

ZONING BOARD MEETING
TUESDAY—APRIL 26, 2022
ZONING BOARD OF APPEALS
7:00 PM—ZOOM

Present: James Brewster, Chairperson
Aleta Kinne, Vice Chairperson
Melanie Pandich, Board Member
Scott Smith, Board Members
Jon White, Board Member

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

James Brewster: It's 7:03 PM, I will call the Town of Chenango Zoning Board of appeals meeting for April to order. Kari, let's get a roll call please.

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

James Brewster: Ok, we have a quorum and we may continue on with the meeting so welcome everybody. We've got a reasonably full agenda tonight, a couple of new items, we have a public hearing, and then we'll be wrapping up some old business. So, first things to start will be the approval of the minutes from the March 29th meeting. Has everybody had a chance to review and are there any changes or corrections?

Aleta Kinne: Awesome.

Jon White: I'm good.

James Brewster: All right if they're good I'll accept a motion.

Aleta Kinne: I'll move.

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

James Brewster: Ok, motion made and seconded for approval of the March minutes. Let's do a roll call.

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

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

Ayes – 5 Nays – 0

James Brewster: Minutes are so approved. On to new business, we have application number 2022-V03, Kenneth West of 2537 NYS Rte 12, an application for an area variance to construct a 528 square foot garage with less than required distance to an adjacent single-family home from 20' to 11'6" in a residential zone and a short EAF. Any discussion on this application? Does it appear complete to the Board?

Jon White: Everything I could see appeared to be complete. All questions were answered on the short EAF form so I'm good with things on my end.

Aleta Kinne: I'm ok.

James Brewster: Ok, then I'll seek a motion to move that through to the Planning Board for May and also our May meeting for public hearing.

Jon White: I'll move to accept the application.

Aleta Kinne: I'll second it.

James Brewster: Motion made by Mr. White, seconded by Mrs. Kinne, roll call please.

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

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

Ayes – 5 Nays – 0

James Brewster: All right, Kari you will make do with the paperwork to move it onto next month please. Now we have application 2022-V04, Diane Dobish of 410 Riverview Rd, an application for an area variance to have a shed with less than required side yard setback from 5' to 3' in a residential zone and a short EAF. Any discussion on that application, completeness, et cetera?

Jon White: There again everything appeared to be complete from what I could see.

Aleta Kinne: Yeah, I'm ok with it.

James Brewster: I'll seek a motion then to move that through to the Planning Board in May and our May 24th ZBA meeting.

Melanie Pandich: I'll make the motion, Mr. Chairman.

Scott Smith: I'll second that.

James Brewster: Motion made by Mrs. Pandich, seconded by Mr. Smith, roll call please.

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

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

James Brewster: Carry the new business through, Kari. Thank you very much. On to our public hearing tonight, we have application 2022-V02 from Rivian Automotive at 29 Prescott Rd, application for a triple area variance to install six electric vehicle charging stations now and three at a later date with less than required front setback from 30' to 17'6", less than required side setback from 10' to 9', and less than required acreage from 6 acres to .17 acres in a PDD-C zone and a short EAF. I will open the public hearing now at this time and I will read this notice of public hearing into the record:

**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 April 26, 2022 at 7:00 p.m. upon the application of Rivian Automotive on behalf of The Spot Drive-In-Restaurant regarding property located at 29 Prescott Road in the Town of Chenango, Tax Map No. 128.08-2-34, and located in a PDD-C District. The application requests three (3) area variances to facilitate the installation of electric vehicle charging stations and related equipment on the property, specifically: (1) a variance from the minimum lot size in said District from 6 acres to .17 acres; (2) a variance from the minimum front yard setback in said District from 30 feet to 17 feet 6 inches; (3) a variance from the minimum side yard setback in said District from 10 feet to 9 feet. The environmental significance of the requested variances will be reviewed by the Board at said hearing.

TAKE FURTHER NOTICE that, pursuant to the authorization provided by N.Y. Laws of 2021, chapter 417, part E, as amended, **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 virtual public hearing may do so via computer, tablet or smartphone by utilizing the following **Link: <https://us02web.zoom.us/j/86323317576>, Meeting ID: 863 2331 7576, and Password 235258.** 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.

This Area Variance application is open to inspection at the Town of Chenango Ordinance Office. 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 by e-mailing ordinance2@townofchenango.com, or by mailing comments to the attention of the Town of Chenango Ordinance Office, 1529 NY Rte. 12, Binghamton, NY 13901.

Dated: April 20, 2022

James Brewster, Chairman
Town of Chenango ZBA

James Brewster: The public hearing is now open. Do we have the applicants here tonight?

Ankur Doshi: Yes.

Ian Russell: Yes.

James Brewster: Do you have a formal presentation or do you just want to address the questions for the area variance?

Ankur Doshi: I do not have a formal presentation, we can just jump into the questions.

James Brewster: Ok. For your reference, I will share my screen and put those questions up on the screen. Mr. Doshi, you have five timed minutes to address the questions to the best of your ability. These factors are what the Board will ultimately wind up discussing to weigh the validity of your application for these variances. Neither of these factors are in and of themselves restrictive so if we feel something is not favorable it doesn't automatically discredit the application like in other instances with some variances. These are just guiding factors for the Board. So, the more information you can provide to us on these factors, the better off it'll be for the discussion later on as a Board when we consider all of the factors that go into your application. So, you have the floor and I'll start the timer now.

