

ZONING BOARD MEETING  
TUESDAY—MARCH 28, 2023  
ZONING BOARD OF APPEALS  
7:00 PM—TOWN HALL  
1529 NYS RTE 12  
BINGHAMTON, NY 13901

Present: James Brewster, Chairperson  
Aleta Kinne, Vice Chairperson  
Scott Smith, Board Member  
Jon White, Board Member  
Ed Miller, Board Member  
Dan Wolters, Alternate Board Member

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

James Brewster: Good evening, everyone. I'll call the Town of Chenango Zoning Board of Appeals meeting to order. First order of business is to call our roll, Kari, please.

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

James Brewster: We do have a quorum so we will continue with our meeting. Next is to approve the minutes from the February 28<sup>th</sup> meeting, anybody have any corrections, comments, questions?

Jon White: I'm good.

Ed Miller: I'm good.

Aleta Kinne: I'm good.

James Brewster: Ok, I'll accept a motion to do whatever you want with it, generally speaking accept it.

Aleta Kinne: I so move.

Jon White: I'll second it.

Kari Strabo:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Abstain
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:  
Ayes – 4      Nays – 0      Abstentions – 1 (Scott Smith)

James Brewster: Minutes approved from February. Under new business tonight we have a couple of applications to settle and move forward through Planning into our meeting in April. The first is 2023-V03, Shree Hari Holdings LLC of 1000 Front St, an application for an area variance to install four

electric vehicle charging stations ahead of the principal structure in a PDD-C zone with a short EAF. What say you about this application, it's completeness, etc?

Jon White: I think it's fine.

Aleta Kinne: Who actually is the applicant? Every page has a different name for the applicant.

James Brewster: That's a very good question.

Aleta Kinne: They've got Shree Hari, Lynn Stewart, and Patel.

James Brewster: They're probably a representative since it's an LLC. Actually, is the applicant here tonight by chance? No. Being an LLC we're probably going to have multiple, so I would lean with the overarching LLC as the applicant. That's my suggestion.

Nick Cortese: Kari, can you just make sure that whoever the applicant is knows that we need authorization from the company to have somebody come in and present on their behalf next month?

Kari Strabo: Yes.

Aleta Kinne: Looks good.

James Brewster: Ok, I was just waiting to see if you had any other comments or more concern about the...if we have somebody come in like Nick said, we'll be all right. If we feel it's ready to go to Planning and then come to our meeting for a public hearing, I'll seek that motion.

Scott Smith: So moved, Mr. Chairman.

Ed Miller: I'll second that.

Kari Strabo:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5          Nays – 0

James Brewster: All right. We have another application to do the same thing to, approve and move forward to our meeting and through Planning. It's 2023-V04, Theodore Fendick of 523 W Chenango Rd, an application for a double area variance to create three lots, two of the lots having less than required side yard setbacks from 20' to 12.6' for both in an Agricultural zone and a short EAF. Is Mr. Fendick here? No. Board members, is this application ready to move on? Any questions?

Jon White: I don't see any problems.

Aleta Kinne: It looked ok.

James Brewster: Ok, I'll seek a motion then.

Aleta Kinne: I'll move a motion to accept this application and move it forward to the Planning Board and a public hearing next month on April 25<sup>th</sup>.

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

Kari Strabo: Ed Miller, Board Member Voted: Aye  
Jon White, Board Member Voted: Aye  
Scott Smith, Board Member Voted: Aye  
Aleta Kinne, Vice Chairperson Voted: Aye  
James Brewster, Chairperson Voted: Aye

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

Ayes – 5 Nays – 0

James Brewster: Ok, those are moved through and now we can move on to our public hearings. I'll open the public hearing now for 2023-V01, I'll read the official notice of public hearing:

**TOWN OF CHENANGO ZONING BOARD OF APPEALS  
NOTICE OF PUBLIC HEARING**

TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on March 28, 2023 at 7:00 p.m. at Chenango Town Hall, 1529 NYS Rte. 12, Binghamton, NY upon the application of Bert J. Adams on behalf of Bealbe, LLC, regarding property located at 820 Oak Hill Road the Town of Chenango, Tax Map No. 067.02-1-5.1, and located in an Agricultural Zoning District. The application is for an Area Variance to allow the construction of a 3,500 square foot pole barn, which exceeds the maximum size of 1,500 square feet for such structures in said District. The Board will review the environmental significance of the requested variance, if any, at said hearing.

This Area Variance application is open to inspection at the Town of Chenango Ordinance Office, 1529 NYS Rte. 12, Binghamton, NY. Persons wishing to appear at the hearing may do so in person or by other representation. Persons who require assistance in attending said public hearing, or in furnishing comments and suggestions, should contact the undersigned to request such assistance.

Dated: March 21, 2023

James Brewster, Chairman  
Town of Chenango ZBA

James Brewster: The Adams, are you present?

Bert Adams: Yes.

James Brewster: We did receive your application and you did address the five factors that we go over. We need to have some information for us to decide so I'm just going to go through with you to add any more content that you'd like to and then the Board members will ask any questions as they see fit. Will the granting of this variance and your proposed project produce an undesirable change in the character of the neighborhood or do you feel it would be a detriment to nearby properties? You did say 'no' in your written correspondence, but if you could expand on that, please.

Bert Adams: I have 13 acres I'm looking to put the garage on. I don't see how it'd be an obstruction to anything.

James Brewster: And you're the owner of 820?

Bert Adams: Yes sir.

James Brewster: Any questions on number one?

Bert Adams: I think on that paperwork they have that it's 270' from the road.

James Brewster: With these questions it's just to get some factors on the record.

Jon White: One question I had is at 3500 square feet, what are you going to store in it and is this going to be big enough where you're not going to have to come back and make it bigger?

Bert Adams: Storing a trailer, different things like that.

Jon White: Keep everything indoors, clean it up is what you're looking to do. That's all I have.

