

ZONING BOARD MEETING  
TUESDAY – JULY 26, 2016  
ZONING BOARD  
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman  
Messrs. Ruston, Waskie, & Doolittle  
Ms. Kinne

ALSO PRESENT: Donald G. Walls, Esq. – Town Attorney  
Jim DiMascio, Councilperson  
Scott Russell, Ordinance Office

ABSENT: Ms. Pandich, ZBA Member

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Ruston read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Ruston noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Ruston also read the Notices of Publication for each case, which was duly published, as required by law, and as evidenced by Affidavits of Publication received and placed on file.

#### APPROVAL OF THE MINUTES

- Approval of the Minutes for June 28, 2016 Zoning Board Meeting.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, to approve the Minutes of the June 28, 2016 Regular Meeting.

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#### PUBLIC HEARINGS

- LAURENCE BORELLI – Louis Korchak Jr. – 14 Cherry Ln. – TM#112.06-1-34 –  
Application for a Double Area Variance to construct an addition on a corner lot with less  
than required rear yard setbacks from 25' to 21'02" and 25' to 10' in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Are you the owner of 14 Cherry Ln.?

Mr. Borelli – No his sister and Buzz Korchak are.

Mr. Walls – You want to build an addition on that property that doesn't meet the required setbacks. The purpose of the addition is it to house Mr. Korchak?

Mr. Borelli – Yes it is. He has Alzheimer's. The bedroom and bathrooms are upstairs and he's having trouble managing the stairs. Want to add an addition onto the family room where it would have a handicap accessible bathroom, bedroom and small laundry room.

Mr. Walls – This is one floor addition?

Mr. Borelli – Yes.

Mr. Walls – Describe the dimensions of the addition.

Mr. Borelli – He doesn't have the plans with him but he thinks its 25' by 12'-10" deep.

Mr. Walls – The plans indicate 25'-5" by 12'-10". The location is towards the rear of the property?

Mr. Borelli – Yes.

Mr. Walls – You described the interior of what it consists of. When it's finished will it match the existing house?

Mr. Borelli – When it's finished you won't even know it's an addition.

Mr. Walls – The general area where you live is pretty much residential.

Mr. Borelli – It is all residential.

Mr. Walls – Do you think this addition will blend into the neighborhood without offending the character of the area?

Mr. Borelli – He assures them it will.

Mr. Walls – How about any reasonable alternative locations – for example – can you put the addition any place on the lot that would conform with the ordinance?

Mr. Borelli – Not really. If you had a chance to review the plans you would see that this is the only place to put it. One of the other reasons is the main house is a little over 2' off the ground and where we are putting the addition it's only 10". So if they had to build a ramp on the house, it would have to be quarter inch per foot, it would be 24' long. Off the addition since its 10 or 11" off the ground it would only be 10' long.

Mr. Walls – Looking at your plan can you purchase any land?

Mr. Borelli – They did ask the one neighbor if they would sell them some property and they wouldn't, so they had to go for the variance.

Mr. Walls – Anyone else present who would like to speak on this?

Ms. Susan Sanya, 204 Oneida St., Sayre, PA – She has Power of Attorney for both of her parents – Louis and Geri Korchak. The other main reason they want the addition built is because her father has done a tremendous amount in his life for all of them. He's worked extremely hard his entire life. They do not want to put him in a nursing home or alternative care if at all humanly possible. Being that they have the financial means to keep him at home and hire care as needed. That is where they want him to stay – that is the primary reason to keep him comfortable in his familiar surroundings. When dealing with Alzheimer patients if they get out of their familiar surroundings they get disoriented. The goal is to keep him on that property if humanly possible. They appreciate the Boards consideration.

