

ZONING BOARD MEETING
TUESDAY—MAY 25, 2021
ZONING BOARD OF APPEALS
7:00 P.M.—TOWN HALL (ZOOM)
1529 NYS RTE 12
BINGHAMTON, NY 13901

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

Absent: Thomas Eldridge, Board Member

Also Present: Robert Heary, Substitute Attorney
Gavin Stiles, Ordinance Officer
Kari Strabo, Sr. Clerk, Zoning Secretary

James Brewster: My clock says 7 PM, it looks like we have the applicants and as many Board Members as we're going to have tonight as well as staff because I am aware of one that won't be here so with that I will begin the Town of Chenango Zoning Board of Appeals meeting for May 25, and we are starting at 7 PM. Kari, may I have a roll call of Board Member present?

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

James Brewster: Ok, that is four out of the five so we do have a quorum in place and therefore I'll read the following into the record: This meeting is being held via ZOOM Virtual Meeting Software as permitted by the Governor's Executive Order 202.1 and 202.15, most recently extended by Executive Order 202.105. Tonight's meeting is being recorded and will be transcribed at a later date.

We'll proceed with the agenda now. So, first order of business, is the Minutes from the April 27 meeting. Members, are there any objections or corrections to the Minutes as published? If not and hearing nothing I will approve the Minutes from April 27, 2021, and they can be published as soon as possible.

We have no new business on the agenda tonight so no new applications for the month, therefore we will jump right in to our two public hearings.

The first one is application 2021-V04, the Penfield residence at 254 Mary Drive, seeking an application to construct a front porch with less than required front yard setback from 30 to 24 feet in a Residential Zone. Therefore, members, without any objections I will open the public hearing for 2021-V04. So, with that I will read the notice of public hearing into the record for this case:

**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 May 25, 2021 at 7:00 p.m. upon the application of Dwight Penfield regarding property located 254 Mary Drive in the Town of Chenango, Tax Map No. 078.20-3-48, and located in a Residential District. The application is for an area variance from the minimum front yard setback in said District of 30 ft. to 24 ft. for the purpose of constructing a porch.

TAKE FURTHER NOTICE that due to ongoing public health and safety concerns related to COVID-19, the Zoning Board of Appeals **will not be meeting in-person**. Rather, in accordance with the Governor's Executive Orders 202.1, 202.10 and 202.15, as extended by Executive Order 202.105, said public hearing will be held at 7:00 p.m. via ZOOM virtual meeting software. The hearing will be recorded and transcribed at a later date.

INSTRUCTIONS FOR ACCESS TO THE VIRTUAL PUBLIC HEARING: All persons wishing to appear at the hearing may do so via computer, tablet or smartphone by utilizing the following **Link: <https://us02web.zoom.us/j/83909516801>, Meeting ID: 839 0951 6801, and Password 385943**. Members of the public may also call in to the ZOOM meeting by dialing **1-646-558-8656** and entering the Meeting ID and Password above, when prompted.

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

Dated: May 18, 2021

James Brewster, Chairperson
Zoning Board of Appeals

Mr. and Mrs. Penfield, what we do after we receive your application and during the public hearing is we give you a moment to provide us with an overview of the project and then I will take you through the five factors that need to be addressed for us to consider the findings of fact of this application so then we can discuss those points and come to a conclusion and resolution on your application. Penfields, if you can, just to give a brief overview of the project, obviously we have it on the application so if that's satisfactory you don't have to say too much about that and we'll get into more details of those five factors that were on your application in a minute.

- Dwight Penfield: Well, the big thing is really safety and to make the house look a little nicer for appearances, that's our big thing and that's why were after the variance so we can put a decent sized porch on there so people can stand there for a little bit instead of falling off or getting hurt is the big thing and safety. I had back surgery a couple years ago so that would be easier getting in and out of my house.
- James Brewster: Ok. With that, and you sort of touched on one of the points at least, but we'll go through it for clarity here. The first point we ask about when requesting a variance is will this produce an undesirable change to the character of the neighborhood or cause a detriment to the nearby properties.
- Dwight Penfield: I don't believe so.
- Sharon Penfield: No.
- Dwight Penfield: No.
- James Brewster: Ok, so it's not going to be, for lack of a better word, gaudy or obtuse or so large that it would be something that will stick out.

Dwight Penfield: No sir.

James Brewster: All right, then number two talks about 'Can this project be achieved by another method?' Is there any other place you can put it on the house that would give you the same benefit without needing this variance?

Dwight Penfield: No sir.

James Brewster: Ok, and by the map it looks like its situated to be on the street side on the front part of the house.

Dwight Penfield: Yes sir.

James Brewster: I guess I'll pause for a minute as we go through there. Do any of the Board Members have questions on number one and number two? Ok, if you come up with anything at the end we can address that. So number three, a difficult question for pretty much everybody, is the requested variance substantial, and I always refer to our legal counsel for a clear definition, so Bob if you can clarify the substantiality for them.

Robert Heary: Yeah, so substantiality basically looks at how big is your request versus what's expected. So, in this case you're asking for a six-foot variance and so there's different ways to look at it. A one foot variance, most people would consider that to be not very substantial and in contrast if you had something like a 25 foot variance request for a 30 foot setback people would be more likely to consider that a more substantial variance because the percentage of the variance you're requesting is much larger being that it's 25 feet versus one foot so that's how the Board can kind of conceptualize 'does this seem more substantial or less substantial' in terms of that scale 'is this more like a one foot request or a 25 foot request?'

Dwight Penfield: No, like I said I'm just asking for six feet, that's really all I'm asking for.

James Brewster: Ok, that's fine, thank you. Any questions, Board Members, on that? Any clarification? I see heads shaking, ok thank you. I do want to point out, I probably should've in the very beginning but when it comes to an area variance and these five factors they are an exercise of weighting the situation. Not any one of them would be catastrophic if it was a 'no' to do the variance, it's all an equally weighted objective guidance for the board to discuss the factors and come up with our determination. That's different for other application types but that's not the case for this one. So, number four goes back to more of the stricter land use we talked about, 'will the requested variance have an adverse impact on the physical or environmental conditions on the neighborhood or district?' In other words, is your project going to tear the place up and effect the neighborhood properties and the neighborhood in its entirety with any kind of physical disruption?

