

ZONING BOARD MEETING  
TUESDAY—FEBRUARY 27, 2024  
ZONING BOARD OF APPEALS  
7:00 PM—TOWN HALL  
1529 NYS RTE 12  
BINGHAMTON, NY 13901

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

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

Absent: Ed Miller, Board Member

James Brewster: Good evening everyone, it's 7:00 and I'll bring the Town of Chenango Zoning Board of Appeals meeting to order. First off we have a roll call for attendance, please.

Adam Donahue: Mr. Wolters; present, Mr. White; present, Mr. Smith; present, Mrs. Kinne; present, Mr. Brewster; present.

James Brewster: We have a quorum to continue so with that the next order of business is to approve our minutes from January 23, 2024. Anybody have anything with the minutes? Corrections, comments?

Aleta Kinne: They looked good.

James Brewster: I'll seek a motion to approve those minutes.

Jon White: So moved, Mr. Chairman.

Dan Wolters: I'll support.

Adam Donahue:	Dan Wolters, Alternate Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:  
Ayes – 5      Nays – 0      Absent – 1 (Miller)

James Brewster: Minutes from January 23<sup>rd</sup> are approved and can be posted as prescribed to the website and filed. We have no new business tonight so no new applications. That brings us to our public hearing for application 2024-V01, Thomas Eldridge of 963 Brotzman Rd, an application for a triple area variance to build a garage exceeding the maximum size from 1500 sq ft to 3600 sq ft, exceeding the maximum height from 25' to 28', and to be built ahead of the front line of the principal structure in an Agricultural zone with a short EAF. With that I will open the public hearing. The first thing we like to do is just get an overview of your project for the record. Why are we here tonight?

Thomas Eldridge: As stated before, I'm looking to build a pole barn at our house. We need a variance for square footage from 1500' to 3600.' That was based off of a 2500 square foot garage with a lean-to on both sides that adds up to 3600. The need for the extra square footage for a family of four, we currently have three vehicles, at some point we'll probably have four or five with two children. Lawn mower, tractor, kid's toys, bikes, 4-wheeler, just looking for one building instead of multiple outbuildings to store everything in.

As far as the height, our house has a gable end that faces the driveway. It's 28' wide and 50' tall. I want the garage to match the gable end of the house because they're right close together so it's going to be 50' wide and 28' tall with the porches off the sides just basically making it aesthetically pleasing and as far as the building in front of our house, I came in and met with Gavin and asked him for the definition of the front of a house and he stated that it is the side that most faces the closest road, by definition. So, we live on a private road, Lumsden Hill Rd. I looked into the Town's rules on private roads. There is none, so then I looked into the state's guidelines for a private road. The state says a private road shall be filed with the Town Highway Superintendent, it must meet the Town's rules, and it must meet the ingress and egress for emergency vehicles, and that is New York State Highway Law 300, Private Road. That being said, the Town has no rules so there's nothing to abide by.

We filed paperwork with Derin so you got a copy of that last time or in the email. We have a letter which I gave you tonight from Chenango Fire where they actually drove a fire truck to the house to prove that the road is passable and the Assistant Chief wrote a letter for that. So, with all of that being said I would find that the front of our house to be the north-facing side which is adjacent to our private road and the third variance is not needed. That's about all I got.

James Brewster: Ok. We do have just a few questions. Some of it you might have covered but basically the first one, just tell us more about your land and whether or not this would be an undesirable change to the neighborhood.

Thomas Eldridge: Ok, so our house is centrally located on 10 acres of forest other than where our house is located. It is not visible from any of our neighbors, it's not visible from a road. I think it's like 5000' to the closest neighbor through the woods. The closest road is plus a couple hundred feet from there. It is not visible from anywhere. The lay of the land, our house is built on a slope, it slopes from east to west. The driveway comes in on the east side of the house uphill so obviously the garage

would be there. It's the flat uphill spot. Unless the birds or the deer have a problem with what my garage looks like, I don't think anybody's going to care.

James Brewster: Was there any other way to get the project done without needing a variance?

Thomas Eldridge: No.

