

ZONING BOARD MEETING
TUESDAY—OCTOBER 26, 2021
ZONING BOARD OF APPEALS
7:00 PM—ZOOM

Present: James Brewster, Chairperson
Aleta Kinne, Vice Chairperson
Scott Smith, Board Member
Jon White, Board Member
Webb Sisson, Alternate Board Member

Absent: Melanie Pandich, Board Member

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

James Brewster: All right, folks. The time just hit 7:00 and we've got a bunch of things to do tonight so I think we'll start. I'll open the regular October meeting of the Zoning Board of Appeals and Kari, can I get a roll call please.

Kari Strabo: Mr. Sisson; present, Mr. White; present, Mrs. Kinne; present, Mr. Brewster; present

James Brewster: Ok, so we do have a quorum. Mr. Smith appears to be absent, I knew that Mrs. Pandich was going to be absent. So, I want to welcome everybody to the meeting, and just to go over some quick rules tonight, we have a full plate of public hearings as well as new business that we'll take care of after we do the approval of the minutes and then we'll get into the public hearings. Depending on how those go, and typically assuming that we do close the public hearings tonight, we'll move forward and then we'll go back through all of the applications just as Board Members and discuss them and hopefully come up with a decision.

So, there's the ground rules. First order of business is the approval of the September 28 minutes so, Board Members, do we have any comments, corrections, questions about those September minutes or if we don't I'll seek a motion for approval on that?

Aleta Kinne: I have a comment that they're very complete, excellent minutes, Kari, and I'll so move we accept.

Jon White: I'll second it.

James Brewster: Moved by Mrs. Kinne, seconded by Mr. White, go ahead with a roll call on this, Kari.

Kari Strabo: Webb Sisson, Alternate Board Member Voted: Aye
Jon White, 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 — 4 Nays — 0 Absent—2 (Scott Smith & Melanie Pandich)

James Brewster: Ok, the minutes from September are approved. Folks, if you see me looking up it's because I'm looking at the screen up on the wall where I have everything.

Ok, onto new business now. We have an application, 2021-V014 from William and Kathleen Smith of 15 Sandy Ln. The application is for an area variance to construct a garage with less than required setback from 10' to 2' in a Residential Zone and we'll be doing a short EAF with that. Board Members, do you see any corrections that need to be made? Does the package appear complete? Any comments?

Jon White: Mr. Chairman, I did notice on the environmental short form, 8b, 8c, and 17b were not answered.

James Brewster: Ok. Is the applicant here tonight? Ok, Mr. White just had a comment about the application on the short environmental form, there were some questions that were not answered.

William Smith: I noticed that today and I did come in the office and I did write the answers to those questions, so you probably got the packet before that was done. To answer your question, I think you're talking about 17b, in particular about 'will stormwater discharge be directed to an established conveyance system?' What we intend to do is install rain gutters on the edge of the roof and downspouts to direct water down the edge of our driveway to the street and then on to the storm sewer, so the water will not be going on the neighbor's property, it'll be going the same route as it goes right now, down the driveway.

James Brewster: Ok, thank you. We'll talk more about that in November. Jon, are you satisfied with that answer?

Jon White: Yeah, I mean it's just as long as the questions are answered, he took care of them today. I'm good with that. Everything else seemed to be complete in there for us to further on, you know move the application.

James Brewster: Right, ok. Anybody else?

Nick Cortese: Jim, I would just advise the Board that this is an individual setback application for a variance, and as a result it's a type II action under SEQR, so we won't actually end up going through the SEQR for this particular application at the end of the day.

James Brewster: Ok, great. Thanks for that. So, Jon, are you all set on that? We actually won't be doing it.

Jon White: I'm all set, it doesn't mean nothing I guess.

James Brewster: Well then I'll look for someone to make that motion to move this forward.

Webb Sisson: So moved.

Aleta Kinne: I'll second.

James Brewster: Roll call please, Kari.

Kari Strabo: Webb Sisson, 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 (Melanie Pandich)

James Brewster: Ok, Mr. William Smith, your application will go through the Planning Board next month and then back to us for a public hearing and so forth during our regular meeting. So thanks.

William Smith: Thank you very much.

James Brewster: So, now we're on to our first public hearing which is 2021-V010, Michael Mastro at 267 Poplar Hill Rd, application for an accessory building exceeding maximum height from 16' to 24' in a Residential Zone and a short EAF. I'd like to open that public hearing now if there's no objection from the Board, and I will read the official notice. Ok, this public hearing is now open for this application.

**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 October 26, 2021 at 7:00 p.m. upon the application of Michael Mastro on behalf of 267 Poplar LLC regarding property it owns with an address of 267 Poplar Hill Road in the Town of Chenango, Tax Map No. 095.12-1-13, and located in a Residential District. The application is for an area variance to construct a detached garage with a height of 24 ft., which exceeds the maximum height of 16 ft. allowed for such structures in said District. The environmental significance of the requested variance, if any, will be reviewed by the Board at said hearing.

TAKE FURTHER NOTICE that, as authorized by N.Y. Laws of 2021, chapter 417, part E, the ZBA **will not be meeting in-person**. Rather, said public hearing will be held via Zoom virtual meeting software, and will be recorded and transcribed at a later date.

INSTRUCTIONS FOR ACCESS TO THE VIRTUAL PUBLIC HEARING: All persons wishing to appear at the hearing may do so via computer, tablet or smartphone by utilizing the following **Link: <https://us02web.zoom.us/j/86810369704>, Meeting ID: 868 1036 9704, and Password 775740**. Members of the public may also call in to the Zoom meeting by dialing **1-646-558-8656** and entering the Meeting ID and Password above, when prompted.

Members of the public wishing to comment orally on the application during the public hearing will be recognized by the Chairman through the Zoom interface. Written comments may also be submitted prior to or during the hearing by e-mailing ordinance2@townofchenango.com, or prior to the hearing by mailing comments to the attention of the Town of Chenango Ordinance Office, 1529 NY Rte. 12, Binghamton, NY 13901.

Dated: October 19, 2021

James Brewster, Chairperson

Town of Chenango ZBA

James Brewster: So, at this time before we go into the comments from the applicant and so forth, Nick, I believe this application is something you wanted to discuss.

Nick Cortese: Yeah, I just briefly do want to make a disclosure to the Board that our firm represents Mr. Mastro in matters that are unrelated to this application. We do not represent him as it relates to this application. We have not advised him with respect to this application, but we do have a conflict of interest as a result of our representation of him in other matters. So, because we represent him in unrelated matters and we haven't advised him on this, we believe that the conflict is waivable. We've contacted Mr. Mastro who signed a conflict waiver earlier today and returned it to us. Members of the Board, you do have a copy of that. Jim emailed that to you

earlier today and in order for me to continue to represent the Board as it relates to this variance application specifically, I would ask for you guys to make a motion to waive the conflict. If you don't, I will turn my screen off for the remainder of the application and return to you on the next application, so the remainder is up to you in terms of the waiver.

