

ZONING BOARD MEETING
TUESDAY—NOVEMBER 29, 2022
ZONING BOARD OF APPEALS
7:00 PM—TOWN HALL
1529 NYS RTE 12
BINGHAMTON, NY 13901

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

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

Absent: James Brewster, Chairperson
Ed Miller, Board Member

Aleta Kinne: Being 7:00 I will call the Town of Chenango Zoning Board of Appeals to order. It's November 29, 2022. Kari, roll call please.

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

Aleta Kinne: We do have a quorum, counselor. I want to thank you all for coming tonight because we have a full agenda again. You may have noticed that Chairman Brewster is not in his seat tonight. He was unable due to a work condition, he's out of town. I, as your Vice Chairman, am trying to fill this seat tonight. The first order of business is to approve the minutes of our October meeting. Any questions or comments on the minutes?

Jon White: I'm all good.

Aleta Kinne: If you feel they are complete I will take a motion to approve them.

Jon White: I will motion, Mrs. Chairman.

Dan Wolters: Second.

Aleta Kinne: Motion by Jon and seconded by Dan. Kari?

Kari Strabo: 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

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

Ayes—4 Nays—0 Absent—2 (Brewster & Miller)

Aleta Kinne: Minutes are approved and can be filed and posted. Our agenda has been changed. It was to have 2022-V16 up first because we were having a counselor from Syracuse to do that. She was going to walk us through the SEQR and the Resolution and counselor Cortese would arrive after that application was closed. Change of plans on 2022-V16, Abbey Trust No. 4. Jay Abbey has

requested that we adjourn this application to our December 27th meeting. So, at this time I will ask for a motion to adjourn 2022-V16 to the December meeting.

Scott Smith: So moved as stated.

Jon White: I will second it, Mrs. Chairman.

Aleta Kinne: Motion made and seconded. Kari?

Kari Strabo:	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

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

Ayes—4 Nays—0 Absent—2 (Brewster & Miller)

Aleta Kinne: Motion to adjourn is accepted. Counselor, do I need anything more than that?

Nick Cortese: No. You can take it up again and you have agreement from the applicant and you guys have agreed so that will basically hold in abeyance here, 62 days to make a decision.

Aleta Kinne: Board Members, we're having troubles with my email, but Mr. Abbey has submitted information for us to consider before that next meeting so please check your files and make sure that you get that.

Scott Smith: Can we get copies?

Kari Strabo: Yes, you'll get hard copies if the email doesn't work.

Aleta Kinne: Next up on our agenda is the Zoning Interpretation application, 2022-V18. We held the public hearing for this application in October, followed by the Board's discussion and we were at a point of determination, ready to vote, when we were reminded that we did not have a Resolution prepared so we took a straw vote and tabled the application 2022-V18 until our November meeting. Tonight we are prepared with a formal decision and a Resolution. I'll ask counselor Nick Cortese to take us forward with these.

Nick Cortese: Ok. I realize I sent you guys a draft resolution at the very beginning of the week this week on Monday morning but there's something wrong with the domain name for your town emails. I didn't know that until this afternoon so I'm guessing that you're just taking a look at this now. So, to the extent that you haven't had the ability to digest this over the course of the last 36 hours or so, just take a few minutes and read over the draft. Let me know if you have any specific objections, things that you'd like to have changed, things that you'd like to have added because at the end of the day this is just a draft for your review and approval. This is not my decision, this is yours.

Aleta Kinne: Some of us did pick them up from Ordinance this morning.

Scott Smith: Nick, one of the things I wondered about was, how do we make a determination? How do we state the difference between a commercial property and residential? I feel there should be different rules for those two.

Nick Cortese: Right. I understand what you're saying and that's a valid consideration but not for this Board because all you can do is just say, is a shipping container a temporary structure by definition, or

not? There's no differentiation between whether or not it's on a commercial property or residential property. To the extent that you may feel that one use is more appropriate than the other, you may be right but that's up for the Town Board to determine, not us.

Aleta Kinne: Are we ready for him to read it?

Board: Yes.

