent is the name of the software. I can teach her that. Municipity is the new code system that she is not familiar with either.

James Brewster: Then there is that thing the town board uses for their agendas.

Adam Donahue: That is Diligent, it also goes by I Compass.

James Brewster: That would be nice if someone can teach her on that. Because when I was in the office, we were chatting about that the other day.

Adam Donahue: I can teach her that, but I can not teach her Municipity. Diligent is what we use to do the agendas and the minutes.

James Brewster: Is that the one that reads the audio and translates it?

Adam Donahue: It is still a little manual.

James Brewster: I have a feeling it is the one where the audio goes in and put into a transcript.

Adam Donahue: Not sure it does that, it might.

James Brewster: Gavin said it was headphones and listening. I do not know. If we could figure that out.

Adam Donahue: We will get her up to speed.

James Brewster: We have a couple public hearings as you know. We will conduct the new business. Start with application 2024-V13 of 44 Stacey Drive. This is an area variance to construct a garage in front of the principal structure in an agricultural zone and short EAF. We have the application and what does everyone think.

Aleta Kinne: Looks complete.

Jon White: Good for me.

James Brewster: It is one of the best ones I have seen. Clean got a scaled map, all the questions are answered. EAF is complete. So, if no one disagrees I will take up a motion to accept this application and pass it to the Planning Board for their advisory and schedule for our September meeting.

Scott Smith: So moved Mr. Chairman

Jon White: I'll second Mr. Chairman

James Brewster: Can we have a roll call:

Adam Donahue:	Dan Wolters, 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
Ayes- 5 Nays - 0

James Brewster: Next up is the interpretation, Which I was under the impression we were going to move it through.

Nate VanWhy: You are correct, I don't know why I was thinking that we didn't need a public hearing on that I just remember the last time. We need a public hearing and referral from the Planning Board.

James Brewster: Was that in the Town Code or State Code?

Nate VanWhy: State Code.

James Brewster: That is even better. Ok keeping with the plan we have an interpretation application 2024- V11 for BC Laundry LLC 1367 Upper Front Street and they are contesting the zoning interpretation by the Code Officer who denied the application. They would like to have an LED sign for BC Laundry LLC. So, we have the application we must make up our own criteria if it is complete. The written argument from the applicant and a written statement by the Ordinance Office. It is up to you if we need anything else before we move on.

Jon White: I did notice what zone is that laundry mat in. Because of the way Gavin wrote it, PDD Districts and all that. It is not confusing but there is a small piece that is residential. It did not say on their application what zone that is.

James Brewster: It is commercial. The zoning was not listed on the application.

Nate VanWhy: Where is it located again.

Altea Kinne: On the corner of.

Scott Smith: The corner of Bishop Road and Front Street.

Jon White: I am just saying on this application they did not put down what zone they are in.

Nate VanWhy: Commercial Development. (CD)

Aleta Kinne: One side of Trafford Road

James Brewster: Is that one of those split properties?

Scott Smith: No, it is not.

Nate Van Why: So, they own two parcels, one that fronts Front Street there is a little triangle in the back that is a separate tax map number owned by the same people with parking and the residential is in the back. He wants to place the sign in the main area which is CD.

Aleta Kinne: Where do they want to place it?

Nate VanWhy: On Route 12.

James Brewster: Do we require any other information before the public hearing?

Jon White: I do not believe so, it is not up to us to read the code. Look in the dictionary for the terminology.

James Brewster: He will provide his argument.

Aleta Kinne: I am grappling with it, and you will be too when you read these minutes.

Nate VanWhy: What is the discrepancy, it seems from the code is included.

Aleta Kinne: That is not allowed in the Town of Chenango.

Scott Smith: Because there is one across the street.

James Brewster: And there are other signs in the town.

Aleta Kinne: See the minutes.

Nate VanWhy: I have talked with Gavin about this I think it would be helpful if he provided a list of all the digital signs in the town. I think it should be

more than that. A digital sign is not defined by itself. What the Town Code defines is a changeable copy sign and includes digital signs in that. Where copy signs are manual like the sign out front. Or a digital one whether this applicant can have a changeable copy sign. Because that is a digital sign as well. Where are the digital signs and where are the copy signs, and what districts are they in? And how did they get there. Were that pre before the law was enacted 1980 something for changeable copy signs.

Aleta Kinne: Some of them just appeared, The Spot Restaurant and nobody did anything about it. There are 2 churches and the school and Big E Tire.

Nate VanWhy: Knowing all those what are the districts will be helpful it might be that Gavin will have to figure that into his interpretation a bunch of zoning violations to all these places.

Aleta Kinne: This is the thing if is on Route 12 it is a state road. New York State regulations on LED has more power than the Town.

Nate VanWhy: I disagree with that, but to clarify per our zoning code if we allow digital signs, we cannot impose stricter regulations than NYS DOT LED visual sign regulations. So, NYS DOT says you cannot change the digital copy more than once every 8 seconds. If we said once every 20 seconds, that is fine with NYS DOT because it is slower. It is not going to impact the safety of traffic. If we said once every 4 seconds, then DOT does override our local code. So, NYS DOT does not zone so that can say you are not allowed to have digital signs along state highways that's not NYS DOT protractive.

Aeta Kinne: We will have to have that discussion on them.

Scott Smith: How often would he have to change the sign for a laundry mat.

James Brewster: There are several angles that we may or may not have to look into. The definitions. What he is asking for and what is in our code.

