

ZONING BOARD OF APPEALS  
SPECIAL MEETING FRIDAY, OCTOBER 11, 2024  
5:00 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  
Dan Wolters, Board Member Alternate

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

ABSENT: Aleta Kinne, Vice Chairperson

James Brewster: I will call the special meeting to order at 5:01 PM so welcome everyone. Can we have a call for the attendance.

Adam Donahue: Ms. Kinne is absent, Mr. Wolters: present, Mr. Miller: present, Mr. White: present, Mr. Smith: present, Mr. Wolters: present, Mr. Brewster: present.

James Brewster: We have a quorum. This is the continuation of our September meeting with two open public hearings. Start off with what exactly the agenda says. Public hearing for application:

- 2024-V 13 – THOMAS HUSON – 44 Stacy Dr. – TM#111.05-1-31- Application for an area variance to construct a garage ahead of the principal structure in an agricultural zone and short EAF.

Is there anybody here from the public that would like to speak for or against this application. Going twice. You are the applicants you can speak if you like. We have you on record from before. Three times no one here. I have read all the correspondence into the record last time. Everybody good with that any second readings? Alright with no objections I will close the public hearing now for 2024- V-14. There is no set agenda like we normally do it. We have determined under advisement that SEQR is determined to be a Type II So if we are all good with that can we have a motion to declare a

James Brewster: I'll seek a motion for Type II action under SEQR

Jon White: So moved Mr. Chairman.

Scott Smith: Second.

James Brewster: Can we have roll call:

Adam Donahue:	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 1- (Kinne)

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James Brewster: No further action to take on SEQR. We will move onto the discussion on the application itself.

Scott Smith: In my travels in the last couple weeks, I saw 2 properties on my own road that have garages in front of the house. And beyond that I saw a minimum of a couple dozen possibly be 35 or 40 . So, minimum of 2 on my road and at least 2 dozen so, it is not an uncommon situation.

James Brewster: Do you live in a residential area.

Scott Smith: Yes, the lots on my road are a lot smaller than their lot and the setbacks are a lot smaller. So, they have a lot more room in front of their house. So, it is not an uncommon thing in the Town of Chenango.

Dan Wolters: I drove past the property, and it looked entirely reasonable for what they want to do. I think it would fit with the current neighborhood. I don't have a problem with it.

Jon White: There are 1 or 2 other structures on Stacy Drive that are in front of the principal structures, just on their road themselves. And it is a secluded neighborhood anyway. And it is not 10 to 20 foot off the

road. I think it is a reasonable ask for what they are doing. anyway. It will not be an eyesore or obstruction for what they are looking for.

James Brewster: Ed, do you have anything.

Ed Miller: I agree with everybody else.

James Brewster: I tend to agree with you as well and they did state there were some reasons why they could not place it anywhere else. Well and septic I believe. As far as the environment goes, I think it will fit right in. If everybody is comfortable, we can go through the factors. The resolution here has a lot of statements about where the property is and we considered a Type II and duly noted twice and now we are considering all the testimony and correspondence that were provided to us from the Town Officers, Planning Board, Town Engineer and so forth. The Zoning Board of Appeals of the Town of Chenango, Broome County, New York, that regarding the variance request to construct a two- car garage 36 ft in front of the principal structure:  
You can chime in with an answer here.

1. The requested variance **will / will not** produce an undesirable change in the character of the neighborhood or cause detriment to nearby properties.

Board: Will not

2. The benefit sought by the Applicant **can /cannot** be achieved by another method, other than the grant of an area variance.

Board: Can not

3. The requested area variance **is/ is not** substantial.

Board: Is not

4. The requested variance **would / would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Board: Would not

5. The hardship giving rise to the variance request **is/ is not self-created**.

Board: Is

Just so everyone knows these are just guidance factors that we consider. For reasons of a negative or vote down an application.

6. Conditions required to mitigate potential adverse impacts, if any:

Board: No conditions.

The entire record of this proceeding supports the conclusion that the benefit to the

7. Applicant conferred by the granting of an area variance **outweighs / does not outweigh** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.

Board: Outweighs

**AND BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on October 11, 2024, at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York, the foregoing motion was made by Ed Miller and seconded by Scott Smith. The ZBA members voted as follows:

Adam Donahue:	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 1- (Kinne)

The motion was thereupon declared adopted by a roll-call vote of 5 to 0.

Ayes - 5      Nays - 0      Absent – 1 (Kinne)

James Brewster: Mr. Huson you have your area variance.

Mr. Huson: Who do we see next and do we just fill out the application and bring it to you or schedule a meeting with you.

