

ZONING BOARD MEETING
TUESDAY – AUGUST 25, 2020
ZONING BOARD OF APPEALS
7:00 P.M. – TOWN HALL (ZOOM)
1529 NY RTE 12
BINGHAMTON, NY 13901

Present: James Brewster, Chairperson
Aleta Kinne, Board Member
Scott Smith, Board Member
Thomas Eldridge, Alternate

Absent: Melanie Pandich, Board Member
Joe Aston, Board Member

Also Present: Nicholas Cortese, Esq., Town Attorney
Frank Carl, Councilperson
John Freer, Ordinance Officer
Kathleen Rudy, Deputy Town Clerk, Interim Stenographer

James Brewster: Okay. We are actually, I believe, going to have a couple of absences tonight on the board, so we'll address that here. The time being 7:05 PM, August 25th. I will call the Town of Chenango Zoning Board of Appeals meeting to order and Kathy or Diane or someone, could you please call roll call of the Board Members please, at this time.

Kathleen Rudy: Mr. Brewster; present, Mrs. Kinne; present, Mr. Smith; present, Mr. Eldridge, present. Mr. Aston and Ms. Pandich; absent.

James Brewster: Thank you. It appears as though we do have a quorum of four, including our alternate. Therefore, I'll continue on here and read the following. I, James Brewster, chairman of the Town of Chenango Zoning Board of Appeals, have confirmed with the Counsel that this meeting is being held in accordance with the Governor's executive order 202.1, which has been extended by executive order 202.55. 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.

This meeting is being held remotely via Zoom Virtual Meeting Software. The public has the ability to listen to this meeting live via this Zoom app, web browser and by telephone. This meeting is being recorded and will be transcribed at a later date.

Now, we'll move on to the agenda, which calls first, for the approval of our minutes from July 16, 2020 special meeting and the July 28th regular zoning board minutes.

James Brewster: We'll start off with the July 16th minutes and then, address July 28. Yes, Mrs. Kinne?

Aleta Kinne: I cannot vote for these minutes, because I feel that they are incomplete with the 16th. The beginning and the ending of the minutes are fine, but all of the discussions we had, as we answered the questions on part two, are missing. These minutes are a very important part of the record and it should show our discussions. Some of them, we tabled even and there is no discussion on it.

James Brewster: Can you take us through the pages you're talking about? Just so we can get that on record and have a discussion.

Aleta Kinne: Well, number three. I know we had discussion there.

James Brewster: On page 15, of the surface water?

Aleta Kinne: I don't have the page number here.

James Brewster: Oh.

Aleta Kinne: Yes, surface water and number four, ground water we tabled F -we tabled G- I know we had discussion there. Number five, flooding. I know there was discussion on B. In the beginning, three of us voted moderate and then, Alex spoke and my last sentence, I remember very well, because it got cut off in the middle, but that discussion is nothing. Number seven, I- pesticides was tabled and I believe that was where under J- other, Joe had brought up about horses and this e-mail said we could put horses under other. Number eight; there was discussion on number nine, farmland protection and that was tabled. That's two of them that jumped out at me, that I remember we had discussion and it is to be part of the record, but it doesn't show up here.

James Brewster: Right. Okay. Do you have any recommendations for proceeding on this?

Aleta Kinne: No, I just feel they're incomplete and should not be voted on and put in the record.

James Brewster: Anyone else? Scott or Thomas? Want to chime in on that?

Thomas Eldridge: I don't know, Aleta, in the following meeting after that, did we cover any of those when we went back through?

Aleta Kinney: Yes, because George sent us an answer to those that were tabled. So, that would be in the next minutes.

Thomas Eldridge: Right, so do you think that the next set of minutes, if they covered it better, would that cover it or?

Aleta Kinne: Not in my opinion, because these minutes, I've learned in the past, these minutes are an important part of the record. I think if someone listened to the audio, they would pick up this discussion that we had and that we need to have it in the printed copy.

Thomas Eldridge: Okay.

Aleta Kinne: But, that's my opinion. You don't have to agree with it.

Thomas Eldridge: You have been doing it a lot longer than I have.

Scott Smith: Mr. Chairman, I would think that we could have someone go back through the tapes and see if they're complete. The problem is with the sound that was available that night, we may be missing some of the information, but we did lose a staff member since then and I believe she was responsible for creating those minutes.

Aleta Kinne: That's right.

Scott Smith: So, I think a second attempt would be appropriate.

James Brewster: Yes, I tend to agree. There does seem to be some holes, as Mrs. Kinne pointed out there. So, do I get a motion on that? I believe, well, certainly we could approve. That's one option. We could obviously decline these at this time, or I believe we can table them to send them back for review. It's your choice as to how you want to do that.

Scott Smith: Sorry, do we decline and table them, or do we make a motion to table them?

Nick Cortese: Yeah, you don't need to make a motion to not do something. So, whatever motion that you make, if you want to make a motion, vote on it to direct staff, to go back through the minutes and add to it, based on the contents of the recordings, that's something that you could do.

Scott Smith: Mr. Chairman, I'd like to make a motion that we return the minutes to the staff, to be reviewed and completed, before we can move forward on them.

Aleta Kinne: Seconded.

James Brewster: For discussion on this motion, would we like to clarify exactly where to look? Or just to have them look over the whole document, in its entirety?

Scott Smith: I would suggest that they look at the whole thing. Listen to the entire tape. Redo the whole thing. I'm assuming that the tape is still in place. Still available.

James Brewster: Well, I would hope so, that I don't have an answer for it, but we'll send it back for them to do them anyway. Okay, we have a motion, made in the second and on this, let's take a roll call.

A motion was made to have the meeting minutes of July 28, 2020 be returned to the staff to be reviewed and completed, so moved by Mr. Smith, seconded by Mrs. Kinne and carried by the following roll call vote:

James Brewster, Chair	Voted ___Aye___
Aleta Kinne, Vice Chair	Voted ___Aye___
Scott Smith, Board Member	Voted ___Aye___
Thomas Eldredge, Alternate	Voted ___Aye___

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Okay, that motion has been passed to, essentially, tabled and sent back to the ordinance staff for a second look on those minutes. For the July 16th 2020 minutes, to be specific. Moving onto the next motion, excuse me, minute packets that is on the agenda. I do not have those minutes in the package. Was anybody else given the July 28 minutes?

Aleta Kinne: I did not receive it.

Scott Smith: I did not either.

James Brewster: Okay, then we cannot address those minutes at this time. We'll put those on the September agenda, after we've had a chance to look them over and receive them and look them over. Okay, moving on, tonight we have no new business, essentially, as published at this time, but I think that we will ultimately will have a slight deviation to that. So, that will send us into our public hearings. The public hearing section of the agenda. And for starters, what I would like to do is, in light of one of the applications, I would like to shuffle things a little bit in the order and move 2020-V08 to the bottom, as we have to have a little bit more discussion on that, as it has been withdrawn, but also amended.

So, Board Members if you're in agreement with me on that, we can do that. Okay. We'll start off with application 2020, for a public hearing with application 2020-V07. Ricky and Mary Tesar 10 La France road, for an application, for an area variance to construct an accessory structure, a carport exceeding maximum allowed square footage in a residential zone, from 200 square feet to 504 square feet and we will also discuss the short EAF.

So, at this time, I will open the public hearing for that.

Mr. and Mrs. Tesar, please correct me if I mispronounced your name. So, for an area variance, what we need to discuss and ascertain the five factors, that are required by state law to address, when assessing an area variance. And so, we received your letter, which talks about maybe a few things, but we will have to go through each and every point on the factors. None of the factors, I do want to let you know, that none of the factors are individually determinative. A yes or no will not directly impact the decision. It's a collective of the information you provide and as information that we'll discuss, when we deliberate. So, are the Tesar's here? I can't see everybody on the list. So, if you could just shout out that you're here.

Nick Cortese: We might need to find them, Jim, because we have everybody muted.

James Brewster: Right.

Jo Anne Klenovic: Who do you want to unmute?

