

ZONING BOARD MEETING
TUESDAY—JANUARY 23, 2024
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
Dan Wolters, Alternate Board Member

Also Present: Nathan VanWhy, Attorney
Gavin Stiles, Ordinance Officer

Absent: Ed Miller, Board Member

James Brewster: It's 7:01 PM, I'll call the Town of Chenango Zoning Board of Appeals meeting to order. First order of business is for roll call attendance.

Lindsey Fey: Mr. Wolters; present, Mr. White; present, Mr. Smith; present, Mrs. Kinne; present, Mr. Brewster; present.

James Brewster: Welcome everybody, we have a couple things on the agenda tonight. One we'll be addressing under the new business and that's to check over and approve application number one of the new year for Mr. Eldridge and the next order of business we have a public hearing scheduled for Mr. Browne. First of all, the approval of minutes from December. Anybody have anything on that?

Aleta Kinne: They look good.

Jon White: All good.

James Brewster: All right, motion to accept the minutes?

Aleta Kinne: I'll move.

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

Lindsey Fey:	Dan Wolters, Alternate 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 Absent – 1 (Miller)

James Brewster: December minutes approved and they can be posted and filed and whatever needs to be done. So, off to new business now. We have application 2024-V01, Thomas Eldridge of 963 Brotzman Rd. The applicant is requesting an area variance to build a garage from 1500 sq ft to 3600 sq ft with a height from 25 ft to 28 ft, and the garage also to be built in front of the home so that's a triple area variance request. We have the application. Has everybody looked it over? The applicant is here. I assume you remember what goes on here. Anything on the application as far as moving it through to Planning and a public hearing next month?

Scott Smith: I do have a question on procedure. How are we regarding doing variances and so forth for employees? As employees of the town.

Nathan VanWhy: They're residents of the town, they're entitled to apply for variances like any other. There's no distinction between an employee or otherwise. You're not prohibited in providing variance relief to employees just because they're employees.

Scott Smith: Right. Ok.

Nathan VanWhy: You just do the normal process.

Scott Smith: I just wanted to make sure because we've had situations before where other services of the town were not allowed to be done for town employees.

Nathan VanWhy: I guess I don't know what those other services were.

Scott Smith: Tax relief and things of that nature. Different department, obviously.

Nathan VanWhy: Yeah, I guess I'd have to look into specifically why tax relief wasn't provided but certainly if an employee's a resident and they believe their tax assessment is too high they have a right to apply for that tax relief. Potentially in that scenario depending on who it was, the assessor is an independent public officer like you folks are. You folks have terms in office, you can't be removed except for cause basically. You have independence in that sense even in reporting to the Town Board and so this gentleman serves on the Planning Board and when he appears in front of the Planning Board and asks them to provide a favorable advisory recommendation he's not going to sit in his seat, he's going to sit out there.

Scott Smith: I just didn't want to get halfway through the process and find out that we couldn't do that and have him pay more money somewhere else to do something else and take twice as much time and that kind of thing.

Nathan VanWhy: It's a good question, but it's just the normal process for you folks.

James Brewster: Anything else from anybody?

Aleta Kinne: Did the applicant have something he wants to say to us? I see he brought us some handouts.

Thomas Eldridge: Sure, so it's a 50'x48' garage with a 12-ft lean-to on both sides. The garage itself is 2600 sq ft including the lean-tos it takes it to 3600 sq ft. It's basically going at the end of our

driveway where we currently park. The reason for more square footage is we just need a bigger garage. We have three vehicles and two children and a lawnmower and a tractor and we're just looking for a place to store stuff. The reason for the height extension is I'd like it to match my house which is 28 ft tall. It's going to be a peak facing a peak more or less so we're going to make it look the same. As far as in front of our house, if you read the Town's code for that it basically says the side most facing a street which would be Brotzman Rd in our situation unless you guys were to determine that our private road that our house is on is the front and then we would not have to get that third one but I guess that's totally a determination up to you guys so I just put it in there and if you wanted to say it's Brotzman then we'll run as Brotzman and if you wanted to say it's our road then we'll go in that direction. Other than that unless you have any questions...

