

ZONING BOARD MEETING
TUESDAY—JULY 25, 2023
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
Ed Miller, Board Member
Dan Wolters, Alternate Board Member

Also Present: Nick Cortese, Attorney
Gavin Stiles, Ordinance Officer
Kari Strabo, Zoning Secretary

James Brewster: Good evening, everyone. I'm going to call the July meeting of the Town of Chenango Zoning Board of Appeals to order here. It's 7:00, may I have a roll call for Board attendance please, Kari?

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

James Brewster: Ok we have a quorum and our alternate so we're good to go with the meeting to continue on. I just want to welcome everybody here that's in attendance tonight, the applicants and the other citizens. Next we move on to discussion and approval of the minutes from the June 20th meeting. Does anybody have any comments, questions, suggestions, changes?

Jon White: Very good.

James Brewster: Ok, I'll seek a motion to approve them.

Jon White: So moved, Mr. Chairman.

Ed Miller: I'll second that.

James Brewster: Ok, motion made and seconded, roll call please.

Kari Strabo:	Ed 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 a roll call of:
Ayes – 5 Nays – 0

James Brewster: June minutes approved and can be posted as usual. We have no new business or in other words no new applications to approve this month so we will go right into starting off with our first public hearing. This is a notice of Disclosure of Conflict and Consent to Waive: "The undersigned hereby

acknowledge that Coughlin & Gerhart, LLP has fully disclosed that it currently serves as general counsel to the Town of Chenango Zoning Board of Appeals (the "ZBA") on all appeals that come before it, including area variance application V2023-05, which was submitted by Michael Mastro and is currently pending before the ZBA. The undersigned further acknowledge that this may represent a conflict of interest with regard to Coughlin & Gerhart's representation of Michael Mastro in matters unrelated to the above-referenced proceeding. The undersigned further acknowledge that Michael Mastro is proceeding without an attorney with regard to said appeal, that Coughlin & Gerhart, LLP represents only the interests of the ZBA on said appeal, and that the undersigned hereby waive any conflicts of interest that may be caused by Coughlin & Gerhart, LLP's representation of the ZBA in said proceeding. This document may be executed in counterparts, which shall collectively be considered one original. Facsimile or PDF signatures are acceptable." Mr. Cortese, would you like to further comment on that?

Nick Cortese: Basically just to state in plain English that we represented Mr. Mastro in some other matters that aren't related to this property or application. We never helped him prepare this application or had anything to do with it and he has already signed his portion of the conflict waiver and so if you'd like me to continue to represent the ZBA on this matter I need a motion to authorize you to execute it on behalf of the ZBA.

James Brewster: Board members, we all got copies of that through email and hard copy tonight. Is there any preliminary discussion?

Aleta Kinne: Did you represent Mr. Mastro when it went to Planning Board?

Nick Cortese: No. Had we had anything at the Planning Board for this one?

Gavin Stiles: An advisory.

Nick Cortese: I wasn't at that meeting.

Aleta Kinne: That's fine, go ahead.

James Brewster: If we are all in agreement to charge me with signing this waiver then we can continue on with the public hearing but we do need a motion and second to carry forward.

Scott Smith: So moved, Mr. Chairman.

Jon White: I'll second it Mr. Chairman.

James Brewster: Ok, and that is to charge me with signing this in approval. We'll do a roll call on that please.

Kari Strabo:	Ed 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 a roll call of:

Ayes – 5 Nays – 0

Nick Cortese: I guess I should also note as well that if at any point forward to have interests that became adverse to Mr. Mastro's interests, ie. you were to deny one or both of the variances tonight our firm would be recusing ourselves from representing the Town and him in any subsequent legal proceedings that might follow. That's not to say that there would be any but supposing that there is, I wouldn't be involved in that, my firm wouldn't be involved in that on either side of it.

James Brewster: All right. That's been executed so we will carry on. That brings us to the first public hearing that is number 2023-V05, Michael Mastro of 267 Poplar Hill Rd, application for a double area variance to build a pole barn exceeding the maximum size from 1500 sq ft to 6960 sq ft and exceeding the maximum height from 16' to 30' in a Residential Zone with a short EAF. Are there any objections from the Board for me to open the public hearing at this time?

Board: No.

James Brewster: Ok, we'll open the public hearing for the Mastro application at this time. Are the Mastros here tonight? Yes, good. So the first thing we do just to outline things is we give the applicant the opportunity to speak and answer a few questions that I have that go toward the five factors that we consider and I do know we did have a letter that sort of addresses that. We just go into more detail for the record and then we'll open it up to the public and we'll have some correspondence to read as well. The first question that I have is just in general, tell us about your project, the reasons for basically why are we here tonight?

Michael Mastro: We're here for size and height variance. I'm building a building to store my equipment in, I have an antique tractor collection and I need a building for storage. Anything I do, I do perfectly. Everything will be matching my house, it'll be the same colors, same color garage doors, everything will match. You will barely see it from the street. You'll just see part of the roof from the street and there's nobody in the Town of Chenango that will see this building from their home except Dave Warpus which lives across the street which has no problem with it, I talked to him already. It'll be up on the hill because we have several acres of land so it would be up the driveway where Mr. Maines was going to build his big house back in the day. It's going to be up in that area of the property.

James Brewster: Ok. Any general questions right now before I get into the meat of the other factors?

Jon White: I have two questions. How many tractors do you have?

Michael Mastro: I have probably 11 or 12 antique tractors and I also have several thousand dollars worth of grounds equipment that I have on my property that I use everyday for mowing and digging and moving earth and trimming through the woods. I have a lot of personal equipment.

Jon White: Where do you keep your antique tractors now?

Michael Mastro: Right now they're stored in Norwich.

Jon White: Ok, that's all I have.

Ed Miller: The other equipment you have is for personal use? It's not business?

Michael Mastro: No, I have four mowers. It takes all four mowers to mow our property. I have a lot of equipment and we use it up there everyday for something.

Aleta Kinne: Do you intend to move any of your business out to this location?

Michael Mastro: No.

James Brewster: All right, I'll move on to the next question I have for you. I'll ask it for clarity, you've touched on it a little bit. In asking for this variance are you going to be creating an undesirable change in the character of the neighborhood or negatively affecting the nearby properties?

Michael Mastro: Absolutely not.

James Brewster: And like I said I think you touched on it before, there's probably not much else to say. Does anybody else on the Board have any specific questions to that factor right now?

Ed Miller: 30 feet is the peak?

Michael Mastro: There's one section that's a higher bay so I can get the bigger machinery in. I forget what it is on the plan, most of the building is a ten-foot wall which I doubt you'll even see on the street with the way we've moved the earth up. I've kind of taken all the dirt and brought it up and graded it around so it's not an eyesore. You're not going to drive by and see some big building up there from the street. It's all ten-foot walls around and I have a bay in the back that's higher and I think the peak of that is why we have to get the variance. I think the rest of the building is fine, it's just that one section.