Dwight Penfield: No sir, I don't believe so.

James Brewster: Ok.

Sharon Penfield: We've had several of our neighbors wrote letters and they are the ones who would have to look at it and they know that anything we've done in the past is nothing that's going to affect anybody.

James Brewster: Ok. Yup, we will be getting to those actually. But thank you for pointing that out. They are in the record and they will be summarized here in just a few minutes. But we wanted to give you your chance first to talk about things. Board Members, questions on number four?

Ok, and the last one we ask you to discuss is the hardship of needing a variance to get your project started, is it self-created? And, typically because we have the Zoning laws in place and you're asking for relief on your property, typically that answer is self-created.

Dwight Penfield: Yes, you're right. But I don't believe its going to interfere with anything in the neighborhood.

James Brewster: Ok.

Dwight Penfield: And like I said before, the big part of it is for the safety.

James Brewster: Understood. Ok, Members, any further comments? Questions on the application? No, I don't have any either. But I do have several pieces of correspondence that came in from the standard Town and County officials which I will enumerate here. I will not read them all in their entirety because all of the documents will go into the record. But first of all were going to start with Gavin from the Ordinance Department. Gavin, your comments on this application?

Gavin Stiles: The Ordinance Department will comply with whatever the Zoning Board desires, we'll just require a building permit and jump through all the hoops that go with that, all the inspections and so forth.

James Brewster: Ok. Moving on, we did receive a letter from the Broome County Planning Department regarding the 239-type investigation if you will:

Hi Diane:

This project is not subject to 239 review (see BCGIS) because the project site is not located within 500 feet of the State and County interests covered under GMU 239-l and -m. Please contact me if you need anything else from us for this project.

Sincerely,

Lora Zier

Senior Planner

Broome County Department of

Planning and Economic Development

James Brewster: The Draining Coordinator for the TOC declared:

'Drainage Review not applicable'

James Brewster: Town Planning has sent us a favorable advisory with no concerns noted on their form to us:

Dear Chairman and all Board Members:

At their meeting on Monday May 10, 2021, the Planning Board considered the request of Dwight Penfield - 254 Mary Dr. -TM#078.20-3-48 -Application for less than required front yard setback from 30' to 24' for a front porch in a residential zone and a Short Environmental Assessment Form.

The Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory.

Sincerely,

Brian Donnelly, Interim Planning Board Chair
Planning Board

James Brewster: The Town Engineer has stated that granting the variance is necessary:

Dear Ms. Paddick:

The *referenced* application is to construct a porch with less than required front yard setback from 30S.F. to 24S.F..

Discussion: The application package included:	Dated:	Rcvd.:
• Planning Board Application with Permissions	03/26/21	03/30/21
• Applicant letter signed by owner	03/30/21	03/30/21
• Parcel Map of with porch sketch		03/30/21
• Short EAF	03/26/21	03/30/21

In reviewing the Code of the Town of Chenango, Article VII §73-23 C Variances (2) (a), (b), and (c) the granting of this variance is necessary for reasonable use of the land, and is in harmony with the general purpose and intent of these chapters.

Recommendations: We have no engineering objections to the variance.

Sincerely,

Urda Engineering, PLLC

James Brewster: We received seven letters from neighbors. All of them were in support of the project and the Penfields and I will list them by date, name, and location with just a comment of support and they will again go into the printed record:

March 30, 2021 – Raimo: ‘My husband and I, Jason and Gabriella Raimo, live at 252 Mary Drive and we approve of Dwight and Sharon Penfield at 254 Mary Drive to build a front porch on their house. Let me know if you need anything else from me. Thank you!’

March 30, 2021—Stapleton: ‘Dwight and Sharon Penfield told us about the porch they want to put on their house and asked if we could reach out to you about what we thought. My wife Kristy and I (14 Maplewood Drive) live right around the corner. We respectfully think their addition would make their house look even better. They’ve always kept up on their home and property and we think it’s a great idea. We hope this email helps you in any further decisions.’

March 30, 2021—Dayton: ‘We are neighbors of Dwight and Sharon Penfield. Writing to let you know we are in favor of Dwight and Sharon’s request to install a front porch at their residence, 254 Mary Drive, Binghamton, NY 13901. If you have any concerns regarding this email, please let us know.’

March 30, 2021—Steiner: ‘This is a letter regarding Dwight and Sharon Penfield’s home on Mary Dr. They would like to build a front porch on their home and we support them doing just that. My husband, Josh, and I reside at 73 Matthew Dr. We live around the corner from Sharon and Dwight and feel that any home improvement in the neighborhood is just fine. Thanks for your time!’

March 30, 2021—Mos: ‘We are neighbors of the Dwight and Sharon Penfield (we live across the street at 253 Mary Drive). We are aware that they are planning modifications to the front of the property that will require a variance. The modifications do not bother us, and they have our support to continue the modification they have applied for.’

April 2, 2021—Faith: ‘My name is Don Faith I live at 251 Mary Drive Binghamton NY 13901. I understand that the residents at 254 Mary Dr wish to add a front porch area. I want to say I am in complete agreement for anyone who wishes to make home improvements. I feel that it will not only be a benefit to them but to the neighborhood. Thank you for your time and any consideration. If you need any additional information please feel free to contact me.’

April 8, 2021—Maus: ‘We understand that our neighbors, Dwight and Sharon Penfield, who reside at 254 Mary Drive in the Town of Chenango wish to add a front porch to their home. We have absolutely no objections to any improvements and of our neighbors wish to make to their homes or property. If anything we feel it can only add curb appeal to their property and to the neighborhood.’