James Brewster: I actually do have a question just for comparison purposes. I noticed that there's another fairly large barn/garage on one of your other properties nearby. How big is that? Do you have any idea?

Bert Adams: 60 deep, 50 wide.

James Brewster: Ok. Anything else from the Board? No, ok. Now tell us basically why you decided to put the structure where it is and is there any other way you can achieve the goal of this project that won't require a variance, the 3500 square feet. Is there any way you can go lower than that, why not 1500 square feet basically is what I'm asking?

Bert Adams: I just wanted to do this one stop shop, I might buy a camper down the road or an RV and I want to be able to put it in there and that's just what I'm looking to do.

James Brewster: Anybody else on number two? Ok. In your opinion then, the third question is with relation to the zoning as it exists now, is your variance request substantial?

Bert Adams: What do you mean by that? Rerword that a little bit.

James Brewster: Sure. The zoning allows 1500—

Bert Adams: Yup, that's why I'm asking for the relief of the 1500' for the 3500 square feet.

James Brewster: Ok. Do you find that to be a reasonable request?

Bert Adams: What I'm asking for? Yeah.

James Brewster: Ok, any questions? No. When you're building this, what do you anticipate the project to be, basically I'm talking about, will there be any adverse impacts to the physical or environmental conditions in your neighborhood or district so how much are you basically going to tear up, are you going to have a driveway extend into it?

Bert Adams: A little driveway extended to it but it's an existing driveway, I don't see how it's going to tear anything up besides what the pad is, 50x70.

James Brewster: Ok. Anyone?

Aleta Kinne: Just the question that the county asked about where the septic system is but I'm sure he's taken that into consideration.

Bert Adams: Yeah, there isn't going to be one.

Ed Miller: There's no utilities or nothing on there, right?

Bert Adams: No.

James Brewster: I guess perhaps what the county may have meant was it's constructed far enough away from, you must have an existing septic.

Bert Adams: Yes.

James Brewster: I'll be reading correspondence in from them in a minute. Any other questions on number four? So number five, 95-99% of the time the answer is yes, it is a self-created issue because you knew the zoning and so you want to do the project so I'll just help you out with that one. Again, and I should explain that to everyone, none of these five factors, if we discuss and one of them falls flat, it doesn't necessarily have an effect on the outcome whereas some other types of variances, if one doesn't rise to the standard it's a done deal. This is more of just to help us get a complete package for the record. We just kind of weigh them all in the decision-making. We did get some correspondence from our usual parties; that being the engineer, Town Planning and Drainage, and Broome County. Our engineer provided a letter summary with no engineering objections, Town Planning sent us a favorable advisory, the drainage coordinator signed his document but made no indication of a decision so I'm just recording that into the record. Broome County did have some comments, there's no actual countywide impacts for the 239 process that they go through; however they did say that 'the variance seems substantial and the Town should consider the precedent granting this variance would set. Clear documentation of the particularly unique site circumstances justifying such a variance is recommended to avoid unintended consequences elsewhere, particularly in the Residential District where the general character is smaller in scale, allowed maximum density per acre is greater and required minimum lot size and setbacks are less.' That's kind of an odd comment from the county.

Nick Cortese: It's overstepping pretty far.

Bert Adams: Have they seen where this project is going on? This isn't going in on Matthews Drive or Jason Drive.

James Brewster: Correct, I'm just reading it into the record.

Nick Cortese: Don't worry about it, it's just all recommendations and honestly they shouldn't make a recommendation like that.

James Brewster: Well then there's number two: 'The ZBA should also consider the recent Town Board efforts and adoption of Local Law 6-2022 (November 2022) to amend and set the allowable square footage for a detached garage at 1,500 SF (not to exceed 1,500 SF). The site plan should show the required and proposed dimensions and setbacks.' That's not in our purview here. So, that's what they had to say and we'll go to Ordinance for your comments.

Gavin Stiles: Ordinance has no comments.

James Brewster: Building permit?

Gavin Stiles: We will need one of those.

James Brewster: That's it for the correspondence. Anyone from the public want to speak for or against this application?

Mike Lumsden: Like ZBA member Mr. White said, he brought up a very good point, many times in this Town with the 1500 rule, it happened with me, I put 1500 feet up. I come back, I added again, I added again, I added again. The roof lines are alike, Mr. Bert Adams bought that piece of property, cleaned it up, he's well off the road, he just stated 13 acres of land. I know most of his neighbors down there, I don't see them here speaking out against it. He absolutely should get this variance, he's in an Agricultural zone and it's going to be just exactly what Mr. White said. I think that the ZBA should approve this variance. That's just my opinion, thank you.

James Brewster: Anyone else?

JP: I'm Joe Pratt, Treadwell Rd. I don't have any opposition to this project. The Adams family has enjoyed success in the Town and he definitely has the property and setbacks to complete this project with no opposition. I just would like to ask that he would set a good example for the rest of the Town as he constructs his building and continues to be a good neighbor.

James Brewster: Thank you. One last call from the Board, any questions? No discussion?

Jon White: Our discussion, what I have to say can happen when we discuss it on our own.

James Brewster: That's right. Ok, with nothing further I'll do the vote thing. I'll have a motion to close the public hearing.

Jon White: So moved, Mr. Chairman.

Ed Miller: I'll second that.

Kari Strabo:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5            Nays – 0

James Brewster:            Ok, 2023-V01 public hearing is closed. So now I'll open the public hearing for 2023-V02.

**TOWN OF CHENANGO ZONING BOARD OF APPEALS  
NOTICE OF PUBLIC HEARING**

TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Town of Chenango on March 28, 2023 at 7:00 p.m. at Chenango Town Hall, 1529 NYS Rte. 12, Binghamton, NY upon the application of Linda E. Vick regarding property located at 323 Port Road the Town of Chenango, Tax Map No. 078.10-1-1.121, and located in an Agricultural Zoning District. The application is for three (3) Area Variances to allow for the subdivision of a conforming lot into two (2), nonconforming lots. The area variances requested are: (1) a road frontage variance from the minimum required 240 feet to 150 feet for one of the proposed parcels; (2) a road frontage variance from 240 feet to 126 feet for the second proposed parcel; and (3) a lot size variance for one of the proposed parcels from the minimum required 2 acres to 1.5 acres. The Board will review the environmental significance of the requested variances, if any, at said hearing.