Nick Cortese: Not sure.

James Brewster: Well, I don't know yet.

Scott Smith: I didn't see their name in that list. It could be a number.

James Brewster: Jo Anne, can we do a bulk unmute real quick and then ask for them to shout out?

Jo Anne Klenovic: Okay, hold on.

James Brewster: And then click it back?

Jo Anne Klenovic: Everyone should be able to unmute right now.

James Brewster: Mr. and Mrs. Tesar, are you present on the phone call? Or the zoom?

Mary Tesar: Yes, we are.

James Brewster: Okay, great.

James Brewster: So, we'll leave you unmuted here.

Mary Tesar: Okay.

James Brewster: I don't know, were you able to hear what I said, leading up to this? About, "We'll have to address the five factors pertaining to an area variance."

Mary Tesar: No, we didn't hear that. I'm sorry. We didn't catch that.

James Brewster: Okay, that's fine. So, according to state law, we were required to go through a five fairly simple factors, in the determination of an area variance and so, we'll just need you to comment on those as I go through them. And again, they're not individually determinative. So, if one, we say, "No," or whatnot, will not automatically disqualify you. It's more of a subjective outlook. An assessment for us to discuss at the end and then make our decision. It's just some key factors that we need to address.

James Brewster: So, the first letter, we did read your letter, which probably covered a few things in some vague detail, but if you could expand on some of these things. So, the first factor we'll talk about is whether an undesirable change will be produced by your project for your neighborhood, or if it will be in detriment, if we grant you the variance.

Mary Tesar: Okay. I don't think it's going to be very undesirable. It's just a carport. It doesn't have any sides to it, a back or a front. It's just a metal roof carport, that we want to store a pontoon boat under. It's actually in the backyard, where there's fencing, so the only thing that's going to be really showing maybe, is the roof.

Rick Tesar: A little bit, with tall sides.

James Brewster: Okay and you're looking for, well, we'll talk about that in a minute. So, that's fine. Thank you for that. The number two is whether the benefit of receiving an area variance can only be achieved by this method. Is there any way you could've put this on your property in a different location? Or done a different manner, as far as size?

Rick Tesar: It's in the backyard.

Mary Tesar: Initially, when we spoke with John, we were going to put it in the one area. We were putting it into one area and then, we decided to move it back there. The first area we discussed with John initially was kind of right out in the open, along our driveway. Now, it's in the backyard, which is completely fenced in. It's a six foot tall stockade fence and the carport roof is eight foot. So, it's going to come up a little bit above the fence, but it's not like it's out in the open, like the original plan was.

Nick Cortese: Mr. Brewster?

James Brewster: Yes.

Nick Cortese: If I could just clarify for the applicant. Folks, this is Nick Cortese, the town attorney. What Mr. Brewster was asking you, is whether or not you could install the carport at a smaller size, such that you wouldn't have to request the variance, or if you need the carport to be this size, to accommodate whatever it is that you want to accommodate?

Mary Tesar: Oh, I'm sorry. Yes, it needs to be that size.

Nick Cortese: Because why?

Rick Tesar: It has to be that size for our pontoon boat, which is 20 foot long and I think nine and a half foot wide, plus we would like to put maybe a vehicle underneath it also. Like our lawn tractor and stuff. Things like that. We're not going to garbage it up. We keep our places very neat down here and we're not going to garbage it up and you won't even be able to see it basically anywhere, unless you go in the backyard, basically. The fence is on three sides of this. That's about it.

Nick Cortese: Okay, great. Thank you.

Mary Tesar: You're welcome.

James Brewster: Thank you. Okay. Number three in the list here is another one that's a little bit vague, but try to answer it the best you can. It is kind of a question more for us to assess, but whether the requested area variance you are seeking is substantial and, according to the numbers, it is over a 200% increase in size, from the required zoning. But, if you could just discuss your feelings on that.

Mary Tesar: Oh, like Rick was just saying, we have the boat and we want to get the boat under some type of a cover. And we also want to put the lawn tractor under there, perhaps and then, we have a dump cart and a lawn roller. It would just be stuff like that, that we'd tuck under there, so it's not out in the elements, all winter long,. It would just benefit us, just to keep everything tucked under there and not just laying out in our yard, exposed to everything.

James Brewster: Okay. Thank you.

Mary Tesar: You're welcome.

James Brewster: And the next question I have for you was, "will this variance, do you feel, it will have an effect? Or can you identify any things that have an effect on the physical, for environmental conditions in your neighborhood?"

Mary Tesar: Not at all. Not at all. Like we said, it's an open carport. I mean, and like Rick said, we're not going to junk it up and trash it up. We keep our property nice and neat. We just want to tuck our implements, so to say, our different lawn implements alongside the boat and have the boat under there and just have everything nice and neat and tucked in and not exposed to the elements all winter.

Rick Tesar: The Pontoon Boat's very, very, very nice. It's very plush and everything. I built a cover over it with PVC pipe and a tarp, a brand new giant tarp. I had to go up and stay out all night to go out and knock the snow off of it with a roof rake and I'm going to be 66 this year and I really would appreciate being able to put it underneath a structure, that's being professionally put in and also certified. And it would benefit my wife and me-

Mary Tesar: And I don't think it's going to have any impact on the environment whatsoever.

Rick Tesar: It shouldn't.

Mary Tesar: And I don't believe it's going to affect any of the neighbor's view or anything like that.

James Brewster: Okay. The next one is a rather difficult one, but it asks whether or not the difficulty you're having, for the need of the variance, is self created. And I'm just going to say, at this point, we've been through enough of these, that generally, they are self created. So, I'm going to just kind of carry you through that one and we won't belabor that one for you. So, that's all the questions I have for you at this point-

Scott Smith: Mr. Chairman.

James Brewster: Yes, Scott?

Scott Smith: Scott Smith here. If I could step in for a couple of comments. I was able to visit the address and they were able to demonstrate to me what they wanted to do, how they were going to do it and what they were going to put under there and it looked great. The rest of the rest of the property is really cool to look at. They keep it very well and they do things very, very diligently to make it look good. So, with that said, I think any addition to the yard, would it be done in the same manner?

James Brewster: Thank you for the comment, Scott. Is there anyone here from the public who would like to speak for, or against this application?

Nick Cortese: Probably need a quick unmute all, Jo Anne.

James Brewster: We're going to need an unmute all again. Yeah.

Jo Anne Klenovic: It doesn't say to me that they are muted, that they have to unmute. So, if you're muted, just unmute if you want to speak, because most of them are able to. It's just that they haven't chosen to do that yet.

James Brewster: Got it. So, you can unmute yourself, ladies and gentlemen, if you have a comment, now would be the time to unmute yourself and make your comments. Okay. It doesn't sound like there are any for this application-

Jo Anne Klenovic: Mr. Chairman, just to be on the safe side, I'm going to suggest if anybody's trying to unmute and they're unsuccessful at doing that, they could text and let us know. I'll be happy to provide a number. I see, it looks to me like it is working but if there is a problem, we need to fix it. If you don't want to do that, that's okay too. I'm just offering a suggestion because I see 28 participants and they all have some ability to communicate as far as I can see. Should I leave it at that?

James Brewster: Yes. That will stand for this and the future applications of everyone. Just another few seconds here while we wait for any kind of text.

Nick Cortese: If you are having trouble unmuting yourself, just real quickly, ladies and gentlemen, you can use the chat section. If you're on your computer, just punch it into the chat that you'd like to make a comment, or there's all kinds of raise hand, thumbs up, type things that you can do with your icon on the screen. You can do that too, if you'd like, but I haven't seen anything so far, Mr. Chairman.