James Brewster: No but it definitely gives us something to look into that question as the month goes by before we ask you again at the public hearing. That's all I had to say.

Jon White: I figured we'd discuss it during the public hearing.

Thomas Eldridge: I did give you a copy of the NYS Law on private roads and a copy of the letter that we submitted to Derin Kraack signed by all parties involved which has all the criteria on it for a private road in the state of New York.

Gavin Stiles: So it's going to be 280-a stuff.

Nathan VanWhy: Fire roads can be considered roads for purposes of subdivisions and properties. Apparently at some point in the past, I'm not sure if it was ever meant to be designated as a private road or not, but this road exists. It's a private road, the house was built on that private road. There's another property with a residence I think that's also accessible through the private road. Formally designating it as the private road can then allow it to be treated as the road for frontage purposes.

Jon White: For ingress and egress coming into the property whereas a right-of-way is treated a little bit differently than as a private road.

Nathan VanWhy: Right, because I think designating it as a private road means that there's been a determination by the municipality that it's wide enough and accessible enough for emergency vehicles and things like that.

Jon White: And somebody can't just say hey this is a right-of-way and dig across it and say I'm not letting you through, whereas you have a little bit more stringent standards to the private road.

Nathan VanWhy: I think so.

Aleta Kinne: I believe it has been approved by the fire company.

Thomas Eldridge: Yes.

Nathan VanWhy: I apologize, I don't remember off the top of my head the designation process. There's the letter to the highway superintendent, what's the next steps after that?

Thomas Eldridge: It has to meet the Town requirements. The Town of Chenango has zero requirements on a private road and it has to meet ingress and egress for emergency vehicles which we got Russ Carey to sign off on that from the fire department.

Nathan VanWhy: Was there any requirement for the Town Board to approve it or was it just the highway superintendent who says I agree?

Thomas Eldridge: From what we read it was just the highway superintendent.

Gavin Stiles: New York State fire code has a whole list of stuff for fire apparatus access, maybe Derin knows about that. Maybe he would have to consult with me on that.

Nathan VanWhy: But if the fire company is saying it appears adequate for their purposes...but anyways long story short, I think that at the time of the public hearing it should be known whether or not the town in fact considers this a road.

Jon White: We'll have enough information to be able to digest it for the month.

Nathan VanWhy: I think so.

James Brewster: So, it's not our signoff, it's another division of the Town, highway or Town Council.

Nathan VanWhy: Correct, I think so. For your purposes it's just a request for three variances is how it's presented. That's the right way to do it because otherwise the nearest road is Brotzman Rd and I think that's what was considered the road for purposes of access however long ago it was.

Thomas Eldridge: That's why I just applied for all three and if you guys determine come then that I don't need the one in front, because it would no longer be in front of the house if that was the case.

James Brewster: Right, you could either withdraw it or we'll dismiss it. If we're ready to send his application through at this time I'll seek that motion.

Jon White: So moved.

Scott Smith: Seconded.

Lindsey Fey: Dan Wolters, Alternate 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 Absent – 1 (Miller)

James Brewster: All right, we'll see you next month. Next up we have the public hearing for 2023-V13, Daniel Browne of 759 Brotzman Rd. The applicant is requesting an area variance to build a garage in front of their home, also known as the primary residence. At this time I will open the public hearing for said application. Mr. Browne, I'll give you a few minutes to go over the project details as much as you want and then I cover a few points relating to the five factors of an area variance and you just have to answer those as best as you can and we'll make a determination on that later on. You have the floor now to talk to us about your proposed project.

