

ZONING BOARD MEETING  
TUESDAY- MAY 26, 2020  
ZONING BOARD  
7:00 P.M. - TOWN HALL -1529 NYS RTE 12  
BINGHAMTON, NEW YORK 13901

PRESENT: James Brewster, Chairperson  
Aleta Kinne, Board Member  
Melanie Pandich, Board Member  
Joe Aston, Board Member  
Thomas Eldridge, Alternate

ABSENT: Scott Smith, Board Member

ALSO PRESENT: Nicholas Cortese, Esq. – Town Attorney  
Jo Anne Klenovic – Town Supervisor  
Frank Carl, Councilperson  
John Freer, Ordinance Officer  
Alex Urda, PE – Town Engineer  
Donna Webster, Stenographer of the Zoning Board

Mr. Brewster: Okay. The time being, 7:06 PM we will commence the Town of Chenango Zoning Board of Appeals May meeting at this time. I have to call a role of the Board under these remote rules and guidelines. So Ms. Webster, please call the role of the Board; and everyone who is present say so.

Ms. Webster: Thomas Eldridge; Present. Joe Aston; Present. Scott Smith; No response. Melanie Pandich; Present. Aleta Kinne; Present. Jim Brewster; Present.

Mr. Brewster: Hearing a full five including our alternate, we have a quorum for this Board and I will continue to read another statement here. I, James Brewster Zoning Board chairman have confirmed with our council that this meeting is being held in accordance with executive orders, 202.1 and 202.15 originally issued by Governor Cuomo on March 12th, 2020 and April 9th, 2020 respectively and extended by executive orders 202.28 and 202.29 issued on May 7th, 2020 and to May 8th, 2020 respectively. As relevant here, these executive orders suspend provisions of the open meetings law to the extent necessary to allow any public body to meet and take any action authorized by law without permitting in public in-person access to meetings. They also authorized municipal board meetings and public hearings before such municipal boards to be held remotely by conference call or similar service. This meeting is held remotely via Zoom virtual meeting software. The public has the ability to view or listen to this meeting live via the Zoom app, web browser and by telephone. This meeting is being recorded and will be transcribed at a later date. We'll commence on with the agenda. We are going to, move things around just a bit. At this time I would like to give the floor to our counselor, Nick Cortese for a brief statement that he's prepared. So, go right ahead Nick, you have the floor.

Mr. Cortese: Thank you. With respect to the cell tower application, which I'm sure many of you are here about tonight. I just wanted to disclose, for the record, that my firm Coughlin and Gerhart has discovered a conflict of interest in this matter, in that we have in the past represented and periodically do represent the property owners on which the cell tower is proposed to be built. And of course we also represent the Town of Chenango. The property owners are not involved in the application. We do not represent the development company, however in order to avoid any appearance of impropriety that may exist here Coughlin and Gerhart is recusing itself from representing the Town and the property owner, with respect to the cell tower application. And just to make clear the ZBA does have other applications on its agenda tonight. Coughlin and Gerhart has no conflict as it relates to those applications. I will be representing the Board fully with those other applications. This just pertains to the cell tower application specifically and the firm does need to recuse itself from representing the Town and the property owner due to the conflict that I've described.

Mr. Brewster: Thank you Nick. Well, based on that new information; board members, we are at a bit of a crossroads. As you know as well, we've also received numerous bits of information and data including recent updated data from the applicant as of today. So at this time I foresee us not being able to continue without council tonight on that particular public hearing known as V-02, 2020. And therefore I would like to seek a motion to table that until the June meeting while we seek a change of counsel. The contingency would be to set it for no later than the June 23rd meeting, also with an effort for us to find an appropriate socially distant meeting place and possibly act upon having a sooner date, assuming we can bring any new counsel up to speed in that time frame. We can find a sooner date for a special meeting. This would be also contingent upon; we would obviously re-advertise according to all of our legal requirements and post on the town website. That's my take on it. I would seek to receive a motion from one of the board members on that. We can have further discussion as needed.

Ms. Kinne: Mr. Chairman, I would be glad to make that motion if we could include that all the land owners will be notified as to the date and time and place.

Mr. Brewster: Can you clarify land owners as in all?

Ms. Kinne: Well, there was the list. One of the exhibits had a list of landowners.

Mr. Brewster: Okay. So you want...

Ms. Kinne: Exhibit number 20, or 21.

Mr. Brewster: Okay. So landowners from the packet list, which I believe was about 1500.

Ms. Kinne: Yes. Other than the newspaper, that notification does not work well.

Mr. Brewster: But that is the current law and written.

Ms. Kinne: Yeah, you can put it in the newspaper too, but they need to be notified.

Mr. Brewster: The legal requirement is for 500 feet on surrounding properties that are of concern. However, we do have this packet of information we can consider that with as an addendum to a motion. So are you making a motion with that contingency as well?

Ms. Kinne: Yeah.

Mr. Brewster: Okay. We have a motion that I will recap after we get a second.

Mr. Eldridge: Second.

Mr. Brewster: Thomas seconds it. Okay. Therefore, we have a motion and a second to table case number V-02, 2020 which is the cell tower application until no later than the June 23rd meeting with a contingency to attempt to find an appropriate, socially distanced venue and bring the new attorney up to speed in a timely manner as soon as possible at a date to be determined here shortly for a possible special meeting which could occur before June 23rd and the motion is also contingent upon notifying the land owners as listed in the applicant's packet up to 1500 feet, advertised by our legally required notification to the newspapers and also posted on the Town website.

Mr. Cortese: I think we got there. I think we'll pull it out of the record. We'll pull a summary of that out of the record. But

Speaker 8: Can I ask a question?

Mr. Brewster: Who's speaking?

Ms. Slick: Carol Slick. I live on Brotzman Road.

Mr. Brewster: The public hearing is not open right now.

Ms. Slick: I just want to know, are we all going to get notices of a new public hearing? That's all I want to know.

Mr. Brewster: Yes. I believe that's what I just stated in trying to formulate that motion. So the answer is yes. If you're within that 1500 feet and I'm going to assume you are.

Mr. Urda: Nick, this is Alex. Do we need anything on SEQRA? We've got 60 days to start. They're okay there still, correct?

Mr. Brewster: I believe so, yes. Nick, do you have any thoughts on the timing on SEQRA?

Mr. Cortese: I don't think that that's something that I'm comfortable assisting you with at this point.

Mr. Brewster: I'm sorry.

Mr. Urda: Okay, that's fine. I'll double check tomorrow. Jim this is not something we have to do tonight.

Mr. Brewster: Approval in April. Yeah, I think we're all right; close but alright. Thanks for checking.