James Brewster: I'll take that as a green light and we'll go through the correspondence we've received into the record and then I'll close the public hearing for this. Letter received from our Town Engineer, Alex Urda, reviewing the code of chapter 7323 for granting of the variances necessary for reasonable use of the land and is in harmony with the general purpose and intent of the chapters. The request is minimal in nature. The short EAF needs to be discussed when we get there for part one. Numbers one, two, three, and five need to be answered. Number six should be a yes. Number 12B should be a yes. It is an archeological sensitive area. His recommendations are to coordinate with the building department for code compliance review and a building permit for construction to comply with building code and flood plain codes within a 100-year flood plain. He has no engineering objections. The Planning Board referred this application to the Zoning Board of Appeals with a favorable advisory for the building permit being required. The County reviewed and has come to the conclusion that this project is not subject to review under Municipal Law of 239, and therefore they have no further comment. We received an approved drainage coordinator review, and I believe that's a duplicate. Correspondence has been read and what I will do is close the public hearing for this.

Aleta Kinne: We didn't hear from the ordinance.

James Brewster: You're right. John, please chime in on this one back.

John Freer: Yes, sir. Ordinance has no objections with this application, with the building permit being required before construction.

James Brewster: I will close this public hearing. With that, I will say for those that may not know, what we do is we have the public hearing, introduce the evidence and the

testimony in the questioning, close the public hearing and then at the end of the public hearings, we go back through each application and deliberate, and come up with our resolutions. Just want to give you all a little of our procedural information there.

James Brewster: Next we'll move on to, again we're going to skip over 2020-V08 until the end so we'll move on to 2020-V09. The Jacobs at 3 Howard Drive. They're asking for an application for a double area variance for an accessory structure shed to exceed the maximum size from 125 to 140 feet and with less than required yard setback in a residential zone and the short environmental form. Mr. and Mrs. Jacobs, are you present?

Mr. Jacobs: Yes.

James Brewster: Okay, there you are. Great.

Mr. Jacobs: Good evening.

James Brewster: The first one is always a tricky one, because then everybody gets to hear how it goes.

Mr. Jacobs: Exactly.

James Brewster: At this time, I'll open the public hearing for 2020-V09 and we have certainly received your application. You seem to be rather familiar with the five factors going along with any area variance, what you need to say. With that, because I'm just going to... because you have so much answered in writing and this will be in the record, is there anything you'd like to add or enhance to this application at this time?

Mr. Jacobs: I don't.

Nick Cortese: Mr. Chairman, in the interest of [inaudible] I'll stand on application [inaudible] answer any of the other board members may have.

James Brewster: Okay, fair enough. Board members, do you have questions for the Jacobs on this application?

Aleta Kinne: Do we do two variances because it's a double or can we include both things in one?

Nick Cortese: Ms. Kinne, we're conducting the public hearing for both of the variances because they arise on the same project that Mr. Jacob wants to do. Then, ultimately at the end, when we vote on resolutions, we'll do two resolutions.

Aleta Kinne: Okay, thank you.

James Brewster: Board members again, last call, any questions on this application from what's been written? Any clarification you need?

Aleta Kinne: No.

Scott Smith: No questions, Mr. Chairman.

James Brewster: Members of the public, is anyone here to speak for or against the Jacob's application? Please indicate that now through the methods we've we put forth to you. Let me know if you see any texts, Jo Anne or Nick, whoever is monitoring.

Jo Anne Klenovic: The chat is open and ready.

Nick Cortese: I don't see anything.

James Brewster: No, I don't see anything. We'll do a rundown of the correspondence we received again from our Engineer and reviewing the Town Code. Granting of this variance is necessary for reasonable use of the land and is in harmony with the general purpose and intent of these chapters. Both requests are minimal in nature. Project requires a 239 which had no impact. Recommendations, coordinate with the Building Department for code compliance review and the building permit. He has no engineering objections.

The Planning Board met, discussed the matter referred to this project with a favorable advisory to us, for the building permit being required. County reviewed for the 239 and did not identify any significant countywide or inter-community impacts. We received the Drainage Coordinators review with an approval.

John from ordinance, what say you about this matter?

John Freer: Ordinance has no objections with this application, again with a building permit being required before construction.

James Brewster: Thank you. This brings us to closing this particular public hearing at this time. We'll move on to 2020-V10. Thomas Holmes at 5 Hiawatha Trail. Application to exceed the maximum size allowed to an accessory structure shed from 125 feet to 160 feet in the residential zone and a short environmental. Mr. Holmes, are you out there? Or Mrs. Holmes?

Mr. Holmes: I am.

Mr. Brewster: Okay, very good.

Nick Cortese: Just very briefly before we get going, Mr. Chairman. I know that I've spoken to you about this previously. Coughlin & Gerhart does have a conflict of interest with this particular application in that we represent Mr. Holmes in other matters that are completely unrelated to the application. We did not assist him with the application. We don't represent him on this particular application. Mr. Holmes has provided us with a signed waiver of conflict indicating that he is willing to allow Coughlin & Gerhart to continue to represent the town and to represent him. In the matters of representing him in, we do believe that this is a waivable conflict as it relates to this particular application. We would respectfully request that the board vote tonight to waive the conflict if it so chooses. The only circumstance under which the conflict would be become not waivable is if the board and Mr. Holmes became materially adverse to one

another, which would basically be in a scenario where the ZBA would choose to disapprove of his variance application. But as it currently stands, we believe that the conflict is waivable and I would, if you'd like me to continue representing you on this particular application, we just need to vote to waive the conflict and authorize Mr. Brewster to sign the conflict waiver as Mr. Holmes and myself have already done.

James Brewster: Okay, thanks Nick. Folks, I do have that disclosure. Nick, I think, summarized it quite well. If you have any questions, ask him now about that. I do have the full thing that can be read, but I would say we move on. If you need any further clarification, go ahead.

Aleta Kinne: I so move that we accept that.

Scott Smith: I Second.

A motion was made to accept and allow James Brewster to sign the conflict consent waiver - made by Aleta Kinne, seconded by Scott Smith and carried by the following roll call vote:

James Brewster, Chair	Voted ___Aye___
Aleta Kinne, Vice Chair	Voted ___Aye___
Scott Smith, Board Member	Voted ___Aye___
Thomas Eldredge, Alternate	Voted ___Aye___

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Motion passed. I will take care of that paperwork as soon as possible.

James Brewster: Mr. Holmes, yes, you are here and so let's see... You have also addressed in writing some of the factors. In your document, you did say that you did attest that will have zero effect on the character of the neighborhood. In fact, it will be undetectable by anyone other than his neighbor, Ben Engbrecht and he is in favor of the new shed. Is it- well, we'll get to that. Number two, you state that this is the only way to increase the storage area. I think with question number two, was there any other comment you'd like to make about that as far as positioning in your yard? That it can only be achieved by the variance we're going to grant you?

Mr. Holmes: Actually, I need the additional space. Secondly, we are replacing an existing shed that's, according to my neighbor, is 35, 40 years old. It's in pretty bad shape. The walls have severe rot in them and in the floor. He has no issues with where it is. It actually makes his yard and our yard a little more private.

James Brewster: Thank you. Number three was the substantial. Is the variance substantial? It looks like it's for a 35 square foot over code. That's again, something subjective that we'll discuss, but I'll ask you if you find that to be substantial and if you'll stick with that statement that you wrote.

Mr. Holmes: Absolutely.

James Brewster: Next, you addressed the adverse effect on the impact or physical characteristics of the environment, and you stated it would have zero effect on the physical conditions. I guess, the pending question to that is why you think that it would not have any adverse effects to the environment or physical character of the neighborhood.

Mr. Holmes: Well, as I mentioned, it's in the backyard. The only visible view of it is from there. The roof may be seen by the neighbors on the back side. However, they have some pretty tall fences that boarder their properties as well. The neighbor on my left side, Jessica Stanton, she has no issues with it whatsoever. I see no issues to the view from the front of the house at all.

James Brewster: Could there be any environmental impacts such as rainwater, any kind of drainage impacts and it's not a huge project, but have you looked into that and addressed any of that?

Mr. Holmes: I see no issues with that. It's pretty straightforward. It's not much bigger than the existing shed. I don't see where there should be any issues at all from my property or Ben's.

James Brewster: Lastly, you state that this was not a self-created action. Do you continue to stand by that?