This Area Variance application is open to inspection at the Town of Chenango Ordinance Office, 1529 NYS Rte. 12, Binghamton, NY. Persons wishing to appear at the hearing may do so in person or by other representation. Persons who require assistance in attending said public hearing, or in furnishing comments and suggestions, should contact the undersigned to request such assistance.

Dated: March 21, 2023

James Brewster, Chairman  
Town of Chenango ZBA

James Brewster:            Anyone from the Vick household here?

Casey DiFulvio:            I'm here as a representative.

James Brewster:            Ok. So you had the advantage of seeing what we do so we'll go through those five factors so here we go. Will the granting of these variances and your proposed project produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Casey DiFulvio:            I don't believe it will. It's a new home, it'll be appealing. It will be similar in design and appearance to a home that I believe is at 311 Port Road. It's two properties down, it's pretty consistent with that design so I don't feel it'd have any negative or adverse effects on the neighborhood.

James Brewster:            Ok. No unusual towers or anything?

Casey DiFulvio:            No.

James Brewster: Questions from the Board? No, ok. Number two, take us through exactly some of the thought process you had to ask for these variances and if you could do this any other way besides asking for shortened road frontages and a shortened aerial coverage.

Casey DiFulvio: So my understanding I guess just to sort of give you an idea of my relationship to them, I would be the builder on this project. The son of Bill and Linda, Todd, would be the actual new owner of that property. Todd lives at 329 Port, that is where he grew up. That is Bill and Linda's former house before they moved to 323. He's grown up in that specific area his whole life. From what I understand it's a pretty nice area with some good views so that's the specific area he wants to stay in, build in. My understanding is that his current house at 329 is older, doesn't really fit their current needs so that's why they're looking to subdivide the parents' property into a second lot for them to build on. Obviously there's no way to accomplish that in that specific area without the variances.

Jon White: I have a question. Since you're the builder on this, they got 52 acres that they are subdividing off of, why are they only doing an acre and a half? What's the reasoning?

Casey DiFulvio: It's a question of road frontage.

Jon White: How's that going to affect the road frontage? Road frontage is road frontage, you're going depth for your acreage.

Casey DiFulvio: Right, so Linda's driveway at 323 comes straight back and it veers off directly behind where the new property will be so there's no way of going any deeper with that lot.

Jon White: Ok, because it would get right next to the driveway?

Casey DiFulvio: It would be on top of the driveway to get the two acres.

Aleta Kinne: Is it possible to move the driveway?

Casey DiFulvio: It's certainly possible. I think it's more a question of reasonableness and cost, it's a pretty long driveway.

James Brewster: How about purchasing a part of the land that they already own, the parcel that Todd lives on right now? From the plans I saw, it wouldn't really be that big of a chunk, unusual maybe.

Casey DiFulvio: So to purchase some off of 323 to keep on 329? Or, I guess I'm not understanding the question.

Nick Cortese: Does the family own all those parcels all next to each other?

Casey DiFulvio: The parents own 323, the son owns 329.

James Brewster: Ok so I can clarify that then. Assuming you are following the plans, the new lot purchase is part of 329.

Casey DiFulvio: 323, 329 will stay completely as is.



Nick Cortese: To answer your question, it's theoretically possible that they could do a straw man transaction, combine the two parcels into one, and then subdivide it differently. Do you know what I mean?

James Brewster: I think I do. I think I'm getting it right. Todd lives at 329 and there's a back yard that goes out and this newly created parcel borders that so I'm just thinking they buy into 329 and combine a piece of that the get to two acres.

Nick Cortese: That's what I mean by a straw man transaction, you transfer the property for like a dollar and then you can make one big parcel, and then you can subdivide it differently so it meets the requirements, like that. That's what you were talking about, right?

James Brewster: Sounds like it.

Jon White: Is this the 156' parcel? Will this end up being the 156' road frontage parcel?

Casey DiFulvio: 150'.

Jon White: 150'. So, 150' and if you go back another 150' you're going to be past your 21,000 square foot, it's like 21,500-22,000 that you're going to need for a half-acre. So, you're telling me from the back point another 150' you're going to be into the driveway.

Casey DiFulvio: It's about 30' before you're in the driveway, it's pretty close. I don't know the exact dimensions on the road frontage for 329 but my understanding is if they go into 329 any more than that itself would need a variance for road frontage, which still kind of puts it in the realm of a triple variance.

Aleta Kinne: I wish the applicants themselves were here.

Casey DiFulvio: It's just terrible timing. Bill and Linda are on a flight into Syracuse currently, and Todd is on a flight to Nashville currently so here I am.

James Brewster: That's interesting. So, the plans that we saw, the parcel looked like it fell very short, so the existing long driveway to the parents' house curls up and around and it looked on our plans that the parcel fell very short of the road which I think is where you're coming from.

Jon White: Correct.

James Brewster: And then you say it's only 30 feet away so...

Jon White: This goes back to when we have a site plan that's not drawn up by a survey, this kind of gives a lot of indifference but you also don't want to come into the driveway, you could come in on an angle and make it pie shaped. As long as you make it 21,000 more square feet, you've got two acres and it could be done in numerous ways. They can put many pins when they survey something.

James Brewster: All right, I want to try to not get into discussion even though I kind of broke the rule myself so we can just continue on with questions. We'll move onto questions number three now. Are the requests substantial? So, you're asking for two reductions on the frontage, one from 240' to 150' and one from 240' to 126'. Do you find those to be, in your opinion, substantial from what the zoning requires?