James Brewster: There were no letters of non-support received. Is there anybody here from the community who may wish to speak on this application 2021-V04 for the Penfields of 254 Mary Drive? You have five timed minutes to make a comment on this project.

I will take silence as there’s nobody here to comment on the application at this time for this public hearing. Board members, does anybody else have any comments or any final thoughts before I close the public hearing?

Scott Smith: Real quick Jim, I did go through the neighborhood and found that there’s a few houses that probably had variances for similar things in that general vicinity, eight or nine blocks, a small handful.

James Brewster: Yeah, valid statement. I actually might as well declare this in the public hearing, I actually live on Mary Drive, down south of Matthew, I’m on the lower part. I do not know the Penfields, I have no interest in their project here, be it financially or whatever that would prohibit me from continuing to take part in this application. Therefore, I will continue to do so but I did want to declare that, so yes I agree with you Scott there has to have been at some time variances made in the neighborhood for projects of this nature or other. I would concur with that.

Ladies and gentlemen, at this time there appears to be no others who wish to speak. Members, may I close the public hearing in its entirety? And again, under these condensed rules of order your silence equals approval otherwise state your objections and we’ll pick up the ball, otherwise I will close the public hearing.

We will consider 2021-V04 public hearing now closed at 7:20.

Just as a point of clarity here, the Penfields and the Stupskis as we get to you, the way this works is we have the public hearings and discussion and get everything on record and we close them out and we continue on with that and then the Board has a section of discussion where we'll go over the factors and we have to do some environmental things as well and then we'll wrap that up. So, I just wanted to let you know that we're not going to continue on with you right now, we're going to do the Stupskis. That's the process.

Sharon Penfield: All right, how long would it be before we would be able to get a building permit?

James Brewster: Well that's going to have to be a question for the Ordinance Department and it'll depend on the result of tonight and I believe you can continue right after, however this shakes out. You can continue or not continue, whichever the end result of tonight is.

Sharon Penfield: Ok.

James Brewster: I believe that's what Gavin said before. If it's approved it could be immediate, tomorrow, next business day I suppose. To at least start it.

Gavin Stiles: I'll agree with that. If you are granted permission to have this it's a matter of filling out the building permit and bringing in the fee and if everything adds up and the site plan, it all moves pretty quickly.

Sharon Penfield: Ok. Thank you

Dwight Penfield: Thank you very much.

James Brewster: Ok, so hold on and we'll get right back to you here after this next session. So, with that we will now go to application 2021-V05 for the Stupski family at 348 Wilson Hill Rd for a double area variance, we'll be considering two tonight, to construct a pole barn exceeding the height from 25 feet to 27 feet and also the size from 1500 to 2400 square feet in an Agricultural zone.

Robert Heary: And Jim, before we fully jump into this, I believe the Board is aware but my office does have a waivable conflict with Mr. Stupski. Mr. Stupski did sign a conflict waiver. Jim, did you get the waiver letter? I can forward that over to you, so it would be up to the Board to decide whether or not they wanted to agree with waiving that conflict. Basically, it's just acknowledging that Mr. Stupski waived it so that in the event that something were to happen we would still be able to represent the town moving forward with this application. The conflict arises from some unrelated business that our firm has handled for Mr. Stupski in the past.

James Brewster: Ok. Thanks. My email is open if you wanted to forward that over. And we should probably do that before we open the hearing.

Robert Heary: Yes please.

James Brewster: Ok.

Aleta Kinne: Mr. Chairperson, I'd like to ask counselor is he recommending to us that this is a minor conflict?

Robert Heary: Yes.

Aleta Kinne: And recommends that we do a waiver?

Robert Heary: It's really up to the Board to decide whether or not they want to waive it. Again, this is a waivable conflict which means, basically the way it works is there's some conflicts that you can't waive between parties, for example, if we were representing Mr. Stupski in an ongoing litigation

against the town, that would be a situation where we couldn't waive the conflict because we have a tied up interest with his moving forward. Our conflicts don't arise from anything in connection with this project. They relate to other transactional business dealings that we've helped Mr. Stupski with in the past. This is a situation where we are able to represent the town and again, it's been waived by Mr. Stupski so in the event that there was ever an issue we would be able to continue to represent the town.

Aleta Kinne: Ok, thank you.

Robert Heary: You're welcome.

James Brewster: I have not received it. If you just wanted to read it into the record, because that's all I was going to do and then we can take a vote on the approval of whether or not I can sign that.

Robert Heary: I'll try and send it over again but I'll read it out for you:

Disclosure of Conflict and Consent to Waive

The undersigned hereby acknowledges that Coughlin & Gerhart LLP has fully disclosed that it currently serves as general counsel to the Town of Chenango Zoning Board of Appeals (ZBA) and all appeals that come before it including area variance application 2021-V05 which was submitted by Todd Stupski and is currently pending before the ZBA.

The undersigned further acknowledge that this may represent a conflict of interest with regard Coughlin and Gerhart's representation of Todd Stupski in matters unrelated to the above referenced proceeding.

The undersigned further acknowledge that Todd Stupski is proceeding without an attorney with regard to said appeal, that Coughlin and Gerhart LLP represents only the interest of the ZBA on said appeal, and that the undersigned hereby waive any conflicts of interest that may be caused by Coughlin and Gerhart LLP's representation of the ZBA in said proceeding. This document may be executed in counterparts which shall collectively be considered one original facsimile or PDF signatures are acceptable and has been signed by Todd Stupski as of May 23rd, 2021.

James Brewster: Ok, thanks Bob. And I do have that in my possession now so I'll be able to sign it if we get approval. So, I'll seek a motion to approve this Consent to Waive form and that I can sign it on behalf of the Zoning Board of Appeals as Chairman.

Scott Smith: So moved, Mr. Chairman.

James Brewster: Ok, we have a motion.

Melanie Pandich: I'll second it.

James Brewster: And we have a second. Any discussion on this? No discussion, ok. Kari can I have a roll call on this please

Kari Strabo:	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—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: Ok, with that settled we can move on and I will sign it and get it over to Coughlin and Gerhart forthwith. Thanks for that, Bob.