Nick Cortese: **TOWN OF CHENANGO ZONING BOARD OF APPEALS**

DECISION ON APPLICATION 2022-V18

On September 19, 2022, Joseph Pratt, a resident of the Town of Chenango residing at 41 Treadwell Road (hereinafter "Applicant") appealed to this Board from a determination of the Town of Chenango Code Enforcement Officer (hereinafter the "CEO"), which, in sum and substance, determined that a shipping/sea container does not qualify as a "Temporary Structure" as that term is defined in Section 73-3 of Town of Chenango Zoning Code (hereinafter the "Zoning Code"). Rather, the CEO determined that shipping/sea containers are permanent, accessory structures, and should be permitted and regulated as such under the Zoning Code.

Mr. Pratt disagrees with the CEO's reading of the Zoning Code and has requested our interpretation with respect to the following question:

Does the Zoning Code's definition of the term "Temporary Structure" include shipping/sea containers?

The Board considered the above question during a public hearing held on October 25, 2022 at 7:00 p.m. at Chenango Town Hall, 1529 NYS Rte. 12, Binghamton, New York, at which all persons wishing to speak in favor of or against Applicant's appeal were heard. Now, after due deliberation and for the reasons that follow, we answer that question in the negative. Our interpretation is that the term "Temporary Structure" as defined in Section 73-3 of the Zoning Code does not include shipping/sea containers.

Section 73-3 (B) of the Zoning Code defines a temporary structure as "[a] nonpermanent structure used for purposes other than residential and includes truck trailers, tents and structures of a similar nature. A time-limited building permit, issued by the Code Enforcement Officer, is required for all temporary structures." Based on the foregoing language, in order for a shipping/sea container to qualify as a temporary structure, it must be both a nonpermanent structure, and a structure that is similar in nature to a tent or a truck trailer.

First, it is our interpretation that shipping/sea containers are permanent, rather than nonpermanent structures. The term "structure" is not specifically defined in the Zoning Code, but Section 73-3 (A) instructs that definition of "[t]he word 'building' includes the word 'structure'". Thus, under the Zoning Code, the term "structure" is defined in the same way as the term "building", that is, "[a]ny structure having a roof and intended for the shelter, housing or enclosure of persons, animals or chattels, other than a boundary wall, retaining wall or fence" (Zoning Code § 73-3 [B]).

There is little doubt that shipping/sea containers meet this definition, inasmuch as such containers are fully enclosed with walls and a roof and are built for the specific purpose of enclosing chattel. Indeed, during the October 25, 2022 public hearing, several residents commented that they have shipping containers on their properties, which they use for exactly that purpose.

As for whether shipping container structures are "permanent" or "nonpermanent" in nature, neither of these two terms are defined in the Zoning Code so we look to its ordinary meaning, as tenets of statutory construction require (see McKinney's Statutes § 94 ["statutory language is generally construed according to its natural and most obvious sense, without resorting to an artificial or forced construction."]). The dictionary definition of "permanent" is "continuing or

enduring without fundamental or marked change” or “not easily removed, washed away, or erased” (<https://www.merriam-webster.com/dictionary/permanent> [last accessed 11/28/22]). Naturally, “nonpermanent” has an inverse meaning.

We find that shipping/sea containers are, generally speaking, “permanent” in nature, as that term is commonly understood. They are sturdy, metal structures designed to store objects for long periods of time, and keep such objects dry in wet weather conditions. And while it is true that shipping/sea containers can be relocated, they cannot be moved without specialized equipment designed to lift a container onto an appropriate transport.

Accordingly, while some may feel that they are not as aesthetically pleasing (a debate that is irrelevant to our interpretation), shipping/sea containers are at least as permanent and durable as typical, wooden storage sheds, and there was no dispute from the Applicant or any other party at the October 25, 2022 public hearing that wooden storage sheds are permanent accessory structures under the Zoning Code. To the contrary, a representative of the Boy Scouts of America, Baden Powell Council specifically commented at the public hearing that the Council has a shipping container on its property where it stores all of its scouting equipment, which it has done for several years without incident.

While we understand our conclusion that the Zoning Code’s term, “nonpermanent” does not apply to shipping/sea containers forecloses the need for further analysis as to whether such containers meet the definition of “temporary structures” – they do not – we wish to note in any event that shipping containers would not fall within Zoning Code’s examples of temporary structures, namely, “truck trailers, tents and structures of a similar nature” (Zoning Code § 73-3 [B]).