Aleta Kinne: Are you putting electric in it?

Michael Mastro: I will someday but not right now, no. It's just going to be storage.

Aleta Kinne: How about plumbing, a restroom?

Michael Mastro: No. It's just going to be a concrete floor and four walls. Someday if I decide to do more into it I'll go to the Town and get a permit and ask to finish it or whatever but for now it's just going to be for storage.

Scott Smith: No lighting of any kind?

Michael Mastro: No, so far no. We're just building a shell.

James Brewster: Ok. Is there any other way to come in smaller and I'll preface that by saying we granted you a variance for 24 feet in height back in 2021 so, what happened to that?

Michael Mastro: I didn't end up building.

James Brewster: Understood. You can't build something to those previously granted specs that would suit your needs?

Michael Mastro: I have so much stuff, I like to keep all my stuff inside. I don't like to look like a parking lot or anything. I like to keep all my stuff inside that's why I'm asking for the size. I've had some issues with kids in the neighborhood out back, going out back and tinkering with things. I haven't had any significant damage but there's been people up there, I think it's kids going at night up there, up the little road in the back up there off Airport Rd and playing around with the equipment. I see doors left open and stuff like that so I'd prefer to keep everything inside, that's just how I am.

Ed Miller: What equipment do you have besides mowers and stuff like that?

Michael Mastro: I've got a mini excavator, I have several tractors.

Ed Miller: Dump trucks?

Michael Mastro: No I don't have any dump trucks. It takes a lot of equipment to maintain this property. I do it right and I do it nice and I spend a lot of money on this property to maintain this property and I don't want to leave it outside.

James Brewster: Next question is, in your opinion and based on the numbers that you're asking for, is your variance request substantial? And, considering the what the existing zoning allows you to do, do you consider it yourself to be a big ask?

Michael Mastro: I think so, it's a good sized building but we have the acres and like I said it's not going to be a big monstrosity when you drive by, this big building on the hill. It's not going to be like that. It's going to be set down, graded properly and you'll see a little bit of the roof when you drive by. The first thing I did was talk to Dave Warpus about it, he's directly across the street. He's the only person in the Town of Chenango that's going to look at it from his house and he didn't have any problem with it. I told him what I was doing and he said 'I don't have a problem with it. If I did I'd go to the meeting.' That's exactly what he told me yesterday.

James Brewster: Lastly, in your effort to build this thing, will there be a lot of tearing up of the physical environment in the neighborhood, affecting the neighborhood for years to come? Basically, just kind of give us an idea, you said you're going to grade but what kind of potential physical harm do you see could happen that could be lasting?

Michael Mastro: I don't see any harm to what I'm doing. I'm going to make it better. It was all woods, it was ugly up there. I'm going to put more grass in, we keep our grass mowed. I'm going to add probably a half an acre to an acre more of grass, it's going to be more cleaned up. I've spent over a million dollars on this property, cleaning it up and excavating and trimming and building driveways and stone walls and I beautified the property. It looked like a junkyard for 12 years up there. I bought the property and put a ton of money into it. I don't want my place to look like a junkyard, I want everything to be nice, clean, and neat and that's how I keep everything, including this building.

James Brewster: Questions on the environmental effects?

Aleta Kinne: Is that a usable gravel pit up there?

Michael Mastro: No, I filled the hole in. I brought stuff in to fill that hole in. When Mr. Maines took his foundation out there was a giant hole up there that I filled in. But I don't take anything off the property, no. Actually it's all final graded, rolled, and it's waiting for the grass to grow. There's no building or anything going on up there.

Aleta Kinne: What do you plan about the runoff?

Michael Mastro: I already have a plan to take all the drainage off the building and run it to the pond. There's already been a 12-inch pipe put in from the Maines' house and I can just run the drains off the downspouts and right into the pond. That's just what I'm planning on, any runoff from the building will go right to the pond. It's already there, there's 12-inch pipes running right to the pond.

James Brewster: That's the formal questions that we have to ask. I do have a follow up question. In looking at the plan you submitted and then looking at the Broome GIS, you have two properties back there, right?

Michael Mastro: One is under Poplar LLC and one is under me.

James Brewster: Right, so it looks to me and we can only trust the satellite a little bit, that the area that looks apparently like it may be cleared out for your building, it looks like it straddles the property line? On this plan here, there's that little depiction of a building, what can you say about that in reality?

Michael Mastro: It's like 25-30 ft away from the property line.

James Brewster: So the building you're proposing, you've got it marked at like 15 ft.

Michael Mastro: What I'm doing is, if you went up the big driveway over to the left there's a stone wall at the top. I've cleaned up the area and I've brought the whole building this way and I used that dirt to mound up so you don't see the building. That's why I was regrading that whole area so if you're driving by and you look up at the property, basically you're just going to see the tip of the building and that's where I'm putting that grass area. I'm using that dirt to go around the other side and grading it off. I've mounded it up so you don't see the building.

James Brewster: There's just this depiction of what looks like a building that crosses the line. It doesn't exist?

Michael Mastro: It's at least 25 feet from the line in the back. I don't know if that's just a line from the map or some other line, I don't know what it is, but it's not near the property line.

James Brewster: Ok. It's in the documentation, I just wanted to clear that up. Does everybody see that on their map?

Jon White: Yeah, that actually brings a question to me. Is the house a separate tax map number from the parcel you want to build this on?

Michael Mastro: No, same tax map number.

Jon White: So it's all one parcel.

Michael Mastro: It's all on 12.57 acres.

Jon White: Ok, so it's all one tax map, all one parcel.

Michael Mastro: Yup.

Jon White: Because you did bring the question up of that this parcel was under the 267...

Michael Mastro: The back parcel is.

Jon White: Poplar Hill, you're not touching that.

Michael Mastro: Exactly.

Jon White: This building's going to be 25 feet away from the 267 parcel.

Michael Mastro: Approximately 25. Whatever the legal limit is, but it's going to be way more than the legal limit. Is the legal limit 5 feet or something like that?

Jon White: No, it's 25 feet.

Gavin Stiles: He's residential so it's 5' and 5'.

Michael Mastro: Yeah, it's going to be way more. But it's all one 267 Poplar Hill Rd, the building and the house.

Jon White: It's all on one parcel.

Michael Mastro: Yeah, on 12.57 acres.

Jon White: Ok, I just wanted to have that for clarity. I'm good.

James Brewster: Ok, any final questions from the Board?

Scott Smith: One quick one, you mentioned earlier, in 2021 you had an application in for a height variance as well and that was for a building that was closer to the house.

Michael Mastro: I was going to build a garage and I scrapped that idea. For the price of it I just put a little shed up, got a permit from Gavin and put a shed up.

Scott Smith: Ok, so it's a separate building and a separate area. Ok.

James Brewster: All right, thank you and thank you Board. Anyone from the public like to speak for or against this application?