Ankur Doshi: Ok, thank you for providing me this time. I was not really prepared for the questions that are shown here but I can try my best to answer them and Ian if you also want to accompany me in answering these questions please jump in here. (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?) I can speak on behalf of the project and say that the project from my perspective and perspective of the company is that this project would improve the influx of customers coming into and out of The Spot restaurant which would be a good economic driver for the neighborhood and from an environmental perspective I would say that electric vehicles are a net positive when it comes to an emissions standpoint, localized and at a national and global level so I think number one can solidly be answered from a broad perspective there. Number two (Can you achieve the goal of your project by some other method that will not require a variance?) We've had multiple discussions with some folks that are on this call, yes, there perhaps could be some other methods that might not require a variance but going through the various options it looks like the probability of us needing a variance for any of the other options is still not 100%, so there's still the chance that we're going to need

variances at The Spot property, regardless of where we would move on the property so the answer to number two is possibly but likely not. Number three (Is your variance request substantial?) I don't know if I'd be able to comment on that, it seems like a difficult question for me to answer, I can't that answer based on the knowledge of the existing zoning code.

Ian Russell: Ankur, I can jump in on this if you want. I was just going to say the variance request is only substantial in regards to the parcel size. The PDD-C zone requires a lot size of six acres but if you look at the parcel map for the property it's been subdivided five or six times. There's not a parcel in that property that's owned by The Spot that isn't well under that six-acre requirement. But, going back to number two as well, anywhere we place these charging stations on The Spot-owned property would require a variance in some form. There's not really a way around it just based on how the parcels are subdivided around it which again is no blame to us, that's just the way it is. And, as far as the setback variances, the existing area is already a parking lot. The location of our chargers are kind of based on one-what the owner would allow us to do and then two-to try to have as minimal impact on the existing parking area so we're trying not to restripe a large section. We're trying not to directly impact other parking spaces in the area so the only option we have here is to require those variances to work within the existing parking spaces.

James Brewster: Ok, you have about 30 seconds left so number four is really the last thing you need to address. (Will the granting of this variance have an adverse effect, or impact, on the physical or environmental conditions in the neighborhood or district?)

Ian Russell: It won't have an adverse impact, it's a pretty small project. There's already existing charging stations on site, less than one hundred feet away. We wouldn't really be changing the use of the existing area in terms of parking and then as far as environmental conditions it would be minimal. It's charging stations, there's no harmful chemicals on site or anything like that that we would be introducing.

James Brewster: Thank you, applicants, for addressing those questions. Number five (Is the difficulty encountered by your proposed project/request for relief self-created?) we'll kind of give you a pass on because usually it's a fairly standard question that we have to address anyway for the most part. Nearly all of these applications because of the way zoning works are self-created by the applicants because you want this situation. Thank you and with that I will now actually open it up to the floor. We'll go initially with Lorrie to speak so you may have the floor for five timed minutes.

Lorrie: Are the new stations going to be in line with the ones that are currently there or are they going to be in a different area?

Ankur Doshi: The proposed stations that Rivian is planning to install are going to be in line with the existing Tesla chargers so there is going to be a gap but yes we would essentially be lined up a couple stalls away from the existing Tesla chargers.

Lorri: That was my question. I'm just curious as to where they're going to be so they're not lined up all the way around the back or something different. They're going to be up where they currently are. Thank you.

James Brewster: Would anyone else from the public like to speak for or against this application at this time? All right, I'm not seeing anything so with that I will move on and read some administrative things into the record. So, we send out requests to our town agencies and county agencies and engineer and so forth for comment and feedback on these variance applications. First off, we'll go to Gavin in the Ordinance Department for your comments.

Gavin Stiles: We would request a building permit. The Ordinance office has no issues so far.

James Brewster: I actually do have a question for you, Gavin. These charging stations come under another part of the Town Code, part 74-B Vehicle Charging Stations, and there's a lot of requirements that are associated with that including a preapplication verification. Have you received any of the material that's required from within this code chapter? For instance, I don't see it in our package but a letter from a utility company is one of the things that needs to be included. It sounds like this is more on your end in Ordinance. I just want to make sure that you will dot all these 'i's and cross all these 't's or have the applicant provide you with this information.

Nick Cortese: Jim, I can take that if you'd like. Basically, this is an unusual scenario because the EV Charging Station Local Law that the Town has allows these things to be permitted as accessory use. However, because of the odd way in which this parking lot is subdivided they are actually putting it on a tax map parcel with nothing on it. So, the charging stations are really a primary use, not an accessory use and so the way that we've been interpreting this as far as accessory versus primary and putting it on a parcel with nothing on it versus putting it on a parcel and becoming an accessory, is that this can be permitted under our code via the Gasoline Fuel Station use as a right in this particular zoning district because the interpretation has been and, Gavin correct me if I'm wrong, that functionally EV charging stations and gas stations are the same in terms of what they do. There's just different environmental considerations and far fewer as far as EV charging stations are concerned as opposed to gas stations so that is the procedure that we have been using to move this particular application through the process because we're essentially permitting it based on Gavin's interpretation that this is an allowed use as of right. In fact, this was reviewed at the Planning Board meeting and was subject to site plan review and approval whereas if this was being permitted as an accessory use under the EV charging station local law, it would not actually require site plan approval at all. So, this is being permitted as a primary use through a slightly different channel

and I've reviewed the vast majority of these application materials and I believe that they are substantially complete. I certainly can't speak for Gavin but that's kind of the rundown as to why this was put through the particular paces that it was.

Gavin Stiles: I concur with Nick. I feel as though it is comparable in my opinion to the extent that a gas station or a pumping station can be a principle and so I don't know how to differentiate between the electric charging stations and so it is my opinion that this is a principle operation.

Nick Cortese: I guess the other question, Gavin, that Jim had asked is do you feel comfortable with the application materials you've received and reviewed?

