

ZONING BOARD MEETING  
TUESDAY—SEPTEMBER 27, 2022  
ZONING BOARD OF APPEALS  
7:00 PM TOWN HALL  
1529 NYS RTE 12  
BINGHAMTON, NY 13901

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

Also Present: Nicholas Cortese, Attorney  
Kari Strabo, Zoning Secretary

Absent: Gavin Stiles, Ordinance Officer

James Brewster: Ok ladies and gentlemen, thank you all for coming. It's 7:00 so I'll open the September Town of Chenango Zoning Board of Appeals meeting. First order of business tonight is for our attendance roll call.

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

James Brewster: Nick, we have a quorum. We have all members and our alternate tonight so we're flush. So again, welcome. Just a little bit of housekeeping tonight as to how things work. As you can see on the agenda we have three sections: a new business section, a public hearing, and then we'll have a Board discussion on the applications coming before the public hearing so typically the first section with the new business is we'll review quickly the applications that come in and forward them on through our Planning Board and onto our next meeting and then I'll open one of the public hearings and we'll continue on from there. Now, to the Board Members, does anybody have any issues with the August minutes? If not I'll seek an approval for those minutes.

Aleta Kinne: I'll move.

Scott Smith: I'll second it.

James Brewster: Can we get the roll call on that please?

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

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

Ayes – 5          Nays – 0

James Brewster: The August minutes are approved and may be published as necessary to the web and filed. All right, onto new business. We have two applications tonight and an interpretation application.

First is 2022-V16 which is the Abbey Family Trust Number 4, referencing 26 Buckley Road, an application for an area variance to build a single family home with less than required road frontage from 240' to 73' in an Agricultural Zone and a short EAF. So I'll ask the Board Members if you have any questions, comments, on the completeness of the application.

Jon White: The application looks complete. The only question I have and I don't know if the applicant's here tonight is the property they're taking that 73 feet from, do they own that property or do they have to obtain property from somebody else?

Nick Cortese: That's the million dollar question right now.

Jon White: Right because in the 11<sup>th</sup> hour, that person can say 'I don't want to sell this,' and then this is all for naught.

James Brewster: Correct. Right, it was addressed but not as succinctly. But we'll address that, that's for the public hearing. Duly noted but we'll bring that up.

Jon White: Otherwise everything looked fine. I have no objections to accepting it.

James Brewster: Ok. Is that your motion?

Jon White: I will motion to send it to the Planning Board and schedule it for public hearing.

Ed Miller: I'll second that.

James Brewster: Ok, any further discussion or questions, comments on that? No, Ok. Roll call then.

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

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

Ayes – 5          Nays – 0

James Brewster: Application 2022-V16 will be moved through our Planning Board and then scheduled for our October meeting. Next is application 2022-V17, Sonbyrne Sales Inc., Christian Brunelle representing, 6 parcels to be combined on Upper Front St and along Smith Hill Rd, application for a double area variance to have a Byrne Dairy gas station and convenience store with less than required lot size from six acres to 2.7 acres and less than required lot width from 350' to 254' in a PDD-C zone with a short EAF. Any thoughts on this as far as completeness of the application? Is it ready to move on? Do we need anything else?

Jon White: The application's complete.

Aleta Kinne: The combining of the lots has already happened or pending on the variance?

James Brewster: Good question.

Nick Cortese: I don't know. I don't know if the lots have been combined yet but if you're just combining tax map parcels into one that's generally done through Broome County, not through the Town. It's not like a subdivision where you're taking parcels and splitting them into smaller ones. When

you're just combining many tax map parcels into one, that's usually done through the County Real Property Tax Department.

Aleta Kinne: The applicant's here.

James Brewster: I believe the applicants are here.

Aleta Kinne: Maybe he'd like to speak on it.

Christian Brunelle: Good evening, Christian Brunelle, Vice President of Byrne Dairy. Thanks for having my application tonight. To answer your question, the six slots have not been combined yet. The property is contingent, the contract contingent upon all approvals. Mr. Boland is the owner, he is here with me tonight. Assuming that I got all necessary approvals from the Planning Board and this Board, before a building permit will be issued you can make that, usually it's a contingency that all six lots will be combined into one. You are correct, I did talk to the County and the Town. That is done in this County, other counties it's a little different, but in Broome County it is done administratively. It's already been surveyed, it's going to be a simple legal description. Six are going to go into one, and I believe we've already got the address figured out. Just administrative work for the County, and I'll ask that again during the approval process that it's contingent upon six lots combining into one.

James Brewster: Ok. We will revisit that at the public hearing of course. That sounds good, thanks.

Aleta Kinne: I had another question. Thank you for the site plan. Do you plan to put the electric chargers in there too?

Christian Brunelle: At this time we don't have any plans for electric charging stations.

Aleta Kinne: Ok. Thank you.

James Brewster: If nothing further I'll seek a motion to move this application through to Planning and our meeting in October.

Scott Smith: So moved, Mr. Chairman.

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

James Brewster: Roll call please.