James Brewster: Are you going to be tearing up the property that's going to make a difference to the neighborhood like heavy equipment, moving a lot of land, dust, noise?

Thomas Eldridge: No. Nothing out of the ordinary.

James Brewster: Any questions for the applicant from the Board? Would anyone from the public like to speak for or against this application? You may have the floor.

Karin O'Brien: Hi, Karin O'Brien, East Hill Rd. Our property if you go through the woods you can get to Thomas' house. We never hear them, never see them, we don't even know they're there and I think it's great making sure that these young people stay in our community. I don't have an issue with it, my husband doesn't have an issue with it. Like I say, we don't even know they're there and I'm sure the barn is going to be the same way. We won't even know it's there.

Chris O'Brien: Chris O'Brien, Pamela Dr but I have property on East Hill Rd. I think there's no problem with the garage. I think it would be nice, aesthetically for him. I know he does good work, the house looks very nice. I think it would be well-kept and I'm for it.

James Brewster: Thank you. Anyone else? Going once, twice, all right. Thank you and I do have a few things to read into the record. We received our letters that we request. From the engineer, Town engineer has no objections. The Planning Board returned to us a favorable advisory. Drainage coordinator approved the form that they use for drainage quality. The county 239 review was not required in this instance however they do cycle it through a few other county agencies and the Broome County Health Department had some comments on drainage from the new pole barn and effects on the septic which probably was addressed at Planning Board but those were their comments so I'm just reading them into the record. Ordinance Department?

Gavin Stiles: If you guys are all right with it I just need a building permit from Mr. Eldridge.

James Brewster: Ok, building permit required. Last call before I close the public hearing, any questions? Without any objections I will close the public hearing at this time and we will now move on as a Board to discuss the three variances. First of all, before we start talking, in regards to the NY SEQRA environmental review, I'm lead to believe from council that these are type II actions?

Nathan VanWhy: Yup, this would be a type II action, it's an area variance for accessory structure to a residential single-family home so type II action.

James Brewster: Ok, do we have to take any action or just declare that in the record?

Nathan VanWhy: I'd like it nice and clean so if you could get a motion to declare it a type II action so that it's just addressed very clearly and taken care of.

James Brewster: Seeking a motion to declare this a type II action regarding SEQR.

Aleta Kinne: I so move.

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

Adam Donahue:	Dan Wolters, Alternate Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:  
Ayes – 5      Nays – 0      Absent – 1 (Miller)

James Brewster: Ok, we've approved a type II action under SEQR. Now we can move on to the Board's discussion on these applications and the five factors that go into determining these resolutions.

Aleta Kinne: Can we clear the slate on the third variance?

James Brewster: We can talk about that. Why don't we talk about that first. Regarding the structure being in front of the principal structure. Obviously if we looked at it in terms of what he applied for with Brotzman as defined, but in consideration of the private road which he has so nicely laid out for us, we're open for discussion on that, on which way we'd like to carry that.

Jon White: As long as council is good with that being a legal private road then that takes that variance right off the table as far as I'm concerned. The front of his house is facing that private road anyways so that takes it off as long as council's good that that's a legal private road, I'm all right with things with that variance basically, we won't deny it but we would dismiss it.

Nathan VanWhy: Actually I think he could just withdraw it. You don't need to take any action to do anything, it's just not on the table anymore. My understanding of the designation of a private road process, an application is made to the Town Highway Superintendent to designate a particular path as a private road. The Town Highway Superintendent has to be satisfied that it meets the criteria under the statute. One of them is that emergency vehicles can actually traverse the private roadway, which it clearly can and that it's wide enough for Town purposes if we ever needed to do anything. From talking with Derin, there's a couple other private roads in existence in the Town already. I'm not sure where they are, Derin might be able to flag them for you. On those private roads there's a number houses that front on those things so this is not an unusual thing for the Town. I think when it came up you might not have been aware of the other private roads but when you talk to Derin there's a couple of them

anyways so it's not anything unusual and like the applicant mentioned there's no particular process under Town Code for this so Derin has accepted this as a private road. It's going to get placed on the official map of the roads in the Town so that if there's other development up here, when Gavin is asked can I get a building permit or a variance request up there, he looks at the map, says 'oh look you've got road access,' you're good and that's kind of all there is. As far as I'm concerned it appears that the process has been satisfied, the applicant can withdraw that particular variance application, and now it's just about the size of the garage and the height of the garage.