Gavin Stiles: Thus far.

James Brewster: Okay. We don't get a lot of details from Planning without attending ourselves but that's what brings me to my next point. Thank you, Gavin and thank you Nick for that clarification. I'm satisfied, I can't speak for the other Board Members but thank you. I'll continue on with my administrative stuff here in the public hearing. Our Town engineer provided a letter with no engineering objections, the Planning Board should consider if conflicts exist with electrical easements, add site and lighting and photometrics plan, signage review by the code office subject to 239 review, EAF should reference site plan and variances. Those are just his comments but otherwise he had no engineering objections. The Planning Board from the Town forwarded us a favorable referral for this project and we've learned that they had a meeting on this and clarified at least part of my questions. The Town drainage coordinator's drainage report was submitted approved with no comments. The 239 review from Broome County Planning found no significant impacts. The letter will be the complete letter with some rudimentary comments that were also picked up by the engineer will be submitted with this application and they forwarded along to the Broome County Health Department, Broome County DPW, New York State DOT, and the BMTS who all had no comments on this project. We also received a letter from the public which had unfavorable comments essentially in summary. I'll read that letter into the record now, submitted April 25th:

"Dear Mr. Brewster and Board,

I have been a resident at 38 Prescott Rd, Binghamton, NY 13905 for the past 17 years. My home and other concerned neighbors are located directly behind the Sport Restaurant. I have spent all these years investing in the upkeep and improvement of my property. To this end, I feel my property value will be greatly affected in a negative way. Privacy in our area back here will be diminished. Given that there is no longer access to Prescott Rd near Maines, drivers missing the entrance to the SPOT will be using our driveways to turn around. Lighting will be increased, We already contend with obnoxiously loud music from the car wash as well as truck parking at the Spot. (During the last power outage, the Spot had power, allowing Tesla charging while we waited 2

days for power restoration. Irritating to say the least.) Put yourselves in our shoes.

Adjusting the property lot size from 6 acres to .17 acres is of **major** concern. Would this not be considered **Spot Zoning?** (The use of a parcel of land differing from the surrounding properties in that zone?) If this were to pass, what potential issues could the residential owners face in the future? I have a residential mortgage. I had to get a variance from the town in order to refinance as I was informed this area is planned commercial. This was all very confusing as a homeowner concerned about future value.

Propose, for protection of the residence behind this site to include at minimum a **permanent 10' privacy fence the length of the entire currently installed guard rail.**

Thank you for your consideration. We are a small population but should not be pushed aside by those making money off owners of expensive cars. – Karen L. Roberts”

That’s all I have for correspondence to be read into the record. Board Members, do you have any questions for the applicants at this time?

(Mr. Brewster lost audio at this time and had to sign off of and back onto ZOOM to fix the issue)

James Brewster:

Jon, go ahead.

Jon White:

Besides automotive charging, is there going to be any abilities for charging large trucks or an RV charging port?

Ankur Doshi:

The nine charging dispensers that we are going to be installing have a standard connector that’s used by all EVs. So, all of our chargers will allow, from a hardware standpoint, for any and all EVs to connect to our chargers. Right now the limitation for our chargers to be considered open where all EVs can use our dispensers to charge is limited by the software capabilities which we’re hoping by the end of the year we can kind of circumvent that and make it a more open network so it’s more of a charging opportunity for non-Rivian drivers, not just the really expensive electric trucks that we’re currently selling. But, to answer your question specifically, Rivian and at this site, we are installing what we call a trailer site. So, one of the nine stalls is elongated and is essentially 45’ so when you’re hauling a 20’-25’ trailer behind your 18’ truck or SUV you can fit it and you don’t have to unhitch it while you’re charging. That’s kind of the idea behind that. It’s not going to be a charger for the trailer though. It’s a charger for the car, it’s giving the ability for someone hauling the trailer to have that extra hauling space where they don’t have to unhinge the trailer or screw up the parking lot where they’re kind of taking up a bunch of spaces.

Jon White:

Okay, so you’re able to put them out of the way so if somebody has an electric F150 they’re able to pull up, charge their truck, they can still do that leaving

their travel trailer hooked up. So, we're not talking any kind of semis, any kind of large trucks, that's where I was going with the large trucks.

Ankur Doshi: Yeah, so for the record these are consumer chargers, these are not fleet chargers that are going to be used for semis or for any kind of business application. These are just going to be consumers charging their vehicles, apples to apples like a Tesla Supercharger. It's as close to that as can be.

Jon White: Ok, one of the other questions I had was what do you guys have in line for fire safety, anything of that nature? Not so much the aspect of the chargers themselves, something goes wrong, shorts out, trips a breaker and powers off. But, after taking a course a couple weeks ago, a training seminar with lithium ion batteries can be very unstable so is there anything for any kind of fire issues? Even just past experiences with your products, has anything like that been brought to light? It's a different set of circumstances if there is a fire with putting them out and all that.