Daniel Browne: I'm hoping to build a 30'x40' pole barn that will be in front of the front side of my house. I believe you guys all have my sketch or my two sketches if you will. It's more off to the side but it will be in front. Mostly it's lack of planning 20 years ago on my part, not knowing that I'd have to do all this down the road. Our house was built into a hill which would mean thousands and thousands of dollars in excavating to try and get a level spot to put it next to the house or even a little behind the house, or it would be putting it 50-100 ft behind my house just to get it away from my well. That being said, I went over it with my letter and I think I brought a copy of it. It shouldn't be an issue with, it's obviously not going to change anything in the neighborhood. There's lots of pole barns and garages in the neighborhood. The closest neighbor that it could possibly affect isn't really going to be able to see it when there's leaves on the trees just because I have a ballpark 80 ft or maybe even 100 ft chunk of woods that run up my driveway. There's a barrier between myself and Mrs. Bender so aside from that, other neighbors, people driving down the road are going to see it for a fleeting minute because of the angle it's going to be kind of tucked in behind the trees that run along the driveway. Other than that, I'm open to any questions you might have.

James Brewster: Some of what you've already said does address some of these factors. I'll go through them and you can answer as you need to. So the first one, the requested variance, will it or will it not produce an undesirable change in the character or the neighborhood, and I think you may have already addressed that question, based on what you said about the visuals.

Daniel Browne: Correct.

James Brewster: Is there any other way that this pole barn could be put in, any other method aside from getting a variance?

Daniel Browne: Again, if I made more money I guess I could build a driveway around my house and into my backyard quite a distance, but if I get back far enough away that my well is not a concern and my pool is not a concern then my next concern would be my back border and making sure I have the setbacks there. I don't have issues with setbacks if I go off to the right side of my house. My front yard is actually bigger if you will, the distance from my house to the road is actually a greater distance than it is from my back door to my back property line. I have an L-shaped property so if I was to go any further than I'm intending to go, it leads down into a swampy area that's behind my next two neighbors

and I'm sure they'd rather have my outbuilding closer to my house than behind their houses.

Jon White: I did have one question. Where the front of your house is, how much of the building is going to be in front of the house? Ten feet? Twenty feet? Just an approximation because part of the building's going to be behind the house so you're only going to have it looks like ten, maybe 15 feet of it sticking out.

Daniel Browne: I'm going to say probably half to two-thirds of it will be in front of the house.

Jon White: What I'm saying is it's not all in front of the house.

Daniel Browne: The entire building should not be.

Jon White: Right, and it's not like it's in front of the house thirty, forty feet. You're trying to keep it as far back as possible without spending...

Daniel Browne: Again, half of my house is built into a hill so without having to do the excavating to either build a pole barn into a hill or somehow level that out so that the pole barn is on a level area, that's what precludes me from putting it next to the house. As far as the grading goes, at least half of it will be out in front of the house.

Jon White: Right. Your other alternative methods would be much more costly than doing the pole barn is basically where you're going. If you did a poured wall and then stick built it you're probably 25-40% more than a pole barn.

Daniel Browne: It would be almost as much as it cost me to build my house 20 years ago.

Jon White: I'm just bringing that out in the open because that's a huge factor. I'm good.

Nathan VanWhy: I will suggest that if the Board ends up agreeing to grant the variance, I think to allow it in front of the house I think that you should put, because there is a considerable distance, how far in front of the house are you talking about? Because, in front of the house means like all the way up to 20 feet from the road potentially.

James Brewster: And you haven't proposed that.

Daniel Browne: No, and I think somewhere in one of these papers that she still has, from where I have it staked out, I have it approximately from the road, the pole barn is going to be almost 300 feet from the road. It was like 298' whereas my house is like 315' or something like that from the road.

Nathan VanWhy: Yeah, those are the numbers you have, I'm looking at the sketch that you had. Those are the exact numbers that you had.

James Brewster: We could craft some wording if we need to. The next question I have for you is, so you're building a pole barn, what do you expect to be the ramifications if any of the physical and environmental conditions affecting the entire neighborhood, just by putting this up?

Daniel Browne: I don't anticipate there being any. I already have natural drainage that runs a short distance behind where I intend to build this. There's a natural grade downhill to two different creeks that run down towards 81. Everything already runs down that way, so this really isn't going to change that any. My footer drains run down the opposite side of my driveway so everything that comes out of my gutters and runs to the footers of my house run on the opposite side of the driveway from where I'm doing this so I'm not expecting to change that any and my septic is also on the opposite side of the driveway so it shouldn't change anything.

James Brewster: And your driveway goes out to Brotzman?