James Brewster: Ok, thanks Nick. So, Board Members, well we can do some comment before there's motion if you'd like to say anything about that.

Jon White: I think I'm good for me.

Aleta Kinne: I'm good.

Scott Smith: Yeah, me too.

Webb Sisson: No problem.

James Brewster: Ok, then I will seek a motion on allowing us to approve that waivability which I'll sign when I can.

Scott Smith: So moved, Mr. Chairman

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

James Brewster: We'll do a quick roll on that.

Kari Strabo: Webb Sisson, 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 (Melanie Pandich)

James Brewster: Ok, Nick. You can stay. So, lets move forward here with the public hearing. Mr. Mastro, I assume you're here?

Michael Mastro: I'm here, yup.

James Brewster: Great, so we have five questions we'll go through regarding area variance which you can speak on and just do your best at answering them and the Board will consider that your testimony if you will, if you call it that and any other documents that came through. So, I'm going to start off, you may have seen them on your application but I'll start off by having you discuss in your own words, so will the granting of this variance and your proposed project produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Michael Mastro: I don't think it is, it's behind my house and you can barely see it. My neighbors have, I think our trees are like 30-40 feet tall between any neighbors and the house. So I don't think anyone's going to be able to see the garage. /

James Brewster: Ok.

Michael Mastro: And it's behind the house.

James Brewster: Ok. We're going to keep going through the questions and then we'll keep on with any other testimony before the Board asks questions. Number 2, can you achieve the goal of your project by some other method that will not require this variance?

Michael Mastro: I could, the reason for the 24 feet high is because I'm going to have attic trusses and we need storage. This house has no storage in it so I'm looking to get some extra storage, so I could build a garage with 16 ft height but I couldn't use attic trusses, I wouldn't have any storage above.

James Brewster: Ok. Third question is, is the variance request substantial? So is it going to be a big change from what the existing zoning allows?

Michael Mastro: I don't believe it is. It's just going to be a little higher than a regular old building.

James Brewster: Ok. Number four, will the granting of this variance have an adverse impact or effect on the physical or environmental conditions in the neighborhood or the district?

Michael Mastro: I don't believe so.

James Brewster: Ok. And, is the difficulty encountered by your proposed project or request for relief self-created?

Michael Mastro: I'm not sure what you mean.

James Brewster: Nick, you want to help us out?

Nick Cortese: Self-created basically means do you know what the zoning code is as it relates to the maximum height of the structure and do you want to build it larger than what the zoning code says? So, almost every single land use application like this is self-created. That's basically what it means, it doesn't mean 'did you bring this upon yourself?' it just means are you trying to vary from the zoning code knowing what it was in advance before you applied to do the project?

Michael Mastro: Yeah, I knew what the zoning code was, that's why I applied for a variance to do the 24 foot high.

Nick Cortese: Exactly.

James Brewster: What I wanted to say was these five factors are just guidelines for us, they're just determinants, not any one of them may or may not have the sole effect of being a thrown out application, so it's just guidelines for the Board. I just wanted to let you know that and let the others who are on the call understand the purpose of the factors. So, do you have any other comments before we move forward? Those are the five questions, anything further?

Michael Mastro: I don't have any other questions.

James Brewster: So, Board Members, any questions you'd like to address before I move on?

Aleta Kinne: Looks complete to me.

Jon White: I think for what Mr. Mastro is trying to do, he's almost better to go higher because he would have to go bigger and longer so then, either way you'd get to a certain point where you'd be asking for relief going to a bigger building and his house is tall enough anyways, being behind the house I think it would be fine.

James Brewster: Ok. So is there anyone here from the public who would like to speak for or against this application tonight?

Ok, I'm not seeing any hands so we're going to keep on moving here. We have several pieces of documentation from the Town and so we'll start off it looks like our drainage coordinator review and the document came through as approved, his review was approved. Next, we have the engineering letter and Mr. Urda says this project requires Broome County 239 Review and they indicate no concerns, they have no engineering objections to the project. Moving onto the County comments, Planning Department reviewed, has not identified any significant countywide or intercommunity impacts associated with the proposed project, which is what Mr. Urda stated. And, also moving on to our Planning Board, the Town Planning Board referred this application to the ZBA with a favorable advisory. Moving over now to Gavin in Ordinance.

- Gavin Stiles: Ordinance doesn't have any concerns with this, just a building permit.
- James Brewster: Ok, I believe that covers all we need to cover to get on the record during the public hearing. So, if there's nothing else Members, I'll accept a motion to close this public hearing.
- Aleta Kinne: I'll so move.
- Webb Sisson: I'll second it.
- James Brewster: Motion made and seconded, let's just do a voice vote on this so all in favor of closing this public hearing, say 'aye.'
- Board: Aye.
- James Brewster: Any nays? Any abstentions? Ok, I will therefore close the public hearing for application 2021-V010.
- Michael Mastro: Thank you.
- James Brewster: That's just the public hearing, Mr. Mastro. We'll come back around and decide but you're welcome. So, the next is application 2021-V011, Travis and Lindsay Flanagan, 75 Smith Hill Rd, for an application for an area variance to construct an inground pool ahead of the front line of the house in an Agricultural zone and a short EAF. I'd like to open that public hearing now. Any objections, Board Members?
- Board: No.
- James Brewster: Ok, so the public hearing now is open for that, I'll read the legal notice.

**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 October 26, 2021 at 7:00 p.m. upon the application of Travis and Lindsay Flanagan regarding property they own with an address of 75 Smith Hill Road in the Town of Chenango, Tax Map No. 111.18-1-2, and located in an Agricultural District. The application is for an area variance to locate an accessory structure (swimming pool) in a location other than behind the principal structure on said property. The environmental significance of the requested variance, if any, will be reviewed by the Board at said hearing.

TAKE FURTHER NOTICE that, as authorized by N.Y. Laws of 2021, chapter 417, part E, the ZBA **will not be meeting in-person**. Rather, said public hearing will be held via Zoom virtual meeting software, and will be recorded and transcribed at a later date.

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Dated: October 19, 2021

James Brewster, Chairperson

Town of Chenango ZBA

James Brewster: Mr. and Mrs. Flanagan, are you present tonight?

Travis Flanagan: Yes, this is Travis, I'm here but my wife isn't.

James Brewster: Ok, well you saw the first iteration there so we'll be taking you through the same thing and just do your best to answer, in your own words, these five questions. So question number one, will the granting of this variance and your proposed project produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Travis Flanagan: No it won't because you know with it being on the front line, you're not able to see the front line of the house even from the road.

James Brewster: Ok. Can you achieve the goal of your project by some other method that will not require a variance?

Travis Flanagan: No, because the other sides of the house are natural barriers that would not allow you to place a pool there.