“Tent” is not defined in the Zoning Code, but common sense dictates that a shipping container is not a tent or a tent-like structure. “Trailer”, on the other hand, is defined in the Zoning Code, as follows:

Any sized platform structure, with or without walls or guards, having wheels, that is pulled behind by any type of motor vehicle used to transport or haul any material, requiring and/or not requiring New York State registration. This also includes any similar vehicle/trailer types not propelled by their own power drawn on the public highways by a motor vehicle as defined in this section, except motor vehicle side cars and/or vehicles designed and primarily issued for other purposes and only occasionally drawn by such motor vehicle

(*Id.*). Unlike the Zoning Code’s definition of “trailer”, a shipping container does not have wheels. Furthermore, based on the foregoing definition, we find that it would be inappropriate to define a shipping container as a trailer or trailer-like structure, inasmuch as it cannot simply be hooked to a motor vehicle and pulled or drawn down a public highway. Indeed, a shipping container is a static object that certain trailers are designed to haul (the same is true for wooden storage sheds); it is not a trailer in and of itself.

In sum, the Town of Chenango Zoning Board of Appeals hereby upholds the Code Enforcement Officer’s interpretation of the term “Temporary Structures”, as defined in Section 73-3 of the Zoning Code, to exclude shipping/sea containers.

The Code Enforcement Officer is authorized to take any and all necessary actions to carry out the spirit and intent of this Decision.

Nick Cortese: Does anybody have any questions about that, want anything added, any thoughts removed, so on and so forth?

Aleta Kinne: We take a motion on that to accept it?

Nick Cortese: Right, so there’s a Resolution that accompanies this as well that you also have in your packets this evening. This is a type II action under SEQR so we don’t have to do that. So, all that would

be left is if you agree with the decision as drafted there's a Resolution that officially adopts that decision as the interpretation of the ZBA before you and you can make a motion to accept that Resolution if you choose.

Aleta Kinne: First we need a motion on the decision?

Nick Cortese: No, the Resolution would be the motion on the decision because the decision is incorporated into the Resolution, so just one motion to adopt the Resolution in turns adopts the decision.

Aleta Kinne: Ok.

Jon White: I will motion to adopt the Resolution as written.

Dan Wolters: Support.

Kari Strabo:	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

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

Ayes—4 Nays—0 Absent—2 (Brewster & Miller)

Aleta Kinne: Motion to accept has been passed. Moving right along here, we have two new applications. 2022-V21, Richard Cornell has requested an area variance to park a van camper ahead of the front line of the house in a Residential zone. He has submitted the application and a short form and many letters which we won't read until next month at the public hearing. Is the applicant here?

RC: Yes.

Aleta Kinne: Ok. Does the Board have any questions on the application?

Jon White: No, I think it looks complete and is ready for acceptance.

Aleta Kinne: Ok, then I ask for a motion to accept the application and pass it on to the Planning Board and set a public hearing for our December 27, 2022 meeting.

Dan Wolters: So moved.

Scott Smith: I'll second it.

Kari Strabo:	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

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

Ayes—4 Nays—0 Absent—2 (Brewster & Miller)

Aleta Kinne: The motion has therefore declared that the application is accepted by roll call. Going to the next application, 2022-V22, Amy Sickles. Is Amy here tonight? No, ok. She doesn't have to be. That application is for a double area variance to construct a garage addition with less than the

required front yard setbacks from 30' to 24' and 30' to 15' in a Residential zone and a short EAF. Board, any questions on this application?

Jon White: No, I'm good.

Aleta Kinne: If it looks all right to you I'll ask for a motion to accept this application.

Jon White: I will motion to accept this application, Mrs. Chairman.

Scott Smith: I'll second it.

Kari Strabo:	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

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

Ayes—4 Nays—0 Absent—2 (Brewster & Miller)

Aleta Kinne: Motion to accept will move on to Planning Board and set a public hearing for December 27, 2022. All right, that's our new applications. Now we have a couple of public hearings. Application 2022-V19 for a double area variance to build a 768 square foot attached garage on a corner lot with less than required front yard setbacks from 30' to 21' and 30' to 18' in a Residential zone and a short EAF. Is the applicant here?

Kyle Hayes: Yes.

Aleta Kinne: At this time I will open the public hearing. What we do is we have five factors, we go over them verbally with you. I'll take you through them. These five factors are considered by the Board in making their determination. None of them are exclusive so a 'no' to one of them doesn't automatically reject you. The first one we ask about is will the granting of this variance and your project produce an undesirable change to the character of the neighborhood or be a detriment to nearby properties? In just your own words could you answer that?

Kyle Hayes: No. You want just yes or no?