Ankur Doshi: That's a very valid concern. I think that is in some ways one of the concerns some folks will have in general when it comes to the electric vehicles and especially with the electric vehicles that have the battery and then you have to fasten the charging hardware. That can perhaps speed up that reaction and create a fire. So for one, the battery is on the car, not on the charging equipment itself so no matter what kind of charging equipment you're going to have, a lot of the limitations and the things that are going to cause a fire from my understanding are going to be with respect to the battery. So, it's going to be a defect with the battery or it's going to be a battery that maybe has an issue from a warranty perspective but the charging piece of it should not necessarily be creating an issue from a biohazard perspective. We do have a lot of what's called protective relaying between each of the electrical contacts from the charging dispenser and there's contacts at the nozzle and from the nozzle to the dispenser there are safety protocols from the dispenser to the power cabinets there's safety protocols and so on and so forth so there's a way to really segment a lot of those electrical faults where they are not going to come towards the customer. If anything, they are going to be going more upstream to the customer. But, all in all I can say from a fire safety perspective, from an electrical safety perspective, we're meeting all of the necessary codes and requirements from NEC, NFPA. Our hardware's going to be validated and tested by independent authorities, UL being the listing authority, Underwriters Laboratory, so they're going to be making sure that the engineering is safe and sound. So, I hear what you're saying and I understand the concerns and there have been historic fires from lithium ion batteries and all I can say is all we can do is minimize the concerns from the charging perspective and also the charging cable, it utilizes a liquid cool dielectric fluid that allows for the cable to be really cool and is just another protective measure so there's a lot of protective measures that are within the charging hardware that are there from a design perspective and of course abide by codes and standards that are required.

Jon White: Ok so basically the charger does have some certain amount of smart capability to say as it's charging 'hey we might have a battery issue going on with this particular vehicle, we're going to shut it down in order to avoid overheating of the battery' which initially would cause a fire so there is fail-safes into your program software for this for these units.

Ankur Doshi: Absolutely, that goes without saying and I think some of the other safety protocols that maybe more physical and mechanical in nature so if you're charging your car and somehow put enough force that the charging cable comes out, the electrical connection will immediately stop. There will be a fault in the circuit internally and it will immediately shut off so there is that smart capability with the dispensers as well, the nozzles as well so we make sure that there is all kinds of safety protocols and these are kind of protocolized as part of electric vehicle charging infrastructure so it's all kind of part of the industry that's trying to create that real safety standard.

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

Aleta Kinne: I was going to ask about the fire, if you're working with the local fire department or giving them any training on this type of fire?

Ian Russell: Typically with other jurisdictions when we do install these electric vehicle charging stations, within the building permit application which we're just about there, that'll be one piece we'll take a look at and understanding whether there is a town fire code that connects electric vehicle charging. Say we need emergency 911 address if there somehow is an emergency at the site. We can designate a specific address for the charging station versus the restaurant or the existing Tesla stations.

Aleta Kinne: I assume you'll be working through Ordinance on that also. My other questions that I had on our previous applicant, I would like to make comments on but they aren't really questions now. Where I had a question before about the people having to cross the highway to get to the restaurant and the bathrooms, this is convenient to go right to The Spot. If they do want to cross the highway there's a red light already there. It's also on a public transportation route if somebody wanted to leave their vehicle and get on the bus and go shopping and then come back. I feel a lot of those questions I had previous are pretty well already taken care of in this location.

Nick Cortese: Aleta, just for the record you're making a comparison between this application and the one that we looked at last year, right?

Aleta Kinne: Well, my question that I asked before. No not that location but with the questions that I asked before. I guess that's it.

James Brewster: Ok. Melanie or Scott, anything?

Scott Smith: I've got a couple if Melanie doesn't.

Melanie Pandich: Nothing from me, I had one question but it's already been asked.

Scott Smith: Ok. For the applicant, in case the public people attending or are concerned don't know this already, how close to Prescott Road are these going to be built?

Ankur Doshi: Off the top of my head I do not have an answer.

Scott Smith: Are you building them from the property line next to the property that has the other chargers on it? Starting at that end and working back or are you working at the road and working in?

Ankur Doshi: We are working from the rear of the property back towards the front along that same row that the Tesla chargers are on. So, the Tesla chargers start along Prescott Road and they go towards the middle of The Spot more or less. The Tesla chargers start here and go to here. Then there's a little gap and then ours follow. From the middle of The Spot property along that residential wall to the back of the property.

Aleta Kinne: That would be the front setback, wouldn't it? 12'6" setback? That's from Prescott Road? You're asking for a setback?

Scott Smith: Yeah, basically.

James Brewster: Ok, so we're considering Front Street to be Prescott.

Aleta Kinne: Yeah.

Scott Smith: Well the road behind it.

Ankur Doshi: I was misunderstanding, I was referring to Front Street, my apologies. So, Prescott Road.

Aleta Kinne: 12'6", you're asking for 12'6"?

James Brewster: 17'6", right?

Scott Smith: Gavin, do you have it from the drawings? I don't have it in front of me. I wonder if the public could know if somebody has it in the drawing.

James Brewster: I'm seeing 17'6" in the application but I'm not looking at the drawing.

Scott Smith: Ok, so roughly 17 and a half feet from Prescott. Is there a generator on the site that runs these?

Ankur Doshi: That runs the electric vehicle chargers?

Scott Smith: Yessir.

Ankur Doshi: No, there's no gas generators. All we're doing is connecting to the existing electrical grid.

Scott Smith: Ok. For Gavin, when this gets approved, you'll send a note over to have the property reclassified for tax purposes so that it matches the front one? The

current status of 29 Prescott is vacant commercial/parking lot so once these are in it's considered improved, correct? So that it would be vacant with improvement?

Gavin Stiles: Correct, in my opinion.

Scott Smith: So the classification would then change.

Gavin Stiles: Yes.

Scott Smith: And to the applicant again, these chargers have a cost, correct? It's not free of charge?

Ankur Doshi: Yes, a cost to the consumer to charge? Yes, that's correct.

Scott Smith: Ok, so as these things become more common, will you be asking for space to advertise like a gas station would out front, like a sign saying our electricity is six cents per volt or whatever it is?

Ankur Doshi: No, the way that everything kind of exists, no we're not going to have any signage, any advertising, any front signage that's away from our dispensers. The only signage we're going to have is the 30-minute general parking or the EV charging signage but that's only just to designate the spot from a usage standpoint. But, no digital signage, no marketing of any kind.