Daniel Browne: Yes.

James Brewster: Anybody else have any questions or anything?

Aleta Kinne: I know you've got a little pull-off on your driveway...

Daniel Browne: So the turnaround is going to be half covered by the pole barn itself so it's not quite going all the way up to the turnaround. I anticipate on making the turnaround a little larger for entrance into the pole barn.

James Brewster: Last call? Anybody here from the public have anything to comment on?

Thomas Eldridge: I do as a resident of Brotzman Rd. I feel it's necessary to ask for all the rest of the neighbors, there's no chance you're going to build a cell tower with your garage, right?

Daniel Browne: Nobody has approached me yet but I'd say the chances are slim to none, knowing how my neighbors are.

James Brewster: Anyone else from the public? All right, I have some correspondence as usual. Our town engineer had no engineering objections. The 239 from the county had no concerns except for the health department had some questions and it appears as though they stated they were cleared up, I don't know if they got ahold of you.

Daniel Browne: Yes.

James Brewster: Town Planning came back with a favorable advisory for us. Town drainage coordinator submitted an approval form and what does Ordinance have to say?

Gavin Stiles: Just need a permit.

James Brewster: Building permit required, check. Anything else before I close the public hearing? Ok, I will close the public hearing on 2023-V13 and the next phase is to move on to a SEQR determination which is a type II action according to SEQR. Do we have to adopt that?

Nathan VanWhy: I always ask that you just do a motion to declare it a type II action.

James Brewster: I will seek a motion to accept that this application is a type II action under SEQR which means no action necessary by this Board.

Dan Wolters: So moved.

Jon White: I'll second it.

Lindsey Fey:	Dan Wolters, Alternate 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 Absent – 1 (Miller)

James Brewster: All right we have officially declared it a type II action under SEQR and we can move onto discussion of the application and the five factor determination to see how we want to move on this. Anybody have any general discussion on this?

Aleta Kinne: I'm all set.

Jon White: Seems like a typical building that he's just trying to have a building to park cars, store stuff in. He's constrained with the hillside. Money's always a cost factor. Nothing's cheap nowadays so I don't think he's asking a lot for the relief he's looking for.

James Brewster: I agree, I think he's got plenty of land.

Jon White: He's trying not to piss off his neighbors, he's far away from his neighbors. I think it's a good project.

James Brewster: Plenty of land to shield it is what I was going to say there. Ok, we can go through these factors before we adopt a resolution one way or the other. Here's the first one. This requested variance, Board members, will or will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Board: Will not.

James Brewster: The benefit sought by the applicant can or cannot be achieved by another method other than the granting of the area variance?

Board: Cannot.

James Brewster: The requested area variance is or is not substantial?

Board: Is not.

James Brewster: The requested variance would or would not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district?

Board: Would not.

James Brewster: Factor five, the hardship giving rise to the request is or is not self-created?

Board: Is.

James Brewster: The entire record of this proceeding supports the conclusion that the benefit to the applicant conferred by the granting of an area variance outweighs or does not outweigh any potential detriment to the health, safety, and welfare of the neighborhood or community posed by such a grant?

Board: It does outweigh.

James Brewster: Therefore the applicant's application 2023-V13 for an area variance to construct a 30'x40' pole barn in front of the residence in an Agricultural zone is granted, granted with conditions, or denied?

Jon White: Granted with the following conditions.

James Brewster: Ok, so you want conditions. We can talk about that.

Jon White: Say like, he can't go any closer than 250' to the road. That would give him a little, right now he's showing 298', or say like 275', that would give Dan a little leeway to wiggle if he had to once he started really getting into things. It would stop you from, like Nate said, it would stop you from having it 40' off the roadway down below. What's everybody else's thoughts? Dan wouldn't be able to go any closer than say 275' to the road. Right now he's showing 298' to the road, from the road frontage to the building right now. Like Nate said, he could conceivably put it 100' off the road, 40' off the road. So, by putting a condition there it keeps it upwards and we know he's going to be honest about it but as the variance is granted with the property somebody could do something different. That's where if we put a condition that the building cannot be any closer than 275' to the road that still gives Dan leeway to wiggle around but it still protects the area in general what they're looking for. Does that make sense?