Now we need to open the public hearing for this application, the Stupski application. And I will do so at 7:30 pm. Mr. and Mrs. Stupski, you've kind of got the dry run in the first one so I just wanted to let you know that we'll be going over those five factors with you but first if you'd like to take a moment to describe the overall project you have the floor.

Todd Stupski: What we're applying for is a pole barn that is 40 by 60 to use completely as storage for us. We have over 50 acres here to maintain and I would like to protect our equipment and keep it safe and that's the reason that we need the pole barn.

James Brewster: Ok. Any general questions for him, Board Members?

Aleta Kinne: Yeah. I would like to ask the reason for the variance for the extra height?

Todd Stupski: Yes, I believe we can go up to 25 feet and the way that it's going to be constructed it's going to be 27 feet, I believe it's two feet above the required height.

Aleta Kinne: Is that to get the slope?

Todd Stupski: To get the pitch of it.

Aleta Kinne: Ok, thank you.

James Brewster: And I was amiss here folks, before we continue I overlooked the order here so I will briefly read the notice of public hearing which was taken legally on time and published as necessary:

**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 May 25, 2021 at 7:00 p.m. upon the application of Todd Stupski regarding property located 348 Wilson Hill Road in the Town of Chenango, Tax Map No. 094.01-1-37.112, and located in an Agricultural District. The application is for an area variance to construct an accessory structure (pole barn) with a maximum height of 27 ft. (Ag. District maximum = 25 ft.), and an area variance to construct same with a maximum of 2,400 sq. ft. (Ag. District maximum = 1,500 sq. ft.).

TAKE FURTHER NOTICE that due to ongoing public health and safety concerns related to COVID-19, the Zoning Board of Appeals **will not be meeting in-person**. Rather, in accordance with the Governor's Executive Orders 202.1, 202.10 and 202.15, as extended by Executive Order 202.105, said public hearing will be held at 7:00 p.m. via ZOOM virtual meeting software. The hearing will be recorded and transcribed at a later date.

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Dated: May 18, 2021

James Brewster, Chairperson

Zoning Board of Appeals

- James Brewster: I apologize for stepping out of order there but we got it done. Again, we're going to go through those five factors and we noted that you did have a pretty detailed writeup on each of them for the application itself, but for the record we'd like to go over that again and see if you have anything to add. The requested variance, will it produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?
- Todd Stupski: Where it's located on our property, it will not be seen by any of our neighbors. I can't see my neighbors from any section of where we're putting the pole barn right now and I don't think it can even be barely seen from the road, so I don't see it being a detriment in the neighborhood at all.
- James Brewster: Ok, Members have any questions for him based on the application and those comments? Ok, hearing nothing we'll move onto number two, instead of seeking a variance can this be achieved by another method other than granting of a variance. Can it be put anywhere else, you said you had 50 acres, what's the reason for this particular spot?
- Todd Stupski: I feel like it's secluded to side enough that it's not seen by any neighbors. Why I'm asking for both variances is because I would need that kind of room for the storage of the equipment and our vehicles.
- James Brewster: Yes, thanks for clarifying that I was actually going to follow up with that because I realized that this is a larger than zoned relief your looking for and also the height. So, you did address those. Members, any follow up to that? We have Aleta's comments which would fit under number two for what she made earlier.
- So, thinking back to what Bob the attorney told us about number three with the variance being substantial or not, in your opinion?
- Todd Stupski: I don't see it being any different from what I already mentioned. It's substantial to the point that it's proportional to the size of the property that I have. If I had a similar piece of property, maybe two or three acres, I wouldn't need something as big but because of the amount of equipment that I have and the property that I have and the property that I take care of, I do feel that it is proportionate to my needs.
- James Brewster: OK. Height wise, I did have a question. I can understand the size for larger Agriculture or whatever kind of equipment that you need for land use, are you going to have an upstairs?
- Todd Stupski: I am, which is completely for storage.
- James Brewster: Ok.
- Robert Heary: And just as a quick clarifying point, just to remind the Board Members that for the substantial question you are taking each variance separately so you have the one variance which is for 27 feet instead of 25 feet for the height which is a difference of two feet and then separately there is also the variance for the actual square footage of the structure from 1500 to 2400 square feet.
- James Brewster: Yes, thanks for that clarification Bob. We have typically discussed the doubles and triples as an entity but thanks for helping us try to pull the differences out and the discussion with that. Anything else for number three?

Ok, moving on. Number four talks about 'will there be an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?' So, again will you be tearing up a lot of property, creating a lot of noise, creating a lot of physical damage to the environment that includes dust and noise et cetera?

Todd Stupski: No, I don't see any damage being done. I just had my driveway repaved, I don't live on a dirt driveway so it's not going to create a lot of dust because it is 300 feet from the road so it is a clean driveway to drive up. I don't have any running water near where we're going to put the pole barn at all, so I don't see any mess in that way either. Noise wise, I am told by the builders that the project would only take a week for them to complete.

James Brewster: Ok, any significant digging for a foundation or anything like that?

Todd Stupski: Just putting down the base, we're not going to be going into any kind of cellar or anything like that.

James Brewster: Ok thank you. Board Members, anything?

Ok, moving onto number five, the hardship giving rise to this variance, again we go back to zoning is restrictive and therefore your request by default is self-created. We'll take other factors into consideration with that as well. Any thoughts on that, Board Members, on number five? Any final words, Mr. Stupski? Like I said, we do have your documentation that we've read. Is there anybody in the audience who would like to speak for or against this application? You may identify yourselves and have the floor.