James Brewster: Is your variance request substantial? In other words, is it going to be a big change from what the existing zoning allows?

Travis Flanagan: No, I would say not.

James Brewster: Ok. Will the granting of this variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district?

Travis Flanagan: No I would say it would not have any adverse effect there.

James Brewster: Is the difficulty encountered by your proposed project or request for relief self-created? And you probably heard the explanation of that beforehand.

Travis Flanagan: So I guess I would say yes because of the fact that we want to put it on the front line of the house, so yes, that's why we're applying for the variance.

James Brewster: Ok. Thank you very much. Any further comments in summary or anything you'd like to say?

Travis Flanagan: The biggest thing is that our house is about 800 feet, our driveway from the road so even though this would be considered on the front line of the house, actually how our house lies architecturally this is considered the back side of the house actually too. So, other than that I would not say anything else.

James Brewster: Ok. Board Members, any questions pertaining to those five? Anything else?

Board: No.

James Brewster: Ok, I don't have anything either. Any members of the public here tonight to speak for or against this application? Not seeing any hands at this time so I'll go through the documentation that we have.

We'll begin with the drainage coordinator so, the drainage coordinator reports came through with an approved, no additional comments just approved.

Urda Engineering sent their letter, 'the project requires Broome County 239 Review which resulted in cautionary notes to not impact the septic system. We have no engineering objections to the variance request.'

The Planning Board from the Town of Chenango refers this application to the Zoning Board of Appeals with a favorable advisory, and we do have a couple letters from Broome County offices. One is the Planning Department 'has reviewed the above cited case and has not identified any significant countywide or intercommunity impacts associated with the proposed project. The case file was routed to Broome County Department of Public Works and Broome County Health Department for review. Enclosed are comments from the BCHD that need to be addressed and the Department of Public Works had no comments.' And moving over to the comments from the Health Department from Matthew Laine, 'Consideration should be given to the location of the pool relative to the septic system so that it does not interfere with the functionality of the current onsite septic post-construction. In order to prevent damage to the onsite septic system during construction, heavy equipment should not be permitted to drive across waste lines, septic tanks, sand filter, or the absorption area and its immediate surroundings. If the construction of the pool results in damage to or premature failure of the septic system the owner should contact Broome County Health Department at their number before taking any further action.'

And, we did get a letter from a neighbor, dated October 26, 'Dear Zoning Board of Appeals Members, I wish to support the Flanagan family and ask that the Board pass area variance 2021-V011 expeditiously and unanimously. Thank you for your consideration on this matter and for your service to our community. Sincerely, Casey Tombs.' So that will go into the record and I believe that I've exhausted all the letters and documents that I have here. Board Members, any questions after hearing about those comments?

Aleta Kinne: We didn't hear from Gavin.

James Brewster: Gavin, how does Ordinance feel about this?

Gavin Stiles: Ordinance certainly has no concerns about this, just a building permit.

James Brewster: Ok. I guess I do have a question for Mr. Flanagan, since the comments came through. And we did notice from the site plan that the septic is fairly close to where you're going to be developing, especially in the beginning. Do you have a plan for moving heavy equipment and avoiding, I mean I imagine you would?

Travis Flanagan: Yes. There is a way to get around from the top side and come up so you won't actually disturb any of the septic at all. So, you won't come from the driveway side, you'll come up from above the hill and around and I last year had the septic system drained so I know exactly where that is as well too because I marked it myself and measured and everything like that last year too.

James Brewster: Ok. That's all the questions I had. Board Members, anything else you'd like to add?

Aleta Kinne: Yes, I have one. Approximate distance between the pool and your pond?

Travis Flanagan: The pool and the pond, I would say probably 150-200 feet, probably closer to 200 feet.

Aleta Kinne: I was wondering if you couldn't come in with your equipment that way.

Travis Flanagan: That's what I'm talking about, you could come down and around from the top side, from the pond side up above is what you can do. Above where the pond is, because we own up there so you could come from the Willis Rd entrance and come around.

Aleta Kinne: Oh ok, gotcha. Thank you.

Travis Flanagan: Yes.

James Brewster: Anything else, members? If not I'll ask that you give me permission to close the public hearing.

Jon White: I'm good for what I've seen at the site and what they're looking to do. I'm set.

Aleta Kinne: I am also.

James Brewster: Ok then, I guess without further ado I will hereby close the public hearing for application 2021-V011. Thank you and we'll get back to it later in the meeting.

All right, folks. Moving on now, I'd like to now open the public hearing for application 2021-V012, David Conklin of 70 Stacy Dr, who is applying for an area variance to construct a garage ahead of the front line of the principal structure in an Agricultural zone and a short EAF. Board Members, may I open this public hearing?

Webb Sisson: Did we close the last one? I mean, we just said that 'any questions?'

James Brewster: Well I guess I kind of informally closed it with a 'no objections' type of vote. I mean if you want me to...

Nick Cortese: The Chairman has the authority to open and close the public hearing on his own.

Webb Sisson: Fine.

James Brewster: I mean, I kind of tossed it to you to basically not object or object with closing the public hearing so if you didn't object then I'm satisfied that everybody's good and we can close it.

Webb Sisson: That's fine.

James Brewster: Ok. So, I've opened this one and now I'll read the 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 October 26, 2021 at 7:00 p.m. upon the application of David M. Conklin regarding property he owns with an address of 70 Stacy Drive in the Town of Chenango, Tax Map No. 111.01-1-5, and located in an Agricultural District. The application is for an area variance to locate an accessory structure (detached garage) in a location other than behind the principal structure on said property. The environmental significance of the requested variance, if any, will be reviewed by the Board at said hearing.

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Dated: October 19, 2021

James Brewster, Chairperson

Town of Chenango ZBA

James Brewster: So, Mr. Conklin, are you present?

David Conklin: Yes, I am.

James Brewster: Ok, well you've seen two versions of this now so we'll take you through those questions and again, just speak as you may, as best as you can, and here we go. Will the granting of this variance and your proposed project produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

David Conklin: No, it will not. It's actually going to be set back in the woods a little bit so, there's woods between my property and my neighbor's and I'm going to set it back in there so it should be fine.

James Brewster: Ok. Can you achieve the goal of this project by some other method that would not require you to be here for a variance?

David Conklin: I truly wish I could but due to the lay of the land and my home it's the only place I can put it structurally.

James Brewster: Is your variance request substantial? Is it going to be a big change from what the existing zoning allows?

David Conklin: I don't believe so.

James Brewster: Ok. Will the granting of this variance have an adverse impact or effect on the physical or environmental conditions in the neighborhood or district?

David Conklin: No, it will not.

James Brewster: Ok, and number five, Is the difficulty encountered by your proposed project request for relief self-created?