Mr. Holmes: Yes.

James Brewster: We'll be discussing that later. Board members, do you have any questions for Mr. Holmes?

All Board Members responded with a no.

James Brewster: Neither do I. With that, is there anyone in the public who would like to speak for or against this application?

Nick Cortese: Nothing's coming up in the chat.

James Brewster: Then, at this time I'll read through the correspondence, but first I will go, John from ordinance, how do you feel about this? What are your thoughts?

John Freer: Ordinance has no objections with the application, again with the building permit being acquired before construction.

James Brewster: Engineer report. We have, in the case, there's a reasonable use of the land. It is in harmony with the general purpose and intent of the zoning chapter. The request is minimal. He knows that short EAF number 12B is a yes and that it is archeologically sensitive. Recommendations is coordinate with the Building Department is made for code compliance review and a building permit, and no engineering objections with this project.

James Brewster: Planning has taken a look at it and they have passed on a favorable advisory with a building permit being required. We received a Drainage Coordinator review, and that was approved actually with the comment of the drainage is not applicable. The Planning Department at the County level has reviewed the

above case and determined that the project is not subject to review under section 239 and they have no further comments. With that, I will close the public hearing for 2020-V10.

Mr. Holmes: Thank you.

James Brewster: Onward to 2020-V11. Steven Fletcher at 29 Norman Road. Application for an area variance to exceed the maximum allowed for an accessory structure, a shed to exceed the max size allowed from 125 to 240 feet in the residential zone. We'll do the short environmental on that as well. Mr. Fletcher, are you here? You have to probably unmute yourself.

Mr. Fletcher: Hello, can you hear me?

Jo Anne Klenovic: We can hear you.

James Brewster: Yes.

Mr. Fletcher: All right. Hey, this is Steven Fletcher.

James Brewster: Thanks for coming. Have you been on the whole time?

Mr. Fletcher: Yes, I've been on the whole time.

James Brewster: We're going to take you through the five factors. You've written a few things, but we'll ask you for a little bit more detail on that. The first factor, of course, is whether or not you believe or whether there'll be an undesirable change in the character of the neighborhood by your project or a detriment to the nearby properties if we grant you this variance.

Mr. Fletcher: I don't believe that there will be. I mean, probably a dozen people on my road have garages behind their house. I'm just looking for a shed to put some tools, a four-wheeler, and some lawnmowers and stuff. Basically right now, my four-wheeler is out in my driveway covered up with a tarp and I just want it protected and not more of an eyesore than it would be having a shed back there, put it inside that.

James Brewster: Understood.

Mr. Fletcher: I don't think it's going to add any issue to anybody. I mean, it's in the backyard. You could drive by my house. You won't see it until you go out back.

James Brewster: Okay, thank you. Another factor we look at is could you achieve this by any other method? Could you have gotten a smaller square footage shed to meet the code where you would not require variance?

Mr. Fletcher: The problem that I have is I just closed on my house in Apalachin, I sold that today and I went from a two-car garage to no garage at this house. The garage that was here, probably the previous owner enclosed it in for a family room, so there is no garage. If I had a garage, I won't be doing this. I have a lot of tools. I mean, I do some construction maintenance, so I have my own saws, four-wheeler, generators, I just want to somewhat bring out the stuff from the

storage unit in Johnson city. Whenever I need something, I have to go down to Johnson city, unlock my storage unit and bring it back up here to do anything. If I needed a chainsaw or whatever. That's just, I need storage space and this place has no storage place that I could use.

James Brewster: Understood. Thank you. Number three, whether or not this is a substantial increase or excuse me, just a substantial size to the variance. Is it going to be a big change? Are we granting you a large variance or how do you feel about that?

Mr. Fletcher: The only thing that's going to benefit me is I would have less to mow. That's pretty much it. I mean, I'm not intruding into my neighbors. My one neighbor, Mike, could probably see it from his back porch, but he has no problem with it. My other neighbor has a privacy fence built but she probably won't even see the roof because her yard is a little sloped up from mine. And my neighbor behind me, there's weeds almost about six tall as it is like at our property line, so he probably won't even see it. Maybe beside like the roof of the structure.

James Brewster: Any environmental impacts or physical impacts that you see by putting in the shed on your property or other people's property?

Mr. Fletcher: No, I don't think so. I mean, there's no drainage ditches, no, nothing like that. Me and my property or the neighbor's property, nothing like that.

James Brewster: Number five, we will just indicate that it is self-created by the nature of the application. Board members, do you have any questions clarifications for Mr. Fletcher at all?

Scott Smith: Mr. Chairman?

James Brewster: Yes.

Scott Smith: I did get a chance to speak with two of the neighbors and both were in favor of this being approved.

James Brewster: Very good. Thank you, Mr. Smith. Anyone else on the board? Okay, how about anyone... I might've done that backwards. How about anybody from the public? Is anyone here to speak on this application? Please remember to unmute yourself or send a text or a chat to the moderator? It seems to be kind of quiet. Moving on to correspondence. John from ordinance?

John Freer: Ordinance says no objections with application, with building permit being required before construction.

James Brewster: Thank you. Engineering report finds this request as minimal in nature and in harmony with the general purpose and intent of the chapters. We have some modifications that we'll need to address in the SEQRA. Part one, two, and three should be answered, and 12B, archeologically sensitive is a yes. The recommendations, coordinate with the Building Department for code compliance review and a building permit, and he has no engineering objections. The application went before the Planning Board and they referred to us with a favorable advisory with a building permit being required. The application went before the County Planning and they reviewed the above case, determining that

the project is not subject to review under section 239. They have no further comments. They received a Drainage Coordinator review with a drainage review as being not applicable. That concludes public hearing for 2020-V11.

I've just got a question for Nick; how should we proceed here? We need to address application 2020-V08. Should we do that now or move on to the deliberations and get to that at the end?

Nick Cortese: You can do it any way you'd like.

James Brewster: Board members, how do you feel? Should we move on to SEQRA and these applications and deliberation and save the other one for the end, where there may be a little bit more discussion or not? Or tackle it now, and continue on with our regular programming? My call, huh? Okay. Why don't we move into doing SEQRAA for each of these and assess the resolutions and then we'll tackle that one at the very end? All right: So, that will take us back to 2020-V07, the Mr. and Mrs. Tesar's project. And they submitted a short EAF and I believe they submitted an amended EAF that we should go through. Does anybody have any questions or comments on part one? Anything you need clarified before we move on to part two?

Aleta Kinne: Mr. Chairman, are you saying that they amended it after Alex asked for those to be filled in? Alex asked for us to fill in one, two and three.

James Brewster: It's possible. They got some information...

Aleta Kinne: I did not see an amended one.

Diane Aurilio: It was emailed.

James Brewster: I did receive it through email, but I...

Diane Aurilio: It was emailed 8/19. That's when they amended it.

James Brewster: Okay. It appears that though they did amend one and two, which is what he recommended. He recommended three.

Diane Aurilio: And 12.

James Brewster: We'll just talk about the total acreage of the site and number five was answered as residential. And then number six... Oh, I'm sorry. No, number five was amended to say yes in both cases. Number six was changed from a no to a yes. And then there was one more down on 12V indicating that it is in an archeological area.

James Brewster: So, is everyone good with that? Everyone agreed Yes.

We find part one to be complete, we can move on to part two. To get the paperwork going here, Nick, would you take us through the SEQRA part two, please?

Nick Cortese: I sure will. One second here, I've got to switch to my other desktop. There we go. Okay. So, we all know how this works, folks. Just answer yes or no to the following questions. No, means no or small impact may occur. Yes, means moderate to large impact may occur. Question number one, will the proposed action create a material conflict with an adopted land use plan or zoning board regulations?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking, or walkways?

Board: No.

Nick Cortese: Will the proposed action cause an increase in the use of energy? And does it fail to incorporate available energy conservation or renewable energy opportunities?

Board: No.

Nick Cortese: Will the proposed action impact existing publicly private water supplies, public private wastewater treatment utilities?