Ok, silence means typically no comments. So I will read into the record a few items here, the standard commentary from Broome County regarding 239 investigation and they came back with:

Dear Chair Brewster:

The Broome County Department of Planning and Economic Development has received your request for review of the below captioned matter:

Applicant: Project:

Municipality: Tax Map No: BC Case:

Todd Stupski

Area Variances: Install pole barn exceeding maximum size from 1500 SF to 2400

SF and maximum height from 25 FT to 27 FT at 348 Wilson Hill Road

Town of Chenango

094.01-1-37.112

239-2021-057

The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project. However, we have the following comment: The site plan should show the total area of disturbance and driveway.

The case file was routed to the Broome County Health Department (BCHD) for review. They had no comments.

Please submit a copy of your decision in this case within seven (7) days of taking action so it can be included in the case record.

Thank you for your cooperation.

Sincerely,

Beth Lucas
Director

James Brewster: I believe in your application or supplement to your application you did address that. You already did address Broome County concerns by stating on April 23, 2021:

Good Morning,

The disturbance is less than an acre – it will be 50x70 for the 40x60 pole barn. At the end of our 300' driveway we will need to add 30' of driveway to connect to the pole barn. If there are any other questions please email or call me.

Thank you,
Todd Stupski

James Brewster: Going onto the Broome County Health Department, the county had no comments. The Town of Chenango Drainage Coordinator also declared this application is not applicable for drainage evaluation. Town Planning sent a letter back stating:

Dear Chairman and all Board Members:

At their meeting on Monday May 10, 2021, the Planning Board considered the request of Todd Stupski — 348 Wilson Hill Rd. TM#094.01-4-37.112- for a double area variance to construct a pole barn to exceed the height from 25' to 27' and for the size from 1500' to 2400' in an agricultural zone. and a Short Environmental Assessment Form.

The Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory.

Sincerely,

Brian Donnelly, Interim Planning Board Chair
Planning Board

James Brewster: Our engineer has stated:

Dear Ms. Paddick:

The referenced application is to construct a pole barn to exceed the height from 25' to 27' and size from 1500S.F. to 2400S.F..

Discussion: The application package included:

• Planning Board Application with Permissions	Dated: 04/09/21	Rcvd.: 04/09/21
• Applicant letter signed by owner		04/09/21
• Applicant letter signed by owner — (five points)	April 2021	04/16/21

- Site Sketch 04/09/21
- Short EAF 04/09/21 04/09/21

In reviewing the Code of the Town of Chenango, Article VII §73-23 C Variances (2) (a), (b), and (c) the granting of this variance is necessary for reasonable use of the land, and is in harmony with the general purpose and intent of these chapters.

Recommendations: We have no engineering objections to the variance.

Sincerely,

Urda Engineering, PLLC

James Brewster: Ordinance Department, Gavin, any thoughts here?

Gavin Stiles: Again, we'll uphold the Board's decisions and move forward with a building permit and the ramifications that come along with that.

James Brewster: Ok. We did have one letter received from a neighbor. I will read this in its entirety because it did come in after the agenda was put together. It is from Lisa and Robert Havtutur at 366 Wilson Hill Road:

Hello,

Thank you for the opportunity to share input on the proposed, oversize structure at 348 Wilson Hill Road. These are our thoughts.

For decades, we've lived in the quiet woods of Wilson Hill, in a house my husband built himself. We love it and were looking forward to enjoying our retirement in the peacefulness of nature. Unexpectedly, new neighbors moved in next door around the time we retired, about a year-and-a-half ago. Through the TOC variance postcard, we just learned those neighbors are the Stupski's.

Since they moving in, construction projects and heavy equipment operation has been pretty constant on the Stupski property, often starting early and ending late. When a pond was being installed, large cranes/heavy equipment ran from 6am until as late as 9-10pm for weeks. Logging went on for months, with heavy equipment, chainsaws and log trucks traveled up and down the Covid-clear road throughout the day. Last summer and fall, we were unable to enjoy our yard, or even open our windows, due to construction noise. It appeared the Stupski family was living elsewhere during these projects.

For months now, there's been a hopefully-temporary work station/trailer at the end of the Stupski driveway, in somewhat of a secondary parking lot. Employees in trucks park, work and operate equipment in and around the trailer as of 7am every day but Sunday. This is in direct sight line of our bedrooms (getting better now with the leaves!). As I write this, the hum of a generator competes with the birds.

Every time we thought, well, they'll be done soon and life will return to normal, they weren't done. Again, this has not been an inconvenience of a few weeks, it has been almost non-stop for the better part of a year.

We enjoy our acreage and it's good to see the Stupski family enjoying their acreage too. Even so, this news of yet another construction project, when we thought the end of construction noise was in sight, isn't especially welcome. (More by me, my husband is hard of hearing!)

All this being said, we wouldn't think of objecting to whatever they want to do on their property. We do hope they'll ensure this project happens during normal business hours. We also hope, for our privacy and theirs, that the new, oversize structure will not be built close to the property line (by our house or driveway), which would also block the beautiful sunrise we now enjoy. This is a request made knowing they have an abundance of other space to choose from.

Thanks again. We wish the Stupski Family all the best.

Sincerely,

Lisa and Robert Havtur

366 Wilson Hill Road

- James Brewster: Any further comments, Board Members? Any further questions? Last call for anyone in the public to speak on this matter.
- Melanie Pandich: I have a question. Is this project occurring on already cleared land or will there be significant tree removal in the area for the project?
- Todd Stupski: It's already on clear land. It's land that I've been mowing. There'll be no tree removal.
- James Brewster: Aleta, your box popped up did you have anything?
- Aleta Kinne: I just agreed with what he said. I made a visit up there twice and I thank him for not cutting down all the trees.
- Todd Stupski: Yeah, we had no intention of cutting down any trees to put the structure up.
- James Brewster: Ok. One last call for anyone in the public to speak for or against this.
- Members, at this time there appears to be no others that wish to speak. Members, may I close the public hearing in it's entirety? Again silence is your approval, object if you have anything else. Ok, hearing nothing the public hearing for application 2021-V05 is hereby closed at 7:49 PM.
- All right, now we're heading onto the discussion phase of these applications. First off though we will go back to the Penfield application as it's noted on the agenda. Bob, is this one that's applicable for SEQR?
- Robert Heary: Because it's a setback request for the area variance it's a type II action so the Board would just need to declare that this is a type II action and no further action is needed.
- James Brewster: Ok. I thought it might be but I wanted to check with you on that. So, Board Members, I'll seek a motion to declare the Penfield application as far as SEQR is concerned a type II action with no further action necessary from us.