Mr. Tim Petrisak, 12 Cherry Ln. – They are adjacent to the Korchak's. First of all the Korchak's have been their neighbor for fifty years. Very good relationship with them and would like that to continue. The family sympathizes with the situation that they are in. In taking a look at what needs to be done as far as the variance goes, he is not the only owner of the home but there are other family members that have a financial interest in it. So he is taking consideration as to what they were saying. In looking at this and based on the property line as it has been designated they feel it is just too close to the property line to have this jutting out from their current family room. It spoils the aesthetics of looking at the yard, an issue with the drainage and the water run off because right now where they want to build this there is some puddling in that area of the lot. With the structure there they are not sure how the runoff from the gutters of the main house and also from the gutters from the addition. He doesn't know of any precedent that he could find within the neighborhood to allow a short 10' variance to the property. Feel they need to protect themselves – understand their situation – he is not speaking for himself but for other family members that also own the house. Still don't know why they couldn't build onto one side of the house as opposed to building on the back. It may create a similar type of problem but the neighbor that lives there – it's a much longer distance between the house as it is from his house.

Mr. Walls – Anyone else care to be heard?

Mr. Mike Pandich, 31 Highland Rd. – He can speak about a variance as his nice neighbor allowed him to go right to the property line with a screened in porch. So there is precedence if you call it that. In addition Buzz Korchak has done so much for this community and the Chenango Valley School. At this time of his life for what he would consider a small inconvenience don't see how they can deny him this variance.

Mr. Walls closed the Public Hearing.

Mr. Russell, Ordinance Office, recommends a favorable advisory with a building permit being required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has determined that the project is not subject to review.

Urda Engineering recommends a favorable advisory with the building department performing a code compliance review and a building permit being required.

Town Planning Board recommends a favorable advisory with a building permit being required.

Drainage Coordinator recommends approval.

Mr. Ruston – Did you look to see if you could put the addition in front?

Mr. Borelli – Yes but the rear is the only place to put it. When he's done with it you won't know he added on.

Mr. Waskie – For your neighbors concern if this variance goes through how will you drain out to the road?

Mr. Borelli – He can address that once he starts building and can address the runoff from the roof and will make sure it won't encroach on the neighbor.

Mr. Phillips – Scott from the Ordinance Office will make sure of it.

Mr. Russell – If it's approved we will look at the drawings to make sure the drainage is addressed.

Mr. Doolittle – You agree that the runoff from the roof – you say you could but will you take care of it?

Mr. Borelli – He could and he will.

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- BC DEVELOPMENT LLC. – Maryanne Burke – 101 Castle Creek Rd. – TM#111.12-4-8 – Application for a Triple Area Variance to construct an accessory building in front of the principal use with less than required side yard setback from 10’ to 7’ and rear yard setback from 25’ to 8’ in a PDD-C zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – You’ve heard the previous Public Hearing so these questions will be along those lines. You are the owner of the property?

Ms. Burke – Yes.

Mr. Walls – Can you describe this building – a shed and the dimension?

Ms. Burke – Would like to put in a shed along the side of the property approximately 14’ by 40’. They are a property management company and it will hold supplies for the business. They would store furnaces, water heaters, and lots of parts. They have out grown the little garage area and sometimes when they have to find a file they have to climb over things so it’s a little dangerous. They want to put the shed out back. It’s not going to have electric. They will get into it a couple times a week.

Mr. Walls. – Appears you are in a commercial area.

Ms. Burke – Yes.

Mr. Walls – Are there other sheds in the neighborhood?

Ms. Burke – She doesn’t know if there are sheds. There are other businesses that have fences and fenced in areas with stuff stored outside. There are rentals – commercial area.

Mr. Walls – The interior will be raw or unfinished?

Ms. Burke – Yes.

Mr. Walls – You think this type of structure will blend in the neighborhood?

Ms. Burke – Absolutely.

Mr. Walls – Is there any other alternatives to locate this shed on the lot?

Ms. Burke – Unfortunately when this building was built it was a Texaco gas station. They went all the way to the back of the lot so there is nothing she can put out there that won’t require one

or two variances. It's going to stick in front of the building no matter what because of the way the building sits.

Mr. Walls – Any other adjacent properties available where you can come into compliance?

Ms. Burke – No.

Mr. Walls closed the Public Hearing.