MaryJane Nugent: We are on 44 VanKuren Dr which abuts the property from the rear. My name is MaryJane Nugent, I am a retired attorney with Coughlin and Gerhart and we object to the building because even as I'm listening to him say it's farther away from the road, it becomes closer to our property. If it's any indication for the past few months it's been consistent and continual construction every day. There isn't a day that there isn't some equipment digging and backing up and beeping. On Sunday at 7:00 PM, it's constant, so we're concerned about the equipment going in and out of this building and I believe that we're going to be able to see it right through our trees, especially in the winter because it's tall. I also think that it detracts from the residential quality and quiet of our neighborhood. The people who live next to us have a letter of rejection on those same grounds and Don is on the other side. This is my husband and we live at the property that I think we are going to be the most affected by this so I'm hoping that you guys can see that this just doesn't stay consistent, it's not an industrial, agricultural area. This is a very, very large variance from what the Town has permitted in the past. Where does it end, if you start allowing these types of structures? It's setting a precedent.

William Kucko: Does that open the door for anybody else to achieve a variance like that easily or?

James Brewster: We take one property at a time. Of course, everything has to be considered as far as testimony goes.

MaryJane Nugent: It would definitely impact our property value.

William Kucko: Our property sits above this property so the elevation essentially, we look down on it. During the winter months, we haven't seen a plan as to exactly where on that property this is positioned and so it certainly lacks a bit of clarity in terms of what exactly it is that we're talking about. I would also be curious as to what type of personal, residential, landscaping, mowing equipment requires 30-foot ceiling on the structure.

MaryJane Nugent: If I could just read one paragraph from the neighbor's letter because they couldn't be here which represents how we feel as well.

James Brewster: If you wanted to submit it to the record I could read it because I have correspondence I have to read from here too.

MaryJane Nugent: You're going to read it out loud?

James Brewster: Yeah, I will. It's up to you if you wanted to.

MaryJane Nugent: I would like to say just that part please. 'Our home of 18 years is approximately 300 yards from the parcel in question. Incessant construction noises have been generated for months now. The housing of heavy equipment on a residential lot not only detracts from serenity of our quiet neighborhood, but never before have we been subject to unending construction sounds.' That's just one paragraph of this.

William Kucko: We have lived there since 1982 and had to labor through Mr. Maines' debacles in terms of construction for years so we're not looking forward to the ongoing situation.

James Brewster: Thank you. Anyone else on this application?

Don Nash: I guess I'll put in two cents, I'm Doc Nash, I abut your property on Clyde Gruver Rd, right next door to Kutchkos. I honestly don't have a problem with your plan and the building. I agree you probably wouldn't notice it the way that you're going to side it. I don't have a problem with that. You could put the Mormon Tabernacle on that property and I wouldn't be able to see it.

Michael Mastro: No one's going to be able to see it.

Don Nash: Could I prevail on you not to do construction before about 8 in the morning and maybe take Sundays off?

Michael Mastro: We've been under construction on that property since the day I bought it. We're always cutting trees down or always doing something but we're beautifying the property where it looked like a junkyard before with cars behind there. It looked like a piece of crap. I've spent loads and loads of money cleaning that property up and making it better for everyone to drive by and look at. Unfortunately you can't get anyone to work anymore so sometimes someone will be able to work on a Saturday or Sunday when you can get them and everybody is so busy, it is what it is. The excavation is done. I'm done filling the holes and a lot of the work is pretty much done.

James Brewster: Anyone else?

Henrietta Slottje: I guess I just want to agree with the noise. We are on Airport Rd and so our backyards are connected and we have the same thing that there's a lot of construction going on.

James Brewster: Anyone else from the public? Ok, I'll read my correspondence. We get comments from various other Town entities such as the drainage coordinator and so forth and they submit letters back for us to consider their opinion on. First of all, I have the Town engineer, he states: 'Project is subject to a 239 review, the project is within 500 ft of a New York State Ag & Markets Agricultural District however as an area variance it does not trigger a requirement for an Ag Data Statement. Consideration could be given to request a deeper rear setback (example code table for accessory Agricultural District with a 25 feet height require side and rear yards at 25 feet). We have no engineering objections to the variances.' Now from our Planning Board Advisory, regarding application 2023-V05: 'The Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory.' The drainage coordinator submitted his form as an approval, and now for the County comments: 'The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project. However, we have the following comments:
The variances seem substantial, and the Town ZBA should consider the precedent granting this variance would set. Clear documentation of the particularly unique site and project circumstances justifying such a variance is recommended to avoid unintended consequences elsewhere, particularly in the Residential District where the general character is smaller in scale, allowed maximum density per acre is greater and required minimum lot size and setbacks are less.
The Town ZBA should also consider the recent Town Board efforts and adoption of Local Law 6-2022 (November 2022) to amend and set the allowable square footage for detached garage at 1,500 SF (not to exceed 1,500 SF).
The site plan should show compliance with BCHD (see BCHD comments), zoning

notes, drainage, and assurances of appropriate emergency vehicle access. Both the site plan and SEQR SEAF should include/address the area of disturbance and NWI wetlands that occupy the project tax map (see BCGIS).

The Town ZBA should consider the need for before and after renderings of the project site to demonstrate that the existing trees would block a majority of the structure from Poplar Hill Road as indicated in the project submittal and to assess potential impacts to the visual character of the area and the need for additional tree screening and/or tree maintenance to the extent necessary. The case file was routed to the Broome County Department of Public Works (DPW) and Broome County Health Department (BCHD) for review. Enclosed are comments from the BCHD that need to be addressed. DPW had no comments.' From the Health Department, Matthew Laine: 'Tractor equipment should be stored inside the facility on an impermeable surface to prevent the contamination of soil and/or groundwater from accidental spills or releases of hazardous chemicals. There should be no floor drains in tractor storage areas. A spill response plan and equipment should be readily available onsite for any spills, leaks or other discharges of hazardous materials/wastes. Plan to include notification to NYS Spill Hotline of any "Reportable Spill" as defined by NYS DEC.' That is it for the commentary and now I will go to Ordinance before I read this letter.

Gavin Stiles: I am going to defer to the Board, if the Board pushes this forward we will need a building permit. I'm not going to get involved in any of this.

James Brewster: All right. And the letter submitted by the folks at 44 Vankuren for 40 Vankuren: 'To the Men & Women of the Town of Chenango Zoning Board of Appeals, We have just received a notice tonight regarding the application of the resident at 267 Poplar Hill Rd for a variance to build an excessive building on their lot. Not only does this not allow for us to attend this meeting in person, but we barely have enough time to prepare a written objection for our neighbors to take with them to the public hearing. Our home of 18 years is approximately 300 yards from the parcel in question. Incessant construction noises have been generated for months now. The housing of heavy equipment on a residential lot not only detracts from serenity of our quiet neighborhood, but never before have we been subject to unending construction sounds. We object to this variance. Any other party to own the subject property in the future would likely have no need for such an exorbitant garage and it has no place in a residential district. Thank you for your time and consideration, Lorelee Schultz & Richard Schultz.' So, anything from the Board?