Casey DiFulvio: I think they're reasonable requests. Linda had provided me just with some other properties. I don't have any direct knowledge on them myself that 311 Port Road is 150', 339 is 121', 294 is 116', 298 is 125', there's a couple more. I don't think it's anything beyond other variances that were already granted on nearby properties so I would not argue that it's unreasonable.

James Brewster: Questions?

Aleta Kinne: A lot of those properties I didn't research it really, but if those properties were designed prior to the latest Comprehensive Plan where we required two acres, they could be older lots.

James Brewster: Do you have a question on that?

Aleta Kinne: No.

James Brewster: Ok. It sounds like my question, along with that, is do you have any knowledge of that? What she asked?

Casey DiFulvio: Direct knowledge? No I do not.

James Brewster: Anybody else? Ok. Let's see, so we're building a house, the variance, would it have any adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Do you feel that it would?

Casey DiFulvio: I do not.

James Brewster: And lastly, the number five question is again, is the request self-created? This is another instance where yes, unless you have a different opinion.

Casey DiFulvio: No, it is.

James Brewster: Ok. Anybody have further questions from the Board? Would anybody like to speak for or against this application?

Dawn Worden: Yes, I live at 307 Port Rd. The 311 property is my parents. We went through this process I'd say roughly, 14-15 years ago to create that lot that was owned by Bill and Linda and my property bordered Bill and Linda's and we created this lot so that my parents could build in between us, I believe 311 is 1.7 acres, maybe 1.5. I tried to work with Linda a little bit and Bill, Todd's parents, when they were trying to figure out how this lot could be achieved, the new lot that Todd would build on. I think, how you were saying they could put different pins in, I think the way they planned it now, they were trying to make it as simple as possible without having a whole bunch of different angles. I think if it came down to it and they had to do it that way, they probably

would entertain that idea but I think they were just trying to make it as squared off as possible. That driveway cuts right through, it's odd, it starts at one point and it really curves in and they were trying to make it so that there would be a buffer zone between the new lot and that new lot not be right up to their driveway so there would still be property to buffer them on both sides of it and still be a little bit of frontage on both sides of the property where it met the road. I think they just kind of tried to make a simple lot cut out, also there's a good size barn behind 329 which is Todd's original house and I think they were trying to leave as much of that intact. There's not a lot of space to go over into that property and take some of it and attach it to the new property. It's just how they arrived at that decision.

James Brewster: Ok. Anyone else? Ok, I will commence with reading the correspondence in as necessary. First to Ordinance.

Gavin Stiles: No objections from Ordinance.

James Brewster: And a building permit.

Gavin Stiles: And a building permit.

James Brewster: Town Planning sent us a letter with a favorable advisory on this, the drainage coordinator sent us his form with an approval, county 239 review, these were actually not subject to 239 review so there are no comments. Town engineer says, 'The variance request is for lot frontage reduction on both parcels, as well as an area reduction on the new parcel as follows:

1. 323 Port Road (remainder)
  - a. Reduced frontage from roughly 276 feet to 126 feet which is less than the 240 required.
2. New Port Road parcel
  - a. Frontage created at 150 feet which is less than the 240 required.
  - b. Lot size created is 1.5 acres which is less than the 2.0 acres required.

It is unclear as to why both parcels need to result in non-conforming frontages, versus just one. It is also unclear as to why the new parcel will be created at smaller than required acreage. Please note that the applicant needs to consider the location of the neighboring on-site septic systems and wells, as well as the future on-site septic system and well prior to creating the substandard lot to assure that the lot created is 'buildable.' The well to septic separation distance (including 100% future replacement area on new lot) shall be 100 feet away for wells uphill of septic, or 200 feet if the wells are downhill of septic.

The application does not require Broome County 239 review. We have no engineering objections if well/septic layout works. Please request of the applicant to discuss existing well and septic locations with their neighbors and compare to the new lot engineering design for well/septic.' I believe most of those were probably for the Planning review on that or site plan.

Nick Cortese: There won't be site plan for it.

James Brewster: Anyway, I read those into the record no matter what, whenever he sends us a letter. We have one more correspondence that came in. The letter is dated March 27, 2023. This is in reference to the proposed variance of Linda Vick: 'The undersigned own the property at 330 Port Road which is located directly across the road from the Vick property that is the subject of the

requested Variance submitted by Linda Vick with notice from the Town of Chenango dated March 21, 2023.

We purchased 330 Port Road in November 2021 from Linda Vick fully understanding the zoning restrictions including the required road frontage of 240 feet and minimum 2 acre lot size. These factors were a primary consideration when deciding to purchase the property. We felt the zoning would limit any further building along the section of Port Road opposite our property which would protect our investment, property value and planned use of our property. Zoning restrictions are implemented for sound and justified reasons. Some of these reasons include, but are not limited to environmental considerations, consistent use of land, protection of essential characteristics of the area and to protect the value of property in the area.

We feel the requested variance is an unreasonable variance to the current road frontage minimum requirement from 240 feet to create one parcel with only 150 feet of road frontage and a second parcel with only 126 feet of road frontage. For the same reasons we feel the reduction of the minimum lot size from two acres to 1.5 acres is also unreasonable.

A change from the current use of the 323 Port Road property could also increase the water drainage issue that exists, which makes a portion of our property too wet for use due to water drainage from the Vick's side of the road being drained under the road onto our property from an existing town owned pipe. This issue has been discussed with the Town but has not been addressed.

For the reasons contained in this letter, including the negative impact to our property value and other property values in the area, the potential negative environmental impact and the dramatic deviation to the existing minimum road frontage and acreage requirements, we strongly object to this requested variance and respectfully request the Town deny this Variance request. Thank you for your consideration, Ronald Foster Lana Foster Ryan Foster Katherine Foster.'

Are any of those folks present?

Ryan Foster: Yes.

James Brewster: Do you have anything you'd like to comment in addition to that?