Mr. Russell, Ordinance Office, recommends a favorable advisory with a building permit being required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has not identified any significant countywide impacts associated with the proposed project. They recommend the project include landscaping.

Urda Engineering recommends approval with a building permit being required.

Town Planning Board recommends a favorable advisory with a building permit being required.

Drainage Coordinator recommends approval.

Mr. Waskie – Will it be electrified and will the doors be across from the garage door?

Ms. Burke – No electric and they want to put in double doors and an overhead door on the one end. There will be a couple of windows by the door.

Ms. Kinne – Its prefab. What are the building materials?

Ms. Burke – Its 2 by 4 construction with T 111 on the outside. It will be painted to match the existing building. It's kind of like what the Amish sell on Front St.

Mr. Doolittle – The outline shown on this particular page pictures the proposed building way out beyond the other two structures down the street towards the light. Has anyone taken any consideration as to the line of site exiting those two buildings with regard to traffic coming south on 11?

Ms. Burke – They are still many feet from the front.

Mr. Doolittle – Looking at the sketch on this proposed site plan it looks like you cut the corner site distance in half but you say there is sufficient distance. You are not going to surprise anybody?

Ms. Burke – No. The way they have it positioned in the back left hand corner they can put a tractor trailer in there and not be on the road.

Mr. Doolittle – Is the overhead door going to be on the north end or the back side of the building or the front?

Ms. Burke – Front side facing the street.

Mr. Doolittle – The windows will be on that side also?

Ms. Burke – No, the other side sitting this way (indicating with her hands). The garage door to go in and out and the doors on the side and the windows will be along the doors on the side.

Mr. Doolittle – Could you put a couple of windows on front so that it looks residential than commercial?

Ms. Burke – You couldn't put the garage door in there you could eliminate a garage door. Feels that the neighborhood – Ground Water two doors down – they have a garage door, barn with garage door. Doesn't think a garage door is unsightly when driving along Route 11.

Mr. Doolittle – The position of the garage door is half the distance to Route 11 than the two buildings you mentioned.

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## NEW BUSINESS

- CITIZENS CHENANGO SOLAR, LLC – Kevin Orchard – 400 W. Chenango Rd. – TM#077.03-1-7- Application for a Use Variance to develop a solar farm and assume Lead Agency for the Long Environmental Assessment Form.

Mr. Russell, Ordinance Office finds this application to be incomplete and recommends the Zoning Board accept and defer the application for further information but assume Lead Agency for the Long Environmental Assessment Form.

Mr. Phillips – The Ordinance Office has indicated it's an incomplete application and both parties are aware that "we" are revising the Town's solar requirements so this Board is going to approve the application knowing that both parties are aware that the Town is working on a solar

ordinance. Many of us know that the state is very involved with this as well – need to be near a 3-phase line – must have so many acres. There will be very few places that will comply in the Town of Chenango.

Mr. Walls – Would like the Board to accept per the recommendation of the Ordinance Department. That covers the language that it's incomplete.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne, that the Board finds this application is incomplete and defer the application for further information.

ROLL CALL:           AYES – 5     NAYS – 0

A motion was made by Mr. Ruston, seconded by Mr. Waskie, to assume Lead Agency for the Long Environmental Assessment Form and to accept the Citizens Chenango Solar, LLC request to defer any further action on this project to allow time for the Town Board of the Town of Chenango to set the regulations for large scale ground-mounted solar projects into local law.

ROLL CALL:           AYES – 5     NAYS – 0

Mr. Doolittle – This is strictly for ground installed – nothing for roofs.

Mr. Phillips – The Town is very involved with regulations on solar zoning.

Mr. DiMascio – Under Governor Cuomo's direction NYS is promoting the use of solar farms, green energy. Most of the new solar farms are different than what we are accustomed to as far as residential use on a roof and etc.; which creates kilowatts worth of power. The solar farms will probably be no less than 5 acre lots – 5 acre lot of solar panels can create 1 megawatt of energy. This wasn't communicated to municipalities as the solar farms have come to homeowners and have offered tentative lease agreements which has caught many of us off guard. There is no excuse not sure why we were caught off guard – possible a lack of communication by NYS.