David Conklin: Unfortunately yes, it is self-created because I have assets that are currently stored elsewhere that I want to bring home to be here so I can access them and I really and truly don't have any

other place to put it. It'll be a brand new structure, it'll be similar to the home so it will look very good in the neighborhood.

James Brewster: Ok, thank you. That's taking you through the five questions. Board Members, do you have any follow-up for any of the questions there?

Aleta Kinne: Last month I asked about the neighbor across the road, if he spoke to them?

David Conklin: Yes, I've reached out, they're not there very often, and I have not successfully reached out to them other than have general conversation in the neighborhood I haven't been able to because I work out of town and my hours being at home are not conducive for that.

Aleta Kinne: Ok, thank you.

James Brewster: Thank you. Anything else?

Jon White: One question I do have for Mr. Conklin, Mr. Chairman, is when I did the site review yesterday you planned on putting the building, Mr. Conklin, where the pink ribbons are and that snowmobile trailer is?

David Conklin: That is correct.

Jon White: Ok. What's the possibility of sliding it back toward the house a little bit more too? I mean, the property doesn't drop off any worse back toward the house than it does where it's at. It wouldn't be as noticeable the closer you get to the house. You would still require the variance more than likely because you are at the front line of the house but it might not be as noticeable and stick out as much.

David Conklin: I realize that. The reason I chose that site is I'm trying to preserve some of the trees that I have that are some of my pine trees and whatnot that are more mature and a particular area that I chose happened to be more open and I wouldn't have to take down larger trees that have been here for many years.

Jon White: Ok. Because you're looking to also keep the trees to allow some shade on your house and protection from the elements also.

David Conklin: Correct. That and privacy for the neighbors. We live in a neighborhood where everyone has their privacy and I don't want to impede on that.

Jon White: Well I know you won't affect the Telfers next door because they're way behind you.

David Conklin: They are way back.

Jon White: I know the Telfers very well and I guess your neighbor hasn't objected that we know of yet, but that's the question I had and the question basically you answered.

David Conklin: I have some rather large trees, if I move it more towards the home I'd have to take down and they're very mature and very nice trees and I'd rather not lose them.

Jon White: Ok. I am satisfied with the answer and I am good.

James Brewster: Ok. Thank you for the dialog, thank you Mr. Conklin. Now we'll move onto, is there anybody here from the public who would like to speak for or against this application?

Ok, hearing nothing and seeing no hands we'll move onto the documentation.

Aleta Kinne: Mr Chairman, I have one, on the short environmental form he didn't tell us his total acreage, number three. I was just wondering what his total acreage is there.

David Conklin: I have 4.12 I believe.

Aleta Kinne: Ok, thank you.

James Brewster: Ok. Thank you for that. I'll move onto reading the documentation now. Our drainage coordinator sent through another approved documentation for this project.

Mr. Urda from Urda Engineering states: 'We have no engineering objections to this variance request.'

Town of Chenango Planning Board has sent through this application to the ZBA with a favorable advisory.

Broome County states that this project is not subject to a 239 Review because it is not located within 500 feet of any state or county interests covered under the law. So, they had no comment, it is not subject to review.

Gavin from Ordinance?

Gavin Stiles: Ordinance has no concerns; building permit.

James Brewster: Ok. Any last call for comments? Ok, Board Members, any objections as to closing the public hearing or not?

Jon White: I'm good.

Aleta Kinne: I'm good.

James Brewster: Ok, therefore I will close the public hearing now for application 2021-V012.

David Conklin: Thank you for your time and consideration.

James Brewster: You're welcome. We'll be revisiting it for some other administrative things here in a few minutes once we get through this last public hearing and the others. It won't be too much longer possibly, and I would say that with any application because you never know how a discussion can go.

We'll move on now to the final public hearing of the night which is 2021-V013, Michael Panko of 1362 River Rd, application for an area variance to construct an accessory structure exceeding the maximum size from 1500' to 2560' in an Agricultural zone and a short EAF. So, I'll open that public hearing now and read the 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 October 26, 2021 at 7:00 p.m. upon the application of Michael J. Panko regarding property he owns with an address of 1362 River Road in the Town of Chenango, Tax Map No. 079.17-1-7, and located in an Agricultural District. The application is for an area variance to construct a 2560 sq. ft. detached garage, which exceeds the maximum of 1,500 sq. ft. allowed for such structures in said District. The environmental significance of the requested variance, if any, will be reviewed by the Board at said hearing.

TAKE FURTHER NOTICE that, as authorized by N.Y. Laws of 2021, chapter 417, part E, the ZBA **will not be meeting in-person**. Rather, said public hearing will be held via Zoom virtual meeting software, and will be recorded and transcribed at a later date.

INSTRUCTIONS FOR ACCESS TO THE VIRTUAL PUBLIC HEARING: All persons wishing to appear at the hearing may do so via computer, tablet or smartphone by utilizing the following Link: <https://us02web.zoom.us/j/86810369704>, Meeting ID: 868 1036 9704, and Password 775740. Members of the public may also call in to the Zoom meeting by dialing 1-646-558-8656 and entering the Meeting ID and Password above, when prompted.

Members of the public wishing to comment orally on the application during the public hearing will be recognized by the Chairman through the Zoom interface. Written comments may also be submitted prior to or during the hearing by e-mailing ordinance2@townofchenango.com, or prior to the hearing by mailing comments to the attention of the Town of Chenango Ordinance Office, 1529 NY Rte. 12, Binghamton, NY 13901.

Dated: October 19, 2021

James Brewster, Chairperson

Town of Chenango ZBA

- James Brewster: Mr. Panko?
- Michael Panko: Yes sir, I am here.
- James Brewster: Ok. You should be well versed in what we're going to do next if you've been here the whole time, which I think you have so we'll take you through those five questions and are you ready to begin?
- Michael Panko: Yes, I am.
- James Brewster: Ok. Number one, will the granting of this variance and your proposed project produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?
- Michael Panko: I do not believe so. It's basically going to be behind my house, behind a set of woods and the color of the building I am planning on will match the house and the surroundings as well.
- James Brewster: Ok. Can you achieve the goal of your project by some other method that will not require a variance?
- Michael Panko: I do not believe so. Some of the items that I would like to put in the barn are larger than what the normal variance would allow.
- James Brewster: Number three, is your variance request substantial, in other words is it going to be a big change from what the existing zoning allows?
- Michael Panko: I don't believe so, but that's not up to me to decide.
- James Brewster: Number four, will the granting of this variance have an adverse impact or effect on the physical or environmental conditions of the neighborhood or the district?
- Michael Panko: Again, I do not believe so. Why I want to put the barn is in proximity to the house where I can access it easily but also in the area it would not have an adverse effect; I don't believe, on any of the surrounding properties.

James Brewster: Ok, thank you and number five is the difficulty encountered by your proposed project request for relief self-created?

Michael Panko: Yes, absolutely.

James Brewster: Ok, thank you. Do you have any other summary information you'd like to comment on at this time?