Nick Cortese: An explanation. Just what you think. There's no right or wrong answer.

Kyle Hayes: If it's going to affect the neighborhood? No, it's not really past anything. The average from the center of the road is 38', which is about 60' if you go from the property lines on average. I'm well within the average of the neighborhood.

Aleta Kinne: Ok. You sort of did this in your application, these answers and you felt that it would not weigh against the health, safety, or welfare of the community. Any questions? No, ok. Number two factor, can you achieve the goal of this project by any other method that wouldn't require a variance?

Kyle Hayes: No. There's no real room to put it anywhere. I have an access there that's open to the weather so I want to kind of conceal that access too. As far as size-wise, I wouldn't be able to get it without getting a variance to get the size I need for a garage.

Aleta Kinne: Any questions from the Board? We'll have discussion later but if you have any questions for him...

Jon White: Are you keeping that existing garage that's there?

Kyle Hayes: Yeah, it's a detached.

Jon White: Right. Because your plan shows you're going to be putting on a new addition too.

Kyle Hayes: Yeah.

Jon White: So, you're going to keep the existing garage.

Kyle Hayes: Yeah the detached one. I had a lot of different plans over the years. This is kind of three years going on. I applied for it, not a variance, three years ago when I initially got the loan. I'm kind of just applying for it again to get the variance through and build a garage but at the time I could do the other garage so I just did that when the loan was processing. So, when this goes through I'll have to find a way to pay for it.

Jon White: Ok. That's the only question I had.

Aleta Kinne: Number three, is your variance request substantial in your opinion? In other words, is this going to be a big change from what the existing code is?

Kyle Hayes: No, I don't think so. It comes out only about four feet further than the side of the house and on the other side my property goes about thirty feet past the actual property line. Not my property, but the grass I take care of and everything goes quite a distance past the property line so as far as the garage being near a setback it's kind of close but being near the road it's still really far away.

Aleta Kinne: Questions? Ok, next question, keep in mind the environment. Will the granting of this variance have an adverse impact or effect on the physical or environmental conditions of the neighborhood?

Kyle Hayes: No, I don't think so. There's no real, there's not like a wetland or anything like that as far as the environment goes. Everything's on public sewer and everything like that so it's not invading anybody's septic or anything. It kind of looks like there was meant to be a garage there when the place was originally built, it just never got built.

Aleta Kinne: Questions?

Jon White: What are you going to store in this garage?

Kyle Hayes: Just a vehicle. We just want to park a car in there.

Jon White: Ok.

Kyle Hayes: We wanted to do two but that might've been asking a little too much maybe, I don't know. It's just a one stall garage so we can park her car in there. Bikes, maybe some kayaks, maybe some household stuff.

Aleta Kinne: Number five, this one is usually a fairly standard answer. Is the difficulty encountered by your proposed project request for relief, is it self-created? 99% of the time the answer is yes.

Kyle Hayes: Yeah, it is for sure.

Aleta Kinne: Ok. Anyone, any questions? At this time we can allow anyone from the public who would like to speak on this application, anyone here?

Patrick Clark: My name is Patrick Clark, I live on 22 Montague with my wife in our dream home that the Town has allowed us to create and I watched over the last five years since I've been there for ten years, that area started to get blighted, that corner. I don't know this gentleman but I do know hard work and I do know what care is about. That corner has changed from blighted to being brought back. Corner lots are very difficult to do anything with and I would just like to compliment these folks at 40, the job they did because like a blight, it becomes a cancer. It goes through the neighborhood and we've seen that. But with the folks across the street that did capital improvements there, it's a little house on the corner and this other home is across the street. He has spent a tremendous amount of money, care, and energy into that parcel and I now like driving down Montague and around that area to go out because of the improvements that have been done in that area and I just want to say that, as I said I don't know this man, I do know quality work and I do know hard work. I don't know if it pertains to anything here, this is all new to me. I don't see what harm it would do, even though it doesn't meet the criteria. My home that was in front of the Board many years back, you folks have helped me to create a dream house for me and my wife who is terminally ill. That's neither here nor there. A lot of money's gone into that property, corner lots are hard and I think a lot of thought has gone into the positioning of a proposed garage. I take no exception, I would even encourage it from the Board. I just know hard work, a lot of money, and growth. People used to say I wouldn't go to Chenango Bridge because they're so tough with codes and everything. That was maybe years ago, but with our new code enforcement that we have here, he's fair, he's firm, he's precise and I'm glad to be a resident because of the changes that have been made. That's all I got. Thank you for listening.