Ryan Foster: Not particularly. It's all there.

James Brewster: Ok. Thank you. I believe everything is done. Correspondence, ordinance. Last minute, any questions? Ok. I'll seek a motion to close the public hearing.

Ed Miller: I'll make a motion.

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

James Brewster: Ok, roll call please.

Kari Strabo:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

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

Ayes – 5          Nays – 0

- James Brewster: Public hearing 2023-V02 is now closed. Next, I believe we have to do SEQR on both of those, correct?
- Nick Cortese: Yeah.
- James Brewster: Ok, let's start with number one.
- Nick Cortese: Ok, so this will be part two of the EAF for application V01. You guys know the drill with this, I'll ask you a series of questions that relate to what was filled out on part one of the EAF. Please answer no if you feel that there's no or small potential environmental impact, answer yes if there is a moderate to large environmental impact, potentially. Number 1--Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?
- Board: No.
- Nick Cortese: Number 2—Will the proposed action result in a change in the use or intensity of use of land?
- Board: No.
- Nick Cortese: Number 3—Will the proposed action impair the character or quality of the existing community?
- Board: No.
- Nick Cortese: Number 4—Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?
- Board: No.
- Nick Cortese: Number 5 – Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking, or walkway?
- Board: No.
- Nick Cortese: Number 6 – Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?
- Board: No.
- Nick Cortese: Number 7 – Will the proposed action impact existing:
- a. public/private water supplies?
  - b. public/private wastewater treatment utilities?
- Board: No to both.
- Nick Cortese: Number 8 – Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources?
- Board: No.
- Nick Cortese: Number 9 – Will the proposed action result in an adverse change to natural resources (e.g. wetlands, waterbodies, groundwater, air quality, flora, and fauna)?

Board: No.

Nick Cortese: Number 10 – Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems?

Board: No.

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

Board: No.

Nick Cortese: You’ve answered no or small potential environmental impact on part two of the EAF so under part three I would assume that you’d be making a motion for a negative declaration under SEQR and if that’s the case you can make that motion at any time.

Ed Miller: I’ll make that motion.

Aleta Kinne: I’ll second it.

Kari Strabo: Ed Miller, Board Member Voted: Aye  
Jon White, Board Member Voted: Aye  
Scott Smith, Board Member Voted: Aye  
Aleta Kinne, Vice Chairperson Voted: Aye  
James Brewster, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:  
Ayes – 5 Nays – 0

James Brewster: So we have a negative declaration under SEQR for that. Now is our chance as a Board to consider the five factors and our discussion.

Jon White: My thought on the whole project is he’s doing it once, doing it right. I am coming to the Planning Board next month to ask to build a third building on my property because of size and all of that, and some of the restrictive zoning that this town does have. This building is also no bigger than somebody wanting to build a horse barn either, which is a perfectly conforming Agricultural use. That’s the area that it has, he wants to keep his stuff out of the weather, out of sight. I think it’s a good thing.

Ed Miller: I agree.

Scott Smith: As do I.

Aleta Kinne: If he wanted to use it for a different purpose, he would have to come and get a variance for that.

Jon White: Well yeah, you would build a 1500 square foot and then another 1500 square foot, or get a variance for the second building anyways. Either way he would have to get a variance on a second building to get his required footage or build two smaller buildings and realize he wants to do a third and then go in front of the Planning Board to get a special permit to build a third

building and you're still under the 1500 square feet or you'd have to get a variance to go above that anyways. So, one and done.

James Brewster: I have comments and I'll tell you what, I was going to be a stickler about this 1500 square feet but I have been compelled by the testimony of the applicant and my Board Members so I'm satisfied.

Jon White: Again, he's asking for a variance, we look at it almost on a case by case.

James Brewster: That's true.

Jon White: It's in an Ag zone, this isn't in a Residential zone. We would have to look at it completely differently if it was in a Residential zone.

James Brewster: I looked at how much land he's got and where it was going to be placed and the rest of the testimony, especially the future concerns.

Ed Miller: If you look at the drawings, it's going to be a nice building.

Dan Wolters: I checked out the property yesterday and it conforms to what's already there. I think it's an appropriate addition and it seems to fit the community.

James Brewster: And that's one of the reasons why I ask you about the size of the existing barn you have on one of the properties up there. Anything else? So I guess you take us forward through the Resolution.

Nick Cortese: Sure, so let's finalize our factual findings everyone. Let me just go through the factors and let me know what your determination is on them. Will the requested variance produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties or will it not?

Board: Will not.

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

Board: Cannot.

Nick Cortese: Is it substantial or is it not?

Board: Is.

Nick Cortese: Would it have an adverse impact on physical or environmental conditions or would it not?

Board: Would not.

Nick Cortese: And it's self-created?

Board: Yes.

Nick Cortese: So that being the case are we making a motion to grant or deny this variance, or grant it with conditions?

Board: Grant.

Nick Cortese: Any conditions?

Board: No.

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

In the Matter of the Application #: 2023-V01 of Bert J. Adams on behalf of Bealbe, LLC  
for an Area Variance to construct a 3,500 square foot pole barn in the Agricultural District, which exceeds the maximum  
size of 1,500 square feet for such structures in said District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2023-V01**

**WHEREAS**, on or about February 21, 2023, Bert J. Adams on behalf of Bealbe, LLC (“Applicant”) duly filed an application for an area variance for property owned by Bealbe within the Town, located at 820 Oak Hill Road, designated as Tax Map No. 067.02-1-5.1 and located in an Agricultural District, wherein Applicant requested a variance to construct a 3,500 square foot pole barn, which exceeds the maximum size of 1,500 square feet for such structures in said District; and

**WHEREAS**, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on March 28, 2023 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

**WHEREAS**, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on March 28, 2023 at which hearing all persons desiring to be heard in regard to said application were so heard; and

**WHEREAS**, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as the reports and recommendations, if any, of the New York State Department of Transportation, Broome County Department of Planning and Economic Development, the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant’s application.