Gavin Stiles: You can come see me, download the application off the website. Bring drawings, if you are going to build it yourself . You would need to fill out a CE200 which states you are doing it yourself. If you have a contractor we will need his proof of insurance workmen’s compensation from them. If they don’t need it they fill out the CE200 stating attestation they don’t have employees I’m a sole proprotor.

Mr. Huson: The structure is from the guy on Front Street, the Amish building.

Gavin Stiles: You can prep the area where it is going to go. When boards start going up that is when you call me.

Mr. Huson: To put a concrete pad in is part of the building permit, correct.

Gavin Stiles: Often.

Mr. Huson: Are there specifications that you want to see, like haunch dimension and thickness.

Gavin Stiles: If you are going to be heating it, then there is insulation that has to happen. Just give me a scope of work and we will pick apart.

Mr. Huson: We are free to go ahead and buy the structure now. We have worked through all the approval process necessary, correct?

Gavin Stiles: You can go ahead and put it out in front and meet your side yard setbacks. Size was not an issue. Drawing, proof of insurance and site plan. Basically, a helicopter view of the property. Here is where it is going to be located with the dimensions to the side yard setback greater than or equal to 10 feet. You are already allowed to have it out front.

Mr. Huson: Basically, what we already had in here for the variance. Ok.

Gavin Stiles: That all goes in with the building permit and you mostly have all that already.

Mr. Huson: Thank you.

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James Brewster: Next up is the interpretation for:

-2024-V11 BC Laundry LLC- Andre Haukal – 1367 Upper Front St. – TM#111.12-2-26- Application for a zoning interpretation to have an LED sign for BC Laundry after code officer denied the sign application.

The public hearing for that is still open heard testimony from the applicant and the town at the previous meeting. Is there anyone from the public that would like to speak for or against the interpretation. Going once, twice, three times and without objection I will close the public hearing.

Scott Smith: No objections sir.

James Brewster: The public hearing has been closed for 2024-V11. We also have to consider.

Nate VanWhy: You do not have to consider SEQR.

James Brewster: Seqr is not a factor with an interpretation, so we will not consider this, and we will get right into the discussion. Who would like to start?

Nate VanWhy: I would like to refresh your recollection when I asked the question of whether anything in the code allowed it, I believe he agreed that it is more like legislative decision than anything else. He said, "I wish we had it for batdom that is not allowed.

Jon White: There is nothing what's so ever allowed in any district for what he is looking to do.

Ed Miller: I agree with that.

Jon White: I guess that the sticky wicket would be, maybe I'm going down a rabbit hole I shouldn't. But previous boards allowed some of these signs on the state right-of-way. How does the state trump town law to be against it.

Nate VanWhy: So, the prior applications had use variances to the extent there was some discussion in 2018 about the state law trumping the town's regulations. I don't know what the legal advice was at the time. Perhaps the laws have changed since then.

Dan Wolters: My way of thinking is we are to interpret the law and what it states. A percentage of these applied for variance.

Nate VanWhy: His remedy is to apply for a use variance or a request to the Town Board to change the zoning code.

James Brewster: That's the way I see it too.

Jon White: I'm good.

James Brewster: The only thing I would add is the previous time the ordnance officer had concurred with the current one in interpreting the rules as they made all the other folks had LEDS legally obtain use variances. The boards granted, but I don't find to be correct. It is what it is, so they have them. So, for me that uphold the interpretation in my mind as being yes. It is in the code although messy that it is stuck in that one section, which the Planning Board pointed out. It does say all.

Scott Smith: The answer to this then would be we cannot grant something like that.

James Brewster: Not tonight, we are just interpreting the law. If he comes before us for a use variance that is a whole different argument. He has to meet 4 factors for the use variance.

Jon White: I thought there were 5 factors.

James Brewster: Not for a use variance. Either way he must meet all the factors and then we decide. Much more stringent regulation. That would be in our review material should this occur. There should be another use variance on any other type in the future with documentation on that. So no to answer your question we will not be granting anything. Just formulating a statement to adopt a statement.

Nate VanWhy: Do a motion to deny the interpretation appeal or phrase as a motion to uphold the code officer interpretation.

James Brewster: I guess for clarity a motion or actually, the previous interpretation there was a resolution. This one doesn't have one.

Nate VanWhy: What did we do for commercial self-storage. We were a little more through row with that because there were a lot of districts involved. There were 3 of them each in a different district. Motion or resolution both have the same effect actions by the board. This is fairly straight forward.

James Brewster: I'm good with whatever anyone wants to suggest. Town Board does everything by resolution. We are not held to that type of standard. However, in past practices we do.