Jon White: Anything I have to say can wait until we talk amongst ourselves. No more questions.

James Brewster: Without any objections from the Board, would you allow me to close the public hearing at this time? All in favor, say aye.

Board: Aye.

James Brewster: The public hearing is now closed for 2023-V05. An administrative thing, what we do is open and close the public hearings, have a discussion and then move forward with the next public hearing and then we come back around and do the Board discussion and so without objection I'm going to open the public hearing for 2023-V06, Chad Wildey of 562 Oak Hill Rd, an application for a variance to construct a pole barn exceeding the maximum size from 1500' to 2400' in an Agricultural zone and we will conduct a short environmental review.

Kelly Wildey: Hi, Kelly Wildey.

Aleta Kinne: Can I ask a question? Why is the applicant Edele?

Kelly Wildey: She should not be the applicant. She does not own the property, I don't know why her name was still on that paperwork. She is deceased so I have no idea why her name was on there. She was on something that was printed from the Town.

Aleta Kinne: You own the property?

Kelly Wildey: Yes, Chad and I do. That was an error from the Town on their paperwork.

Gavin Stiles: That wouldn't come from here, that would be the County.

Kari Strabo: No, it was from here but if we don't get a property transfer from the County we don't change it in our program.

Kelly Wildey: It had to have been transferred, we've been paying the taxes for five years.

Kari Strabo: We didn't get one, I can't change it without a property transfer from the County. We're not saying we don't think you own it.

Ed Miller: You're saying the County never sent it to you.

Kari Strabo: Right, which they tend not to do.

James Brewster: I actually did check the GIS records and you are shown as the owners of that property and I dug deeper and I'm satisfied that you are the owners of the property.

Kelly Wildey: So, what do I need to do to get her name off future paperwork? We bought it private party from Edele before she passed.

Nick Cortese: The property card would have to be updated. At the end of the day this shouldn't hold up your decision on this application.

James Brewster: No. Let's start off with, tell us about your project, why are you here before us tonight asking for this variance?

Kelly Wildey: Pole barn to house our vehicles. We also have 32 acres so we have some lawn equipment to mow that yard if you call it a yard. It's large. We also have some all-terrain vehicles. We have young boys so they have some dirt bikes and some 4-wheelers, things like that that we just need to house inside.

James Brewster: And refresh my memory, what's the size?

Kelly Wildey: 40'x60'.

James Brewster: Any general questions to start off, Board?

Aleta Kinne: One story or two?

Kelly Wildey: One, I guess it's going to have attic trusses but it's going to be just storage up there.

Aleta Kinne: I wish we got site plans like we used to so we know a lot of this stuff. We don't get the detailed site plans anymore.

Nick Cortese: It's an accessory structure, there's no need for a site plan and there's no requirement that anybody submits anything other than the most cursory sketch to you guys.

Scott Smith: Will you be connecting any water?

Kelly Wildey: No.

Aleta Kinne: How close it this to your septic system?

Kelly Wildey: It's at the other end of the house. So, you're looking at our house, our garage is going to be at that end, and the septic is at the opposite end toward the road.

James Brewster: All right, so in your opinion, you're asking for this variance, are you going to be creating an undesirable change in the character of the neighborhood or negatively affecting other properties with this building?

Kelly Wildey: No. It's going to be within limits away from each property line and it's going to match the house.

James Brewster: Ok, specific questions on factor number one?

Jon White: You did mention having attic trusses so will you be under your 16 foot height?

Kelly Wildey: Yes.

Jon White: She could be higher because she's Ag.

Gavin Stiles: In Ag you can go a little bit higher but it increases your setbacks. I don't have that paperwork but there is an exception at the bottom of the page where you can go a little bit higher but it increases the setbacks. Nick, are you looking at that?

Nick Cortese: I'm not looking at that, should I be looking at that?

Kari Strabo: 73-45.

James Brewster: Ok, I'll continue on with our questioning as long as we're good on number one. Is there any other way you can achieve this without asking for a variance?

Kelly Wildey: It wouldn't fit our equipment and our vehicles.

Nick Cortese: Building height for an accessory structure is 16' in the Agricultural district unless the setbacks for both rear and side are 25' in which case a building height of 25' is allowable as of right.

Gavin Stiles: Ok.

James Brewster: We're not even considering height for this particular one anyways.

Jon White: I just want her to be aware that if they were going to do attic trusses and an increase in height, we're not going to see a second variance, that's where I was going.

Gavin Stiles: It would be very difficult to achieve a usable attic without... I know where you're going.

Jon White: Right, and I wouldn't want to have them come back in another two months to have to do now the height. Just to make it in the public record that you do know that these are the rules you have to play by.

James Brewster: Ok. In your opinion, the difference between what's allowed in the existing zoning and what you're asking for, do you find that to be a substantial change?

Kelly Wildey: No.

James Brewster: Why?

Kelly Wildey: That's the size we need to house the equipment for 32 acres. Two vehicles now, and I have kids that will be driving soon so we'll need more room for more vehicles.

James Brewster: Are there any other accessories? Is this your first garage/barn?

Kelly Wildey: Yes. The garage we have is underneath the house and our vehicles don't even fit in it.

James Brewster: Any follow up on that particular section?

Jon White: Have you thought about doing two separate structures? Because you could do two separate 1500' structures.

Kelly Wildey: Have you seen the property? There's not enough level property for two separate structures.

Jon White: You could always level it. I'm just saying that you could do two separate structures, get more square footage and be in your legal limit and not have to get a variance for it.

Kelly Wildey: We prefer one to keep it a little bit simple.

Jon White: You could bring in the cost factor because doing two separate structures adds a cost too.

James Brewster: Lastly for our purposes, will the granting of the variance, should we do so, have an adverse impact on the environment? Meaning, when you build it are you going to be tearing up a whole bunch of things and hurting the environment?

Kelly Wildey: No, the land is already cleared and was cleared, it was grass before and now it's dirt.

James Brewster: Ok. Environmental questions from anyone here, from the Board? No, ok. Will you be doing any maintenance on the machinery in there?

Kelly Wildey: Simple oil changes and things like that.

James Brewster: All right. Last call from the Board on questions?

Jon White: I'm good.

James Brewster: Ok. Is there anybody here who would like to speak for or against this application? Seeing none, I will move on to our correspondence. Let's try the engineer again on this one. In summary, you are close to an Agricultural District if not in one, and 'we have no engineering objections to the variance.' The Planning Board advisory: 'The Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory.' The drainage coordinator has submitted an approval form after his review,

and now onto the County: 'The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project. However, we have the following comments: The variance seems substantial, and the Town ZBA should consider the precedent granting this variance would set. Clear documentation of the particularly unique site and project circumstances justifying such a variance is recommended to avoid unintended consequences elsewhere.