Aleta Kinne: Thank you. Anyone else who would like to speak about this application? Ok. Hearing none, I have some correspondence. Our Planning Board sent a favorable advisory. Our engineer's comments, on the south the garage will be further back from the property line along Whitcomb Drive than the nearest adjacent residence to the west on Whitcomb Drive and on the east the garage setback will be similar to the setback position of the residence to the north at 36 Avalon. So, we have no engineering objections to the variance. The drainage coordinator gave approval and Broome County had no comment because the project site is not located within 500 feet of the state and county interests so no comment from them. This project is not subject to a 239 Review. We do not have to do SEQR, this is a type II.

Nick Cortese: That's correct. Do you want to go through the fact finding?

Aleta Kinne: Yes. If there's no one else with questions or to speak I will close the public hearing and Mr. Cortese will take us through the next phase.

Nick Cortese: I think probably we should have any discussion from the Board at this point and then we can do that once everybody is satisfied and has had all the discussion that they want to have.

Aleta Kinne: Jon? You look like you want to say something.

Jon White: No, I think what he wants to do is a good project. Yeah, it's tightening up the lot a little bit but it's going to fit into the property, he's putting money and interest into the area. I think it's a good worthwhile project, and I don't think it's going to be out of site or some monstrosity. I think it's a good thing.

Dan Wolters: I agree, it seems reasonable.

Scott Smith: That’s all a fair assessment plus the endorsement from the neighbor helps a lot and I’ve been by the place as well and it looks great compared to how it was. Well done.

Kyle Hayes: Yeah, it’s been a long go but...

Scott Smith: The work shows.

Kyle Hayes: Thank you.

Nick Cortese: If you guys are all set with your discussion, let’s just go through the Resolution real quick and lock down our findings of fact. The first factor, the requested variance will or will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Board: Will not.

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

Board: Cannot.

Nick Cortese: The variance is or is not substantial?

Board: Is not.

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

Board: Would not.

Nick Cortese: Is it self-created?

Board: Yes.

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

In the Matter of the Application #: 2022-V19 of Kyle P. Hayes
for an area variance to construct an attached garage on a corner lot
with front yard setbacks of 21 and 18 feet, respectively, in the Residential District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V19

WHEREAS, on or about October 4, 2022, Kyle P. Hayes (“Applicant”) duly filed an application for area variances on for property he owns within the Town, located at 40 Avalon Road, designated as Tax Map No. 112.12-4-18 and located in a Residential District, wherein Applicant requested a to construct an attached garage on a corner lot with front yard setbacks of 21 ft. and 18 ft., respectively, which is less than the minimum front yard setback of 30 ft. 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 November 29, 2022 that the requested variances constitute a Type II Action as defined under said regulations and, thus, no formal review of the potential environmental impacts of the variances are required; 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 November 29, 2022 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 #: 2022-V19 for area variances to construct an attached garage on a corner lot with front yard setbacks of 21 ft. and 18 ft., respectively, which is less than the minimum front yard setback of 30 ft. in the Residential 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 November 29, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Scott Smith and seconded by Dan Wolters. The ZBA members voted as follows:

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

The motion was thereupon declared adopted by a roll-call vote of 4-0-2 absent (Brewster & Miller).

Aleta Kinne: Stay in touch with Ordinance. Ok. Now, for public hearing number two. I will open the public hearing for application 2022-V20. It is an area variance to allow a licensed recreational vehicle ahead of the front line of the house in a Residential zone and a short EAF. Is the applicant here?

Tara Jablonsky: Present.

Aleta Kinne: Tara, welcome. What we do is we go through the five factors. We will go over them with you and they are what the Board considers in its decision making. A 'no' to one of them doesn't mean a rejection. So, number one, will the granting of the variance and your proposed project produce an undesirable change in the character of the neighborhood or a detriment to nearby properties?

Tara Jablonsky: No ma'am I don't believe so.

Aleta Kinne: Any questions? Factor number two, can you achieve the goal of your project by some other method that wouldn't require a variance?

Tara Jablonsky: No I cannot.

Aleta Kinne: In other words, is there a way you can get it behind the house?

Tara Jablonsky: No I cannot, the reason being the overhang of the home is not tall enough to allow the camper to pass through.

Aleta Kinne: I see you have quite a drop off behind your house too.