Board: No.

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

Board: No.

James Brewster: Probably not.

Nick Cortese: Probably not is good enough. Will the proposed action result in an adverse change to natural resources like wetlands, water bodies, ground water, et cetera?

Board: No.

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

Board: No.

Nick Cortese: And will the proposed action create a hazard to environmental resources or human health?

Board: No.

Nick Cortese: So, you've answered no or small impact to all of the questions that I just rattled off there. My presumption, Mr. Chairman, is that the board would be making a motion for a negative declaration under SEQRA for this particular application and it's down to you all to do that.

Aleta Kinne: So moved.

Thomas Eldredge: Seconded.

Motion to issue a negative declaration for SEQRA for an area on this application. Roll call, please, Mrs. Rudy.

James Brewster, Chair Voted ___Aye___

Aleta Kinne, Vice Chair Voted ___Aye___

Scott Smith, Board Member Voted ___Aye___

Thomas Eldredge, Alternate Voted ___Aye___

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Okay. So, we've gone through the SEQRAA. Now it's time for the discussion and the resolution of this project. Board members, any additional thoughts or I'll entertain a motion to approve it.

Nick Cortese: We'll just go through the fact finding. Make those conclusions about the factors. I'll just read them off to you guys and you let me know, just, let's get some consensus during the discussion here on what we're going to decide. And then we can go ahead with the resolution, okay?

James Brewster: Yes.

Nick Cortese: So, the factor number one is the requested variance will or won't produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Everybody feels good about that? Okay. Number two, the benefit sought by the applicant can or cannot be achieved by another method?

Board: Cannot.

Nick Cortese: Okay. The request in variance is or is not substantial?

Board: Is not.

Nick Cortese: Mrs. Kinne? Mr. Brewster?

James Brewster: I could live with is not. It's close.

Aleta Kinne: No, is not.

Nick Cortese: Variance would or would not have an adverse impact on the environment?

Board: Would not.

Nick Cortese: And I believe based on the discussion earlier that it was decided that the hardship is self-created, by virtue of the fact that they knew what the zoning was and they're requesting a variance from it. Is that fair to say or no?

Board: Yes.

Nick Cortese: Okay, right. So, we have all that sorted out. This term's the resolution language. I'm sure I know that you all have the resolution in front of you, the proposed resolution. Of course, this will be made a part of the record in full. I will read the pertinent parts as we go forward with a motion. I won't read it word for word, because we have a lot to get through. But at this point, if you guys don't have any further discussion, which of course you're welcome to have. This could be time for a motion.

Thomas Eldredge: I would like to make a motion to approve it.

Aleta Kinne: Seconded.

James Brewster: Okay, I have a motion. And second to approve application 2020-V07.

Nick Cortese: Do you want me to read it, Mr. Brewster? Do you want me to read any part of the resolution that will accompany the motion? I don't have to, if you don't want me to. It'll be incorporated into the minutes, but if you want me to just give the broad-brush strokes overview for the record, I can do that or not.

Mr. Brewster: No, we're good. It'll be in the record.

Nick Cortese: Fair enough. Okay.

In the Matter of the Application #: 2020-V07 of Ricky J. and Mary E. Tesar
 For an area variance from the maximum square footage allowed for an accessory
 structure (carport) in the R – Residential District of 200 square feet to 504 square feet

RESOLUTION ON AREA VARIANCE APPLICATION #: 2020-V07

WHEREAS, on July 1, 2020, Ricky J. Tesar and Mary E. Tesar (collectively, “Applicants”) duly filed an application for an area variance for property they own within the Town, located 10 LaFrance Road in the R – Residential District and designated as Tax Map No.

112.09-3-18, wherein Applicants requested a variance from the maximum square footage allowed for an accessory structure (carport) in said District of 200 square feet to 504 square feet; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on August 25, 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 August 25, 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 Applicants, 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 Applicants and the public with respect to Applicants' 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 Applicants 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 Applicants' application #2020-V07 for an area variance from the maximum square footage allowed for an accessory structure (carport) in said District of 200 square feet to 504 square feet is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2020 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the

foregoing motion was made by Thomas Eldredge and seconded by Aleta Kinne. 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> </u>
Scott Smith	Voted	<u> Aye </u>
Joseph Aston	Voted	<u> </u>
Thomas Eldridge, Alternate	Voted	<u> Aye </u>

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

Tom Eldredge: Jim, before we move on to the next one, I'm not really sure if I'm going to word this correctly. But I'd like to make some sort of motion or something to have the Town Board look at this particular square footage for a carport. Giving that 200 square foot carport is roughly a 10 by 20 and that gives very little room to even open the doors on a standard car. And this is, I believe, the third or fourth one in my short time on the board. And if possibly, they should take a look at it.

James Brewster: So now, a valid point. Let me take a shot at this, Nick. I don't necessarily, I think it's in our purview to make formal recommendations like that. However, Mrs. Kinne does represent a new committee that was put together by the Town Board to do just that, look at zoning regulations and make changes, which I'm fairly certain, she'll bring that forward. And, of course, John, from Ordinance is here. And I think, at some point in time, they may have meetings where you could address that. Nick, you would like to say anything regarding that?

Nick Cortese: I mean, you took the words right out of my mouth. That's exactly what I was going to say.

James Brewster: All right. Hey, anything else, folks? I'll just give this the stamp of approval that it was granted for the Tesar's application 2020-07.

Mary Tesar: Thank you.

James Brewster: Thank you. Okay. Thanks for coming.

Rick Tesar: Thanks and have a good evening.

James Brewster: Okay, so we'll move on to 2020-V09 now, for SEQRA and deliberation, the Jacobs project at 3 Howard Drive. Two variances, shed size and a setback. So, while I flip through paperwork, does anybody have any comments on part one? Does it look complete to you? Or any adjustments we need to make? I think it's well done, personally.

Aleta Kinne: I agree.

Nick Cortese: The only thing I would offer, Mr. Chairman, on the SEQRA is that we'll only be doing the SEQRA review for the square footage variance. The side yard setback variance is a Type II action and does not require SEQRA review.

James Brewster: Okay, thanks for the clarification for the record there, Nick. Okay, then we will move on to part two. At this time, if Nick, you could take us through that.

Nick Cortese: Sure. So, same story here, folks. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure?

Board: No.

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

Board: No.

Nick Cortese: Will the proposed action impact existing public private water supplies, public private wastewater treatment utilities?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Okay. So, you've answered no or a small impact may occur to all of the questions that I've read. Again, I would presume that you'd be making a negative declaration under SEQRA. And again, this pertains specifically to the shed square footage variance, not to the side yard setback variance. And again, it's down to you to make that motion, ladies and gentlemen.

James Brewster: I'll seek a motion on that, folks.

Aleta Kinne made a motion to move, seconded by Scott Smith.

James Brewster: Okay. Did we have a second? Scott, Okay. Motion made and seconded to issue a negative declaration on this application for the shed area variance. May I have a roll call, please, Mrs. Rudy?

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

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Okay. The SEQRA done, we'll go on to the deliberation of the finding of fact, excuse me, of this application. So, Nick, if you would take us through that worksheet.

Nick Cortese: Sure. Then, of course, stop me as I go through this if you guys have more discussion that you'd like to engage in, in the midst of all of this. The application was pretty robust in terms of its content. So, I think that the writing speaks for itself to a great degree. First question is will the requested variance or will it not produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Okay. Can the benefit sought by the applicant be achieved by another method, yes or no?

Board: No.

Nick Cortese: Is the variance substantial, yes or no?

Thomas Eldredge: No.

Aleta Kinne: Yes.

Thomas Eldredge: No.

James Brewster: I did hear a yes in there. Who would you like to elaborate on that? I think it was Mrs. Kinne.

Aleta Kinne: Oh, I'm sorry, no.

James Brewster: Okay, I'll say no.

Aleta Kinne: That's the one that was 50% I think or less than 50%, so, no.

Nick Cortese: So, is that an is not substantial, folks, in your estimation?