Ms. O'Brien: Jim, this is Cindy O'Brien, Broome County legislator. Can I ask one question? Can you put all the documentation for the 239 review on the website and all the reports from New York State DOT, DPW, the health department and OES so people can read them? There are numerous pages and we cannot find them anywhere.

Mr. Brewster: Ordinance office, will you be able to take care of that request?

Mr. Freer: Yes, we should be able to lock all that to the website at some point tomorrow.

Ms. O'Brien: Okay. Thank you very much. Yes.

Mr. Brewster: All right. We do have a motion on the floor and seconded, as I outlined it, to table the public hearing. Therefore we need to have a roll call vote of the voting members at this time. Ms. Webster, please go through that.

Ms. Klenovic: Mr. Chairman, may I interject? I have about a dozen comments that you may wish to hear or you may want to wait and get them in writing. They're mostly information items. Are you interested in going through those?

Mr. Brewster: I'm interested if we can capture them, but if they don't pertain to the motion directly...

Ms. Klenovic: They do. I think two comments on my part will probably answer most of them. The website development and postings come from my office and most of the comments are requesting that the website become a source of information for the meeting; for the documentation that Mrs. O'Brien was just speaking of and any changes to the location. So I can attest that, that will be the case. Whatever we're given we'll post on the website and as a matter of dates, the Town will not be able to schedule anything before June 8th. That is the date that the State has established for us at this time. It is possible that they would change it, but at this time we cannot schedule anything publicly until after June 8th.

Mr. Brewster: Okay, Understood.

Ms. Klenovic: And I'll make sure that copies of these comments are forwarded to your Board.

Mr. Brewster: Okay. I think we're ready for the roll call vote on this motion to table.

Motion to table Application V-02 ,2020 New Cingular Wireless, PCS,LLC until no later than the June 23<sup>rd</sup> meeting with a contingency to attempt to find an appropriate socially distanced venue and bring our new attorney up to speed as soon as possible at a date to be determined here shortly. The motion is also contingent upon notifying the land owners as listed in the applicant's packet within 1500 feet – motion made by Aleta Kinne, seconded by Thomas Eldridge and carried by the following roll call vote:

James Brewster, Chair	Voted <u>  Aye  </u>
Aleta Kinne, Vice Chair	Voted <u>  Aye  </u>
Melanie Pandich	Voted <u>  Aye  </u>
Scott Smith	Voted <u> Absent </u>

Joseph Aston Voted   Aye    
Thomas Eldridge, Alternate Voted   Aye  

The motion was thereupon declared adopted by a roll-call vote of:

Ayes – 5            Nays – 0            Absent – 1

Mr. Brewster: Okay, the motion to table item number V-02, 2020, the wireless application, has been approved for no later than June 23rd, our next meeting or a special meeting to be determined, if possible sooner than that with other contingencies, we'll pull from the record. Therefore, we will move forward with that and that has been now stricken from tonight's agenda. At this time for any of the citizens, residents who have come to join us for that particular hearing, you're now free to go. There'll be nothing else to discuss tonight on that. I'm sorry for that, but there's been a lot of dynamic, information that has come down here at the 11th hour and with our attorney, having to recuse himself, we made our decision to move on right now. So with that, you're obviously free to stay or go. That's fine by me and we'll continue to move on. So the next order of our business on the agenda is the approval of a couple of packages of minutes, one from March 31st and one from April 28th. Taking the March 31<sup>st</sup> package, do any of the Board members have any notes, changes, points of order for correction on the March 31st minutes that we need to look into?

Mr. Aston: No, not for me that I can see.

Mr. Brewster: No from everybody. Okay. I will seek a motion to approve the March 31st Zoning Board minutes as currently written.

Ms. Kinne: Mr. Chairman, I so move.

Mr. Brewster: Thank you Ms. Kinne. I need a second on that.

Ms. Pandich: This is Melanie, I'll second that.

Motion to approve the March 31, 2020 Zoning Board minutes as currently written – motion made by Aleta Kinne, seconded by Melanie Pandich and carried by the following:

Ayes – 5            Nays – 0            Absent – 1

Mr. Brewster: Okay. March 31st minutes are approved. Next we have the April 28th minutes. There was a last, 11th hour addendum today. Do we have any changes, notes, or comments, regarding the April minutes?

Ms. Kinne: Mr. Chairman, I know this is kind of an unusual statement, but could we have it in the minutes that as of the April 28th meeting, that was the first that the ZBA actually went through the packet, did the pre-meeting, the balloon arrangements, and so forth. I think it's very important later on that this is in the record. And if we can do that, I so move that we accept the minutes.

Mr. Cortese: Ms. Kenny, we can't add additional items into the minutes that weren't part of the record of the meeting. But the record of the meeting is that first initial meeting as it related to the

cell tower application where a lot of procedural items were discussed. So the record should make that fairly clear.

Mr. Brewster: That's correct. Yes, there's commentary regarding the balloon and discussion right in there. So I think we're covered on that Aleta.

Ms. Kinne: Okay, understood. I so move.

Mr. Brewster: Okay. Mrs. Kinney has the motion and I need a second on the approval of these minutes. It's a tie between Joe and Thomas. I'll give Thomas this one. So I have motion made and second for the approval of minutes. Do we have any further discussion? Did anybody else see anything? I jumped a little bit ahead of things, but we can discuss once the motion is made. Okay. All those in favor of approving the April 28th minutes, please. Uh, please say aye.

Motion to approve the April 28, 2020 Zoning Board minutes as currently written – motion made by Aleta Kinne, seconded by Thomas Eldridge and carried by the following:

Ayes – 5      Nays – 0      Absent – 1

Mr. Brewster: Okay. Moving on now, we are into our new business which requires the brief review and discussion of applications: Application V-05 2020 for the installation of a Walgreen's on Front Street and Application V-06 2020 for an area variance for an accessory shed. So we'll take those one by one. Moving on to V-05 2020, which is the Walgreens. The Ordinance department has reviewed the application and of course we all have, I'm sure. It looks like it has been deemed complete. The applicant has site diagrams, addresses the overall factors, and has the SEQRA part one, requests for 239 etc., and a site plan drawing. My assessment is that this application is complete and ready. Does anybody else have any further discussion as to whether it is or not? Any questions?

Ms. Kinne: Yes, Mr. Chairman. I've read so much lately that my eyes are crossed I guess. But in looking at the site plan and with only the six foot something on Front Street, I cannot see where they're connecting to water and sewer; if someone can point that out to me?

Mr. Brewster: I don't know at this time Aleta, but we will be asking for a planning board of advisory on that. And I think maybe that...

Ms. Kinne: Well are they going to get the same site plan or a different site plan?

Mr. Cortese: Aleta, they'll end up with whatever site plan that they ultimately ask for. If the planning board feels like the site plan is insufficient, then they'll request more information and receive it.