Melanie Pandich: I'll make that motion.

James Brewster: Ok. A motion made by Melanie, do we have a second?

Aleta Kinne: I'll second it.

James Brewster: Seconded by Aleta. Let's have a roll call vote on that SEQR declaration of a type II action.

Kari Strabo:	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—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: SEQR is complete for this, now we can get to the application. First of all, let's get a preliminary discussion of the five factors for the Penfield application before we head on to finalize it in the Resolution that we'll have Bob read.

As far as point number one goes on the application, the findings of fact of whether or not it would be an undesirable change in the character of the neighborhood or cause a detriment to the nearby properties, your general thoughts?

Board: Will not.

James Brewster: I think we need to throw out a reasoning as to why.

Aleta Kinne: I think the letters from the neighbors have pretty well explained that.

Melanie Pandich: Agreed.

James Brewster: Ok.

Scott Smith: And as I said earlier there's other stuff around the neighborhood that falls along the same category.

James Brewster: Excellent. How do we feel about the benefit being sought by the applicants to be achieved by another method or not. Do we need to give them the variance because they can or cannot achieve it in any other way?

Scott Smith: I don't think it'll work in the back.

Aleta Kinne: I agree.

Melanie Pandich: Agreed.

James Brewster: Ok. That's a good fact. How about substantiality of the porch with that setback?

Melanie Pandich: Not substantial, it's one fifth of the total area.

Scott Smith: Agreed.

Aleta Kinne: Agreed.

James Brewster: Ok. Any adverse effects on the impact of the environmental conditions?

Scott Smith: I won't name them but I saw four or five places that had adverse conditions within a half a mile so they won't complain about this.

James Brewster: Fair enough. And Number five, the old hardship giving rise, is it self-created or not?

Melanie Pandich: It is.

Aleta Kinne: It is.

James Brewster: It is by default.

Scott Smith: But not in a bad way.

James Brewster: That is true. All right, I think we've built the record enough on those factors with our comments and with the application that we've digested and the public hearing notes. Therefore, Bob, please read us the Resolution and take us home on this one.

Robert Heary:

In the Matter of the Application #: 2021-V04 of Dwight Penfield
 For an area variance from the minimum front yard setback of 24 feet from 30 feet for the construction of a porch in the R – Residential District.

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V04

WHEREAS, on March 30, 2021, Dwight Penfield ("Applicant") duly filed an application for an area variance for property he owns within the Town, located at 254 Mary Drive in the R – Residential District and designated as Tax Map No. 078.20-3-48, wherein Applicant requested a variance from the minimum front yard setback requirement of 30 feet to 24 feet for construction of a porch in said District; and

WHEREAS, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act ("SEQRA"), the Town of Chenango ZBA determined on May 25, 2021 that the requested variance is a Type II Action as defined under said SEQRA regulations and, thus, no further environmental review 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 May 25, 2021, at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as reports and recommendations submitted in regard to Applicant's application, including those submitted by the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant's application.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

1. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.

3. The requested area variance is **not** substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request is self-created.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant’s application #2021-V04 for an area variance from the minimum front yard setback requirement of 30 feet to 24 feet for construction of a porch in the R – 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 May 25, 2021 via Zoom virtual meeting software, as authorized by the Governor’s Executive Orders 202.1, 2020.10, 202.15 and 202.108, the foregoing motion was made by Aleta Kinne and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Melanie Pandich	Voted: Aye
Scott Smith	Voted: Aye
Thomas Eldridge	Voted:

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

Ayes—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: Thank you for your time, Mr. and Mrs. Penfield.

Penfields: Thank you very much.

James Brewster: We will cycle back to the 2021-V05 application, the Stupski application, the height application. This will be an unlisted action therefore we must go through SEQR part two. Bob, if you would take us through SEQR part two, but before we begin, folks was there anything you noticed on the part one from the application?

Robert Heary: I have one question. On number nine, it was part of the EAF it requests ‘Does the proposed action meet or exceed the state energy code requirements?’ and Mr Stupski answered ‘no’ but I think that should probably be a ‘yes’ that it does meet the energy code requirements but it doesn’t exceed them.

James Brewster: Ok, Board Members, what do we think? Have that one amended just pen and ink?

Board: Yes.

James Brewster: Who does that, can you take care of that Bob? Amend that?

Robert Heary: Yes. That trips up a lot of people because they read it and think ‘Well, I’m not going to exceed the energy code requirements.’

James Brewster: Right. Okay. So, anything else on part one? Otherwise we’ll have Bob take us through part two.

Melanie Pandich: I didn’t see an answer to number 12B on part one.

James Brewster: Yeah, your right, ‘Is the project or any portion of it located in an area adjacent to an area designated as sensitive or archaeological sites on the SHPO inventory?’ I’ll try the parcel mapper here real quick.

No spatial features found. So, the answer is no, according the cultural resource information tool under SHPO. Fair enough?

Melanie Pandich: Thank you.

James Brewster: Bob, if you want to annotate that as ‘no’ on that, is that ok?

Robert Heary: Yeah, I’ll scan over a copy afterwards.

James Brewster: Ok. Anything else, otherwise we’ll move onto part two? Ok, take it away Bob.

Robert Heary: All right, so we’ll be going through the 11 questions and I’ll be asking you if there’s a no, small impact, or moderate to large impact.

Number 1—Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Board: No.

Robert Heary: Number 2—Will the proposed action result in a change in the use or intensity of use of land?

Board: No.

Robert Heary: Number3—Will the proposed action impair the character or quality of the existing community?

Board: No.