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

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

Ayes – 5          Nays – 0

James Brewster: So 2022-V17 will be moved through Planning and onto our October meeting for public hearing. Thanks. Next up for new business we have a Zoning Interpretation application. The interpretation is 73-3 word usage definitions for temporary structures. Mr. Pratt is contesting the Code Officer Gavin Stiles' decision on truck trailers, tents, and structures of a similar nature

definition such as shipping and sea containers. Do any Board Members have administrative or legal questions to address? This goes through the same process tonight. We do have to have a public hearing on the interpretation so we'll be doing the same thing with this, moving it on.

Scott Smith: Ok, so we're not talking about it tonight.

James Brewster: Not in details but I've been instructed to ask if anybody has any procedural questions for how we're going to go about it.

Ed Miller: Just so I'm clear, the discussion is whether a container is classified as a shed?

Nick Cortese: The basic question is Gavin's interpretation of the Zoning Code, and I wish he was here to talk about it, is that temporary storage containers like that are basically considered to be the equivalent of an accessory structure, like a shed. He's not characterizing them as temporary storage containers, he's characterizing them exactly like you said, the equivalent of an accessory structure that's permanent at a home because of his interpretation it doesn't meet the definition of what the Town Code defines as temporary structure. The gentleman who's filed the application disagrees and believes that they should be considered to be temporary structures and they should be removed after 90 days and so it will be down to you guys to interpret the Zoning Code to make a definitive pronouncement of what's what with respect to that question.

Scott Smith: And that's in the form of a public hearing.

Nick Cortese: Right. So Gavin will present his side, the applicant will present his side; you'll take whatever exhibits that both of them have to give you. We'll have a discussion and either we'll draw up the resolution after we have the discussion like subsequent or we'll pass it the next meeting. I'm not exactly sure how that will work because we'd work in your interpretation into the resolution and I want to make sure that that's right and I don't want to presume anything before we get to the meeting so we'll have that discussion as the month goes on here.

Scott Smith: Is it possible that at some point we may decide that it's something more that we should elevate to a Town Board?

Nick Cortese: No, not in this instance. This is basically, your job is to make a definitive pronouncement of whether or not shipping containers are considered to be permanent accessory structures or temporary structures and to the extent that the Zoning Code may need revising down the road, that's not really the subject of this. This is as the Zoning Code is currently written, what is your interpretation with respect to that question?

Jon White: We would have to interpret it as the Zoning is written.

Nick Cortese: Correct.

Jon White: And we can talk about it, we wouldn't have to vote on it anyways at the next meeting. We could table it until the following meeting because this falls under the 62-day guideline?

Nick Cortese: No. I don't think it falls under the 62-day guideline. At the end of the day we should be looking to approve this within 30 days after the public hearing has closed just as kind of best practice even if there isn't a specific timeline that applies. What I'm saying is that I don't think that we'll show up with anything pre-drafted. I think that we'll have the public hearing and then we'll have your discussion and then from there I'll take direction from you guys as to how you want the drafting done.

Jon White: And then send it to us to review

Aleta Kinne: For the public hearing, are these people listed going to get postcards? How do the postcards go out for the public hearing?

Nick Cortese: It doesn't really deal with a specific piece of property so probably there won't be postcards that go out. It will just be the normal notice that we do.

Aleta Kinne: So these listed won't be notified?

Nick Cortese: I don't know what that list is, I'm sorry.

James Brewster: There's a listing inside the application of properties that have these type of structures on them.

Nick Cortese: Oh, well I'm sure it's not a complete list.

James Brewster: We'll go with the regular notification as whatever is legal and proper. I don't know if this applies because it's not really a centroid around a certain property. It's multiple centroids around multiple properties.

Nick Cortese: I think that I'll probably give that legal advice offline.

James Brewster: Ok.

Ed Miller: Does the code call for any construction details for a shed? Does it have to have a footer? Does it have to have certain kind of siding or certain kind of roof?

James Brewster: We'll deal with that at the meeting because we're getting a little bit too much in the weeds.

Nick Cortese: That's all part of your analysis.

James Brewster: So mull that over, that's a great question to bring up when it's appropriate.

Michael Lumsden: So you said there's a public hearing so I believe under the public hearing the public has the right to come out and also speak after the applicant has said his piece?

James Brewster: You're right.

Michael Lumsden: Ok, thank you. I just wanted that on the record.

James Brewster: Yeah, it wouldn't just be tit for tat.

Michael Lumsden: Ok, I just wanted to clarify. Thank you, Mr. Chairman.

James Brewster: All right, is everybody good? We'll go through the process again of moving this through and take it up next month?

Aleta Kinne: This doesn't go to the Planning Board? It just goes for public hearing.

Nick Cortese: Yes it does. This has to go to the Planning Board based on the way that the Code reads, there's no exception for this as opposed to variances. The Planning Board arguably doesn't have the authority to comment on this or make recommendations but administratively the Code requires you to do this and we want to make sure that we're doing everything correctly from a procedural standpoint, whether or not it makes all the sense in the world or not.

Scott Smith: Do they have the authority to make suggestions?