Ms. Kinne: Okay. Thank you.

Mr. Brewster: And quickly, I can't really see what you're asking for either.

Mr. Williams: Julio Williams with Coca development. I represent the applicant, just to put comments on that. What we submitted to the ZBA is specifically exhibits to help consider the variance

that we are requesting. It's not a full site plan. The intent is just to show, what's important for the variance. And as the attorney mentioned, we did submit full engineering plans to all the pipe work. They are considering that and we are expecting comments on the technical matters as far as water and sewer and things of that nature.

Mr. Brewster: Thank you, sir. Okay, very good, any other questions for the applicant or comments on the approval of this, at this time from board members? Okay. Then let me seek a motion to approve this application with a referral to the planning board on June 8th. This one actually says the June meeting is the 26th. Okay. So that is actually a little correction we'll have to make on this. I just want to make sure I've got Tuesday the 23rd. Okay. Well that will have to be changed to, June 23rd on our cover sheet, the variance cover sheet for our internal paperwork. So let me recap that. I will seek a motion for approval of this application to move forward to our June 23rd meeting and with a referral through the planning board on their June 8th meeting.

Mr. Aston: I will motion to accept that.

Mr. Brewster: Okay. Joe, do we have a second.

Ms. Kinne: I'll second it.

Mr. Brewster: Board members all in favor of approving this application made by Mr. Aston, seconded by Mrs. Kinne. Please say aye.

Motion to approve Application V-05 2020 FIDC 86 LLC, Julio Williams, Walgreens for an area variance for new commercial development with less than required road frontage from 100' to 6.69' in the Commercial Development (CD) Zone and Short EAF with a referral to the planning board on June 8, 2020 and a public hearing scheduled for June 23, 2020 – motion made by Joe Aston, seconded by Aleta Kinne and carried by the following:

Ayes – 5      Nays – 0      Absent – 1

Mr. Brewster: The application is approved and to be scheduled by Ordinance for those dates we mentioned. That brings us to Application of V-06 2020, 10 Daniel Drive for an area variance exceeding the square footage of a shed. Again I see that we have most, if not all the parts here; photos, site plan, location, SEQRA and our letters requesting information from the various County boards, planning board and drainage coordinator. This packet looks complete. Do we have any comments or questions on, on this application? Hearing none, I will seek to a motion to approve this application for public hearing scheduled June 23rd at a regular meeting and moving through the planning board on June 8th.

Ms. Kinne: Mr. Chairman, how about Ordinance? Do we have a report from Ordinance on this?

Mr. Brewster: Well, that's standard fare I thought, but we can put it in the motion if you'd like.

Ms. Kinne: No, just before the motion is made, does John want to give a report?

Mr. Brewster: John, would you like to give a report on it?

Mr. Freer: Ordinance has no concerns with the application of the variance at this point.

Ms. Kinne: Okay. Thank you.

Mr. Brewster: Thank you. Now I will seek the motion that I made or proposed.

Mr. Aston: I'll motion to accept.

Mr. Brewster: Okay Joe, do I have a second from anybody out there?

Mr. Eldridge: I'll second.

Mr. Brewster: Motion and second on this area variance for approval. All board members in favor please say aye.

Motion to approve Application V-06 2020 Marvin Conover, 10 Daniel Dr. for an area variance to allow an accessory building (shed) exceeding the maximum square footage from 125' to 144' in a Residential Zone and Short EAF with a referral to the planning board on June 8, 2020 and a public hearing scheduled for June 23, 2020 – motion made by Joe Aston, seconded by Thomas Eldridge and carried by the following:

Ayes – 5            Nays – 0            Absent – 1

Mr. Brewster: The motion is therefore approved. Ordinance department please schedule this through the planning board and for our next meeting as a public hearing. Okay. That brings us to the end of our new business. Now we'll have the first of our remaining public hearings. This one is Application V-03 2020, Matthew Jablonski, application for an area variance to place an above ground pool with a limited setback and I'll read it in its entirety:

Take notice that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on May 26, 2020 at 7:00 PM. Upon the application of Matthew Jablonski regarding property located at 1378 River Road in the Town of Chenango, Tax Map# 079.17-1-4 and located in an Agricultural District. The application is for an area variance for side yard setback from 15 feet to 5 feet to place an accessory structure above ground swimming pool. The environmental significance of the requested variance, if any, will be reviewed by said board at said hearing. I take further notice that due the public health and safety concerns related to COVID 19. The Zoning Board of Appeals will not be meeting in person. The rest of that paragraph is what I stated in the beginning of the meeting, regarding the executive orders, so I'll just summarize that. Obviously we're all here, so I will not discuss the instructions to access the meeting. They're also on this form. However, I will conclude that members of the public may submit comments on the application during the public hearing through the written chat section of the Zoom interface to the extent that any member of the public has difficulty with or is unable to submit comments via the chat section. Oral comments will be permitted via Zoom. Written comments may also be submitted prior to or during the hearing by emailing [Donna.Webster@townofchenango.com](mailto:Donna.Webster@townofchenango.com) or prior to the hearing by mailing comments to the attention of Town of Chenango Ordinance office at the town hall address signed by me.

Mr. Brewster: Mr. Jablonski, are you in attendance tonight?

Mr. Jablonski: Can you hear me? I'm here.

Mr. Brewster: Very good. At this time I will officially open the public hearing for this case V-03 2020. First of all, is there anybody here that would like to speak for or against this application? Okay, hearing none. Mr. Jablonski, we'll be asking you to address five factors here that go into the decision process we have of an area variance. We have your letter of intent, which obviously summarizes everything about the layout and what your plans are about. We do have some specific questions that we'll have to answer.

Mr. Jablonski: Sure.

Mr. Brewster: I think I'll start first, but before we get into that. I will read a letter from a resident:

To whom it may concern, I Joel Robertson and the owner of residential home property at 1378 River Road, Binghamton, New York, 13901 I share a side yard with my neighbor Matthew Jablonsky at 1378 River Road. The side yard is about 30 feet wide and we together maintain the area with grass cutting and leaf removal. I do not care whatsoever if he places his pool closer than 15 feet from the property line. As far as I'm concerned, he may place it anywhere he wants within the boundaries of his property because the boundary is still a significant distance from my driveway and even farther from my home. I even offered to sell Matt the remainder of the grassy area until he reached my driveway. However, I was told new guidelines call for a driveway to be 10 feet from the property line. Furthermore, I would like to add, since Matt's grandmother passed and he has moved into the home in August, 2019, he has done an excellent job improving the property into a beautiful home and has been a great addition to the neighborhood. Thank you for your time.

Mr. Brewster: So, Matt, there are four factors. Are you familiar with them?