The Town ZBA should also consider the recent Town Board efforts and adoption of Local Law 6-2022 (November 2022) to amend and set the allowable square footage for detached garage at 1,500 SF (not to exceed 1,500 SF).

The site plan should show the drainage; zoning notes showing the required and proposed dimensions, with heights and setbacks; and before and after photos as viewed from the road.

The case file was routed to the Broome County Health Department (BCHD) for review. BCHD had no comments.' And that is it from the County. I have no additional correspondence from residents or anything so last call from the Board for questions otherwise without objection I will close public hearing 2023-V06. Any objections?

Board: No.

James Brewster: Ok, public hearing 2023-V06 is closed. Thank you. Now we'll move back to processing application number five at 267 Poplar Hill and we must go through a SEQR Environmental Review which I'll have Mr. Cortese take us through the form.

Nick Cortese: Ok, so this is a short EAF as this is an unlisted action and for this particular application we have two area variances to do but we're just going to do one environmental review for both because it's the same project. I'll ask you the questions from part two, please answer no for no or small environmental impact. Please answer yes for moderate or large environmental impact and then we'll move onto part three after we get done with this one and perhaps have some discussion. Number 1--Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Aleta Kinne: Yes.

James Brewster: Small.

Jon White: Small.

Ed Miller: Small.

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

Ed Miller: Yes.

Aleta Kinne: Yes.

Jon White: It will.

James Brewster: Can you clarify those yeses in terms of moderate or large?

Scott Smith: Small, but intensity of use of land as he moves things around and does construction and stuff will, although once the building is done it's a home with a storage area so very little.

Jon White: I say no.

James Brewster: I'm on small.

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

Ed Miller: Yes.

James Brewster: Can we get clarification on that?

Ed Miller: It's obviously a big huge building in a residential neighborhood.

James Brewster: Correct but this is the part of the environmental where we kind of weigh the differences between a smaller project and a very large multimillion dollar study would have to be conducted.

Ed Miller: Maybe that's where it's gotta go. The County's recommendation of renderings is a good idea for the neighbors. What they're meaning by that is to have an architect draw the building, draw the trees, and see what it looks like.

Nick Cortese: Just for a point of clarification, that's not really what an environmental impact statement does. If you end up issuing a positive declaration for this or any other variance that you would consider, basically what ends up happening is that a multi-hundred page environmental study is done that analyzes every aspect of the environmental impact and that may incidentally include aesthetics, but what they're really driving at is drainage, erosion, problems that could create...

Ed Miller: I thought it was for the neighborhood in general.

Nick Cortese: It is, but that's one aspect of what an EIS is and it would be a challenging thing to require one for just not liking the way that the building looks. We have other recourse to deal with that.

Aleta Kinne: The noise.

Nick Cortese: There's no noise that's created by a variance.

Aleta Kinne: No, that isn't what I meant.

James Brewster: The project has the potential to create noise, there's no question there.

Jon White: But being a storage facility it doesn't create any noise.

James Brewster: Exactly.

Aleta Kinne: But it's residential.

Nick Cortese: What the consensus is or at least if the majority of you answer moderate to large impact on impairing the character or quality of the existing community, just be prepared to offer some rationale in more depth when we get to part three, that's all. Even if you answer moderate to large that's fine and we can still issue a negative declaration if we feel that an EIS for a storage barn is not required. We just have to justify why we answered the way that we answered and why we would still issue a negative declaration in spite of our answers, that's all. I'm not trying to curtail anybody from answering in a certain way.

James Brewster: It sounds like we might need a straw poll here to get the actual answer for this particular question. If you think this requires a moderate or high, raise your hand (2 hands raised). If you're small or no raise your hand (3 hands raised). Ok, I guess we'll go with the consensus.

Nick Cortese: That will prevail. 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.

Aleta Kinne: He said in the future, not now.

Nick Cortese: Ok. What would be your answer now?

Aleta Kinne: Right now? Small.

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: Small.

Aleta Kinne: That was my question, he said it could be large but he’s got it under control.

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

Board: No.

Nick Cortese: So you’ve answered no or small impact for all the questions in part two. With that being the case my presumption would be that you’d be issuing a negative declaration in part three. If that’s the case you can make a motion for that negative declaration.

Ed Miller: I’ll make the motion.

Jon White: I’ll second it.

Kari Strabo: Ed 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 a roll call of:

Ayes – 5 Nays – 0

- James Brewster: Ok, we have a negative declaration according to SEQR. So, now Board members, we open this up for discussion of the actual variance. Who wants to begin?
- Jon White: This thing's quite large.
- Scott Smith: It is.
- Jon White: I really wonder why it needs to be so high. I know what I can get in mine and what I can do with mine and I know how tall mine is. Even just doing some of the math on what he's looking to store in there, we're asking double the amount but that's my opinion. So, the biggest thing is this is in a Residential zone and we're asking 5460 sq ft above and beyond the 1500, so it's quite substantial. I think things could be done differently. This is another situation where two separate buildings could be built. Well, he's got a shed so that constitutes, he could argue that.
- James Brewster: Because the allowance is two accessories.
- Jon White: Correct, and he already put a shed to store some stuff but it is excessive. That's my first opinion on this, I'd like to hear from my fellow Board members to see what their opinions are.
- Ed Miller: I was thinking along the same lines. I think that's a big structure for a residential neighborhood.
- Aleta Kinne: It's setting precedent that in the future are we going to be putting in warehouses in our residential areas in the Town? I think like they said, we have a code that the Board put in and this is way excessive.
- Scott Smith: I agree with Aleta in that respect and yes we should be very careful when we proceed in allowing for larger structures. One of the things that I noted while we listened to the neighbors was that most of the complaints were for noise and life interruption now so when it's done I would have to assume that there's a lot less of that. It would be a lot quieter once it's done. Once all the trees are done, when you have a final product the neighbors aren't still hearing noise to that degree. There was very little mention of the height of the building from the neighbors. Was there one comment?
- MaryJane Nugent: Yeah, it's definitely going to be seen from our property.
- Scott Smith: Ok, one neighbor that had a concern with the height, maybe more. We don't have all the neighbors from the neighborhood. Nobody mentioned the square feet but yes, we do it once and we'll get more. So, how we proceed is with caution.
- Jon White: I also want to interject too, it's not like we haven't entertained another variance on this property and allowed Mr. Mastro to do something else. He still has a variance to build a building that's 24 feet high. We can't take that away from him.
- Scott Smith: How many square feet was that?
- Jon White: He was asking 1500' at the time, because it was just a single variance just for height. It's not like we haven't shown that we're willing to allow him to do something and I think that this is excessive. I know that he's got 12 acres but he's still in a Residential zone and that's ultimately

what it comes down to unfortunately, this kind of situation like we always say, we look at this on a case by case basis but being in that Residential zone unfortunately as the owner he will kind of get punished for having that property and can't possibly utilize it to the full effect. It's also not like it's a conforming building when you look at Agricultural and they're wanting to do a 7000 sq ft building but they're running a farm. It's conforming to what they're trying to do with their property. This is a storage building. At what point do we say enough on size for storage buildings, especially in a residential area?