Scott Smith: Ok. That's it, thank you.

Aleta Kinne: Mr. Chairman, I think that that list that you had from the engineer was pretty well covered at the Planning Board when they had the site plan, and they covered signage also.

James Brewster: Great, thanks for putting that on the record because you well know we don't get the details, just favorable or unfavorable.

Scott Smith: I just wanted to mention it for those that aren't on the Board on the applicant side, so the public know those things are considered on the application.

Nick Cortese: And I'll just add that Aleta is right, the Town engineer's suggestions and recommendations were addressed by the Planning Board and the site plan was approved conditionally on the submission of a satisfactory photometric design to show minimally invasive lighting on the project area.

James Brewster: Right, that seemed to be a big one, I was just going to ask. I have no further questions. Anybody else, last call? I will close the public hearing at this time which brings us to the evaluation of the Short Environmental Assessment Form so Nick, it's your floor.

Nick Cortese: We have three variance applications tonight, two of which are setback variances and as we all know individual setback variances for an individual project are type II under SEQR and don't require further environmental review however the lot size variance is an unlisted action under SEQR and does require review so for

all intents and purposes we're reviewing the whole thing now but the only actual SEQR review we're doing is for the lot size variance. So, you guys know how this works, I'll ask you a series of questions, please answer 'yes' or 'no' audibly. 'No' means 'no or small environmental impact,' 'yes' means 'moderate to large environmental impact.' Number one-- 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?

Aleta Kinne: No.

Jon White: Small.

James Brewster: Small.

Scott Smith: Small.

Melanie Pandich: Small.

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

Board: No to both.

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

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nick Cortese: Ok, so you've answered 'no or small impact' to all of the questions in part two of the Short EAF. Moving onto part three, my presumption would be that you all would be making a motion for a negative declaration under SEQR based on your answers in part two. If that is in fact the case, you are free to make that motion at any time.

Scott Smith: So moved.

Aleta Kinne: I'll second it.

James Brewster: Ok, the negative declaration for part three of SEQR has been moved by Mr. Smith, seconded by Mrs. Kinne and Kari, can we have a roll call?

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

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

Ayes – 5 Nays – 0

James Brewster: Negative declaration has been approved. Thank you. That brings us forward to the Board's discussion on this application and formulation of any resolution that we see fit. So, we have three of them to do separately. Let's start with the front setback from 30' to 17'6." Nick, do you want to take us through the questions there?

Nick Cortese: Sure. The front setback, asking for 17'6", the minimum standard is 30' under the zoning code. The first factor to consider is will or will not the variance

produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?

- Scott Smith: A setback concerns how close a structure is to the road, right? So normally the structure would be a building and these aren't a building, these are like phone booth sized.
- Nick Cortese: My impression is that they are going to be the same size as the Tesla chargers that are right next to this location.
- Scott Smith: So, it's not like there's a big wall there. It's just a small thing that occasionally, I forgot to ask how often they get used?
- Ankur Doshi: As we had submitted to the County for our original set of questions, they had asked what is the anticipated number of vehicles during peak and off peak hours? We would assume when we have six dispensers during our initial term in years 1-5 we would average about two total sessions a day and 60 total sessions a month, not very much to start. That of course can change once we open the network up to non-Rivian drivers, that could increase. That's on average, 60 total sessions per month. At our peak we would triple that so one session per stall per day or six sessions per day or 180 total sessions per month.
- Scott Smith: Ok. So, the setback isn't a dominating figure, it's not there all the time. The closest one to Prescott Road would be 17 feet away. As it is right now I think the employees park over there so they'd be there more than what he's expecting people to use those chargers for.
- Jon White: And the closest spot would be that trailer area where somebody could back down in to charge their pickup and still leave their trailer attached, that would be the closest spot. Everything's going to be towards the back end of basically where that tree line is. It's going to be back on that tree line. What are they, 6-7 feet tall tops? Other than the one area where they have to put their transformer, switch gear and all that, it's really not going to be a noticeable thing.
- Scott Smith: Not like a two-story building.
- Jon White: Correct. Even if it was a single-story large barn that close to the road would dominate more than what this is going to dominate.
- Scott Smith: Ok, we're good.
- James Brewster: Anything else? Otherwise we can come up with a consensus for number one.
- Nick Cortese: Will or will not produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?
- Board: Will not.

Nick Cortese: Can the benefit sought by the applicant be achieved by another method other than the granting of the front yard setback variance?

Jon White: I would still say no, because they want to do the nine spaces. If they didn't do the nine spaces and moved it back away from the road, they could stay within the prescribed setback that they're supposed to be. But, with the nine spots they can't achieve it any other way other than to crowd Prescott Road. So I would say there's no other option unless they downsize their project.

Melanie Pandich: I agree based on the application as is that they cannot.

Aleta Kinne: I agree.

Scott Smith: I agree as well.

James Brewster: Sounds like a cannot.

Nick Cortese: Is or is not the variance substantial? And we're looking at a less than 50% variance request here.

Board: Is not.

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

Melanie Pandich: I don't think it would.

James Brewster: I would say would not, we addressed it through both questions about fire and learning more about what the Planning Board had said in the details and of course the environmental assessment as well. We all good with would not?

Board: Yes.

Nick Cortese: Is it or isn't is self-created?

Board: It is.

Nick Cortese: Based on your answers here will this be a resolution for granting, denying, or granting with conditions on this variance?

James Brewster: Do we have any conditions for the setback here from the front?