Mr. Jablonski: I'm not sure.

Mr. Brewster: Okay, that's fine. We'll go through it. Basically the first one with the variance; please address whether or not it will produce an undesirable change in the character of the neighborhood or cause any kind of detriment to your neighboring properties?

Mr. Jablonski: No, it would not.

Mr. Brewster: Do you have any why's behind that? Why do you think it would not?

Mr. Jablonsky: Well, the only neighbor that it would affect whatsoever is the one that you just heard in the letter.

Mr. Brewster: Okay, that's fine. The next one; can you achieve this goal of yours by putting in the pool, in any other spot where you would not need to have an area variance granted and why?

Mr. Jablonski: No, I cannot. Attached to the paperwork, there should be a physical picture showing all the other areas around my home and the front of my home. I have a well and gas lines underground. Then as you go around the back, there's a septic tank and a large retaining wall. So I have absolutely nowhere else to put it whatsoever.

- Mr. Brewster: Okay. The next question is; do you find this to be a substantial addition to your property? Meaning, how do you feel about it? Is it too large for this variance? Just give us a little on that.
- Mr. Jablonski: No, it's very small bullets. Only 16 feet in diameter. It's going to fit on my side yard. It's not going to affect my neighbors whatsoever and it's not going to be a problem.
- Mr. Brewster: Okay. The next question asks us to determine whether or not there's an adverse, physical or environmental, disruption to the neighborhood or the district. Just briefly comment on that.
- Mr. Jablonski: It's not. No, there won't be. I've had the people check for underground lines of any kind. There's nothing there. It's already on a very flat ground. It's going to be extreme minimal excavation. It's going to be no problems with the neighborhood whatsoever.
- Mr. Brewster: Okay. Would you say that there is a hardship? Meaning you asking for the variance, was the hardship self-created?
- Mr. Jablonski: No, I purchased the property and the property is what it is. There are existing retaining walls and a well and a septic situation and underground gas lines. So the only place I could place it, is the place that I'm requesting to after buying the home.
- Mr. Cortese: So just a point of clarification, if I might for ZBA members; as we've talked about on a number of different occasions, self-created hardship just means that you knew what the zoning code was and prior to requesting the variance and you're requesting the variance anyway. Most hardships Mr. Jablonski are self-created, but that's a non-determinative factor. Basically, the Board just takes a look at everything that you've said and everything that you've presented and makes a decision based on the whole application. So, it's not a big deal, but it's worth clarifying to the Board. I should additionally clarify the question that Mr. Brewster asked you about whether or not the variance was substantial. It just deals with how much of a variance you're asking for. So in this instance, you're asking for a variance from 15 feet to a 5 foot setback. That's a 66, 66% variance roughly. So, I mean it's up to the Board to determine whether or not that's a substantial variance, but at the same time, you have your direct next door neighbor saying that they're not concerned about it too. So just a couple of quick points of clarification for the Board.
- Mr. Jablonski: Right. Can I say something else? Actually, my great grandmother owned this home since the 1940s. And her husband actually built it. When she passed away, we bought it. I didn't have any idea what the actual current dimensions for accessories called for. I just knew where my property line was and I assumed that I had plenty of room because I've always had a pool. Then when I went to go get a permit, I was obviously told, you know, it is what it is. So from the 15 feet to the 5, my neighbor already is going to have a fence up anyways. So it's going to be blocking his property totally. So it's not a problem.
- Mr. Brewster: Okay. Thank you very much. Board members, do you have any questions equal to or above and beyond the five factors we need to discuss. Okay, hearing none, we have correspondence from municipalities which I will read back. The referral from the Town planning came through; the Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory. Our engineer weighed in on the situation and he reports that Broom County, the 239 review indicated no concerns and he states also;

given the input from the adjacent neighbor and the nature of the structure being a pool, we have no engineering objections; So in other words, two more advisory statements for the granting of the variance. With that said...

Mr. Cortese: Were the 239 comments applicable, Jim? I'm not sure that they were, well actually, they might've been.

Mr. Brewster: Do you have those? I actually do not have them in my packet. I was just going off on what the engineer statement was. If anybody actually has those in the packet; I do not have my email open, but I can open it.

Mr. Cortese: I believe so. Jim. Just for the record; the Broome County planning department has reviewed the above cited case and has not identified any significant countywide or inter community impacts associated with the proposed project. The case file was routed to Broome County, DPW and Broome County Health Department. DPW had no comments. Health Department had no need to review, so a favorable recommendation from the County as well.

Mr. Brewster: Okay. Thank you for confirming that.

Ms. Kinne: Mr. Chairman, I'd just like to clarify through Ordinance; John, the pool will be considered an accessory structure?

John Freer: We have identified all that and he's within the limits for the accessory structures.

Mr. Brewster: Okay. I'm just checking my table of notes here to make sure we did get everybody, Oh; the drainage coordinator has no issues. Okay. That includes all of the correspondence and that includes the discussion. At this time, I believe I can close the public meeting on this matter and the Board will take up discussion on the SEQRA and also discussion on the variance. At this time we will talk about the SEQRA, and to the best of my knowledge, we've declared this a Type II action; Nick, confirm this and back me up, which no further discussion on that type of classification.

Mr. Cortese: Yes. Individual setback variances and lot line variances are Type II, so we don't need to do any further review on those.

Mr. Brewster: Okay. So moving past SEQRA board members, do you have any discussion on the points of the five factors? Does anybody want to start off with that? I think number one, we've determined in my opinion that it will not produce an undesirable change in the character of the neighborhood, for a variety of reasons. The main one being that the neighbor approves.

Board members agreed.

Mr. Brewster: Right. Okay. Anything to add to that? So we'll use that as our justification. Have we determined that the benefit to the applicant cannot be achieved by any other method? Have we seen enough fact to determine that that is a can or cannot?

Mr. Aston: He said it's the only spot that he can put the pool because of the underground gas lines, property lines, and where the house is. So it's the only spot.

Mr. Brewster: Okay. For the third factor, would we consider this addition of a small pool to the yard substantial? I think we've heard numbers of the change from the setback is fairly, substantial in that respect. But the overall, I would say it is not substantial. Anybody else wants to agree with that or not?

Ms. Pandich: I would say the variance request itself is substantial. Not necessarily the change to the property.

Mr. Brewster: Okay. That's fair. So we will call that an "is", unless somebody has other commentary. Okay. Factor number four. Again, discussing the environmental conditions in the neighborhood or the overall district, he stated that it's a pretty light build, no excavation needed. It seems like a standard installation of an above ground pool to me.