Robert Heary: 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.

Robert Heary: 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.

Robert Heary: 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.

Robert Heary: 7 – Will the proposed action impact existing:

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

Board: No to both.

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

Board: No.

Robert Heary: 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.

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

Board: No.

Robert Heary: 11 – Will the proposed action create a hazard to environmental resources or human health?

Board: No.

James Brewster: Ok, that concludes part two. With that, we'll move onto part three and take a vote on that. It sounds like from our discussion with all the categories being declared no or small, this is leaning toward a negative declaration under part three, the determination of significance. So, I will seek a motion to declare the significance of this project for the one that we just did which is the height variance, I will seek a negative declaration with regard to SEQR.

Aleta Kinne: So moved.

James Brewster: Ok, moved by Mrs. Kinne, second?

Scott Smith: Second.

James Brewster: Seconded by Mr. Smith. We need a roll call on that.

Kari Strabo: 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—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: Ok, so the next SEQR that we have to address is the same project, but in this case the square footage change and again, this is also constituted as an unlisted action according to SEQR therefore we will have to go through part two again. Am I correct in that, Bob?

Robert Heary: I think we can actually have it under one SEQR and address both, but we can do it separately if the Board likes. It's really the granting of the area variances that need to be separate.

James Brewster: Ok, I did make the motion for that particular one so I kind of put us all between a rock and a hard place on that one so maybe if we just go through it real quick.

Robert Heary: Sure.

James Brewster: Just to dot the i's and cross the t's. Carry on.

Robert Heary: Number 1—Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Board: No.

Robert Heary: Number 2—Will the proposed action result in a change in the use or intensity of use of land?

Board: No.

Robert Heary: Number3—Will the proposed action impair the character or quality of the existing community?

Board: No.

Robert Heary: 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.

Robert Heary: 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.

Robert Heary: 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.

Robert Heary: 7 – Will the proposed action impact existing:

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

Board: No to both.

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

Board: No.

Robert Heary: 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.

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

Board: No.

Robert Heary: 11 – Will the proposed action create a hazard to environmental resources or human health?

Board: No.

James Brewster: Ok, thank you, that concludes part two. Moving onto part three, the declaration of significance. Again, it sounds like we are going with a negative declaration. I'll just need a motion to state that we are going for a negative declaration on the square footage portion of the application variance.

Scott Smith: So moved.

James Brewster: Moved by Mr. Smith, do I have a second?

Aleta Kinne: I'll second it.

James Brewster: Motion made and seconded. Roll call please, Kari.

Kari Strabo:	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—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: Ok, negative declaration on that part of the SEQR. Now, with that out of the way we will go through the factors and get some validation to that on the record.

Pertaining to this application, number one, the requested variance, what are your thoughts on creating an undesirable change in the character of the neighborhood or causing a detriment to nearby properties?

Scott Smith: Will not.

Robert Heary: Are we addressing height first?

James Brewster: Yes, I have height. Thank you. So this is just pertaining to the 25 to 27 foot relief on the height. So I'll restate the question, undesirable change to the character of the neighborhood or cause detriment to the nearby properties?

Board: Will not.

James Brewster: And, how about a reason why? The setback in the woods, really can't see it, is that a valid factor, finding of fact to establish that?

Scott Smith: Yes, out of sight and two feet above 25 isn't really that noticeable unless you're the builder.

James Brewster: All right, thanks Scott. Moving onto number two now, can the benefit being sought by the applicant be achieved by another method other than the granting of the area variance?

Aleta Kinne: I say no.

James Brewster: I say no based on the information that they did provide us and all of the other factors that came in from the other agencies not having a problem or any issues with this, especially when talking about the height part.

Robert Heary: And would the Board say that that's because they need this large structure to house the equipment necessary to maintain the property?

Board: Yes.

James Brewster: The requested area variance for the height change is or is not substantial and why?

Melanie Pandich: Is not, it's only an additional two feet.

Board: Agreed.

James Brewster: I think that's valid. The requested variance would or would not have an adverse impact on the physical or environmental conditions in the neighborhood or district and why?

Scott Smith: It would not. It will keep his equipment inside, not scattered all over the yard.

Aleta Kinne: It's not visible from the road.

Scott Smith: Sorry, we're looking at two feet, so it would be tall equipment.

James Brewster: Or the storage in the loft which is what I clarified.

Scott Smith: Yes, I stand corrected. Thank you.

Aleta Kinne: I feel like I asked earlier he needs that height for the pitch of the roof, you want the snow to slide.

Scott Smith: Yes.

James Brewster: Absolutely. That's a great point, ok. And so the last one in this particular variance, the hardship giving rise to the variance is or is not self-created? It is.

Board: Yes.

Scott Smith: By building it in a snow area.

James Brewster: All right, Bob should we go through the findings of fact on the next one then cycle back and do the Resolutions back to back or just go for this one?

Robert Heary: I think it would be easier to just knock this one out and then run through the other one. The reason we do them separately is just so that the record's clear in case there's any question in the future it helps to show that these are specifically what you look for with height and it was all in one section and then here's everything you looked at with the second variance all in one section. It helps to separate it.

James Brewster: Ok, then. Let's continue on and do your thing with reading to us on this portion of the application.