Scott Smith: Remember that it's a setback from a residential street but we're already aware that the largest object isn't a skyscraper.

Aleta Kinne: The only thing would be some screening maybe, shrubbery or trees or something. The residents mentioned a fence.

Scott Smith: Is there any chance of putting something between Prescott Road and the first stall that's a little bit of a breaker?

Aleta Kinne: Something green would be, in my opinion, nicer than a fence. I don't know if we're allowed to put that condition in, are we Nick?

Nick Cortese: It's more of a site plan-type condition.

James Brewster: Did they mention anything about that?

Nick Cortese: No, they did not.

Jon White: Other than looking at the charging station and that switch gear any vehicle is only going to be there short term, 3-4 hours tops probably. It's not like it's tractor trailer parking or anything of that nature that you'd be looking at it for 12+ hours, and that's why I did bring up the aspect earlier about the tractor trailer charging or could it be morphed into that later on down the line because, yeah then these people are looking at a whole different set of circumstances instead of just some cars or occasionally somebody with a travel trailer behind their pickup.

Nick Cortese: Just for the sake of everybody's thoughts here, Ankur what's the possibility of some kind of screening measure? Is that possible or does the site not allow for that?

Ankur Doshi: There currently really is no greenery or shrubbery or mulch so we'd kind of be incorporating something new and I guess it's one thing if we'd be adding to something that exists but to create something new it might just be a taller task than just putting a couple bushes or nice trees because it's a taller task. I would think what would be more helpful, because I'm trying to also think about the folks that are living on the other side of that fence, I do want to make sure that that fence, if there are folks that have their headlights on, that's not going toward the houses so we can try to make sure that whatever fence, I know that the letter that was sent in there was concerns of wanting a 10-foot privacy fence along that area of the charging stations. So, that could be something we could look into to make sure that there's privacy for those residents. We could do some minor landscaping if there is a need but I think the fence is something we could do from a privacy concern for the residents. Those are kind of my thoughts on the landscaping piece. It could be a very complicated task and then maintaining that landscaping from an irrigation perspective could be difficult unless we also have the type of landscaping that you just kind of set it and forget it.

Nick Cortese: You said you're putting up a traffic control sign that says something like 30-minute parking right?

Ankur Doshi: Right.

Nick Cortese: Could you not add to that signage, back-in parking only? So the headlights don't shine?

Ankur Doshi: That's a great suggestion, the main issue that we're having with something like that, we are not permitting back-in parking for Rivians because of where the charge port is and where the dispenser is. So the dispenser is on the left side of

the and the charge port is on the left side as well but because cord management is something that with electric vehicle chargers you can see a lot of chargers right now that are out in the field they're really long cords and they're on the ground and they look really ugly so what Rivian is going is we're having a cord length that's just long enough for our vehicles and 98% of vehicles so there's not that additional cord that's just on the ground. I think there's ways that we're trying to mitigate a bad look.

Jon White: A fence would be easier to maintain for a couple aspects. One, shrubbery and that sort of thing close to the road, in the wintertime when they're using deicing agents to control ice on the road, that's going to have an adverse effect on anything growing and could possibly kill it so I think that a fence if anything would be a better idea with that. A fence would be easier to maintain. One thing is if you put a fence up, you have to make sure who's going to maintain it. Is The Spot restaurant because they're owner of record going to maintain it or is the maintenance person for Rivian going to maintain it? Because otherwise next thing you know you have all sorts of a fence falling down, winter months plows pushing snow against it breaking the fence, now it has to be repaired in the springtime. That's got to be addressed also.

Ankur Doshi: Anything that Rivian would put up would be an enclosure for the equipment which we're doing here so we are putting up a Trex fencing enclosure which uses a composite wood so it doesn't degrade and it will last a solid amount of time without any real maintenance. So we are putting that around our equipment so you won't see the equipment. You will see the transformer and I think we need to look into some kind of privacy fencing that could also make sure no light will go through the fence as well, the fence that separates the residential from The Spot. Those are the kinds of measures that would make the most sense in my mind but I do understand the want and need for landscaping and it is something that we can take a look into if the pros outweigh the cons.

Nick Cortese: Board Members, I would make the suggestion that you can condition the grant of an area variance on anything that pertains directly to the granting of the variance. In this particular instance we have a front yard setback that's allowed 30 feet. We're going to basically halve that and I think that some of the rationale for a 30-foot setback is to mitigate the potential problems associated with light, noise, encroachment on neighboring properties and so on and so forth so I would suggest that we could condition the approval of this area variance on the construction of a suitable fence to screen Prescott Road from the charging stations that's approved by the code enforcement officer if that is something that you all are interested in. I feel like that would be an appropriate condition.

James Brewster: That's worded well in my opinion and I just wanted to clarify that this is just the front setback so it would just be that area coming off and kind of on that funky

little bit of a bend of some sort on Prescott and it sounds like we may on the next one with the side setback, Mr Doshi's probably addressed that, we're already looking at that for the lighting and the residents on the side so anyway on this one, I would advocate for what Nick had said as a condition.

- Jon White: I would consider granting the variance with the condition of a privacy fence to protect the neighbors on Prescott Road.
- Melanie Pandich: I agree.
- Aleta Kinne: Agree.
- Scott Smith: I agree.
- James Brewster: So yeah, Nick if you want to insert the wording there, that was eloquent you can type that in.
- Ankur Doshi: I guess for the front setback though I just want to have more specificity as to how much fencing would be required because that's quite a long stretch.
- Nick Cortese: You'd end up working with Gavin on that so we're just saying that you have to construct a privacy fence to screen the residences on Prescott Road and whatever you construct has to be approved by the code enforcement officer. With those findings of fact this resolution for the front yard setback is available for motion to be made on it to approve that particular variance.