Thomas Eldredge: Correct, is not.

Nick Cortese: Okay.

Tom Eldredge: Thank you.

Nick Cortese: The requested variance would or would not have an adverse impact on the environmental conditions in the neighborhood?

Board: Would not.

Nick Cortese: And I believe we've stated that this hardship is self-created, correct?

Tom Eldredge: Yes, correct.

Scott Smith: We did.

Nick Cortese: Okay. So, I have that cleaned up in the resolution language. And now if there's no further discussion amongst the board, generally or specifically about this application, a motion would be appropriate.

And I would just say very quickly, Mr. Brewster, that you're moving to adopt the resolution as written, approving the variance application and this is specifically for the shed.

In the Matter of the Application #: 2020-V09 of Jeffrey M. Jacobs & Caroline M. Thomas
 For an area variance from the maximum square footage allowed for an accessory structure (shed) in the R – Residential District of 125 square feet to 140 square feet

RESOLUTION ON AREA VARIANCE APPLICATION #: 2020-V09

WHEREAS, on July 13, 2020, Jeffrey M. Jacobs & Caroline M. Thomas (collectively, “Applicants”) duly filed an application for an area variance for property they own within the Town, located at 3 Howard Drive in the R – Residential District and designated as Tax Map No. 096.05-1-18, wherein Applicants requested, among other things, a variance from the maximum square footage allowed for an accessory structure (shed) in said District of 125 square feet to 140 square feet; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on August 25, 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 August 25, 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 Applicants, 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 Applicants and the public with respect to Applicants' 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 Applicants **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 Applicants 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 Applicants' application #2020-V09 for an area variance from the maximum square footage allowed for an accessory structure (shed) in said District of 125 square feet to 140 square feet is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2020 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Aleta Kinne and seconded by Thomas Eldredge. The ZBA members voted as follows:

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

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

Nick Cortese: Okay. So, the shed variance is approved.

James Brewster: Yes, the shed variance is approved. We must move on to the setback.

Nick Cortese: Okay. So, I guess I'll just ask in the interest of brevity. Do any of your responses change regarding the specific fact finding? Or are all your factual determinations going to be the same as what you just determined with regard to the shed?

Aleta Kinne: Same.

Tom Eldredge: The same.

Scott Smith: The same.

James Brewster: The same.

Nick Cortese: Okay. So, with everything being identical, one resolution to the next. Then it would be appropriate for a motion on the side yard setback variance at this point, to adopt the resolution as written.

In the Matter of the Application #: 2020-V09 of Jeffrey M. Jacobs & Caroline M. Thomas
 For an area variance from the minimum side yard setback as allowed for an accessory structure (shed) in the R – Residential District of 5 feet to 2.6 feet

RESOLUTION ON AREA VARIACE APPLICATION #: 2020-V09

WHEREAS, on July 13, 2020, Jeffrey M. Jacobs & Caroline M. Thomas (collectively, “Applicants”) duly filed an application for an area variance for property they own within the Town, located at 3 Howard Drive in the R – Residential District and designated as Tax Map No. 096.05-1-18, wherein Applicants requested, among other things, a variance from the minimum side yard setback allowed for an accessory structure (shed) in said District of 5 feet to 2.6 feet; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on August 25, 2020 that the requested side yard setback variance constitutes a Type !! action as defined under said regulations and, thus, no further environmental review is required.

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 August 25, 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 Applicants, 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 Applicants and the public with respect to Applicants' 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 Applicants **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 Applicants 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 Applicants' application #2020-V09 for an area variance from the minimum side yard setback allowed for an accessory structure (shed) in R Residential District of 5 feet to 2.6 feet is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2020 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Scott Smith and seconded by Tom Eldredge. 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> </u>
Scott Smith	Voted <u> Aye </u>
Joseph Aston	Voted <u> </u>
Thomas Eldridge, Alternate	Voted <u> Aye </u>

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Okay, both area variances have been approved for project 2020-V09.

Jeffrey Jacobs: Thank you for your time and thank you to the board and the staff and the council. Have a great night.

Nick Cortese: You too, take care.

James Brewster: Next up is 2020-V10. The application for Thomas Holmes for the shed expanding from 125 to 160. And you need to do a SEQRA on that. Are there any comments or questions about part one?

Aleta Kinne: It looks complete.

James Brewster: Okay. Then Nick Cortese, take us on to part two, please.

Nick Cortese: Okay, sure. Will the proposed action create a material conflict with an adopted land user's zoning regulations?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure?

Board: No.

Nick Cortese: Will the proposed action cause an increase in the use of energy? And does it fail to incorporate reasonably available energy conservation or renewable energy opportunities?

Board: No.

Nick Cortese: Will the proposed action impair existing public private water supplies or public private wastewater treatment utilities?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: So, again, you've answered no or small impact as to all the questions that I've just asked you. Again, I would presume that you'd be making a negative declaration under SEQRA. And it is down to you now to make that motion for this application.

James Brewster: Ladies and gentlemen I'll seek a motion for negative declaration with respect to SEQRA on this project.

Motion to issue a negative declaration for SEQRA for an area on this application. Roll call, please, Mrs. Rudy.

Aleta Kinne: I, so move.

Tom Eldredge: I'll second it.

James Brewster: Moved by Aleta Kinne, seconded by Mr. Eldridge. Roll call, please.

James Brewster, Chair Voted Aye

Aleta Kinne, Vice Chair Voted Aye

Melanie Pandich Voted

Scott Smith Voted Aye

Joseph Aston Voted

Thomas Eldridge, Alternate Voted Aye

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Okay, moving on to the fact finding of this project, of this application.

Nick Cortese: This is V10, Mr. Chairman.

James Brewster: Yes, this is V10.

Nick Cortese: Okay. Okay, folks, let's go through the factors for the resolution language. The requested variance will or will not produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: The benefits sought by the applicant can or cannot be achieved by another method?

Board: Cannot.

Nick Cortese: This requested variance is or is not substantial?

Board: Not substantial.

Nick Cortese: Okay, I hear not substantial there. The requested variance would not have an adverse impact on the physical or environmental conditions in the neighborhood?

Board: Would not.

Nick Cortese: And again, if there's any further discussion on any of these specific items, please do stop me. And the hardship giving rise to the variance is self created. Is that what we had discussed previously?

Mr. Holmes: Correct.

Nick Cortese: The resolution language or fact-finding has been finalized. If there's no further discussion, now would be an appropriate time for a motion to approve the variance as written, and approve the application as well, but of course, that's up to you.

James Brewster: Any further discussion, folks? Nope. I will seek that motion to approve the variance and the application.

In the Matter of the Application #: 2020-V10 of Thomas W. Holmes
 For an area variance from the maximum square footage allowed for an accessory structure (shed) in the R – Residential District of 125 square feet to 160 square feet

RESOLUTION ON AREA VARIANCE APPLICATION #: 2020-V10

WHEREAS, on July 15, 2020, Thomas W. Holmes (“Applicant”) duly filed an application for an area variance for property they own within the Town, located at 5 Hiawatha Trail in the R – Residential District and designated as Tax Map No. 112.12-1-29, wherein Applicant requested a variance from the maximum square footage allowed for an accessory structure (shed) in said District of 125 square feet to 160 square feet; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on August 25, 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 August 25, 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 Applicants, 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 Applicants and the public with respect to Applicants' 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 Applicants **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 Applicants 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 Applicants' application #2020-V10 for an area variance from the maximum square footage allowed for an accessory structure (shed) in said District of 125 square feet to 160 square feet is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2020 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Thomas Eldredge and seconded by Scott Smith. 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> </u>
Scott Smith	Voted <u> Aye </u>

Joseph Aston Voted _____
Thomas Eldridge, Alternate Voted Aye

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

Mr. Brewster: Okay, 2020-V10 has been granted. Thank you, Mr. Holmes for your time tonight.

Okay, moving on to 2020-V11. Stephen Fletcher at Norman Road. A shed expansion from 125 to 240 feet. We go on to the SEQRA factors there, please.