Jon White: A resolution is more practiced when you are setting legislative action. So just interpreting exciting laws isn't necessary.

Nate VanWhy: The main reason the town board has a policy of all actions by resolution is previously the motions that were made at meetings were not necessarily finding their way into the minutes or then would be forgotten. Because there wasn't a separate piece of paper to stick in a folder titled resolutions. With good record keeping and the clerk's office now is doing a good job of recording things. Town Board is still doing most things by resolution. They have started to take some actions by motions when the need requires them to act. Now it just came up and we don't have a resolution.

James Brewster: I love motions, so if someone would like to make a motion.

Jon White: I make a motion to uphold the code enforcement's denial for the interpretation on this particular application.

Scott Smith: I'll second that.

James Brewster: Do we have any further discussion, any backing into it. We stated on the record, but is there anything we would like to wright down specifically, so it does make it to a piece of paper besides the minutes?

Jon White: I would say it is not allowed looking over the zoning the way it is written not allowed in any or all zones. Clean up the wording a little bit.

James Brewster: I don't think it is placed right in the code.

Ed Miller: More specific flashing sign, it's not LED.

Jon White: Technology has changed drastically, and the law has not kept up with it.

Ed Miller: You are exactly right. Years ago, LED lights were considered the Las Vegas strip.

Jon White: Your everyday light bulb is LED.

James Brester: Anything else, Motion and second to uphold the town code officer 's denial of a sign application based on our interpretation of the code as written. Can we have a vote.

Adam Donahue:	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 1- (Kinne)

James Brewster: Will there be some document.

Nate VanWhy: The office code in every case that you do should be submitting a decision letter to the applicant saying At this meeting the board took action.

Gavin Stiles: That is new to me. I don't know if we ever done it. On interpretations I don't think anyone has ever denied anything other than me. These interpretations are kind of new.

Nate VanWhy: Not just an interpretation for a variance, site plans or special use permits. There should be a final letter that comes the code department. At this meeting on this day was heard and the board voted to approve, deny, or place conditions etcetera. You may proceed with a building permit to formally document their decision.

Gavin Stiles: I'm sure Diane does that, and it goes through our software which generates something.

Nate VanWhy: I believe Diane has been sending those types of decisions out. That is where the decision will be formally embodied. Ideally would be signed by the chairman. I think it comes out under the code department.

Gavin Stiles: I think she signs them

James Brewster: I've seen where she signs my name with her initials. Kari would sign things for me as well.

Gavin Stiles: If that is the way we are supposed to be doing it.

James Brewster: I do want something to go out to the applicant. I thought it would come from our office.

Jon White: We are the ones that did the ruling on that from the Zoning Board of Appeals.

Nate Van Why: I think that would be a fine idea. And if Diane would let you know the decision was typed and you can have a chance to review it prior to it being sent out and come in and sign it.

Gavin Stiles: She can email it out and scan it whatever you want.

James Brewster: I won't pressure her. You are off Tuesday, so I'll swing by later.

Gavin Stiles: She will be here on Tuesday, closed on Monday. Diane told Adam the Planning Board got shifted to Tuesday.

James Brewster: See if she can do something quickly for Tuesday. I'm sure she probably has an idea.

Nate VanWhy: Mr. Chairman another thing flag to the Zoning Board attention is a positive thing in their tentative budget has included I think \$150,000.00 for purposes of getting a consensus to update the Comprehensive Plan. So, start that process. This is just informational we don't need to do anything but just as a FYI. Seems like a positive development if they actually keep it in the budget. Some action happening on that next year most likely. Fun time ahead. I actually just took that class at the place we usually have training. Then it is a springboard to step into clean up zoning. Lengthy process but it is a good thing as a focusing mechanism. Clean up the gobble gook that permeates our code that we have to deal with.

Jon White: That 30 years in the making for some of this to take a step forward to clean it up.

Nate VanWhy: I know the last plan was 2016, the Comprehensive Plan.

Jon White: They didn't clean up zoning itself. Just what direction do you want zones to go in the town. We are dealing with stuff that is commonplace in a lot of towns that we are not allowing has a lot of ambiguity to it. If you look back, a lot of the policies were made in the 80's if not sooner. I look at it as a good thing to clean it up to allow us a better tool for interpretation or control some of the variances that we hand out. Add a little common sense.

Ed Miller: Like requiring 6 acres for a gas station.

Jon White: 6 acres in a Pdd-c zone does need to be looked at.

James Brewster: We are at the end of our agenda for the special meeting, without objection adjourn the meeting.

Board: Unanimously agreed to adjourn the meeting at 5:32 p.m.

Respectfully submitted



Diane Aurelio  
Ordinance Office