Michael Panko: Not at this time, no.

James Brewster: Ok. Board Members, any questions on some of these?

Jon White: I think I'm good.

Aleta Kinne: After visiting the site I'm good.

James Brewster: Ok. I don't particularly have any questions that are pressing so we'll move onto is there anyone here tonight from the public who would like to speak for or against this application? Ok, hearing none we'll move onto the documents that I have.

Ok, the first one that popped up, the engineering report from Mr. Urda says 'The project requires a Broome County 239 Review,' otherwise his office has no engineering objections to the variance request.

The drainage coordinator from the Town has submitted his report with a 'drainage review not applicable' checked off.

The Town of Chenango Planning Board has referred this application to the ZBA with a favorable advisory.

Comments from the County of Broome, 'Planning Department has reviewed the above cited case, and has not identified any significant county-wide or inter-community impact associated with the proposed project, however we have the following comments: The site plan should show the setbacks, grading and drainage, any tree removal, and any exterior lighting. The case file was routed to the Broome County Department of Public Works and Broome County Health Department for review and enclosed are comments from them that need to be addressed.'

This is from the Department of Public Works: 'The above referenced "239" has been reviewed by the Department of Public Works - Engineering Division (BCDPW), and the following is pertinent: This application includes a request for Special Use Permit to exceed maximum allowed accessories in AG zone from 2 to 3 and an Area Variance to construct an accessory structure exceeding the maximum size from 1500 feet to 2560 feet in an Agricultural zone at 1362 River Road.

Historically, there have been documented stormwater runoff issues in this general area of River Road. The proposed structure must be sited so that no stormwater is directed off-site or towards adjacent properties as a result of the installation.

There are no additional apparent impacts to Broome County Infrastructure as a result of this request, therefore Broome County Department of Public Works, Engineering Division has no comments related to the project located at TM 079.17-1-7.'

The Health Department states: 'The BCHD has no records of an onsite septic system at this location. Owner should verify the location of the septic tank and absorption field to ensure the project, both during and after construction, does not impact its functionality (i.e. placement of building or maneuvering heavy equipment over any part of system).'

So, there you have comments from the County Department of Public Health and Public Works for consideration. And we also have a letter that was submitted which I will make every effort to read so here we go:

'Dear Chairperson Blythe,

I am writing to express my concern over any construction that would in any way adversely affect the natural flow of water onto or across my property, and I would **not** be in agreement with any proposed construction **without first addressing and correcting an existing issue.**

My wife and I own the property located at 1366 River Rd., Town of Chenango that borders Mr. Michael J. Panko's property on our Northside and North-East side.

After purchasing our home we found that runoff from heavy rain has historically flooded our backyard and basement. There are water stains in our basement that indicate a water level of over two (2) feet had occurred at some point

Our basement has two (2) doors opening to the back yard that were above ground level, with a slight grade down to the backyard. After relocating to this home, we were forced on several occasions to resort to the use of sandbags, and pumps to keep high water from flooding our basement.

The obvious main cause of this was an obstruction from the natural downhill water flow caused by Mr. Panko's elevated driveway that is several feet above the natural slope. It is also very obvious that the present 12" diameter drain pipe beneath his driveway is entirely inadequate to accommodate higher than normal drainage.

I spoke with Mr. Panko about this issue, and he refused to entertain any suggestion to increasing the diameter of the existing drain pipe. Mr. Panko said that he was concerned about repercussions from property owners living downhill from his property.

Since Mr. Panko's refusal to accommodate my request, I have been forced to invest several thousand dollars into the construction of a berm around the Northside of our home and a drywell to reduce the flooding threat.

If as part of Mr. Panko's intended construction project he incorporated the enlargement of the drain beneath his driveway, I would be more than pleased to agree with his intended project.

Charles K. Porter
1366 River Rd.
Town of Chenango'

Gavin from Ordinance, what say you?

Gavin Stiles: Ordinance doesn't have any concerns with the current variance just to increase the size. Could I be informed a little bit more about this special permit that was previously mentioned? I'm not aware of anything like that.

Nick Cortese: My understanding is that the special permit was heard at a public hearing at the Planning Board meeting earlier this month. I was unable to attend that meeting, Keegan was there, and that the special permit was granted with some number of conditions? I'm guessing that Mr. Panko could probably speak to it and I believe that a lot of these questions regarding the drainage issue were discussed before the Board and again, the applicant would know better than I as to how that discussion proceeded.

Gavin Stiles: Ok, fair enough. Thanks.

Michael Panko: So I do have some of that information if you'd like me to go into that.

James Brewster: Yes, I would. Board Members, would you like Mr. Panko to discuss some of that in case you all had questions about it?

Jon White: Yeah, I'd like to hear.

James Brewster: Ok, you have the floor then.

Michael Panko: All right, thank you sir. And just I'm going off of memory but it's basically there were information that was from Broome County and I believe, Mr. Chairman, the email that you had read stated about the grade in the rear where the building was going to be constructed. Also, whether or not tree removal was going to be in place, whether there was going to be exterior lighting. I believe those were the stipulations that were covered by that special permit or special variance, whatever it was referred to, and I never received anything in writing so, as I said, I apologize I'm going off of memory.

To answer some of those questions, there will be an effect on the grade as far as where we want to put this particular structure. However, the grade as it currently sits right now dumps all of the water and the runoff onto Mr. Porter's property. We are going to do the best that we possibly can to divert any water away from their particular property and put it on our own and adjust the grade accordingly so that it does flow in a different pattern as opposed to trying to alleviate going in the back of Mr. Porter's property.

From a lighting aspect, it is intended right now for a cold storage building so at this point there's not going to be any power in the building.

From the tree aspect, there are a few dying trees that are in the area that we do intend to move but we do also intend to plant new trees around the building once it is constructed.

And if I can go into a little bit of detail as far as the letter from Mr. Porter, honestly, he and I never had a conversation with regard to a drain pipe. That is to say that he and I personally never had any conversation about it. There was a conversation with the prior owner back a very long time ago where he told me that I needed to put in a larger drain pipe to be able to handle all the flooding. I do know when my parents built the house next to Mr. Porter there was grade levels that were shot and it was revealed to us that Mr. Porter actually is at the lowest gradient level of this particular area. Even if we had increased the size of the sluice pipe and put in a 24-inch sluice pipe, it still would not matter because the sluice pipe would

be probably three feet above where the lowest point is in the backyard. So, that's about all that I can comment about the information at this point unless somebody else has got any other questions.

Nick Cortese: Just very quickly, Jim, Mr. Panko the special use permit that the Planning Board voted on was approved, correct?

Michael Panko: I believe that it was, yes.

Nick Cortese: Ok, yeah. I guess I would just advise the Board as well that, be mindful of the fact that the Planning Board considered all of these site design issues during the special use permit consideration and that your scope of review is with regard to the variance on the square footage.