Aleta Kinne: At that time, the church was not following, what their variance request was for. There was animation, so they were talked to again in 2018. It is supposed to be one message every 8 seconds. And one message must be completely gone before the next displayed message is on the sign. Other wise it is animation. It fades out and fades in.

James Brewster: That is important information, if we get to that. But with an interpretation it is different than a use variance. I do not know if we will get to that point.

Aleta Kinne: It's what an LED sign is.

James Brewster: It will be important for Gavin to introduce to us this one exists because of a use variance and because it was granted by a use variance excreta. This one is here because we do not know. For his benefit it would be nice to have that as well is something comes out to decide or not decide.

Nate VanWhy: I do not know how you have grappled with zoning code. The way I read the code has advertising sign, business sign roof sign wall sign, ground sign building sign and changeable copy sign. Why do we have six definitions? There are types of signs of physical structure and location of a sign which is ground, roof, wall. Some places might do pole sign how is it designed and there are 2 ways have the face of the sign. Any of those three can have a digital sign, or changeable copy sign or a static sign. Then under the code they have 2 broad categories advertising sign and business signs which can be roof wall or ground and changeable or not copy sign. Advertising is somebody else's stuff other than the property where the sign is located. Like a billboard, business sale for sale for their services at this location. Traditional like KFC. You must keep all that in mind. Sometime the code, for example under 73-15A talks about advertising signs but under that it says advertising signs are allowed in the districts and no roof signs are allowed. You do not need to say that. Saying no advertising signs you do not need to distinguish roof or ground. That is what we must unpack, ok what does our code say? We can talk for days or chuck it. The other thing that does not have it the language about LED signs and changeable copy signs were added in 2012. I asked Gavin to pull minutes from the meeting back then which I think he did. Those should be part of what you are looking at. Hopefully in 2012 the town did adopt what they intended.

Aleta Kinne: You would not believe the discussions we had at the meetings for Big E Tire.

Dan Wolters: That was for the church?

Aleta Kinne: Big E Tire

Nate VanWhy: Were they were granted a use variance, yes. Whether I agree or disagree with that, the decision has been made. At least it was a consistent approach. As far as the code being interpreted it is not allowed in any district.

Aleta Kinne: So, we really did not want it, but this is where New York State is because it was on a state highway.

James Brewster: We will be able to read those I have copies of the minutes.

Aleta Kinne: To control the colors, what runs the sign is a photocell on a keyboard. What they stressed so much then was safety, OSHA was pushing for it. Rather than people climbing up a ladder to change the sign.

Jon White: I think what you will find now a days in 2024 I think you can change it from your smart phone.

Scott Smith: That is even safer, smaller keyboard as long as they are not doing while driving, then it's not so safe.

Nate VanWhy: Safest sign is no sign at all.

James Brewster: We are getting those minutes, sounds like Gavin is going to produce other documentation for clarity. Can he send that to us ahead of time? Then he can declare or acknowledge at the public hearing.

Nate VanWhy: It should be part of your packet to review and post online as backup material.

Jon White: Would not be the same material he used for his justification.

James Brewster: There is no free pass here. He got to bring stuff, and he got to bring stuff.to prove their point. I don't think we need a dictionary for this one.

Nate VanWhy: Is there anything in this code that allows a digital sign? There is a provision here that expressly addresses it. It is a changeable type of sign. It is just looking through the rest of the sign regulations.73-14D3 is the one that says not allowed in any zoning district in the Town of Chenango. No advertising, roof and changeable copy signs unless you are a gas station.

James Brewster: There is a lot of hodge podge to the code, which you can see by the dates is how they made changes. You will see it when you read the

code, it is public knowledge. Just read the fine print. I am holding up the request for a motion until Adam gets back with the copies of the minutes.

Aleta Kinne: This was just the last meeting, there were tother meeting regarding Big E Tire. There was a denial at first, that is why we had a question if we needed a super majority.

James Brewster: If you can send a PDF to the pad for this, I will appreciate that. Any further preliminary discussion if not I will seek a motion to move this through the Planning Board and onto our September meeting.

Jon White: So moved Mr. Chairman

Dan Wolters: Second, Mr. Chairman

James Brewster: Can we have a roll call:

Adam Donahue:	Dan Wolters, 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
Ayes- 5 Nays - 0

James Brewster: We will move that through not sure what we will get from Planning Board. I should have said this during discussion, maybe Nate can tease it out of them.

Aleta Kinne: Last time they sent an unfavorable advisory unless they follow NYS DOT.

James Brewster: I am looking for their interpretation.

Aleta Kinne: Yes, I do not see the use variance or the interpretation any different. We had to interpret it for a use variance.

James Brewster: I honestly do not know.

Nate VanWhy: The standard for a use variance is set up in state law and you must show every element, the interpretation is different because if you

interpret it as being allowed then there is no need for a use variance. There is no test they must follow other than statutory construction. Plain meaning of the words in front of you and placing that in context to determine the intention of the meaning of your code does or does not allow.

James Brewster: I was going to ask it formally in the motion, you can tease out get a little more out of Planning Board. Favorable and not favorable does not really help.

Aleta Kinne: The second time through they put in conditions.

Nate VanWhy: They always use the phrase favorable, not favorable. I will get out of them yes; if it is allowed under the code, or it is not allowed interpreted by the code.

James Brewster: Without objection I will adjourn the August meeting of the Zoning Board of Appeals. Adjourned at 7:38 pm.

Respectfully submitted,



Diane Aurelio
Ordinance