Mr. Aston: Yeah. It doesn't seem like there's a big impact. And I mean I'm familiar with that area. There are a lot of pools around there, so he's not the only guy with a swimming pool. Right. I would agree. Okay. Um, and then of course, is this a self-created hardship? I think at this point it's pretty clear that it is, although like Nick said, not necessarily determinative just on that, that one basis alone. So with that, I will seek a motion on this area variance.

Mr. Cortese: Jim would you like me to read the resolution that'll be the subject to the motion.

Mr. Brewster: Yes, please do that.

Mr. Cortese:

In the Matter of the Application #: 2020-V03 of Matthew Jablonsky for an area variance from the minimum side yard setback for accessory structures in the A – Agricultural District of 15 feet to 5 feet.

**WHEREAS**, on April 14, 2020, Matthew Jablonsky ("Applicant") duly filed an application for an area variance for property he owns within the Town, located at 1378 River Road in the A – Agricultural District and designated as Tax Map No. 079.17-1-4, wherein Applicant requested a variance from the minimum side yard setback for accessory structures in said District of 15 feet to 5 feet in order to accommodate the construction of an aboveground swimming pool on said property; and

**WHEREAS**, the ZBA has determined Applicants' application for an area variance to be a Type II action for purposes of the State Environmental Quality Review Act ("SEQRA") and, thus, no further determination or procedure is required under SEQRA with respect to said application; 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 May 26, 2020, 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 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 #: 2020-V03 for an area variance is granted.
8. This Resolution shall take effect immediately.

At a meeting of the Zoning Board of Appeals of the Town of Chenango, held on May 26, 2020 via ZOOM virtual meeting software (**Meeting Link: <https://us02web.zoom.us/j/86231513116>, Meeting ID: 862 3151 3116, and Password 600374**) in accordance with the Governor's Executive Orders 202.1, 202.10 and 202.15, as extended by Executive Orders 202.28 and 202.29, the foregoing motion was made by Melanie Pandich and seconded by Joe Aston. The ZBA members voted as follows:

James Brewster, Chair	Voted <u>  Aye  </u>
Aleta Kinne, Vice Chair	Voted <u>  Aye  </u>
Melanie Pandich	Voted <u>  Aye  </u>
Scott Smith	Voted <u>  Absent  </u>
Joseph Aston	Voted <u>  Aye  </u>
Thomas Eldridge, Alternate	Voted <u>  Aye  </u>

The motion was thereupon declared adopted/defeated by a roll-call vote of:

Ayes – 5      Nays – 0      Absent – 1

Mr. Brewster: Variance 2020 V-03 is approved.

Mr. Aston: Congrats. Enjoy your pool.

Mr. Jablonski: Thank you.

Mr. Brewster: It is time to consider case 2020 V-04 8 Badger Road application of a double area variance for a shed and setbacks. I summarize that because I will read the notice of public hearing in partiality. Take notice that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on May 26, 2020 on the application of Nicholas Harris regarding property located at 8 Badger Road in the Town of Chenango, tax map #112.11-1-8 and located in a residential district. The application is for an area variance to construct a 240 square foot accessory structure, a storage shed, which exceeds the maximum of 125 square feet for such structures. The application additionally requests a second area variance for a side yard setback from 5 feet to 3 feet in order to place said accessory structure. The environmental significance of the requested variance is if any will be reviewed by said board at said hearing. I'm skipping the public health and governor's orders section of this notice because I said that in the beginning and also the instructions to the virtual public hearing. Members of the public may submit comments on the application during the public hearing through the written chat section of the Zoom interface to the extent that any member of the public has difficulty with or is unable to submit. Comments via the chat section or comments will be permitted via Zoom. Written comments may also be submitted prior to or during the hearing by emailing Donna.Webster@townofchenango.com or prior to the hearing by mailing comments to the attention of the Town of Chenango ordinance office at the Town hall address, dated May 15th. Signed by me.

Mr. Brewster: Mr. Harris, are you present?

Mr. Harris: Good evening:

Mr. Brewster: First we'll discuss the shed. We have to do this in two parts by two resolutions. But, as I go through the five factors you just listened to on the other case, we'll break it up kind of in theory, but we can talk about the shed and the setback in the same context of the whole conversation. But we'll decide on those separately. We received your packet and we've reviewed your statement to request. We have a couple of letters from the public. We have your form and everything. So let's get right into this here. So regarding the shed, please address the question we have about whether or not your shed will be an undesirable change in the character of the neighborhood or cause a detriment to the nearby properties and reasons why you think it would or wouldn't.

Mr. Harris: No reason whatsoever because it's actually in the backyard of the property and there are no other properties behind us. We live on the river here on Badger, so the actual impact to any to the neighbors is minimal. Where I'm actually placing the shed is going to be positioned with the neighbor's shed on the adjacent property line. You wouldn't even see my shed because her shed is where it is from her property and the adjoining property owners on the other side won't even be able to see it from their house.

Mr. Brewster: Okay, understood. Any questions board members? Are there any other questions on that particular topic? Okay. Moving on to question two, is there any other way you can orient the shed? Does it have to go where you're proposing it to go, other than us granting the variance for either the size or the setback?

Mr. Harris: Honestly, there isn't any other suitable spot for it because that's about the most level section of the yard that I have that is not close to the river. So if most of the yard is on a slope, downward slope towards the river, and where I have it planned to be, is like both the last bit of flat ground that is possible due to the size of the lot and everything. And I don't want to put it next to the river because I don't want to lose everything that gets stored in the shed.

Mr. Brewster: Understood. Board members, any questions on that? Especially in per pertaining to the reasoning maybe they have for the setback.

Ms. Kinne: Yes, Mr. Chairman. I would like to ask Mr. Harris how long He's lived there?

Mr. Harris: I have lived here for years my whole life and purchased the property from my parents.

Ms. Kinne: Then you're familiar that that river can get angry.

Mr. Harris: Oh, very much so.

Ms. Kinne: How far up your lawn does it come when it's at flood stage?

Mr. Harris: Not very far up the lawn because like I stated before, most of the yard is a hill anyways, so my house sits way up off of the river. There's quite a slope down to the river. And then of course there's probably a 25 foot riverbank down to the river. So in 2011, it came probably 20 feet over the bank, which is still at the lower level of my property. So as far as the risk of it being flooded where it is, it is nonexistent.

Ms. Kinne: I realized there's not another way to do it or another place. I just wondered how high up the water comes there when it plugs and if the shed would be impacted by that?

Mr. Harris: No, not at all. I'd have to say that as far as location to the river and our house that we're pretty fortunate to be so elevated back away from the river, but yet still be able to have a river front property.

Mr. Brewster: Great. Thank you.

Mr. Harris: You're welcome.