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

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



2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.
3. The requested area variance is substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request is self-created.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #: 2023-V01 for an Area Variance to construct a 3,500 square foot pole barn, which exceeds the maximum size of 1,500 square feet for such structures in the Agricultural District, is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on March 28, 2023 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Scott Smith and seconded by Jon White. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye
Ed Miller	Voted: Aye

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

James Brewster: 2023-V01 has been adopted.

Aleta Kinne: With a building permit.

James Brewster: We'll move onto SEQR for application number 2023-V02.

Nick Cortese: So this is lot size and road frontage both but it's the same application, same lot so we'll kind of take this all into consideration in one part two review. Let me go through these questions again for you with respect to application V02. Number 1--Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Board: Yes.

Nick Cortese: So, you're characterizing it as a moderate to large impact potentially?

Board: Yes.

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

Jon White: I would say no to that.

Nick Cortese: The explanation for that would be they want to build a house but it's not going to change the use because it's already Residential. Will it change the intensity of the use? Perhaps, but when you say no it doesn't mean no environmental impact at all, it can also mean a small environmental impact.

Jon White: Yeah but if you're just building a house on that, even though the lot size is smaller, your percentage of density isn't going to be that great. It's going to be greater because the lot size is smaller but not above the threshold that would be allowed by our current Planning and Zoning.

Nick Cortese: So in light of all of that, what would your answers be to that question? Will the proposed action result in a change in the use or intensity of use of land?

Board: Minimal impact.

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

Aleta Kinne: Yes.

Ed Miller: Yes.

Nick Cortese: Others.

Scott Smith: Minimal.

Jon White: I'd say small.

James Brewster: I'd go with small.

Nick Cortese: Ok, we'll put that as a no or small by majority. Number 4—Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

Board: No.

Nick Cortese: Number 5 – Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking, or walkway?

Board: No.

Nick Cortese: Number 6 – Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

Board: No.

Nick Cortese: Number 7 – Will the proposed action impact existing:  
a. public/private water supplies?  
b. public/private wastewater treatment utilities?

Board: No to both.

Nick Cortese: Number 8 – Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources?

Board: No.

Nick Cortese: Number 9 – Will the proposed action result in an adverse change to natural resources (e.g. wetlands, waterbodies, groundwater, air quality, flora, and fauna)?

Board: No.

Nick Cortese: Number 10 – Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems?

Board: No.

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

Board: No.

Nick Cortese: Ok so you do have one question that you identified as a moderate to large impact on, so the question would become in spite of that is it the Board's prerogative to issue a negative declaration or a positive declaration under SEQR; positive declaration meaning that they would have to complete an environmental impact statement at the cost of many thousands of dollars with respect to this project. If you feel like you want to make it a negative declaration in spite what you've identified let's discuss why.

James Brewster: Can you read the question again, just to refresh?

Nick Cortese: Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Aleta Kinne: Yes, zoning. Yes.

Nick Cortese: We've already concluded that it would, it's just a question of if you wanted to issue a negative declaration as opposed to a positive declaration, we should talk about why the negative declaration would be appropriate under this scenario.

Ed Miller: I think that, the way I understand it, they've got a lot of property there that they don't necessarily need this little corner. If I lived across the street and I had that 200-foot frontage I don't think I'd like that either.

Aleta Kinne: It's opening up a whole list of future variances. Is this where we're having our discussion?

James Brewster: Well we're having a discussion on this point to go with let's say a moderate on question one of SEQR so we're talking about the overall environmental considerations. This is not necessarily discussing the application itself. We have to pass this environmental review first.

Jon White: When you dissect the question of adopted land use, really it's a no. They're putting a residential house on it so they're entitled to do that in an Agricultural zone so the other part of it is zoning regulation. That's the part that is the sticky part to this whole thing.

Nick Cortese: I would point out, however, that every application that comes before you is contrary to the zoning regulations.

Aleta Kinne: But we were asked to consider the neighboring septic systems and the future septic system and we don't have any of that information.

Scott Smith: We never have the future ones.

Aleta Kinne: They're going to have to put it.

Jon White: Yeah but that's going to fall under the engineer designing the plan, meeting the criteria by part 75 of the state sanitary code.

Aleta Kinne: It's going to open a whole list of variances.

Nick Cortese: It's possible but that's speculative at this point. I would say additionally, if you feel that there's a potential that this subdivision would create a non-buildable lot potentially, that would weigh into your consideration of whether or not allowing a less than conforming parcel would be appropriate.

James Brewster: Which is the discussion of the application, not necessarily SEQR.

Nick Cortese: True, but it's kind of all blending together at this point.

James Brewster: It is. That's fine.

Jon White: Because you could make that a condition though, too. If they can't get approval for that and it becomes an unbuildable lot then the variance could go away because we could make that a condition, because that would affect the lot use so maybe that's something we should consider when the time comes.

Nick Cortese: That is true. Here's what I'd say about that though, Jon. Currently, they wouldn't be able to build anything on that lot. They'd have to subdivide it first because you'd have two principal structures on the same large lot which you can't do so I guess maybe theoretically with engineering drawings in advance you could determine whether the lot would be buildable before the subdivision but you understand the point that I'm trying to make, right?

Jon White: The cart is running down the hill, and the horse is up the hill still.

Nick Cortese: Yeah, exactly. We could spin this out in a whole variety of directions.

Aleta Kinne: Can we send it back for them to reconsider and just make it two acres and eliminate a lot of this?

Nick Cortese: No. The application is before you. You have to approve or deny it.

James Brewster: I'm just trying to get us past whatever declaration we come up with based on what we said with that question number one. So, we defined it as moderate and I get that, but we have to discuss whether or not that would preclude a negative declaration. The land use and the zoning conflict is clearly applicable to the application but do we go with a negative declaration with regard to environmental concerns under SEQR or do we make them go with this large environmental study?