Since we received this solar application and to the Ordinance Office credit the Town Board has worked very hard on creating a new solar ordinance. Lot size, setback regulations. Luckily NYS has created a template for us to follow. Just to ensure we do this in a timely manner we have set a deadline of October 1 to have this project completed. We think that there will be other applications in our community.

Chairman Phillip's said it very well – the two things that are important to the solar companies – it's not like fracking but it is an energy company. They have deep resources and they do their homework in advance they know more about our zoning than we do through their legal departments and engineers. The two biggest things are they will want no less than 5 acre lot, their goal is to create no less than 1 megawatt. NYSEG does not like to add to their transmission on the 3 phase lines more than 2 megawatts; which would create a 10 acre solar farm. Some

farms will be bigger than that because they will take up other land. A good example is a 10 acre solar farm will take 15-20 acres of land to meet our requirements. At the end of the day we don't expect that there's going to be tens or twenty of these solar farms because of the 5 acre need and there is only one 3 phase line going through all the Town of Chenango as it does zigzag.

Mr. Phillips – To pat the Town Board on their back they are catching up to speed very quickly and this action is necessary that we stay on top of it and stay in control of it.

Mr. DiMascio – Also Citizens Energy has been very co-operative with us. They could have run this application down our throats instead Supervisor Snopek, Scott, Alex and himself have had multiple conference calls with them to get their co-operation as we are not prepared for this. By taking this action it helps them through their grant process and allows us to get to the October deadline.

Mr. Phillips – Any questions from the Board? We were hit sideways with this and we're not running something through here. As Mr. Ruston said we are lay folks and we are all trying to catch up.

Mr. Waskie – When they create this new whatever is it a special zoning that will last forever or does it....

Mr. DiMascio – Right now to answer that question specifically we do know it will be a special permitted use that is how we are creating it. There are always options as far as overlays creating zoning districts or special permitted use. After they learned how it would also affect NYSEG that they would need 5 acre lots and could only go on the 3 phase lines NYSEG has a lot to do with this because they have to accept the added energy that's going into their transmission line it cannot just go anywhere otherwise it will overload the system and they are not prepared. Thus, we understood there would be limited opportunities for the energy companies but for our residence who can benefit from this economically we should not impede them from that opportunity and supporting the state with more green energy. This is where we are at.

Mr. Waskie – Was just wondering as when it does come to a point where it's defunct what happens.

Mr. DiMascio – A great example of that – these things will last twenty years. Compared to natural gas development taking a well head of 5 acres these will take 20 acres. Very concerned about how to fence them, landscape so they are hidden. The good news is 50% of these are going to be so far into the property that you won't see them from the road.

Mr. Doolittle – Glad you mentioned that. They are very reflective the roads are not all straight the sun changes position how do you keep the reflective.....

Mr. DiMascio – There is a lot of engineering into this specifically elevation because it has to face southwest tilt of angle of the solar panels.

Mr. Phillips – The other thing; as Jim has said, they have been very cooperative knowing they had the ball in their court so what we're doing is letting them move on with the grant process. Thanks Jim for all the information.

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- E. MICHAEL MCGOWAN – 18 Old River Rd. – TM#078.20-1-1 – Double Use Variance to allow a storage trailer and to have the storage trailer without a principal use.

Mr. Russell, Ordinance Office, finds this application to be incomplete as far as submitting information to support the Use Variance criteria, and recommends the Zoning Board table the application requesting supporting documentation be submitted by August 15, 2016 so the ZBA can accept the application on August 23, 2016 and schedule a Public Hearing for September 27, 2016.

Mr. Phillips – The Ordinance Office has contacted Mr. McGowan several times and tried to get him to supply us with some information that is required for his application and has not received it yet. At this point it's up to this Board but we don't have all the information that the Ordinance Office has requested. They have sent several things back not answering what was requested of him.

Mr. Russell – The criteria for Use Variance has not been answered.