Mr. Brewster: Okay, good. I have a question pertaining mostly to the side yard setback. It's not large so I guess we could almost consider that one, not a substantial variance. I'm curious though being that it is just a small move what the reason is and that feel that there's a need for moving it off the property line? Or excuse me, not the property line, but off of the setback because you requested that. Is there any structural land use issue that you need that movement?

Mr. Harris: Well, the kids' playground is pretty close to there, so I had to get it as close to the property line where the kids aren't running into the side of the shed while they're trying to play on the swing set.

Mr. Brewster: Okay. So you said you had to get it as close to the property line...

Mr. Harris: As I could, just because when they're running around there and if I brought it any further, you know, that running around, jumping off the swing or something, they would smash right into the shed.

Mr. Brewster: Okay. So aligning it on the, the setback of 3 feet is not feasible because of what you said about the children's playground.

Mr. Harris: Well, just because that extra foot gives me a little bit more wiggle room.

Mr. Brewster: Okay. The next question we talk about substantial and I believe you were on long enough to hear our attorney explain what the substantial nature is of a variance. So I mean just briefly address that; and we're looking at what we just discussed with a small setback off of the line. However your request to jump up from the required 125 feet to 240 is somewhat large. And can you explain to us why you need to go to that size of shed.

Mr. Harris: Well, we're just simply looking for some additional storage as a single level house and with the four of us and there's no attic space storage because it's unfinished and we're kind of running out of room. I also own several kayaks that I currently store in the room, or I'm sorry, in a garage, so I can't use the garage for garage things because the kayaks take up the space and two of the kayaks are 16 foot kayaks. I just kind of need a little bit of a larger shed just to be able to accommodate the kayaks themselves, just so they're not out in the yard or exposed to theft or anything like that.

Mr. Brewster: Thank you. Board members on that question, anything? So number four; again, when you talk about the physical and environmental characteristics of the land and whether or not your project is going to have an adverse effect on that. We'll be addressing that; but if you can add any comments on whether or not you've got to bring in, like heavy equipment because you're so close to the property line that you're asking a setback from, will heavy equipment affect your neighbor? You know, things like that.

Mr. Harris: No, it's pretty minimal where we're putting it and I'm not actually building the shed, it's being trucked in so it's longer than it is deep. It's a single level shed, just longer. It's not like an albatross of a two story, three story barn or anything like that. It's just simply longer to accommodate the kayaks.

Mr. Brewster: Okay, understood. We will determine this because the zoning was there and you're asking for it. It's pretty self-evident that this is self-created, but you heard before, that none of these factors are an immediate negative or positive for you. So we'll go with that one is self-created unless I hear anything else from the other Board members. Okay. Those are the factors we had to go across. I think we covered both sets of variance requests on the commentary you have and we had. We've looked through your packet, so I have correspondence again ...

Mr. Cortese: This maybe a good time to ask if any members of the public want to speak to the application.

Mr. Brewster: Thank you very much. Is there anyone here who would like to speak to this application? Hearing none, we will move forward and I will read the correspondence that we've received. First of all, so we don't miss the ordinance department again. John, do you have any comments regarding this application?

Mr. Freer: The only suggestion we would have is obviously a building permit before the shed went in and probably request some anchorage given the area that it's in.

Mr. Harris: It comes with the company anchors when they deliver it.

Mr. Freer: Yeah, I know we had spoken on that. This was just for the record.

Mr. Harris: Sure.

Mr. Brewster: Okay, thanks. Thanks John. Thanks Nick for commenting back. You guys will work that out or it is worked out. Now moving on to the correspondence. We have drainage coordinator review; as indicated a drainage review is not applicable on this. Broome County planning has reviewed the above cited case and has not identified any significant county-wide or intercommunity impacts associated with the proposed project. However, we have the following comments; the project site is located partially within the existing FEMA special flood hazard area and partially within the preliminary FEMA special flood hazard area. The Town's Zoning Board of Appeals should exercise caution and approving the project located within the special flood hazard area. The applicant should be informed of the hazards of locating the project within the special flood hazard area. The Town Zoning Board of Appeals should ensure that the project does not encroach on or result in drainage impacts to the adjacent property, and then they request that we submit our findings to them. We have a referral from our Planning Board of the Town of Chenango. The Planning Board refers this application to the ZBA with a favorable advisory. From our Engineer; in reviewing the applicant sketch, application documents, and letter from the closest adjacent neighbor, we have no engineering concerns. Speaking of, I have two letters from the public regarding this case. The first:

To whom it may concern. My neighbor Nick Harris has asked me to write a letter concerning his construction on the property. He has proposed to build a shed and an addition to his existing home. At this point, I have no concerns. If in the future a problem arises that I'm not aware of, please feel free to contact me, et cetera. Sincerely, Clara S. Ernstrum.

Secondly:

We're neighbors of Nick Harris living for over 30 years at 10 Mountain View. Nick has lived at eight Badger Road the entire time. He is a great neighbor and we support his goal of upgrading his home to accommodate his family. The improvements he has planned will improve our neighborhood. We feel fortunate that he plans to stay in the neighborhood rather than move to new locations. Sincerely, Janet and Michael Scarinzi, 10 Mountain View Drive, Binghamton, New York,

Mr. Brewster: Does anyone have any further commentary on this application?

Ms. Kinne: Mr. Chairman, the lady who wrote the first letter, do I recall that she stated something about the 3 foot setback would only be along the length of the building, not the whole property line.

Mr. Brewster: Oh yes, there is a handwritten addendum here. According to my conversation, I thought it was her own notes, but I'll read it. According to my conversation with Nick, the variance of 3 feet applies to the construction of his shed only Clara Ernstrom dated 4/18/2020. I have to admit I'm confused by that.

Mr. Harris: Well, I think what she was concerned with is if we were to put an addition on the house, we would be encroaching the property line. And that's not the case. We have no plans of doing that at all.

Mr. Cortese: Mr. Harris, this is the other Nick, Town Attorney. Just to clarify, in that letter, she had stated something about an addition to your home that this application doesn't relate to that. And do you plan to do in addition to your home?

Mr. Harris: Not currently, no.

Mr. Cortese: Okay. That's all we need to know. Just for the record, we're just dealing with the shed tonight, right?

Mr. Harris: Correct.

Mr. Brewster: Okay. So procedurally, I guess if we can, when there's a motion made we may have to specify that.

Mr. Cortese: It's just this Mr. Chairman; the application is just for the two variances for the shed to the extent that that letter mentioned something related to an addition to a home that's not part of the application that we're considering tonight.

Mr. Brewster: Okay. Thank you. So, if there's anything else you would like to comment on this? I will close the public hearing and we'll move on to the SEQRA review. Okay. In that case, I do close the public hearing on this matter and we will move forward for the rest of the proceedings, which involve us looking at the SEQRA review or environmental impact review. Nick, do you want to lead that?