Tara Jablonsky: That I do as well, but my first barrier would be the overhang of the home.

Aleta Kinne: Questions? Is your variance request substantial? In other words, is it a big change from what the existing zoning says?

Tara Jablonsky: No ma'am.

Aleta Kinne: Questions? Will the granting of this variance have an adverse impact or effect on the physical or environmental conditions of the neighborhood?

Tara Jablonsky: No it will not.

Aleta Kinne: Questions? Number five, is the difficulty you have encountered by this project, is it self-created?

Tara Jablonsky: By my husband, yes. He purchased it for me before he passed away so yes it is self-created.

Aleta Kinne: Questions? Any comments or questions from the Board? Is there anyone from the public who like to speak for or against this application?

Andrea Wolf: My name's Andrea Wolf, I live at 17 Cherry Ln which is right next to Tara. I have no negative feelings about her having her camper right next to her house. I can pull in and out of my driveway and see in both directions. It doesn't bother me that it's there. Her driveway goes down at a steep decline and there's no way, besides the fact that her overhang hangs, there's no way for her that she would be able to park down there and then move it back up because of the hill being so steep. And all of our hills right behind our house are like that and I were to purchase something I would have to park it in the front of my house because I wouldn't be able to park it back there because of our steep decline. That's it.

Aleta Kinne: Ok. Anyone else? If not I will go to Ordinance.

Gavin Stiles: Ordinance has no issues with it.

Aleta Kinne: Ok. I have from our engineer, he asked that question that we've all asked, that he noticed that there's a driveway to the rear. Is there space in this area, and you have answered that. He wanted to know if it was an RV that was self-driven or tow-behind and it's tow-behind, and he wanted to know what size it was. Other than that the engineer has no engineering objections to the variance request. The drainage coordinator has no objections. The county says because it's not within 500 ft of state and county interests, it's not subject to 239 and we have some letters, all favorable letters.

"Tara Jablonsky has parked her camper in her driveway for the past 6 years and we have never had a problem with it." – Anthony & Sue Ellen Miller

"My husband and I have no problem with the campers parked in driveways on Cherry Lane. They do not affect traffic and we see no problem with them being there." – Jan Pandich

"The trailer parked in the driveway at 19 Cherry Lane, has been there on and off for at least 5 years. It is one of a few trailers in driveways located on Highland Road and Cherry Lane. In our opinion, the trailer at 19 Cherry Lane causes no issues with traffic safety and should be allowed to stay in the driveway." – Tom & Carolyn McCabe

"I have been informed that a camper parked in the driveway of 19 Cherry Lane is on tomorrow's Town Hall Meeting Agenda. I will not be able to attend this meeting due to a prior commitment. This camper has been parked at that location for many months and I have absolutely no objection to that. Besides, it is not the only camper parked in a driveway on Cherry Lane." – Irma Thrall

"I am writing to inform you that Tara Jablonsky is my neighbor. We live directly next door at 17 Cherry Lane, Binghamton, NY 13901. Tara's address is 19 Cherry Lane. We would like to inform you we have lived at this address for almost 5 years. In those five years, we have had no issue with Tara parking her camper in her driveway. We have no issue with any person parking their camper in their driveway. No issue. Tara keeps her house looking clean and respectable. Her lawn is always mowed and her driveway clear from snow in the winter. She has been an excellent neighbor. Her camper is kept clean and we have no issue or difficulty with her camper." – Andrea Wolf

"I am fine with campers be out front of houses in our neighborhood. Not everyone has another option. We had a truck camper out front for some years in the early 2000 and never had a problem. Times are getting tough. Let's help each other more." – Penny Race

Are there any other questions or comments?

Jon White: I have one question. Do you keep this there all year or do you take this to a seasonal place Spring, Summer, and early Fall?

Tara Jablonsky: I use it all summer, however currently I am trying to obtain land up at Cayuga Lake or Seneca Lake to put it there permanently.

Jon White: Ok, so you're looking to do this more as a winter storage because you put it somewhere seasonally?

Tara Jablonsky: I don't put it somewhere seasonally. When I go camping I hook it up and I park it back when I get home.

Jon White: But you're also looking to put it somewhere on a more permanent basis.

Tara Jablonsky: I am so hoping I can get that, yes.

Jon White: Ok, that's all I had.

Aleta Kinne: Ok, no other comments I will close the public hearing and counselor will take us through the next step.