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

In the Matter of the Application #: 2022-V02
of Rivian Automotive o/b/o The Spot Drive-In Restaurant for an area variance
to install electric vehicle charging stations in the PDD-C District with a front yard setback of
17 feet 6 inches, which is less than the minimum front yard setback of 30 feet in said District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V02 (FR. SETBACK)

WHEREAS, on or about March 3, 2022, Rivian Automotive ("Applicant"), the duly authorized representative of The Spot Drive-In Restaurant ("The Spot") duly filed an application for an area variance for property owned by The Spot within the Town, located at 29 Prescott Road in the Town of Chenango, designated as Tax Map No. 128.08-2-34 and located in a PDD-C District, wherein Applicant requested a variance to install electric vehicle charging stations with a front yard setback of 17 feet 6 inches, which is less than the minimum front yard setback of 30 feet 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 April 26, 2022 that the requested variance constitutes a Type II Action as defined under said regulations and, thus, no formal review of the potential environmental impacts of said variance is 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 April 26, 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-V02 (FR. SETBACK) for an area variance to install electric vehicle charging stations with a front yard setback of 17 feet 6 inches, which is less than the minimum front yard setback of 30 feet in the PDD-C District, is **granted, upon the condition that the Applicant erect a privacy fence to screen the residential properties on Prescott Road, which fence must be approved by the Code Enforcement Officer.**
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on April 26, 2022 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E, as amended, the foregoing motion was made by S. Smith and seconded by J. White. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye
Melanie Pandich	Voted: aye

Scott Smith
Jon White

Voted: aye
Voted: aye

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

James Brewster: Resolution is passed for the front setback with conditions as noted. Ok, let's go onto the side setback.

Nick Cortese: Ok, so the side yard setback they are requesting a side yard setback of 9' and as of right setback is 10.' My presumption would be that most of your findings are going to be the same. Let me just ask it this way. You said that the requested variance will not produce an undesirable change for the front yard setback. Do you feel the same way about the side?

Board: Yes.

Nick Cortese: Can it be achieved by another method? You said cannot for the front, do you feel the same way or differently for the side?

Board: Same.

Nick Cortese: You said that the front yard setback is not substantial. This is a 10% setback request here, is it or is it not substantial in your mind?

Board: Is not.

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

Board: Will not.

Nick Cortese: Ok and my presumption is that to conclude it is self-created?

Board: Yes.

Nick Cortese: Ok. Now with respect to this one, do we need similar conditions for this one based your review of the maps? Or is that just pertinent to the front yard setback?

Aleta Kinne: The same.

James Brewster: I think we should just add it in because the applicant has addressed it. They were already looking into it for that part of the neighborhood. Let's just clarify that yes, he's going to continue to look into it and we'll more than likely do it so this will be activated.

Nick Cortese: Ok, then again granted upon the condition that applicant erect a privacy fence to screen the residential properties on Prescott Road which fence must be approved by the code enforcement officer, yes?

Board: Yes.

Nick Cortese: Ok, so we have our findings of fact complete for this one as well. This resolution is now also ready to go if Jim, you would like to seek a motion on it.

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

In the Matter of the Application #: 2022-V02
of Rivian Automotive o/b/o The Spot Drive-In Restaurant for an area variance
to install electric vehicle charging stations in the PDD-C District with a side yard setback of 9 feet, which
is less than the minimum side yard setback of 10 feet in said District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V02 (SIDE SETBACK)

WHEREAS, on or about March 3, 2022, Rivian Automotive (“Applicant”), the duly authorized representative of The Spot Drive-In Restaurant (“The Spot”) duly filed an application for an area variance for property owned by The Spot within the Town, located at 29 Prescott Road in the Town of Chenango, designated as Tax Map No. 128.08-2-34 and located in a PDD-C District, wherein Applicant requested a variance to install electric vehicle charging stations with a side yard setback of 9 feet, which is less than the minimum side yard setback of 10 feet 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 April 26, 2022 that the requested variance constitutes a Type II Action as defined under said regulations and, thus, no formal review of the potential environmental impacts of said variance is 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 April 26, 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 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 #: 2022-V02 (SIDE SETBACK) for an area variance to install electric vehicle charging stations with a side yard setback of 9 feet, which is less than the minimum side yard setback of 10 feet in the PDD-C District, is **granted, upon the condition that the Applicant erect a privacy fence to screen the residential properties on Prescott Road, which fence must be approved by the Code Enforcement Officer.**
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on April 26, 2022 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E, as amended, the foregoing motion was made by A. Kinne and seconded by S. Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye
Melanie Pandich	Voted: aye
Scott Smith	Voted: aye
Jon White	Voted: aye

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

James Brewster: Resolution is passed for the side yard setback. So, Nick please take us to the lot size resolution.

Nick Cortese: All right. This one is requesting a .17 acre lot size down from 6 acres and as I think probably everybody knows roughly 99% of every single parcel in the PDD-C district does not meet the six acre requirement. This is one of the many odd idiosyncrasies of the Town of Chenango zoning codes, I'm willing to guess that the PDD-C's lot size requirement was created with shopping plazas in mind but it did not take into consideration the hundreds of other parcels that are not six acres in size. So, it's a little bit of a deceiving number relative to the realities of the district. With that framework in mind, will or will not the request produce an undesirable change in the character of the neighborhood?

Board: Will not.

Nick Cortese: Can or cannot the applicant achieve this by another method other than getting this area variance for the lot size?

Board: Cannot.

Nick Cortese: Is it substantial?

Board: Yes.

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

Board: Would not.