Nathan VanWhy: My understanding is this is in the Agricultural district. The code says the front yard setback is 50' so that's basically as close as he could put it without another condition like what is being proposed.

James Brewster: I'm satisfied with your proposal as designed but that doesn't cover the perpetuity of the variance to the land. I do like your phraseology better. Do we want to consider anything off of that other property line? He's got 140' to the corner and he's allowed 20' so we don't see him doing that but thinking about...

Jon White: I mean we could even do that with the side setback that he would have to maintain 50' because right now he's 140' off.

Nathan VanWhy: I guess the only thought of caution here would be side setback is 20' regardless and if you don't put a condition on it he could put it right up to 20' and he can't get any closer. I guess I'm just thinking future, let's just say the house burned down and he moves his house, rebuilds it in a different spot. Everything goes up in flames, and now because we said you can't put the garage closer than 50' now he's really constrained. I get why you would like it to be as designed but I think in order to be flexible in the future really the only thing he's asking for is the front yard variance, not anything relating to the sides.

Jon White: The building would have to be at least 275' from the road.

Nathan VanWhy: The garage's front yard setback will be 275'. We're thinking setbacks, right?

James Brewster: Correct.

Nathan VanWhy: Use that word, setback.

Jon White: Dan's got it at 298' but this gives him a little room to wiggle especially once he gets into building it.

Nathan VanWhy: The front yard setback for the garage shall be 275'.

James Brewster: I like the wiggle room, I think that's fair and that's down the road long after we're all history. Everybody like that?

Board: Yes.

James Brewster: We have come to the conclusion of being granted with the following conditions regarding the setback shall be 275' from Brotzman Rd or something like that we discussed in the record. The resolution shall take effect immediately, therefore I will seek a motion at this time to adopt this resolution from somebody who would like to do that.

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

In the Matter of the Application #2023-V13 of Daniel and Tara Browne for an area variance to construct a two car garage ahead of the principal structure.

RESOLUTION ON AREA VARIANCE APPLICATION #2023-V13

WHEREAS, on or about December 12, 2023, Daniel and Tara Browne ("Applicant") duly filed an application for an area variance for property they own within the Town, located at 759 Brotzman Road, in an Agricultural Zone, and designated as Tax Map No. 066.04-1-8.12, wherein Applicant requested to construct a 30'x40' pole barn in front of the residence, in an Agricultural Zone; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on January 23, 2024 that the requested variance constitutes a Type II 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 January 23, 2024 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 not** substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request **is self-created**.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant’s application #2023-V13 for an area variance to construct a 30’x40’ pole barn in front of the residence in an Agricultural Zone, **is granted with the following conditions**.

The front yard setback for the pole barn shall be 275 feet.

8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on January 23, 2024 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Aleta Kinne and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye
Edward Miller	Voted: Absent
Dan Wolters, Alternate	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 5-0-1 (Miller).

James Brewster: All right, granted with those conditions that we talked about.

Daniel Browne: Just so there's no confusion on my part, no closer than 275' which is not where I'm going to go but that's the only condition?

Jon White: That's correct. This gives you a little more wiggle room and it's more so the fact that say you sell the house eventually, another person could knock that building down and build another one 50 feet off the front which could be detrimental to your neighbors. So, because the variance runs with the land, that's the whole purpose behind that.

James Brewster: Yeah, your design set the standard, we just gave it a little nudge. See Gavin for your permit and whatever other paperwork you need. That concludes our agenda for this evening. I will take care of some clerical work here and with that I will seek a motion to adjourn.

Jon White: So moved.

James Brewster: Is there anything for the good of the order?

Aleta Kinne: I was just going to say that I got a letter from the Election Commission yesterday. The dates of the primaries will be April 2nd and June 25th. April 2nd doesn't bother us but June 25th is our day so this room probably will be used for election. I know it's a ways off.

James Brewster: Ok, anybody object to adjourning the meeting?

Board: No.

James Brewster: Ok, we're adjourned.

Respectfully Submitted,



Kari Strabo