Mr. Cortese: Sure, if you'd like me to. So, the SEQRA review that we have to do tonight relates to the square footage variance because as I had stated before, individual setback variances that are requested are Type II actions. This is part of the reason why we break each individual request up into separate resolutions, one of the numerous reasons, but this, the square footage variance for the larger shed does require SEQRA review as that is an unlisted action. On the other hand, it's certainly my advice to you all that, Type II action is pertinent to the setbacks. So, the SEQRA review that we'd be doing tonight, and you do have the part one form in front of you or you should anyways, as part as part of the application. This is just for the square footage areas. Okay. So, Mr. Chairman, are you ready to go on this one?

Mr. Brewster: Ready to go.

Mr. Cortese: Either answer yes or no and if you could, audibly. No means no or small environmental impact, yes means moderate to large environmental impact to the following questions. One, will the proposed action create a material conflict with an adopted land use plan or zoning regulation? Yes or no?

Board: No.

Mr. Cortese: All right. Any disagreement? Okay. Will the proposed action result in a change in the use or intensity of use of land? Yes or no?

Board: No.

Mr. Cortese: Everybody gets so excited about this. Will, the proposed action impair the character or quality of the existing community, yes or no?

Board: No.

Mr. Cortese: Will the proposed action have an impact on the environmental characteristics that cause the establishment of a critical environmental area.

Board: No.

Mr. Cortese: This is not a critical environmental area. Will, the proposed action result in an adverse change in the existing level of traffic or effect existing infrastructure for mass transit, biking or walkways?

Board: No.

Mr. Cortese: Will the proposed action caused an increase in the use of energy and does it fail to incorporate reasonably available energy conservation or renewable energy opportunities?

Board: No.

Mr. Cortese: Will, the proposed action impact existing public, private water supplies, public, private waste water treatment, utilities?

Board: No.

Mr. Cortese: Will, the proposed action impair the character quality of important historic archeological architectural or aesthetic resources?

Board: Nope.

Mr. Cortese: Will the proposed action result in an adverse change to natural resources like wetlands, water bodies, groundwater, et cetera.

Board: No.

Mr. Cortese: Will, the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

Board: Nope.

Mr. Cortese: And finally, will the proposed action, create a hazard to environmental resources or human health?

Board: No.

Mr. Cortese: So you've answered no or small impact to all of the questions that I just asked. So I would presume then that you'd be issuing a negative declaration under SEQRA and Mr. Chairman, we would need a motion and a second to that effect if that is your intent.

Mr. Brewster: Okay. Ladies and gentlemen, do you agree with the findings that since we answered all those questions we will issue a negative declaration for the SEQRA? I agree. Okay. Then I will seek a motion to offer up a negative declaration for this project.

Motion to issue a negative declaration for SEQRA for Area Variance 2020-V04 (Square Footage) – motion made by Aleta Kinne, seconded by Thomas Eldridge and carried by the following roll call vote:

James Brewster, Chair	Voted __Aye__
Aleta Kinne, Vice Chair	Voted __Aye__
Melanie Pandich	Voted __Aye__
Scott Smith	Voted __Absent__
Joseph Aston	Voted __Aye__
Thomas Eldridge, Alternate	Voted __Aye__

The motion was thereupon declared adopted by a roll-call vote of:

Ayes – 5      Nays – 0      Absent – 1

Mr. Brewster: Okay. Negative declaration will be processed. So let's see, Public hearing is closed. It's time for the discussion on the five factors, or we'll just move on with the reading of the resolution and go from there.

Mr. Chairman: Do we have to go through the lead agency function?

Mr. Cortese: No in unlisted action scenarios, declaring lead agency is not a requirement. There are a very limited number of scenarios where you do have to formally declare lead agency status and this is not one of them.

Ms. Kinne: Thank you.

Mr. Cortese: You're welcome.

Mr. Brewster: Okay in that case, let us go through the factors first real quick for discussion as board members on the shed. So the first one: will the requested variance produce an undesirable change in the property? Mostly it will be unseen or a minimal site and the neighbor's shed will be blocking one side. It's in his backyard and we've had two favorable letters of recommendation. So unless you disagree with me, I would say it will not produce an undesirable change.

Board: Agreed.

Mr. Brewster: The benefit sought by the applicant cannot be achieved by any other method other than the grant of the area variance. He stated it is the most level section in his yard to put a shed because it slopes down to the river. Okay, that's for the next comment I had was for a setback. But anyhow, so that one he really could not achieve by another method. Would we agree on that from his testimony and our analysis?

Board: Yes.

Mr. Cortese: Mr. Chairman, just for my own clarification, as I edit the draft resolution right now, are these findings of fact pertinent to both variance requests or which one are we dealing with?

Mr. Brewster: Right now I'm dealing with a shed.

Mr. Cortese: I understand, but there are two variants requests for the shed.

Mr. Aston: You're doing both, right?

Mr. Brewster: I'm sorry, in my notes on the paper, on the worksheet here, shed means the size. My other sheet has setback so I'm sorry; that was my notes getting in the way of clarity.

Mr. Cortese: Well, I will say procedurally you can make joint findings of fact as they pertain to both various requests, as long as they're the same for both, but if they aren't the same, then we would have to split them up and differentiate, to make sure that people understand which one we're dealing with when.

Mr. Brewster: Okay, then let me back track them.

Mr. Cortese: Maybe for ease of use we can just talk about the square footage and the setback one right after the other and see if anybody's opinion differs. Maybe that's a good way to do it procedurally.

Mr. Aston: I assumed that you were including both on that too. I didn't know you split them off.

Mr. Brewster: So we are going to consider them together. Okay, well then let me back up to number one. In my interpretation I was thinking of the square footage, but will it also apply to the setback in our opinion folks or is there going to be any different answer?

Board: No.

Mr. Brewster: Same for question number two about the benefit. We clearly heard what I mentioned about the flat ground and also now I'll include the fact that he made a discussion as children's playground being in the way and therefore would need of the setback variance of the two feet or so.

Board: Yeah.

Mr. Brewster: So that's another that's the same, there's no change on that. Okay. The request that the area variance is, what would we say on this, substantial or not substantial? I mean it's a pretty big change in the areas, the request for the square footage offset by the setback.

Mr. Eldridge: I mean, yes and no. I mean you're talking like a 10 by 12 area is really not that big, you know.

Mr. Brewster: Okay. We can wait. We can declare it is not substantial. That's fine by me.

Mr. Aston: I would say no, in my opinion.

Ms. Pandich: I agree.

Mr. Cortese: In both instances?

Mr. Brewster: Right. In both. So what do we want to consider, I mean clearly one could be substantial and one is pretty obvious it's not substantial?