Mr. Doolittle – So there really is not a document to accept.

Mr. Russell – There is a letter of intent. The letter of intent doesn't go through to describe the criteria that is requesting the Use Variance.

Mr. Phillips – Hasn't addressed the basic requirements. Instead he sends pictures.

Mr. Doolittle – He'd be inclined not to accept the application.

Mr. Phillips – Do we deny the request Mr. Walls?

Mr. Walls – Deny it conditionally on the grounds that it's incomplete.

A motion was made by Mr. Doolittle, seconded by Mr. Ruston, to deny this application for a Double Use Variance to allow a storage trailer and to have the storage trailer without a principal use due to lack of information/incomplete (Use Variance criteria not answered).

ROLL CALL:           AYES – 5    NAYS – 0

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OLD BUSINESS

- JASON ROSENBERGER – 202 Ransom Rd. – TM#094.03-2-46 – Application for a Use Variance to allow domestic game bird breeder – Class B in a residential zone.

Received letter from Matthew & Amie Ross – 192 Ransom Rd – Requesting the ZBA to re-open the Public Hearing of Jason Rosenberger.

Mr. Russell, Ordinance Office, as the applicant has responded to the neighbor’s concerns. This office finds no reason to reopen this application to another public hearing.

Mr. Phillips – There is a request to reopen the Public Hearing because the folks next door thought that it moved too quickly. The Rosenberger’s are present as well as the one neighbor (Saunders). Not going to ask any questions and we do have your response letter. If this Board recalls they put a condition on it that they have to come back in one year. In his opinion it’s where one zoning bumps up against another. The request has stated that there are varmints and coyotes. Across the street it’s agricultural zone – there are 50 or so chickens. Unless there is a serious call to Scott he doesn’t want to reopen the Public Hearing.

Mr. Waskie – Doesn’t feel there is a reason to reopen the Public Hearing. It will be back in one year plus they had other stipulations on the variance. If they feel that strongly they can file an Article 78 recourse.

Mr. Walls – This will need to be unanimous to reopen.

A motion was made by Mr. Ruston, seconded by Mr. Waskie to reopen the Public Hearing for

Jason Rosenberger – 202 Ransom Rd. bearing TM#094.03-2-46 – Application for a Use Variance to allow domestic game bird breeder – Class B in a residential zone.

ROLL CALL:           AYES – 0    NAYS – 5

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VOTES ON PUBLIC HEARINGS

- LAURENCE BORELLI – Louis Korchak Jr. – 14 Cherry Ln. – TM#112.06-1-34 – Application for a Double Area Variance to construct an addition on a corner lot with less than required rear yard setbacks from 25’ to 21’-2” and 25’ to 10’ in a residential zone.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie to approve the Double Area Variance to construct an addition on a corner lot with less than required rear yard setbacks from

25’ to 21’-2” and 25’ to 10’ in a residential zone with a building permit being required.

ROLL CALL:           AYES – 5      NAYS – 0

Mr. Phillips – Thinks it’s admirable that they are doing all they can do to keep him at home. Doesn’t think the addition will be a deterioration of the area.

Mr. Waskie – Just to make sure that Scott reviews the building permit to make sure the drainage is addressed.

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- BC DEVELOPMENT LLC. – Maryanne Burke – 101 Castle Creek Rd. – TM#111.12-4-8 – Application for a Triple Area Variance to construct an accessory building in front of the principal use with less than required side yard setback from 10’ to 7’ and rear yard setback from 25’ to 8’ in a PDD-C zone.

A motion was made by Mr. Waskie, seconded by Mr. Ruston to approve the Triple Area Variance to construct an accessory building in front of the principal use with less than required side yard setback from 10’ to 7’ and rear yard setback from 25’ to 8’ in a PDD-C zone with a building permit being required.

ROLL CALL:           AYES – 5      NAYS – 0

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ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, seconded by Mrs. Kinne to adjourn the meeting at 7:50 p.m.

Respectfully submitted,

Nancy Schnurbusch,  
Recording Secretary