Nick Cortese: Ok everybody, this is an unlisted action under SEQR so we do have to go through the short form part two. We've been through this a lot together, I'll ask you a series of questions, please answer no or yes so I can hear you. 'No' of course means no or small environmental impact, 'yes' means moderate to large environmental impact. So, 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: Number 3--Will the proposed action impair the character or quality of the existing community?

Board: No.

Aleta Kinne: Small.

Nick Cortese: Number 4--Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Number 7 -- Will the proposed action impact existing:

- a. public/private water supplies?
- b. public/private wastewater treatment utilities?

Board: No to both.

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

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: You’ve answered no or small impact to all questions in part two so my presumption would be that in part three you’d be issuing a negative declaration under SEQR. If that’s the case you can make that motion at any time.

Jon White: I will motion for a negative declaration under SEQR.

Scott Smith: I’ll second that.

Kari Strabo: 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

The motion was thereupon declared adopted by a roll call of:
Ayes—4 Nays—0 Absent—2 (Brewster & Miller)

Aleta Kinne: Discussion from the Board.

Jon White: She’s trying to look for a home for it more on a permanent basis so I mean this could be even a more short-term thing. We know she can’t put it in the back because of the steepness and the overhangs. I don’t think she has a lot of other choice. It would be a financial hardship for her, putting it somewhere and having to pay for rental space to store it somewhere. Could she possibly move it back a little more?

Aleta Kinne: Is that a permit, can she come in and get a permit?

Nick Cortese: No.

Jon White: Could she possibly move it back a little more so it’s not right next to the road? There’s a possibility there but I don’t know how everything flows in her world so I don’t see where it’s a bad thing.

Aleta Kinne: Ok, anyone else? Scott?

Scott Smith: I went through the neighborhood, looked at her house and the neighbors and that and I don’t see any problems with it. I see we’re going to see another one like this so we’ll say the same things over next time. But, I don’t see any problems with it. It fits where it is and she can get by with a car and get to the house so all good.

Dan Wolters: With positive recommendations from neighbors I think that speaks a lot.

Scott Smith: We might get one of these once a month.

Aleta Kinne: It's not an area where a lot of traffic is going by it all day long. They're kind of a quiet little residential area there by themselves, well kept. So, any other discussion? Ok.

Nick Cortese: Ok, so let's take care of the fact finding for the Resolution just like we did for the last one. Will or will not the requested variance produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Can or cannot the applicant achieve this by any other method than a variance?

Board: Cannot.

Nick Cortese: Is it substantial or is it not?

Scott Smith: Somewhat but not in a bad way.

Nick Cortese: You can say yes and it's not determinative. You can say no and it's all the same.

Dan Wolters: I would say no.

Board: No.

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

Board: Would not.

Nick Cortese: Is it self-created?

Board: Yes.

Nick Cortese: Ok, is this a Resolution to grant, deny, or grant with conditions this variance?

Board: Grant with no conditions.

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

In the Matter of the Application #: 2022-V20 of Joseph Jablonsky
for an area variance to allow a licensed recreational vehicle to be parked
ahead of the front line of the principal structure in the Residential District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V20

WHEREAS, on or about October 17, 2022, Joseph Jablonsky ("Applicant") duly filed an application for an area variance for property he owns within the Town, located at 19 Cherry Lane, designated as Tax Map No. 112.06-1-6 and located in a Residential District, wherein Applicant requested a variance to allow a licensed recreational vehicle to be parked ahead of the front line of the residence on said property, which is not allowed as of right 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 November 29, 2022 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 November 29, 2022 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 #: 2022-V20 for an area variance to allow a licensed recreational vehicle to be parked ahead of the front line of the residence on said property, which is not allowed as of right in the Residential 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 November 29, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Dan Wolters and seconded by Jon White. The ZBA members voted as follows:

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

The motion was thereupon declared adopted by a roll-call vote of 4-0-2 absent (Brewster & Miller).

Aleta Kinne: Motion so carried. And that's it.

Tara Jablonsky: Thank you.

Aleta Kinne: Thank you folks, for coming. Dan, did you make a motion to adjourn?

Dan Wolters: Sure, I'll make a motion to adjourn.

Jon White: I'll second it.

All Board Members were in favor. (8:00 PM)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kari Strabo". The signature is fluid and cursive, with the first name "Kari" written in a larger, more prominent script than the last name "Strabo".

Kari Strabo, Sr. Clerk