Robert Heary: In the Matter of the Application #: 2021-V05 of Todd Stupski
For an area variance from the maximum height allowed for an accessory structure (pole barn) in the A – Agricultural District of 25 feet to 27 feet

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V05

WHEREAS, on April 9, 2021, Todd Stupski ("Applicant") duly filed an application for an area variance for property he owns within the Town, located at 348 Wilson Hill Road in the A – Agricultural District and designated as Tax Map No. 094.01-1-37.112, wherein Applicant requested a variance to install a 27 ft. tall accessory structure (pole barn), which exceeds the maximum height allowed for such structures (25 sq. 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 May 25, 2021 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

WHEREAS, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on May 25, 2021, at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as reports and recommendations submitted in regard to Applicant’s application, including those submitted by the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant’s application.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

1. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.
3. The requested area variance is **not** substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request is self-created.
6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant’s application #2021-V05 for an area variance from the maximum height allowed for an accessory structure (pole barn) in the A – Agricultural District of 25 feet to 27 feet 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 May 25, 2021 via Zoom virtual meeting software, as authorized by the Governor’s Executive Orders 202.1, 2020.10, 202.15 and 202.108, the foregoing motion was made by Melanie Pandich and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Melanie Pandich	Voted: Aye
Scott Smith	Voted: Aye
Thomas Eldridge	Voted:

The motion was thereupon declared adopted by a roll-call vote of
Ayes—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: Let's carry on with the square footage findings of fact. Board Members, the requested variance about undesirable change in the character of the neighborhood or causes a detriment to nearby properties.

Board: Will not.

James Brewster: And also why?

Melanie Pandich: It's set back and it's a short construction time noted by the applicant.

James Brewster: Ok. I did want to address the letter that came through and I just wanted to make a point that anything they really commented about is not really necessarily applicable to the decisions on the application for the Board. It's more of an Ordinance issue if they wanted to discuss that or discuss it with the neighbors if there's an issue but I think for clarity's sake with just a couple of exceptions I don't think there's really anything we can do about that letter and ultimately it wound up being somewhat supportive for the use of the property.

Aleta Kinne: Agreed.

James Brewster: Any other thoughts on that?

Melanie Pandich: I agree.

Scott Smith: Me too.

James Brewster: Ok, so we're going with number two, this cannot be achieved by another method or can it and we don't have to do the variance, or something thereof, and why?

Aleta Kinne: I say cannot because of the lay of the land out behind there and it is in the back, not visible.

Melanie Pandich: And also the size of the land is reasonable to necessitate the additional equipment for it.

James Brewster: Ok. The requested area variance is or is not substantial and why?

Melanie Pandich: I think it is substantial because they are requesting more than 50% of what is allowable in the regulations.

James Brewster: Valid point.

Scott Smith: And while that's the case, the property is also 50% larger at least than most other things so while that is substantial, yes, the property backs it up.

Aleta Kinne: Agreed.

James Brewster: Ok, I agree too. I do believe it is substantial but again these are not game changers, one way or the other. Anything else on that, I'll move onto number four?

Ok, how about 'will this have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district?'

Scott Smith: It would not because nobody's going to see it.

James Brewster: Correct and it seems like, and I also asked before about, obviously it's a pole barn, so it'll either be a slab or dirt, and they clarified that with somewhat of a slab so there's not going to be a lot of digging or environmental disruption. And they addressed that to the Broome County comments with really just a disturbance area, perhaps only ten or twenty feet on either side of

the actual building, plus the driveway which to me is immaterial as far as the project goes if you need a driveway one way or the other then you need to put it in.

Ok. And the hardship giving rise to the variance is self-created as we declared on the previous one, we should be fairly consistent on that.

I think we have our findings of fact for this and determination so go ahead go through it again for us, Bob.

Robert Heary:

In the Matter of the Application #: 2021-V05 of Todd Stupski
For an area variance from the maximum square footage allowed for an accessory structure (pole barn) in the A – Agricultural District of 1500 square feet to 2400 square feet

RESOLUTION ON AREA VARIANCE APPLICATION #: 2021-V05

WHEREAS, on April 9, 2021, Todd Stupski (“Applicant”) duly filed an application for an area variance for property he owns within the Town, located at 348 Wilson Hill Road in the A – Agricultural District and designated as Tax Map No. 094.01-1-37.112, wherein Applicant requested a variance to install a 2400 sq. ft. accessory structure (pole barn), which exceeds the maximum size allowed for such structures (1500 sq. 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 May 25, 2021 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

WHEREAS, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on May 25, 2021, at which hearing all persons desiring to be heard in regard to said application were so heard; and

WHEREAS, the ZBA has duly reviewed and considered all documents submitted by the Applicant, as well as reports and recommendations submitted in regard to Applicant’s application, including those submitted by the Town of Chenango Planning Board, Engineer, Ordinance Officer and Drainage Coordinator, and has carefully considered all of the information presented and received at the public hearing on behalf of the Applicant and the public with respect to Applicant’s application.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Town of Chenango, Broome County, New York, as follows:

1. The requested variance **will not** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **cannot** be achieved by another method, other than the grant of an area variance.
3. The requested area variance **is** substantial.
4. The requested variance **would not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The hardship giving rise to the variance request **is** self-created.

6. The entire record of this proceeding supports the conclusion that the benefit to the Applicant conferred by the granting of an area variance **outweighs** any potential detriment to the health, safety and welfare of the neighborhood or community posed by such grant.
7. Therefore, the Applicant's application #2021-V05 for an area variance from the maximum square footage allowed for an accessory structure (pole barn) in the A – Agricultural District of 1500 square feet to 2400 square feet 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 May 25, 2021 via Zoom virtual meeting software, as authorized by the Governor's Executive Orders 202.1, 2020.10, 202.15 and 202.108, the foregoing motion was made by Scott Smith and seconded by Aleta Kinne. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Melanie Pandich	Voted: Aye
Scott Smith	Voted: Aye
Thomas Eldridge	Voted:

The motion was thereupon declared adopted by a roll-call vote of
 Ayes—4 Nays—0 Absent—1 (Thomas Eldridge)

James Brewster: Thank you for your time and patience Mr Stupski, we have concluded with your application at this time and it's all approved.

Todd Stupski: Thank you very much.

James Brewster: Board Members, it looks like we've come to the end here. Anything you'd like to bring up for the good of the order. Any reports from committees or anything like that?

All right, there is silence so business of the day appears complete and this meeting may be adjourned. Are there any objections?

Hearing none, the Town of Chenango Zoning Board of Appeals is hereby adjourned at 8:39 PM, May 25, 2021. Thank you all.

Respectfully Submitted,



Kari Strabo, Sr. Clerk