Nick Cortese: Will the proposed action..... [inaudible] at this point. I just want to make sure before I started going on this.

Mr. Brewster: We're on Fletcher and yes. Sorry, does anybody have any questions or comments about part one?

Aleta Kinne: He didn't fill in one, two and three.

James Brewster: Oh, correct. Yes. I assume we can do that with them on the fly here, correct?

Aleta Kinne: Yes.

Scott Smith: That works.

James Brewster: Okay. Part one, Mr. Fletcher, if you're there if you can hear us.

Mr. Fletcher: Hello?

Mr. Brewster: Yeah. So there you are. Yes. We have to go through part one of the environmental assessment form you filled out. There's a couple of holes, that's all.

Mr. Fletcher: Okay.

Mr. Brewster: It's on page one. Does the proposed action only involve legislative adoption of a plan, local law ordinance, administrative rule of regulation? Folks, I would tend to say that this is a yes. What does everybody else feel?

Nick Cortese: So Mr. Brewster, that very first question there. That generally pertains if you're adopting regs or local laws. It causes you to skip everything else in the application. So the answer would be that it requires something else, other than that. Whatever that answer is, I'm not sure if that's a yes or a no, but whatever answer that leads you to complete the rest of the application is the correct answer.

Aleta Kinne: No.

James Brewster: I'm open for discussion.

James Brewster: I would say no, now that I think about it.

Scott Smith: I would also say, no.

Thomas Eldridge: I agree. No.

James Brewster: We'll go with, no. Then does the proposed action require a permit, approval, or funding from any other government agency. The chances are that's a no. What do we have here? Shed. Total acreage of the site of the proposed action. It's pretty small. We can estimate, what, about a 10th of an acre. On this shed?

Nick Cortese: Mr. Fletcher? Do you know these answers?

Mr. Fletcher: I don't know, it's 12 x 20. So I don't know how big.

Nick Cortese: How large is your property? How large is the parcel you live on?

Mr. Fletcher: I don't know, it's underneath my girlfriend's name. So I think it's like 75 x 130, or 150.

Nick Cortese: Okay.

Mr. Fletcher: So that's what I'm thinking.

Scott Smith: About a third of an acre. Roughly?

Nick Cortese: What was that Scott?

Thomas Eldridge: About a third of an acre, maybe.

Aleta Kinne: It's 75 by 150. The parcel. It's 75 by 150.

Thomas Eldridge: More than a quarter. Square feet of one acre is 43,560. So it's a lot less than a tenth.

Diane Aurilio: It's 0.26 acres.

James Brewster: There you go. Perfect.

Scott Smith: The shed is 240 feet, right? 20 by 12...

Nick Cortese: The total acreage for the site of the proposed action is like the project site on the whole. I take that to mean that the size of the parcel that the project is going to be on, not necessarily like the little tiny square where the project is going to be, but just for purposes of filling this out 0.26 acres, I think would suffice.

Then for question number 3-B, if that's not filled in, federal acres to be physically disturbed. If that number is less than 10 acres, then it doesn't trigger Type 1 review. So, it just kind of a reasonable approximation there that gives a sense of basically the pad that you're going to have to dig out is a fine answer to put there, in my opinion.

Mr. Fletcher: Yeah. We're just putting #2 crushed stone. That's what the shed people did for the shed. I don't know what they're called. They're right there on Front St. That's who I'm going through. He just told me to put like three inches of #2 stone so it will heave with the ground. So

Nick Cortese: So, I think, they're just as a recommendation folks, that an appropriate answer there would be less than 0.1 acre.

James Brewster: Okay. We'll go with that.

Thomas Eldridge: That works.

James Brewster: And for C, the total acreage project site continue to get product all under control by the applicant or project sponsor. That was pretty much...

Nick Cortese: It's just the same as A because they don't own contiguous parcels.

James Brewster: Right.

Mr. Eldridge: Okay. Quick look over the other pages.

James Brewster: I think we're complete. Everybody's satisfied. We're complete.

Aleta Kinne: Yep.

James Brewster: Okay. Very good. I believe now we may continue on to part two.

Nick Cortese: Okay. Will the proposed action create a material conflict within adoptive land use plan or zoning regulations.

Board: No

Nick Cortese: Will the proposed action resolved in the change in the use or intensity of use of land?

Board: No

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

Board: No.

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

Board: No,

Nick Cortese: Will the proposed action resulted in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, et cetera.

Board: No.

Nick Cortese: Will, the proposed action cause an increase in the use of energy. And does it fail to incorporate reasonably available energy conservation or renewable energy opportunities?

Board: No.

Nick Cortese: Will, the proposed action impair an existing public private water supplies or public private wastewater treatment utilities.

Board: No.

Nick Cortese: Will the proposed action, apparently character or quality of important historic archeological, architectural, or aesthetic resources?

Board: No.

Nick Cortese: Will the proposed action resulted in an adverse change to natural resources like wetlands, water bodies, et cetera?

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Okay. Again, you've answered no or small impact to all of the aforementioned questions. So, I would presume Mr. Chairman, that the board would be making a motion for a negative declaration under SEQRA for this application and again, it's down to you to do that at this point.

James Brewster: Okay board members. I will seek a motion for a negative declaration based on the factors we just went through.

Motion to issue a negative declaration for SEQRA for an area on this application - made by Aleta Kinne, seconded by Scott Smith and carried by the following roll call vote:

James Brewster, Chair	Voted ___Aye___
Aleta Kinne, Vice Chair	Voted ___Aye___
Scott Smith, Board Member	Voted ___Aye___
Thomas Eldredge, Alternate	Voted ___Aye___

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Okay, moving on to the discussion and approval, part discussion, of the resolution and then the application. The findings of fact that Mr. Nick, take us through that please.

Nick Cortese: Mr. Jim, I'll be happy to.

James Brewster: Whoops. Sorry.

Nick Cortese: So, will the requested variance, will or will not produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Okay. And again, if there's any specific discussion on any of these items, please stop me. The benefits sought by the applicant can or cannot be achieved by another method.

Board: Cannot.

Nick Cortese: The variance is or is not substantial.

Board: Is not.

Nick Cortese: Okay. Would or would not have an adverse impact on the physical or environmental conditions in the neighborhood?

Board: Would not.

Nick Cortese: Okay. And again, I believe that we had discussed this variance is self-created? Yes?

Board: Yes.

Nick Cortese: Okay, so with the findings of fact finalized there, now would be an appropriate time for a motion to approve this resolution as written on application 2020 V 11.

James Brewster: Folks, I'll seek that motion to approve the variants as written, excuse me. Yes. The variance as written and the resolution.

In the Matter of the Application #: 2020-V11 of Stephen Fletcher
 For an area variance from the maximum square footage allowed for an accessory structure (shed) in the R – Residential District of 125 square feet to 240 square feet

RESOLUTION ON AREA VARIANCE APPLICATION #: 2020-V11

WHEREAS, on July 15, 2020, Stephen Fletcher (“Applicant”) duly filed an application for an area variance as the authorized representative of Brandy Hyde for property she owns within the Town, located at 29 Norman Road in the R – Residential District and designated as Tax Map No. 112.07-1-33, wherein Applicant requested a variance from the maximum square

footage allowed for an accessory structure (shed) in said District of 125 square feet to 240 square feet; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on August 25, 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 August 25, 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 Applicants, 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 Applicants and the public with respect to Applicants' application.

NOW, THEREFORE, BE IT RESOVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

9. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
10. The benefit sought by the Applicants **cannot** be achieved by another method, other than the grant of an area variance.
11. The requested area variance **is not** substantial.
12. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
13. The hardship giving rise to the variance request **is** self-created.
14. The entire record of this proceeding supports the conclusion that the benefit to the Applicants 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.
15. Therefore, the Applicants' application #2020-V11 for an area variance from the maximum square footage allowed for an accessory structure (shed) in said District of 125 square feet to 240 square feet **is granted**.
16. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2020 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the

foregoing motion was made by Thomas Eldredge and seconded by Scott Smith. 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> </u>
Scott Smith	Voted	<u> Aye </u>
Joseph Aston	Voted	<u> </u>
Thomas Eldridge, Alternate	Voted	<u> Aye </u>

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: The variances is approved and the application is granted, Mr. Fletcher.