James Brewster: Understood. Anything else for Mr. Panko? Ok. All right then, without any objection I think we've come to the point where I can close this public hearing and we can move onto cycling back to the first application for deliberation and SEQR.

Michael Panko: Thank you all very much.

James Brewster: Ok, thank you. So, without any objection I will close this public hearing on 2021-V013.

Ok. So, we're going to move on folks now to the part of the meeting where we revisit each application and have a deliberation and go through what we need to go through to render a decision. Folks, we're back to application 2021-V010, 267 Poplar Hill Rd, Michael Mastro, and I think what we should probably do, which we typically do is have Nick take us through the SEQR and then we'll get into further discussion.

Nick Cortese: Ok. Is everybody ready to go on the SEQR here?

Board: Yes.

Nick Cortese: Beautiful. Ok, so all four of these variances tonight will require a short environmental assessment form. Of course, this is part two which you're all familiar with. I'll ask you a series of questions, answer is 'yes' or 'no.' 'No' means no or small impact will occur from an environmental standpoint, 'yes' means moderate to large impact may occur, and I will begin now with application 2021-V010 on the SEQR.

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: Number3—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: Ok. You have answered all the questions in the negative, meaning that no or small impact may occur from an environmental standpoint therefore I would assume that you would issue a negative declaration under SEQR based on your answers. If that's the case a motion can be made at any time.

Jon White: I will motion for first to declare it negative.

Aleta Kinne: I'll second.

James Brewster: Ok, we have a motion and a second for this. Kari, let's do a roll call on SEQR.

Kari Strabo: Webb Sisson, 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 (Melanie Pandich)

- James Brewster: Ok, the negative declaration for SEQR has been passed. Ok so Board Members now we should discuss and consider the resolution. Actually, let's just have an open discussion on this one. Is there anything glaring to you where we would need to make any considerations or changes to the resolution that Nick will read for us?
- Jon White: No, I think it's pretty much straight forward. It's not going to have any adverse effect and it's going to be behind the house. I would be all right with it.
- James Brewster: Yeah, the only nitpicky thing I think I would talk about it when we get to the substantial, I don't know eight foot over the zoning. To me that's substantial. Again, it's not going to be a make or break but that's just my thought.
- Scott Smith: I think it might be more substantial if the roof of the house in front of the building were eight feet shorter.
- James Brewster: That's a good point.
- Jon White: Yeah, I mean the house is quite tall so for a 24-foot building to be behind the house it's not going to be like looking at the front of the house the garage is dominating the property compared to the house.
- Webb Sisson: If it was attached to the house it would be a no-brainer, so wouldn't be seeking a variance.
- James Brewster: Ok. Well I guess we can have Nick take us through the resolution now and make any further comments as we need to on that.
- Nick Cortese: So, we just need to lock down your guys' findings of fact as it relates to this variance. We'll start with the first factor: The requested variance will or will not produce an undesirable change in the character of the neighborhood? What do you guys say?
- Board: Will not.
- Nick Cortese: Ok. The benefit sought by the applicant can or cannot be achieved by some other method other than getting a variance?
- Jon White: Cannot. He would have to get a variance no matter what unless he stayed into a smaller building but otherwise, if he wants the storage that he's requesting, that's why he wants to go 24 feet high with added storage he would have to make a bigger building which in turn would still require him to get a variance.
- Board: Agreed.
- Nick Cortese: So, people agree on cannot be achieved by another method, correct?
- Board: Correct.
- Nick Cortese: As to substantiality of the variance, is it or is it not substantial?
- Board: Is not.
- Nick Cortese: The requested variance would or wouldn't have an adverse impact on the physical or environmental conditions of the neighborhood?

Board: Would not.

Nick Cortese: And the hardship giving rise to the variance, is self-created? Yes? No?

Board: Yes.

Nick Cortese: So then, the last item in the resolution would be the entire record of the proceedings supports the conclusion that the benefit to be applicant conferred by the granting of an area variance outweighs any potential detriment to public health, safety, et cetera et cetera. Agree?

Board: Agree.

Nick Cortese: Beautiful. Ok, so we have our findings of fact settled, the record is developed and you all have the resolutions that look exactly like the one that I have except for the fact that I've just filled in all of your fact finding where we have the fill-in-the-blanks that you guys see before the meeting begins so considering that you have the resolutions in front of you, this would be a motion to approve the variance unless your making a motion to deny the variance and adopt the resolution as presently written.

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

In the Matter of the Application #: 2021-V010 of Michael Mastro
for an area variance to variance to construct a detached garage
with a height of 24 ft., which exceeds the maximum height of 16 ft.
allowed for such structures in the R – Residential District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V010

WHEREAS, on or about August 23, 2021, Michael Mastro on behalf of 267 Poplar LLC (“Applicant”) duly filed an application for an area variance for property it owns within the Town, located at 267 Poplar Hill Road in the R – Residential District and designated as Tax Map No. 095.12-1-13, wherein Applicant requested a variance to construct a detached garage with a height of 24 ft., which exceeds the maximum height of 16 ft. allowed 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 October 26, 2021 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 October 26, 2021 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 RESOLVED 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 #: 2021-V010 for an area variance to construct a detached garage with a height of 24 ft., which exceeds the maximum height of 16 ft. allowed for such structures in said 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 October 26, 2021 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E the foregoing motion was made by Webb Sisson and seconded by Aleta Kinne. The ZBA members voted as follows:

James Brewster, Chair	Voted Aye
Aleta Kinne	Voted Aye
Scott Smith	Voted Aye
Jon White	Voted Aye
Web Sisson, Alternate	Voted Aye

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

James Brewster: And that concludes application 2021-V010, Mr. Mastro you are approved if you're still on the call. The stipulation, of course, from Ordinance is that you still have to go through the building permit process.

Ok, we'll start discussing number 2021-V011 here. This is for the Flanagan's pool at 75 Smith Hill Rd, any comments on the factors before we get into them?

Nick Cortese: Let's roll through the SEQR first, Jim.

James Brewster: Ok, I'm sorry. Let's go through the SEQR first, thanks Nick.

Nick Cortese: 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: Possibly small, so no. Small impact.

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

Board: No.

Nick Cortese: Ok so you've answered 'no or small impact' to all the questions in part two of the short environmental assessment form therefore I would assume you'd be making a negative declaration under SEQR this evening for this variance application. If that is the case you can make a motion to that effect at any time.

Webb Sisson: So moved.

Jon White: I'll second it.

James Brewster: Roll call please.

Kari Strabo: Webb Sisson, 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 (Melanie Pandich)

James Brewster: Ok, negative declaration under SEQR for this application. And now we can move onto further discussion on the application itself if there are any comments. If not we'll toss it over to Nick and he'll take us through the factors to build them and we can have discussion there as necessary.