Ed Miller: I think the key is residential.

Scott Smith: So what's the limit?

Jon White: Well no, that brings that point up of what is the limit?

Ed Miller: Whatever the code says.

Jon White: When Scott says that, it's more like in the variance.

James Brewster: I think what he's saying what's an acceptable variance from the code?

Scott Smith: Yeah, and how do we determine that number.

James Brewster: That's a good question but that's what we do and we've done it before.

Scott Smith: We're not going to make the guy reapply 16 times until he comes up with a magic number.

Nick Cortese: If I could offer something, there's really no way that you can establish a cap. I guess maybe through the years of your decisions one could be discernable, but the cap is what the zoning code says it is and what you choose to vary it from deals with all the factors that you're talking about now. One thing that I would reiterate is that I think it's the County made the comment, evidence should be shown that this property is uniquely situated to accommodate something like this if you're going to allow it. If you determine that the property is so unique that it can accommodate a structure like this, then you're not necessarily binding yourself to a subsequent determination unless it truly is an apples to apples determination. If the dimensions of the property are different, if it's a smaller property, whatever, if there's other mitigating factors that could cause you to make a different decision than what you would make on this depending on a whole variety of things that are unknown at this time.

Ed Miller: To your point with the County, the County recommended architectural renderings which would show what the place looks like from the street and from the neighbors.

Jon White: The only thing with that though is that I think that still falls under the site plan review which we are not responsible for so I think we go down a rabbit hole on that. I'm not saying that that shouldn't be something to have that but that's a site plan review and we don't do site plan, that's a rabbit hole that we're not supposed to go down.

Nick Cortese: At the end of the day even though it is a very large structure, it's an accessory structure nonetheless and accessory structures in this Town don't require site plans so it's a little bit incongruous to think about how big this is versus what it actually is but he has no obligation to put together a formal site plan or an architect's renderings or anything like that. I understand the County's point but...

Ed Miller: We can't base a variance based on something like that? We can't say we'll give you the variance if a rendering is approved or if a rendering is approved by the neighbors?

Nick Cortese: Well you definitely couldn't say if a rendering is approved by the neighbors.

Ed Miller: Well you know what I'm saying. Why would I vote for that if I don't know what it's going to be, what it's going to look like? That building's way bigger than this room.

Nick Cortese: Oh yeah, it's like three and a half times the size of my house. At the end of the day if you're not comfortable with it then vote 'no.'

Ed Miller: Ok. And the only reason I say that is just to try to be fair.

James Brewster: So I guess it comes to me now and I tend to be in agreement with the largeness of the structure. I don't think there's any question about that, it's a 464% increase over the code which is probably one of the biggest we've ever seen. However, Scott did pose a question to us in an email. I don't know if you ever got an answer but I did try to look around and do some estimates. There are larger structures out there but most of them average about 3500 sq ft and I don't have any history on whether or not those were varied by us or somebody or they were grandfathered prior to zoning. There's no way to know that but they were Residential only and so there are some larger structures including the Ukrainian church that used to be the Catholic church on Castle Creek Rd has some pavilions and stuff that are 5000 and 6000 sq ft so that's actually Residential. They may have other special considerations being a church or something.

Nick Cortese: They do.

James Brewster: Ok. Be that as it may, that's my feeling on that. I do have a question for Nick. We're charged to perhaps approve the most minimum...do you know where I'm going there? Can you just explain what that means? We get this 6000-something sq ft building, how can we change it? I think that's saying we're charged with the minimum of what we can accept, or what the applicant can accept? Let's just run with that.

Nick Cortese: The variance is requested the way that it's requested. Your task is to vote up or down on what's been requested. I've never seen a scenario where we've gotten into a negotiation saying, 'we don't love 7000 sq ft but 3500 is ok, you can have that,' that would be up to the applicant to make those determinations. So, I know what you're talking about, there's case law out there that says you have to grant the narrowest variance that you possibly can that satisfies the needs of the applicant if you're of the mind to grant it. So, you're faced with an application tonight where the applicant is saying that he needs a 7000 sq ft shed or whatever you want to call it and you have to determine whether or not that's appropriate. In terms of the notion that you grant the narrowest variance you possibly can, I think that that's kind of a nebulous concept and I'm not sure that that has a great deal of applicability in the context that we're dealing with right now.

James Brewster: Ok, so they've asked for what they've asked for and defended it and therefore that question is actually answered. My concern of this whole process has essentially been answered.

Nick Cortese: The question of whether it's too large is the question that you're obviously debating right now. If you believe that the variance is not the narrowest variance that can be granted because the request is too large, then your course is clear.

James Brewster: Ok. Did you all follow that?

Nick Cortese: I wish that I could explain it more clearly but it's about as clear as mud, the concept.

James Brewster: I've given my opinion and some things I've looked into and that's that.

Scott Smith: With that, here's a question. Is it negotiable here or do we just say please reapply and back and forth until we find the perfect number?

Aleta Kinne: That's what I was wondering.

James Brewster: I don't have that answer, I don't know that answer. From what Nick said it sounds like no.

Jon White: My understanding how Nick put it was Mr. Mastro says he needs the 6900 sq ft, he can't do no less than that. That's the minimum he could go to and so that's what we have to truly look at so we can't determine and say, well no different than what I said. I think it could be smaller, that was my opinion and my opinion only. What he feels he needs is what he needs. The million dollar question is how is it going to affect a residential neighborhood? That's truly how we have to look at it.

James Brewster: Right. Although we do have to look at is the parcel acceptable? It's a pretty big Residential parcel and it's nobody's fault it sits in a Residential with Agricultural nearby.

Jon White: As I said I feel that he gets punished for that Residential aspect of what he's got. So, size-wise parcel-wise, yes this would support it.

Dan Wolters: And there are a tremendous number of trees surrounding the property. I think that makes a difference as well.

Ed Miller: In my opinion, being Residential, Residential means you have neighbors and neighbors are affected.

Jon White: And the one neighbors did voice their opinion and have felt that it's going to affect them, construction noise-wise everything should settle down. I think that over time that that's a moot point as long as Mr. Mastro's not mowing his yard at 10:00 at night with the lights on, on a Sunday night, that might be a little different story. Noise-wise that's all going to go by the wayside.

James Brewster: Right. Any other factors that jump up at you? The typical factors we talk about, anything else jump out? I'm just looking for clarity, anything else?

Jon White: No.