Jon White: I don't see where it's going to affect any kind of environmental issue. They're putting a single family home on it. So, that's why I would say if anything it might be a small impact.

Nick Cortese: You raise a good point, Jon, because what we're looking at is not just a yes or no, does it not align with the zoning regulations, it's what is the potential environmental impact of that reality? Because, again, every single application that you guys consider is not consistent with the zoning regulations. When you consider that question in this particular context it's important to consider the potential that that reality will be environmentally detrimental and if so to what extent will it be? This is not a question of the merits of the project overall, this is a question of how it will affect the environment.

Jon White: Right, and I say no to small.

Ed Miller: Based on your explanation of that then I would say environmentally there would be no effect, environmentally.

Nick Cortese: That's all we're talking about right now.

Ed Miller: Yeah, it's not going to pollute the land or pollute the air.

James Brewster: So essentially that simple statement could be our reasoning for a negative declaration.

Aleta Kinne: And we had that letter that describes all the things...

James Brewster: Right, well we addressed the drainage and we kind of all agreed it's small, I think. Maybe that was the vote.

Aleta Kinne: She mentions...

Jon White: Yeah but a lot of what she's mentioning is water runoff from the road and the Town right-of-way and that has nothing to do with us.

James Brewster: The runoff from a roof and new development of a house is negligible in the grand scheme of things to what's going on there, the bigger picture. If they were going to have pavement for their grass that would be another issue on what the neighbor brought up but I don't see it being exacerbated by the building of a home per se, for environmental concerns. That's just my opinion.

Jon White: And some of it has to do with just road runoff and stuff which has nothing to do with our task at hand of what we're deciding here tonight. That's a Town Highway issue, nothing to do with us.

James Brewster: So, I guess at this point with regard to SEQR we have the elephant in the room where we've declared a moderate.

Nick Cortese: I just tried to write quickly a justification that kind of encapsulates the conversation that we've been having and tell me how comfortable you feel with this. If you don't feel comfortable with it then we'll work something else. This would be a justification for a negative declaration under SEQR: "While the requested variances are clearly inconsistent with the Town of Chenango's zoning ordinance, the potential impact of creating a nonconforming lot to construct a single family residential home will not create the types of significant environmental impact that would require the preparation of an environmental impact statement."

Scott Smith: Well put.

Ed Miller: Yup.

Jon White: I'm good.

James Brewster: And that's under the premise that we're good with a negative declaration.

Nick Cortese: Exactly.

Jon White: Yeah, I'm good with a negative declaration.

James Brewster: If you don't have a comment we can just go to the vote and let it shake out.

Nick Cortese: So it would be, based on what I'm hearing, it would be a motion for a negative declaration with the justification that I just read off to you.

James Brewster: Any further discussion to add to that?

Aleta Kinne: I could pass this but the whole thing, do we get a choice?

James Brewster: Yeah, we're moving past this phase to get to where we can all talk about the actual application. I will seek a motion for a negative declaration with what Nick crafted based on our discussion.

Jon White: So moved, Mr. Chairman.

Scott Smith: Seconded, Mr. Chairman.

Kari Strabo:	James Brewster, Chair	Voted: Aye
	Aleta Kinne	Voted: Aye
	Scott Smith	Voted: Aye
	Jon White	Voted: Aye
	Ed Miller	Voted: Aye

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

James Brewster: Ok, negative declaration for SEQR. Now we can go onto discussing the finer points of the three variances. We can just chit chat in general about them and then we'll sort it out at the end because we'll have to vote essentially three times.

Nick Cortese: If I could make a suggestion, Jim, I would address the lot size variance first because depending on how you vote on the lot size variance, the road frontages may or may not be a relevant consideration.

James Brewster: I thought about that. We will, in this case, discuss the lot size variance from two acres to 1.5. The floor is open to the Board.

Jon White: I feel somehow somehow they need to put two acres.

Ed Miller: I agree with that.

Aleta Kinne: In this other letter it says that in 2021 when they sold the other piece they were well aware of the two acre code and they've got the property behind there. I think that they could do some replanning and come up with the two acres, saving that down the road. Is it even a buildable lot? Broome County Health wants two acres to put in a septic. They're going to be back with variances then for setbacks. I just think now is the time for them to consider two acres and make it much easier for Todd down the way.

Scott Smith: Do we know how long ago Broome County made that requirement?

Jon White: That's been that way for a while.

Scott Smith: I found eight or nine different lots on Port Road that were under that requirement.

Nick Cortese: Was it a requirement or just kind of wondering out loud about whether or not a septic would fit there, and a well?

Jon White: For the County it's a recommendation.

Nick Cortese: Right, I don't think there's a requirement that a lot has to be a certain number of acres.

Jon White: Right, you just have to have the area for original and 100% replacement and still meet your well separation distances, especially downhill. That comes into play in this situation when Bill and Linda's house is down below, Todd's is going to be up above. That is going to play into this equation and they may find they're going to have to jockey, I see why the house is closer to the road instead of further back for that reason because of the downhill grade in the back, but it could still run into some issues there until you have engineer-stamped plans on it.

Aleta Kinne: I think our own engineer has brought that point out very well.

James Brewster: Correct.

Jon White: I will say that I took a look at a couple of properties on GIS. I want to say that some of the properties she mentioned, some of them were from 1949 that the house was built, before zoning, a couple of them. I'm not saying all of them. I didn't get a chance to spend a boat load of time going through each property and there's some of them that are under two acres so we do look at a precedent thing. My feeling is that if you've got the land to give it two acres you should give it two acres.

James Brewster: I'll chime in and I think I'm on board and especially with the question I asked about carving up the various parcels, either Linda's or Todd's and it doesn't really matter as long as it's figured out in my opinion. That's my chiming in. Do we have anything else and then I'll turn to Nick to get us through the actual Resolution?

Ed Miller: I don't think so.

Jon White: I'm good.