Mr. Fletcher: Thank you very much. I appreciate it. Thank you.

James Brewster: Okay board members. That's...

Thomas Eldridge: Jim, not to sound like a broken record.

James Brewster: Yeah.

Thomas Eldridge: But I guess if I could get it into the minutes there, or at least, I think the sheds to be looked at, by the Town Board or the Committee, or whoever, cause this is probably the tenth shed in my short time on the Board.

Scott Smith: I'll second that,

James Brewster: Well we won't vote, but let it be duly noted in the record that we have concerns about some of the existing zoning for certain items.

Scott Smith: People have more stuff these days than they did when the laws were written, you know?

Aleta Kinne: I'd be glad to take that forward.

Mr. Brewster: Okay. Well, we do have one, one final order of business that we do have to discuss, not in its entirety as a public hearing because Mr. Abbey with, well, we're calling it withdrawal, but essentially I believe Nick can correct me that it is an amendment, but it's a substantial enough amendment that we need to send it back through the pipeline that I wanted to take care of as much as we could tonight so we can get that scheduled in September. First of all, I want to address the fact that there's also a conflict waiver associated with this application too. And I don't, I don't know if you want to elaborate on that again for us, Nick.

Nick Cortese: Yeah, I should. So, the applicant here, Jay Abbey, our firm represents Mr. Abbey again in matters that are unrelated to his variance application. We did not assist him with the variance application. We do not represent him in his pursuit, I guess, of obtaining the variance. And, at this time, we do believe that this is a waivable conflict. Mr. Abbey has already signed the written conflict waiver. I

have also signed a written conflict waiver. And again, I would just advise the board that if there should come a time where it appears that the board would become materially adverse to Mr. Abbey, we would recuse ourselves from the representation of the Town and Mr. Abbey on all matters related to this particular variance. But at this time, we believe that the conflict is waivable, and I would request if you're so inclined to do with at the board again, vote tonight to waive that conflict and authorized Mr. Brewster to sign.

James Brewster: Any, any questions for Nick on that? This one's slightly, a little bit more involved. I think that you may have questions. So, fire away.

A motion was made to accept and allow James Brewster to sign the conflict consent waiver - made by Scott Smith, seconded by Thomas Eldredge and carried by the following roll call vote:

James Brewster, Chair	Voted ___Aye___
Aleta Kinne, Vice Chair	Voted ___Aye___
Scott Smith, Board Member	Voted ___Aye___
Thomas Eldredge, Alternate	Voted ___Aye___

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

Ayes – 4 Nays – 0 Absent – 2 (Joe Aston & Melonie Pandich)

James Brewster: Just an administrative note. I'll be in Thursday to hand off the signatures to the office and sign all the rest of the part threes. I don't seem to have a lot of the forms here, so I'll just come in on Thursday. Okay. So back to the Abby application here to discuss, and essentially folks, what we are doing now is quote on quote new business and look at this application over and sending it back through. I would say planning probably let me see what the County said. The County review indicated there are no significant countywide. So, we could probably sit on that. I doubt they're going to change their opinion on it because it's basically the same application. I was just going to say, I would you, Nick to explain the motivation behind the withdrawal and amendment?

Nick Cortese: I think honestly, I'll, I'll have John kind of go through that with everybody because he's been in contact with the applicant. I can give like a little bit of background, but just from a procedural standpoint, I would suggest resubmitting this to the County. Because if you guys have had a chance to look at the letter that essentially amended the application, he is asking now for what is a substantively different variance than what he was asking before in certain regards is the same. He's still asking for a road frontage variance, but instead of asking for the road, frontage variance from John Smith Road, and John Freer here can get into the nuances of why this changed. He's now asking for a hundred percent road frontage variance from all roads, because the parcel that he intends to subdivide, doesn't have any road frontage. So it's a very unusual parcel to the extent that it doesn't actually front a road at all, but he still does have means of ingress and egress through that access easement to the South. And then also, I believe that he may have a land path off of Buckley Road to the North to reach that property too. So, I mean, it's a unique parcel. It's kind of a unique request, but that is what the current request is and that's how it's

changed. But I would hope that John can give us a little bit more background as to, some of the conversations that went on as to why it was decided that it might be good for the applicant to amend the application, to request this new version, the variance.

James Brewster: Okay. Actually, before I call on John, is Mr. Abbey present on the line here tonight? And you might have to unmute yourself if you're there. Okay. Perhaps not. So, go ahead, John. And if he is, he'll chime in.

John Freer: Okay. Yeah. And, Nick, I think pretty much touched all the bases on this, but in my conversations with Mr. Abbey, given that it is just an easement, there actually is a road frontage. He has use of that, but no actual road frontage there. So to, to alliterate back then and what Nick said to redact his application and, and reapply from 240 to zero. And I think that in his new application that will include maybe another easement or not easement access from Buckley Road. But I think that'll be included in his new application. I, it just, it just clarifies a little bit better of what he was asking for compared to originally what his application was.

James Brewster: Okay. Thank you. Yeah, there's... I am a little concerned that there's some... I'd like to see the language typed up from even the letter he wrote recently, August 21st and the email, because he still calls for a 25, he doesn't call for or mentioned the 25 foot right of way. And that may be, to me a little bit confusing. I understand that we're going, you know, 240 feet to zero on all sides, which is fine, but I really think it needs to be stated that way.

John Freer: Agreed. And in our conversation, and I'm sure I will have another one with him again. To clarify that easement is just a use of access for ingress, egress. And I think that will help for the board to clarify what he's asking for. So, he has, he has complete use of the ingress, egress, but does not own the property that, that easement goes through. So, we'll have another conversation and clarify before he reapplies to hopefully clarify that for you guys.

James Brewster: Okay. So, in that case, I really can't see us and everyone else can chime in, please here. I really can't see us moving on this until we get cleaned up paperwork. And I'd like, you know, I wanted to try to get him the cleaned up paperwork to send them through planning as soon as possible. But, I wouldn't be comfortable even scheduling this for the end of September right now.

Scott Smith: I don't think there's enough complete to, to look at this in September.

Aleta Kinne: I agree.

James Brewster: Okay. Thomas anything or?

Thomas Eldredge: Nope, nothing from me. You are right on this one, I guess.

James Brewster: All right. So at this point, I'm really unaware if we have to take any action and he withdrew, the language I saw today was he withdrew the obligation and so ordinance you're actually really going to make him clean this up and reapply essentially, correct?

John Freer: Yes.

James Brewster: Okay. So once that's done, then, we'll set the motion. We'll have, we'll be under new business next December.

John Freer: Yes.

James Brewster: I mean, next month.

John Freer: Yes, next month. It'll be a new application next month.

James Brewster: All right. I think that's all we need to know. Everybody sound good on that.

Board: Yes.

James Brewster: All right. We will deal with that, that, and save your paperwork on that everyone at this time, it looks like I can seek a motion to adjourn.

Scott Smith: Mr. Chairman, I'd like to make a motion to adjourn.

Thomas Eldredge: I will second that motion and I just want to thank everyone for letting me vote tonight.

James Brewster: Glad you're here Tom. Send Melanie some chocolates or flowers. She's been deployed on her main job. So there you go.

Scott Smith: Tom. You never know when I might take a vacation and need to hear for Tuesday.

Thomas Eldredge: Here you go.

James Brewster: Yes. Okay. A motion is on the floor and seconded. So I'll take a roll call to adjourn, please.

Nick Cortese: You don't need to roll call.

James Brewster: All right. We won't roll call. Everybody want to adjourn? Say Aye.

Board: Aye.

James Brewster: Meeting is closed. (8:52 P.M.)

Sincerely,

Kathleen A. Rudy, Deputy Town Clerk
Interim ZBA Stenographer