Nick Cortese: Is it or is not self-created?

Board: It is.

Nick Cortese: In terms of the disposition, grant, deny, grant with conditions? Should we carry the fencing thing through? What do Board Members think? I don't know if this differs in your mind so substantially that we need to put that condition in there. It's really up to you guys.

Melanie Pandich: I don't feel like the fencing pertains to the lot size as a whole, more to the setback variances so I wouldn't see a need for it in the area variance.

Board: I agree.

Nick Cortese: All right very good, so an unconditional granting then? Everyone's comfortable with that?

Board: Yes.

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

In the Matter of the Application #: 2022-V02
of Rivian Automotive o/b/o The Spot Drive-In Restaurant
for an area variance to install electric vehicle charging stations in the PDD-C District
on a .17-acre lot, which is less than the minimum lot size of 6 acres in said District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V02 (LOT SIZE)

WHEREAS, on or about March 3, 2022, Rivian Automotive ("Applicant"), the duly authorized representative of The Spot Drive-In Restaurant ("The Spot") duly filed an application for an area variance for property owned by The Spot within the Town, located at 29 Prescott Road in the Town of Chenango, designated as Tax Map No. 128.08-2-34 and located in a PDD-C District, wherein Applicant requested a variance to install electric vehicle charging stations on a .17-acre lot, which is less than the minimum lot size of 6 acres in said District; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on April 26, 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 April 26, 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** 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-V02 (LOT SIZE) for an area variance to install electric vehicle charging stations on a .17-acre lot, which is less than the minimum lot size of 6 acres in the PDD-C 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 April 26, 2022 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E, as amended, the foregoing motion was made by J. White and seconded by S. Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye

Melanie Pandich Voted: aye
Scott Smith Voted: aye
Jon White Voted: aye

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

James Brewster: Resolution for lot size is approved. That brings us to the end of the application discussion for 2022-V02. We do have some old business to talk about and that's 2021-V09 with the Tesla chargers out on Castle Creek Road and as Nick had stated in the beginning when he was answering my email, we've left that public hearing open with a request to have additional information provided to us to continue on discussion and information. We've heard nothing from either the public or the applicant who we asked to have information. How do we want to go forward here? I think at this point I'd recommend that you agree with me that we can close the public hearing and after that we can go into our discussion to figure out what to do with the application at this time.

Board: Close it.

James Brewster: All right, the public hearing for 2021-V09, Tesla/Electrify America, is hereby closed. So we'll go straight to the discussion now that we've closed the public hearing, we don't have any more information other than what we've heard way back when and then we didn't get any new information that we requested so how do you feel we should proceed at this time?

Aleta Kinne: I feel that if it's agreeable with Ordinance that we drop that application due to the period of time.

James Brewster: Correct me if I'm wrong Nick but I think we'd actually have to formally deny it essentially?

Nick Cortese: I think what you'd end up doing here is dismissing it as opposed to denying it because it's an incomplete application so we're not really making a merits determination as to whether or not the application warranted, we're basically just saying the application is incomplete and thus we can't make a merits determination so I would suggest dismissing the application without prejudice in case they want to start all over again at some point in the future.

Aleta Kinne: That sounds good. Change my wording to that.

Nick Cortese: I've actually been working on a resolution as we've gone along tonight and I can share my screen and show that you guys and see if you like how it reads.

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

In the Matter of the Application #: 2021-V09 of Hugo Jule-Quintanilla on behalf of Mirco, Inc.
For area variances from the various minimum standards allowed in the PDD-C District

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V09

WHEREAS, on July 16, 2021, Hugo Jule-Quintanilla (“Applicant”) duly filed an application as the authorized agent for Micro, Inc. (“Mirco”), for three area variances for property Mirco owns within the Town, located at 1165 Castle Creek Road in the PDD-C District and designated as Tax Map No. 066.10-1-13, wherein Applicant requested front yard setback, side yard setback and lot size variances from the minimum standards allowed in said District, in order to facilitate the construction of 12 electric vehicle charging stations on said property; 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 August 10, 2021, at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, during the course of said public hearing, the ZBA was unsatisfied with the completeness of Applicant’s application, and requested that the Applicant provide a variety of additional information to supplement the application; and

WHEREAS, The ZBA held the public hearing open for several months in order to accommodate the Applicant and provide ample opportunity for the submission of the requested materials; and

WHEREAS, since the date of the said public hearing, the Applicant has provided none of the additional requested information, nor has the Applicant responded to numerous requests from the Town Ordinance Department to produce such information.

NOW, THEREFORE, BE IT RESOVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York that the Applicant’s application #2021-V09 for area variances is hereby dismissed without prejudice for failure to submit a complete application to the satisfaction of the Board; and be it further

RESOLVED, that this resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on April 26, 2022 via Zoom virtual meeting software, as authorized by N.Y. Laws of 2021, chapter 417, part E, as amended, the foregoing motion was made by A. Kinne and seconded by M. Pandich. The ZBA members voted as follows:

James Brewster, Chair	Voted: aye
Aleta Kinne	Voted: aye
Melanie Pandich	Voted: aye
Scott Smith	Voted: aye
Jon White	Voted: aye

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

James Brewster: Application 2021-V09 is dismissed. Thank you Nick, for your advice on that. That brings us to the end of our meeting. Any last things for the good of the order, anything we have to discuss? Ok, seeking the motion to adjourn.

Jon White: So moved, Mr. Chairman.

Aleta Kinne: I'll second it.

James Brewster: Ok, under the presumption that nobody will vote no, I hereby declare the meeting adjourned. Thank you. (8:34 PM)

Respectfully Submitted,

A handwritten signature in blue 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