Nick Cortese: We'll do the fact finding like we normally do. I'll ask you all those questions, we'll make those determinations and then at the end I'll ask you whether it's a motion to grant or deny just like I always do.

Aleta Kinne: But the results of this one will influence the other two?

Nick Cortese: Yes. If you grant the variance then those other two are still in play. If you don't grant the variance they can't subdivide the lot, therefore the other variances would be not denied in my opinion but dismissed as academic, meaning that it's no longer a relevant consideration.

James Brewster: Ok, take us through that particular resolution for the acreage change.

Nick Cortese: All right. We'll do the fact finding now. Will the requested variance produce an undesirable change in the character of the neighborhood or will it not?

Board: Will.

Nick Cortese: I've got three saying will? We'll go with that, yes Jim?

James Brewster: I'm just thinking about character and trying to frame it but that's fine. I'll make it four.

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

Board: Can.

Nick Cortese: Is it substantial or is it not? This is for the lot size variance.

Board: Yes, it is.

Nick Cortese: Would it or would it not have an adverse impact on the environmental conditions in the area?

Board: Minimal.

Nick Cortese: And it is self-created?

Board: Yes.

Nick Cortese: All right, just to run it back, you've all said by majority or unanimously that the variance will produce an undesirable change in the character of the neighborhood, the benefit sought by the applicant can be achieved by another method which you've discussed thoroughly, the variance is substantial, it would not have an adverse impact on the environment, and it is self-created. Based on everything that you've discussed and heard and all of the various fact findings, is this a motion to approve, deny, or approve with conditions this variance?

Board: Deny.

James Brewster: I don't see any conditions available.

Nick Cortese: The motion would be to deny this lot size variance based on everything that was discussed and I've already gone through the fact finding with you so whomever wants to can make a motion to adopt the resolution denying this variance.

Dan Wolters: Could I have a thought? Sending this back to the Vicks I wonder if there would be a sense of frustration like, ok so we get the acreage dealt with. We'll carve up the land and make it two acres but is it worth even going back to ask for the road frontage variance?

Nick Cortese: At the end of the day if the variance is denied, there's no telling what they're going to do with their property at that point. Currently you have two lots there that are conforming.

Dan Wolters: But I'm wondering if it would be a different route to consider the road frontage variance and do that on the condition of making the plot of land conform to the two acres.

James Brewster: I see where you're going there. But we have no idea if they're going to actually, in reconsidering their next move. They may change that line which will then change both of the current applications for the frontages.

Nick Cortese: You can't grant any variance in the abstract. You have to grant it for exactly what the applicant is asking for so the applicant is asking for these road frontages based on this very specific plan that they've offered so if the variance ends up being denied, the lot size variance, and they go back to the drawing board they may present a completely different plan down the road with a



totally different set of road frontages which may conform. But, if we grant a road frontage variance with these numbers now, that would run with the land forever despite that not being an issue that needs to be addressed.

Ed Miller: So it could hurt them as much as help them.

Nick Cortese: Yes, and generally speaking this Board doesn't rule on variances that are irrelevant.

James Brewster: There's a chance that the two frontages could work out the same if they play with the land in the back.

Dan Wolters: But not necessarily.

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

In the Matter of the Application #: 2023-V02 of Linda E. Vick  
for an Area Variance to create a parcel of land via subdivision in the Agricultural District with a proposed lot size of 1.5 acres, which is less than the minimum lot size of 2 acres in said District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2023-V02 (LOT SIZE)**

**WHEREAS**, on or about February 22, 2023, Linda E. Vick Applicant") duly filed an application for an area variance for property owned by her within the Town, located at 323 Port Road, designated as Tax Map No. 078.10-1-1.121 and located in an Agricultural District, wherein Applicant requested, among other things, a variance to subdivide a single parcel into two smaller parcels, including one parcel with a proposed lot size of 1.5 acres, which is less than the minimum lot size of 2 acres in said District; and

**WHEREAS**, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on March 28, 2023 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

**WHEREAS**, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on March 28, 2023 at which hearing all persons desiring to be heard in regard to said application were so heard; and

**WHEREAS**, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as the reports and recommendations, if any, of the New York State Department of Transportation, Broome County Department of Planning and Economic Development, the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant's application.

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

1. The requested variance **will** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.

2. The benefit sought by the Applicant **can** be achieved by another method, other than the grant of an area variance.
3. The requested area variance is substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request is self-created.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **does not outweigh** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #: 2023-V02 (LOT SIZE) for an Area Variance to create a parcel of land via subdivision with a proposed lot size of 1.5 acres, which is less than the minimum lot size of 2 acres in the Agricultural District, is **denied**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on March 28, 2023 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Aleta Kinne and seconded by Jon White. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye
Ed Miller	Voted: Aye

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

James Brewster: The resolution for denial has been adopted.

Nick Cortese: This does leave the outstanding road frontage and I would recommend that the Board make a motion to dismiss that application as academic.

Scott Smith: So moved, Mr. Chairman.

James Brewster: So we can just dismiss the remainder of the application as academic or each frontage grouped together?

Nick Cortese: The difficulty with the way that the Town does area variance applications is that you can pile a whole bunch of them into one application when it really should be three applications. At the end of the day I think that I would feel comfortable with you making a motion to dismiss the road frontage variances, that part of the application.

Ed Miller: I'll second that motion.

Kari Strabo:	Ed Miller, Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye

Aleta Kinne, Vice Chairperson  
James Brewster, Chairperson

Voted: Aye  
Voted: Aye

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

Ayes – 5      Nays – 0

James Brewster:      Ok, the road frontages have been dismissed due to academia. With that, does anyone have anything else for the good of the order otherwise we can be dismissed.

Jon White:            I'm good, I'll motion to dismiss.

Ed Miller:             I'll second that motion.

James Brewster:      All in favor.

Board:                 Aye. (8:20 PM)

Respectfully Submitted,



Kari Strabo, Sr. Clerk