Jon White: I do want to say from looking at this site, Mr. Chairman, I think where they do want to put the pool because the way that their house is designed and situated, it would work well for them and it wouldn't look out of sorts and it's not going to affect any of the neighbors because they're so far off of the road. And if anything, neighbors are down below them. I don't think it's anything bad or a detriment.

James Brewster: Right, I agree with that. The property is probably in this case one of the ones that can pull this off.

Aleta Kinne: After visiting the site I agree.

James Brewster: All right, then take us through the five factors Nick, please.

Nick Cortese: Ok, so this is for the swimming pool in front of the house. Will the requested variance produce an undesirable change in the character of the neighborhood? Yes or no?

Board: No.

Nick Cortese: Can the benefit sought by the applicant be achieved by some other method other than getting a variance?

Board: No.

James Brewster: Because of terrain issues.

Nick Cortese: Ok. Is the variance substantial or is it not?

Board: No.

Nick Cortese: Will the variance have an adverse impact on the physical or environmental conditions of the neighborhood, yes or no?

Board: No.

Nick Cortese: Ok, and is the hardship self-created in this application?

Board: Yes.

Nick Cortese: All right, so we're all in agreement on findings of fact and so the last paragraph as it relates to the fill-in-the-blanks are the entire record of the proceedings supports the conclusions that the

benefit to the applicant conferred by the granting of the variance outweighs any potential detriment to the health, safety, and that's just based on the answers you gave me previously. If I am wrong please correct me. If not, this variance resolution is complete so we would need a motion to approve or deny and if you're going to make a motion to approve to also adopt the resolution as written.

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

In the Matter of the Application #: 2021-V011 of Travis & Lindsay Flanagan
For an area variance to allow an accessory structure to be located
in front of the principal use in the A – Agricultural District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V011

WHEREAS, on or about August 24, 2021, Travis and Lindsay Flanagan (“Applicants”) duly filed an application for an area variance for property they own within the Town, located at 75 Smith Hill Road in the A – Agricultural District and designated as Tax Map No. 111.18-1-2, wherein Applicants requested a variance to allow for an accessory structure (swimming pool) to be constructed in a location other than behind the principal use 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 October 26, 2021 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 October 26, 2021 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 Applicants and the public with respect to Applicants’ application.

NOW, THEREFORE, BE IT RESOLVED 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 Applicants' application #: 2021-V011 for an area variance to allow for an accessory structure (swimming pool) to be located in a location other than behind the principal use in said 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 October 26, 2021 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E the foregoing motion was made by Jon White and seconded by Webb Sisson. The ZBA members voted as follows:

James Brewster, Chair	Voted Aye
Aleta Kinne	Voted Aye
Scott Smith	Voted Aye
Jon White	Voted Aye
Web Sisson, Alternate	Voted Aye

The motion was thereupon declared adopted by a roll-call vote of 5-0-1 absent (Melanie Pandich)

- James Brewster: Ok, application 2021-V-011 has been approved and adopted. Congratulations Flanagans, if you're still on the call. Your application is complete with the building permit still needs to be sought after from Ordinance.
- Travis Flanagan: Thank you very much to all of you.
- James Brewster: You're welcome. Ok. Moving on now to application 2021-V-012, David Conklin, 70 Stacy Dr, the variance to construct the garage ahead of the front line. Nick, let's go for SEQR on this.
- Nick Cortese: Let's do it. You guys know the drill. Here we go.
- 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: Number3—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: Ok. You've answered 'no or small impact' to all the questions on part two of the EAF for this particular application so again I would assume that you'd be making a negative declaration under SEQR. If that is the case you can make a motion to that effect at any time.

Jon White: So moved.

Webb Sisson: Second.

James Brewster: Kari on the roll call please.

Kari Strabo: Webb Sisson, 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 (Melanie Pandich)

James Brewster: Ok, we have a negative declaration for this application according to SEQR. Moving on to discuss the application now. Folks, any general comments to start off or head right into the details?

Scott Smith: I think we covered everything in the public hearing as far as I saw.

James Brewster: Ok.

Aleta Kinne: Agreed.

Jon White: I agree.

James Brewster: You all set, Webb?

Webb Sisson: I'm all set.

James Brewster: All set. Nick, carry us through please.

Nick Cortese: Ok. So, we just need to do the findings of fact as we've done for a couple already tonight. For this one, which is a frontline variance, yes?

James Brewster: Front line variance.

Nick Cortese: Yes. Ok, so will the requested variance produce an undesirable change in the character of the neighborhood? Yes or no?

Board: No.

Nick Cortese: Can the benefit be achieved by some other method other than getting a variance to do this project?

Board: No.

Nick Cortese: Is the variance substantial or is it not?

Board: No.

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

Board: Will not.

Nick Cortese: And is or is not he hardship self-created?

Board: Yes.

Nick Cortese: Ok, so based on those answers the benefit to the applicant outweighs any potential detriment to the public, is that fair to say yes or no?

Board: Agreed.

Nick Cortese: All right, so we've completed the fact finding and now the resolution is complete so if you're making a motion to approve along with that would be to approve the resolution as written. If you're making a motion to deny obviously the resolution would have to change so up to you, what you guys choose to do but the resolution is now complete.

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

In the Matter of the Application #: 2021-V012 of David M. Conklin
for an area variance to locate an accessory structure in a location other than behind
the principal structure on said property in the A – Agricultural District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V012

WHEREAS, on or about September 7, 2021, David M. Conklin on behalf of 267 Poplar LLC (“Applicant”) duly filed an application for an area variance for property it owns within the Town, located at 70 Stacy Drive in the A – Agricultural District and designated as Tax Map No. 111.01-1-5, wherein Applicant requested a variance to locate an accessory structure (detached garage) in a location other than behind the principal structure 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 October 26, 2021 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 October 26, 2021 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 RESOLVED 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 #: 2021-V012 for an area variance to locate an accessory structure (detached garage) in a location other than behind the principal structure in an 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 October 26, 2021 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E the foregoing motion was made by Webb Sisson and seconded by Aleta Kinne. The ZBA members voted as follows:

James Brewster, Chair	Voted Aye
Aleta Kinne	Voted Aye
Scott Smith	Voted Aye
Jon White	Voted Aye
Web Sisson, Alternate	Voted Aye

The motion was thereupon declared adopted by a roll-call vote of 5-0-1 absent (Melanie Pandich)

James Brewster: The application for 2021-V012 has been approved and adopted. So, Mr. Conklin you're good to go. Ordinance would like you to get a building permit as well.

David Conklin: I absolutely will. Thank you all for your time. Much appreciated.

James Brewster: You're welcome. Have a good night. Ok, moving right along now. We are at application 2021-V013, Mr. Panko at 1362 River Rd, the variance for the structure exceeding maximum size. Nick, let's go SEQR.

Nick Cortese: Ok. Home stretch, guys. Let's get right into it.