Aleta Kinne: No, we sort of covered the size of the equipment, why he needed the height because of the equipment. You don't normally have equipment that size in a Residential area.

Scott Smith: Big yard, but yeah.

Aleta Kinne: I'd like to see it refigured but I don't know how we'd do that, if we'd have to completely refuse this or could we send it back and say we'd like you to refigure and come back?

Nick Cortese: If there's a lesser square footage that you guys are comfortable, but I mean I don't even know how you would arrive at that conclusion. I think you would have to send it back to the applicant and say, we don't want to deny this, if you want to reconsider and amend your application and come back to us we can have another discussion about this. But, that's probably the only option that procedurally we have and that would be his decision. Your guys feelings on what's an appropriate number of square feet is not relevant at this juncture. It's basically just, is this appropriate or isn't it? And then you go from there.

Scott Smith: Ok, so he got a 24 foot variance approved in 2021, correct? So, what if we returned it to him with that request to justify both the height and the size?

Nick Cortese: He's done his best to justify both now.

Scott Smith: I understand that.

James Brewster: He's presented his arguments at this hearing.

Scott Smith: So it's yes or no?

Nick Cortese: Yes.

James Brewster: Looking that way.

Ed Miller: If I understand what you were saying, he would have to reapply with another variance if he wanted to change the height or size of that?

Nick Cortese: Either that or he can pull it back and amend it, but that's his choice.

Ed Miller: Right, but the point of the conversation is he can come back again.

Nick Cortese: Yes.

Jon White: He's already got a 24 foot height variance so it would just be if he was to do something different, if we were to deny both of them tonight he would have to come back with a different square footage requirement.

James Brewster: Ok. Shall we move on to the resolution, are we good to do that or do we need a couple more minutes? No, ok. Nick?

Nick Cortese: Ok. So are we addressing the square footage or the height right now?

James Brewster: I would say square footage first, right?

Nick Cortese: Ok. You had a good discussion on this and now it's down to the fact finding and our resolution so for the first factor, will or will not the requested variance produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?

Aleta Kinne: Will.

James Brewster: Consensus on will?

Board: Will.

Nick Cortese: Factor number two, can the benefit sought by the applicant be achieved by another method or can it not, other than the grant of an area variance?

Board: Yes.

Nick Cortese: Is it substantial?

Board: Yes.

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

Ed Miller: Yes.

James Brewster: The environmental conditions?

Jon White: I'd say no.

Ed Miller: Oh, environmental, no.

Board: No.

Nick Cortese: And finally, the variance is self-created?

Board: Yes.

Nick Cortese: Ok. It's down to you. Is this a Resolution to grant, deny, or grant with conditions this variance?

Ed Miller: I'd say deny.

Aleta Kinne: Deny unless we can do it with conditions.

Nick Cortese: What would the conditions be?

Aleta Kinne: To come back with a different plan, so I say deny.

Nick Cortese: If somebody wants to make a motion to deny the variance then all you need is somebody to make a motion and a second and we can go from there, you don't need to have a consensus.

Aleta Kinne: So moved, to deny.

Ed Miller: I'll second it.

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

In the Matter of the Application #: 2023-V05 of Michael Mastro for an area variance to variance to construct a 6,960 square-foot detached garage/pole barn, which exceeds the maximum size of 1,500 square feet allowed for such structures in the R – Residential District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2023-V05 (SQ. FOOTAGE)

WHEREAS, on or about June 9, 2023, Michael Mastro on behalf of 267 Poplar LLC ("Applicant") duly filed an application for an area variance for property it owns within the Town, located at 267 Poplar Hill Road in the R – Residential District and designated as Tax Map No. 095.12-1-13.2, wherein Applicant requested, among other things, a variance to construct a 6,960 square-foot detached garage/pole barn, which exceeds the maximum size of 1,500 square feet allowed for such structures 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 25, 2023 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 25, 2023 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** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **can** 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 **does not outweigh** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #: 2023-V05 (SQ. FOOTAGE) for an area variance to construct a 6,960 square-foot detached garage/pole barn, which exceeds the maximum size of 1,500 square feet allowed for such structures in said District, is **denied**.
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 25, 2023 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by A. Kinne and seconded by E. Miller. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye
Scott Smith	Voted: aye
Jon White	Voted: aye
Edward Miller	Voted: aye
Dan Wolters, Alternate	Voted: N/A

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

James Brewster: The square footage variance has been denied.

Nick Cortese: In the height variance, I don't think that this is like what we had before where you would just dismiss it, I think that you would also go through and do the substantive things. I guess the question would be, are any of the factors different for the height variance as opposed to the square footage variance, or are your answers the same for both?

Board: Same.

Nick Cortese: So, it will produce an undesirable change in the character of the neighborhood, it can be achieved by another method, it is substantial, it would not have an environmental impact, and it is self-created. So then again, it's down to you in terms of what this motion will be; to grant, deny, or grant with conditions this variance for the height.

Jon White: I'll make a motion to deny the height variance.

Ed Miller: I'll second.

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

In the Matter of the Application #: 2023-V05 of Michael Mastro
for an area variance to variance to construct a detached garage/pole barn
with a height of 30 ft., which exceeds the maximum height of 16 ft.
allowed for such structures in the R – Residential District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2023-V05 (HEIGHT)

WHEREAS, on or about June 9, 2023, Michael Mastro on behalf of 267 Poplar LLC (“Applicant”) duly filed an application for an area variance for property it owns within the Town, located at 267 Poplar Hill Road in the R – Residential District and designated as Tax Map No. 095.12-1-13.2, wherein Applicant requested, among other things, a variance to construct a detached garage/pole barn with a height of 30 ft., which exceeds the maximum height of 16 ft. allowed for such structures 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 25, 2023 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 25, 2023 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** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **can** 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 **does not outweigh** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant’s application #: 2023-V05 (HEIGHT) for an area variance to construct a detached garage / pole barn with a height of 30 ft., which exceeds the maximum height of 16 ft. allowed for such structures in said District, **is denied**.
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 25, 2023 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by J. White and seconded by E. Miller. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye
Scott Smith	Voted: aye
Jon White	Voted: aye
Edward Miller	Voted: aye
Dan Wolters, Alternate	Voted: N/A

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

- James Brewster: Application 20223-V05 in its entirety has been denied.
- Michael Mastro: Can I keep the 24-foot height?
- James Brewster: Yes. That runs with the land, that doesn’t go anywhere.
- Michael Mastro: I can just apply for a different size and use the 24-foot height?
- James Brewster: That’s one option. So now, Board members, onto 2023-V06, the Wildeys at 562 Oak Hill Rd for an area variance, square footage from 1500 to 2400. This is in an Agricultural zone which I thought it mimics the Residential at the numbers, the 1500 sq ft. When they upgraded the law they didn’t change, they didn’t make it different. Let’s do SEQR.
- Nick Cortese: This is part two of the EAF, this one is for V06, the square footage for a different garage and pole barn in a different zoning district, this time in Agricultural. 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.