Mr. Aston: Are you saying in regard to the square footage as far as being substantial?

Mr. Brewster: Yes.

Mr. Aston: It's for the property size, but again in my opinion, I don't think it's that big of a shed.

Mr. Brewster: Okay. So we'll go with both.

Ms. Pandich: I agree.

Mr. Brewster: That's fine, we'll go with both. It is not substantial in our assessment.

Mr. Cortese: Okay.

Mr. Brewster: And the requested variance would or would not have an adverse effect or impact on the physical environmental conditions of the neighborhood or district? At face value I'm going to say will not.

Mr. Aston: I agree with that.

Mr. Eldridge: I'd say no.

Mr. Brewster: Okay. The only thing I will reiterate on that and I think we've got it covered; is the comments by the DEC and the flood plain. You know, the shed is not going to certainly have an effect on flooding. But I think Mr. Harris needs to address the fact that you make sure that shed is not built in the flood plain. I actually did take a look at that because it's kind of the things I do, and it looks like, according to the mapping, that where he's putting his shed is up out of both official and proposed special flood hazard area and by the description of his land, the slope. I think that makes sense. And so I would tend to believe the mapping that I saw that he is outside of it. So, then again, of course the shed is not in and of itself is not going to affect the flood plain. It may be affected by a flood

plain and hence the anchorage necessary. I just wanted to reiterate those concerns of the DEC. So we could still go with the “would not” have an adverse effect if everybody agrees with that. But I wanted to get those comments on the record.

Board: I agree.

Mr. Brewster: Okay. Would we say the hardship giving rise to the variance is self-created? The zoning was there, he's building it and I think that ...

Mr. Aston: It's self-created, but he's been there for a long time.

Mr. Brewster: Okay. Nick, I believe it's time for you read the resolution again or these resolutions I should say.

Mr. Cortese: Which would you like to take up first Mr. Chairman?

Mr. Brewster: Let's go for the size, the square footage.

Mr. Cortese: Alright. So here's the resolution that will be offered this evening:

In the Matter of the Application #: 2020-V04 of Nicholas A. Harris for an area variance from the maximum square footage allowed for an accessory structure in the R – Residential District of 125 square feet to 240 square feet

**WHEREAS**, on April 20, 2020, Nicholas A. Harris (“Applicant”) duly filed an application for an area variance for property he owns within the Town, located at 8 Badger Road in the R – Residential District and designated as Tax Map No. 112.11-1-8, wherein Applicant requested a variance from the maximum square footage allowed for an accessory structure in said District of 125 square feet to 240 square feet in order to accommodate the placement of a storage shed on said property; and

**WHEREAS**, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on May 26, 2020 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 May 26, 2020, 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 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 not 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 #: 2020-V04 (Square Footage) for an area variance is granted.
8. This Resolution shall take effect immediately.

At a meeting of the Zoning Board of Appeals of the Town of Chenango, held on May 26, 2020 via ZOOM virtual meeting software (**Meeting Link: <https://us02web.zoom.us/j/86231513116>, Meeting ID: 862 3151 3116, and Password 600374**) in accordance with the Governor's Executive Orders 202.1, 202.10 and 202.15, as extended by Executive Orders 202.28 and 202.29, the foregoing motion was made by Thomas Eldridge and seconded by Aleta Kinne. The ZBA members voted as follows:

James Brewster, Chair Voted \_Aye\_

Aleta Kinne, Vice Chair Voted \_Aye\_

Melanie Pandich Voted \_Aye\_

Scott Smith Voted \_Absent\_

Joseph Aston Voted \_Aye\_

Thomas Eldridge, Alternate Voted \_Aye\_

The motion was thereupon declared adopted/defeated by a roll-call vote of:

Ayes – 5          Nays – 0          Absent – 1

Mr. Brewster: The motion for the square footage area variance has been approved. Mr. Cortese, now you may read the setback variance.

Mr. Cortese: In the Matter of the Application #: 2020-V04 of Nicholas A. Harris  
For an area variance from the minimum side yard setback for accessory  
structures in the R – Residential District of 5 feet to 3 feet

**WHEREAS**, on April 20, 2020, Nicholas A. Harris (“Applicant”) duly filed an application for an area variance for property he owns within the Town, located at 8 Badger Road in the R – Residential District and designated as Tax Map No. 112.11-1-8, wherein Applicant requested a variance from the minimum side yard setback for accessory structures in said District of 5 feet to 3 feet in order to accommodate the placement of a storage shed on said property; and

**WHEREAS**, the ZBA has determined Applicants’ application for an area variance to be a Type II action for purposes of the State Environmental Quality Review Act (“SEQRA”) and, thus, no further determination or procedure is required under SEQRA with respect to said application; 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 May 26, 2020, 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 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 not 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 #: 2020-V04 (side yard setback) for an area variance is granted.
8. This Resolution shall take effect immediately.

At a meeting of the Zoning Board of Appeals of the Town of Chenango, held on May 26, 2020 via ZOOM virtual meeting software (**Meeting Link: <https://us02web.zoom.us/j/86231513116>, Meeting ID: 862 3151 3116, and Password 600374**) in accordance with the Governor's Executive Orders 202.1, 202.10 and 202.15, as extended by Executive Orders 202.28 and 202.29, the foregoing motion was made by Thomas Eldridge and seconded by Joe Aston. The ZBA members voted as follows:

James Brewster, Chair Voted \_Aye\_

Aleta Kinne, Vice Chair Voted \_Aye\_

Melanie Pandich Voted \_Aye\_

Scott Smith Voted \_Absent\_

Joseph Aston Voted \_Aye\_

Thomas Eldridge, Alternate Voted \_Aye\_

The motion was thereupon declared adopted/defeated by a roll-call vote of:

Ayes – 5      Nays – 0      Absent – 1

Mr. Brewster: The setback has been approved. Congratulations. Build your shed. Enjoy your kayaks and be aware of the river and please get a building permit. Thank you.

Mr. Harris: Thank you.

Mr. Brewster: That brings us to the conclusion of our agenda without any further commentary at all needed from the Board. If there is, feel free to speak now, otherwise I'll entertain a motion to adjourn.

Motion to adjourn the May meeting of the Zoning Board of Appeals – motion made by Thomas Eldridge, seconded by Joe Aston and carried by the following:

Ayes – 5      Nays – 0      Absent – 1

Mr. Brewster: Alright then, the May meeting of the Zoning Board of Appeals has adjourned. Thank you everybody for your time.

Mr. Cortese: Thanks everybody. Have a good night.

Meeting adjourned at 8:45.

Respectfully Submitted,

Donna M. Webster  
Stenographer of the Zoning Board