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: Number3—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: Small impact.

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

Board: No.

Nick Cortese: Ok so you've answered 'no or small impact' to all of the questions on part two of the EAF. I would assume then that you'd be making a negative declaration under SEQR as it relates to this particular application. If that is in fact the case a motion to that effect can be made at any time.

Aleta Kinne: I so move.

Jon White: I'll second.

James Brewster: Kari with the roll call on this please on this.

Kari Strabo: Webb Sisson, 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 (Melanie Pandich)

James Brewster: That was the negative declaration under SEQR. Ok, so onto discussion about this application. Any opening comments before we dive into the five factor details and so forth?

Jon White: My thing when I did the site review and where they want to put the building, with a little bit of grading and they can keep the water on their property to avoid it going down to the neighbor's property I think that's easily attainable. And then also when you do look at the neighbor in question's property about the flooding concerns, they are at a low point and ultimately water seeks its own level. So with some of the stuff that the Planning Board brought up, or what Mr. Panko brought up, there's some truth to that but I think putting this building where he wants is

not going to affect anything with doing some grading to divert the water away from the property.

James Brewster:

Correct.

Webb Sisson:

The concern is to make sure it's better than what was there before.

Jon White:

Well, and in some respects putting the building there it's going to block some of the water because it's on a hillside so doing the diversion swale around the building and a cutoff swale above it, it's going to stop water and cut it off and divert it to their property behind their house instead of going down to the neighboring property as it is now. So, in some respects it could very well help them because you're changing the natural course of water by putting the building where he's at and kind of protecting things is what I see.

James Brewster:

Right and what I saw what was although the property is steep in some areas, has some natural terracing so you actually divert the water into some flatter areas which will slow it down so I'm not 100 percent convinced that the actual flooding they have is from the upper lot there but it certainly gets very steep below the project which certainly can interfere with the neighbor's property and issues that he's having with water so like you said if we can control some more of that above I don't have too big of an issue on the drainage situation which they would've addressed in the special use permit. So he's well aware of it, that's the thing, so I don't think it affects the variance directive in itself.

Jon White:

Right. Well because ultimately it still goes down to the square footage increase is truly what we have to discuss and take into consideration. Correct, Nick?

Nick Cortese:

That's exactly right Jon. Absolutely.

Jon White:

And you know he ultimately is looking to do what, 2300 square foot instead of the 1500 max?

Scott Smith:

25.

Jon White:

Ok, so I mean he is substantially making it larger off of the maximum square footage but if you've got certain stuff to put in it, bigger stuff you never have enough room.

James Brewster:

Right. And the simple fact is he could've put up a 1500 foot building and we'd still be talking drainage.

Jon White:

Right.

James Brewster:

Just a smaller percentage.

Nick Cortese:

Honestly, he could've put up 1500 foot building without a site plan review because it'd just be an accessory structure, there'd be no variance he could just build it with a building permit.

Jon White:

And as long as he was one foot or six inches behind the front line of the house he could put it in that side yard instead of out back which would be more noticeable to the neighborhood anyways and at least he's putting it back behind where he's right in saying it's just his parent and himself that's going to see the building because the one neighbor he could still probably see it, the close one next to his driveway but he's already good with things and the other neighbor that's got some issues with the drainage, he's not going to see the building, because there's woods behind there.

Aleta Kinne: I'll add that in going out to the site I was able to see the trees that they plan to remove. They, in my opinion, are trees that are dying and they need to come down anyways and they do plan to replace them with new trees.

Jon White: Yeah. They were older pine trees that were ready to-

Aleta Kinne: And some ash.

Jon White: Yeah, and of course we all know what the borer beetle's doing to the ash trees and it's not 'if' its 'when' unfortunately that they die. So, I can see why he'd want to remove them.

James Brewster: Ok, great discussion. Nick, want to dive us into the details of our resolution then?

Nick Cortese: Sure. So, last set of fact-finding for the evening on this particular resolution. Will the variance produce an undesirable change to the character of the neighborhood or will it not?

Board: Will not.

Nick Cortese: Can the benefit sought by the applicant be achieved by some other method other than getting an area variance?

Board: No.

Aleta Kinne: Only by what we said before, by building a different size that he didn't need a variance but he has things to put in there that he needs that size.

Nick Cortese: So everyone would say that it cannot be achieved by another method, is that what I'm hearing?

Board: Correct.

Nick Cortese: Very good. The variance is or is not substantial?

Board: Is.

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

Board: Would not.

Nick Cortese: And is the hardship self-created or is it not?

Board: Is.

Nick Cortese: Ok. So the last one is would you say that the benefit to the applicant by getting the variance outweighs the detriment to the public in this particular instance?

Board: Yes.

Nick Cortese: Ok I have your findings of fact complete, the resolution is now complete. This is ready for a motion to approve. Obviously if you're making a motion to deny we'd require a different resolution here which obviously I didn't prepare. So, obviously up to your guys but the resolution to approve is now complete so a motion would be appropriate at this time.

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

In the Matter of the Application #: 2021-V013 of Michael J. Panko

for an area variance to construct a 2560 sq. ft. detached garage in the A – Agricultural District, which exceeds the maximum of 1,500 sq. ft. allowed for such structures in said District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V013

WHEREAS, on or about September 8, 2021, Michael J. Panko (“Applicant”) duly filed an application for an area variance for property it owns within the Town, located at 1362 River road in the A – Agricultural District and designated as Tax Map No. 079.17-1-7, wherein Applicant requested a variance to construct a 2,560 sq. ft. detached garage, which exceeds the maximum of 1,500 sq. ft. allowed 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 October 26, 2021 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 October 26, 2021 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 RESOLVED 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 #: 2021-V013 for an area variance to construct a 2560 sq. ft. detached garage, which exceeds the maximum of 1,500 sq. ft. allowed 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 October 26, 2021 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E the foregoing motion was made by Webb Sisson 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
Webb Sisson, Alternate	Voted Aye

The motion was thereupon declared adopted by a roll-call vote of 5-0-1 absent (Melanie Pandich)

James Brewster: And that was a motion to adopt the resolution and approve the application. So, building permit Mr. Panko, and please consider the things that were addressed in your special permit as well plus the comments that you've heard tonight. Otherwise you're approved for the variance.

Michael Panko: I absolutely will, thank you very much, Members. Have a good evening.

James Brewster: All right, Members, that brings us to the end of a very busy productive session this month so if there's anything else for the good of the order I'll take comments otherwise I'll seek a motion to adjourn.

Scott Smith: So moved, Mr. Chairman.

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

James Brewster: Ok, motion made and seconded to adjourn this meeting. All in favor state by voice 'aye.'

Board: Aye.

James Brewster: Any nays? Any abstentions? October 2021 Zoning Board has adjourned. Thanks everyone.
(8:37 PM)

Respectfully Submitted,



Kari Strabo, Sr. Clerk