Gavin Stiles: So does it need to be recognized on a map?

Nathan VanWhy: That is Derin's final ultimate task of getting that finished but I'm satisfied with his acceptance of it, the ministerial act of him getting it on a map, that's between him and the county to get the map updated.

Gavin Stiles: I don't know if that hangs me up with my ability to issue a building permit until it is recognized on a map.

Nathan VanWhy: I think it shouldn't. Derin has accepted it and so Derin should be moving forward with getting it placed on the map. It's not a huge task.

Gavin Stiles: All right.

James Brewster: Yeah, that's a Town Law 280-a thing that we don't deal with. That's you.

Jon White: Actually it goes from Highway 300 to Highway 315 Law. There's a whole series of things technically you have to do but as long as council is happy with it I'm not going down that rabbit hole because it ain't our baby.

James Brewster: So is everybody on the Board in agreement with this?

Aleta Kinne: I think it's important that we recognize it because in the future there may be the day that they want to have another dwelling up there and then we won't have to go through this.

James Brewster: Right. Everybody good? Ok. Mr. Eldridge, would you like to withdraw that particular variance for us?

Thomas Eldridge: Yes, I'd like to withdraw the third variance for accessory structure in front of the principal structure.

James Brewster: I approve, the Board approves. Now we can move on to height. Considering the applicant's testimony before us, the requested variance for the height relief will or will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

Board: Will not.

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

Board: Cannot.

James Brewster: Would you say that the requested area variance is or is not substantial? It's three-foot relief from the Zoning.

Scott Smith: Just over 10%.

Board: Is not.

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

Board: Would not.

James Brewster: And the hardship giving rise to the variance requests are or are not self-created?

Board: Yes.

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

Board: Outweighs.

James Brewster: Therefore, the applicant's application 2024-V01 for an area variance to relieve the height from 25' to 28' is granted, granted with conditions, or denied?

Board: Granted.

James Brewster: All right. Regarding the square footage relief, is there any specific discussion on the factors that we might want to change or are they all the same?

Board: Same.

James Brewster: Ok, substantiality is ok with everybody to say that it is not?

Jon White: In this instance, he's only going on the actual building itself 2600' then the other part of it's more like a carport, it's almost like a two-sided thing so in the end I don't know as I would say that it's substantial.

James Brewster: Ok, additional comments on that or we'll just go with the standard, what we said for the height? Not substantial?

Board: Yes, not substantial.

Scott Smith: We've had a lot of them recently that were more than that.

James Brewster: Ok, so just for the record I will read, so the entire record of this proceeding for the square footage relief supports the conclusion that the benefit to the applicant

conferred by the granting of an area variance outweighs or does not outweigh any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant?

Board: Outweighs.

James Brewster: Therefore the applicant's application 2024-V01 for the area variance to construct a 50'x48' garage with a 12' lean-to porch in an Agricultural zone is granted, granted with conditions, or denied?

Board: Granted.

James Brewster: All right. Taking that into consideration with both variances being granted I'd like to get a motion to adopt the Resolutions for the height and the square footage.

Aleta Kinne: I so move.

Scott Smith: Second.

Adam Donahue:	Dan Wolters, Alternate Board Member	Voted: Aye
	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye
	Aleta Kinne, Vice Chairperson	Voted: Aye
	James Brewster, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:  
Ayes – 5      Nays – 0      Absent – 1 (Miller)

James Brewster: Ok, two of the variances within application 2024-V01 for height relief and square footage relief are granted, with the third being withdrawn.

Thomas Eldridge: Thank you very much.

James Brewster: Thanks everyone for coming. We have nothing further on the agenda. Board Members, does anybody have anything for the good of the order to bring up? No, I don't either. Motion to adjourn?

Jon White: So moved.

James Brewster: All in favor?

Board: Aye.

Respectfully Submitted,



Kari Strabo