Aleta Kinne: Hard to tell without a site plan.

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

Board: No.

Nick Cortese: Ok, you answered no or small impact in part two for application V06. My presumption would be in light of that you would be making a negative declaration under SEQR. If that is the case you can make that motion.

Aleta Kinne: I so move.

Jon White: I'll second it.

Kari Strabo:	Ed 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 a roll call of:
 Ayes – 5 Nays – 0

James Brewster: We have a negative declaration for SEQR on this application. Now we may move forward. Similar situation.

Scott Smith: Similar, different playing field, smaller building.

Jon White: A lot smaller building.

James Brewster: I have 160% increase over the zoning.

Scott Smith: That number helps. And again, we were warned by the County for careful consideration.

James Brewster: Essentially the same wording, careful consideration.

Nick Cortese: I think I would offer just as a matter of history and sitting with you all for the last three or four years or so, in the Agricultural district, this Board has routinely granted variances of this magnitude. The Residential district is a totally different story but in the Agricultural district my recollection, and I can't cite specific examples but I know that there's been more than a couple.

Jon White: As I said, they could essentially have two separate structures but that does bring a cost factor into it so that is showing a hardship by wanting to do one larger square footage building than two smaller buildings which shows the hardship for them and it makes more sense to just do one and done.

Nick Cortese: And to your prior point Jon of possibly leveling it out, I would say that unless you've done an analysis of the property that's robust enough to the point that you know that it could be leveled, the only evidence that we have is the applicant's evidence about that.

Jon White: And that's where I was going. My point was to try and show that this is why you're not doing two separate buildings. You could do this but it's cost, it's hardship, it's making you have to do a lot more than just do the one building, satisfies our needs and we're done. That's where I was ultimately going with that. It didn't sound like that but that's where I was trying to go with that. That's all I have to say and it's not going to bother any neighbors or anything of that nature.

James Brewster: I have it listed on the application as just about 82 acres?

Kelly Wildey: No, see this has been an issue since we bought the place. There's 50 acres on the other side of the street that doesn't belong to us. Edele sold that at the same time she sold the house to us and now other people have purchased it and built on that property. So it's 32 acres on one side and 50 acres on the opposite side that belongs to somebody else.

James Brewster: Ok, that goes back to the whole address thing probably.

Kelly Wildey: We split it back when we purchased it because we had to split the taxes between us and the owners of that property.

James Brewster: Ok, so it's about 32 acres that you have.

Jon White: So even on density and all that, it's not going to touch density-wise.

Ed Miller: My whole thing is the Agricultural zoning.

James Brewster: Understood. I'm pretty much in line with you guys, in what you're saying. I have nothing further myself to contribute.

Scott Smith: So this is in an Ag zone?

James Brewster: It is in an Agricultural zone. Everybody ready to move on to Nick taking us through the Resolution? Ok.

Nick Cortese: For this one, let's start with factor number one: Will the requested variance produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties or will it not?

Board: Will not.

Nick Cortese: Can the benefit sought by the applicant be achieved by another method other than a variance or can it not?

Scott Smith: Cannot.

Jon White: Cannot.

James Brewster: It probably could.

Aleta Kinne: At a lot more cost and ground work.

Jon White: I have brought that up but I mean it brings it up into the aspect financially then becomes cost prohibitive.

Nick Cortese: No one factor is determinative.

James Brewster: Right, no one factor kills it so if we want to go with a no then that's the Board's prerogative.

Board: No.

Nick Cortese: Ok. Is it or is it not substantial, this variance?

Scott Smith: 160%? Is that what you said, Jim?

James Brewster: Yeah, and 900 sq ft difference.

Ed Miller: Yes, I'd say it's substantial.

James Brewster: Personally I'd say yes.

Aleta Kinne: Yes.

Nick Cortese: Will the requested variance have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district or will it not?

Board: Will not.

Nick Cortese: Finally it is self-created, yes?

Board: Yes.

Nick Cortese: Is this motion to deny, grant, or grant with conditions? Somebody can just make a motion and if you get a second you can go for it.

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

In the Matter of the Application #: 2023-V06 of Chad Wildey for an area variance to variance to construct a 2,400 square-foot detached garage/pole barn, which exceeds the maximum size of 1,500 square feet allowed for such structures in the A – Agricultural District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2023-V06

WHEREAS, on or about June 20, 2023, Chad Wildey (“Applicant”) duly filed an application for an area variance for property he owns within the Town, located at 562 Oak Hill Road in the A – Agricultural District and designated as Tax Map No. 078.02-1-39.2, wherein Applicant requested a variance to construct a 2,400 square-foot detached garage/pole barn, which exceeds the maximum size of 1,500 square feet allowed for such structures 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 25, 2023 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 25, 2023 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 #: 2023-V06 for an area variance to construct a 2,400 square-foot detached garage/pole barn, which exceeds the maximum size of 1,500 square feet allowed for such structures in said 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 25, 2023 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by A. Kinne and seconded by J. White. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye
Scott Smith	Voted: aye
Jon White	Voted: aye
Edward Miller	Voted: aye
Dan Wolters, Alternate	Voted: N/A

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

- James Brewster: Ok, your application variance is approved.
- Aleta Kinne: Building permit.
- Kari Strabo: I'll try to get ahold of the County tomorrow. When it got split up when it got sold we get those separately like once a year and whoever was doing it at the time, if it was me if it was someone else I don't know what year it was.
- Kelly Wildey: It was five years ago.
- Kari Strabo: Ok, so I don't know who was here then. Doing splits and merges, they get pretty complicated so I'll email Real Property and see if they can send me something over.
- Kelly Wildey: Ok, do I need to do anything right now?
- Kari Strabo: No. Obviously you've been living there and you've been owning it so I'll just ask if they can send those over again.
- Kelly Wildey: I thought they had split when we split the taxes right after we bought it because like I said the people that bought the property across the street from our house from Edele, we had split it then because her name was on both of them so I thought that they did that. My husband actually said that this was discussed at the last meeting.
- Kari Strabo: They probably did but if we didn't get the transfer or if we got it and someone didn't do what they were supposed to with it, then it wouldn't be in our system.
- Kelly Wildey: Ok, so you'll let me know if you need anything else.

Kari Strabo: Yes, you have your email on the application, I'm sure?

Kelly Wildey: It's not mine, it's my husband's.

Kari Strabo: Ok, so I'll let you know what I find out.

Kelly Wildey: Ok. Thank you.

James Brewster: All right, that brings us to the end of our agenda tonight. Do any other Board members have anything for the good of the order?

Board: No.

James Brewster: Any objection if I adjourn the meeting? No, ok. Town of Chenango Zoning Board of Appeals meeting is adjourned at 8:42. Thank you.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Kari Strabo".

Kari Strabo, Sr. Clerk