Nick Cortese: They could but you can't rely on them.

Scott Smith: Ok.

James Brewster: They also wouldn't be binding like their recommendation is, like if a vote goes favorable we have to supersede that.

Nick Cortese: No, County Planning Board recommendations, that requirement applies, a super majority vote if they recommend against a project but local Planning Board, that is not a binding recommendation in any instance.

Scott Smith: I'm sorry, one last thing. When they announce the public meeting, they'll put that on the website as they normally do the rest of them?

James Brewster: Yes, to the best of my knowledge. The legal standing is to publish it in the newspaper.

Nick Cortese: And then it'll go on the website.

James Brewster: Right.

Nick Cortese: Newspaper and website.

Jon White: And on the agenda and all that. There's various places people can go to see it.

Aleta Kinne: I still feel though that we have a list of people that we should make sure that they are each notified of the public hearing.

Jon White: Essentially Aleta, that list doesn't mean nothing unless we say that those containers are part of this.

James Brewster: That's just part of the evidence. It's different from a variance I think. Do you know that for sure or can you kind of research that?

Nick Cortese: The Town has never had an obligation to send out postcards to property owners with respect to any of this. It's just something that they've done as a practice in-house. They don't have the legal obligation to do that, they've never had the legal obligation to do that. They just do that as a nice thing for people who live close by a piece of property that has an application pending. This is untethered from property and is conceptual so I don't know who we would notify because it technically may affect every single person in the Town of Chenango.

James Brewster: Correct, so the notification is essentially everybody.

Nick Cortese: Correct, so we'd use conventional means, that's my suggestion.

James Brewster: Ok. We need to move it on to the next Board meeting.

Jon White: So moved, Mr. Chairman to accept it and move it on to the Planning Board and public hearing.

Scott Smith: I second that.

James Brewster: Ok. And any further discussion now that we have a motion and seconded on the floor? No, ok. Roll call.

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

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

Ayes – 5            Nays – 0

- James Brewster:            Ok, so the interpretation will be moved forward to the Planning Board and our next meeting. So, now we move to the public hearings and the first one up is 2022-V14, Jamie Geiger of 1607 NYS Rte 12, tax map number 095.09-1-29, application for an area variance to construct an addition with less than required side yard setback from 20' to 3' in an Agricultural zone and a short EAF. At this time I will open the public hearing so do I have the applicant here?
- Jamie Geiger:              Yes.
- James Brewster:            Ok, so what we do is we have five factors, I think you did address them to some degree in a letter and we'll go over them verbally again for the record and I'll take you through it. In the meantime do you have any opening statement you'd like to give?
- Jamie Geiger:              You're going to go over this but I am in need of building this addition to house my elderly parents as opposed to putting them in a nursing home.
- James Brewster:            All right then, everybody ready? Ok. So, there are five factors that are considered by a Board for area variances and none of them are exclusive so let's say we say 'no' to one of them, it's not an automatic rejection. These are just factors we consider in total when we make our decision. So the first one we ask about is will the granting of this variance and your project produce an undesirable change to the character of the neighborhood or be a detriment to nearby properties? And in just in your own words try to answer that question.
- Jamie Geiger:              No, we're going to keep it in line so it doesn't even look like an addition it just looks like part of the original house.
- James Brewster:            Any questions for number one? No. Number two factor can you achieve the goal of the project by some other method that will not require a variance?
- Jamie Geiger:              No. The way my house is built, in order to put an addition off the back of the house you would basically have to go through one bedroom to get to that bedroom. There's nothing on the back of the house but two bedrooms and a bathroom. On the other side there's absolutely no space because the garage is on the other side.
- Ed Miller:                  There's no means to create a hallway through one of the bedrooms to the other bedroom?
- Jamie Geiger:              There's really not enough room. The bedrooms aren't that big to begin with.
- James Brewster:            Anything else? No. Number three, is your variance request substantial in your opinion? In other words, is this going to be a big change from what the existing zoning law allows?
- Jamie Geiger:              I don't know the answer to that. As far as...
- James Brewster:            So, you have to, by the Code, have 20 feet separation between your structure and the property line. So, you're asking us to look at moving it down to a three-foot allowance.
- Jamie Geiger:              Ok, well there's already a fence there that goes to the property line so it's not going to stick out any further than the fence. It's going to be actually back in from the fence.
- James Brewster:            Ok. And I guess I do have a question. In relation to that overhang-type structure currently on your house, can you paint a picture in our mind...

Jamie Geiger: Of what's there now?

James Brewster: Yes.

Jamie Geiger: Ok. Basically, there's a small concrete patio with a roof over it.

Serena Brown: I have pictures, we're the neighbors on that side of the house if that's easier for a visual.

James Brewster: Ok. Sure, bring them on up.

Serena Brown: The first one is actually taken out of our bedroom window.

James Brewster: Ok, we'll look at the pictures and then if you want to speak afterwards. If any of you have questions on number three we can come back because you probably want to see the pictures before you have any questions. We can revisit that with those photographs.

Dan Wolters: So, I'm looking at a picture. That overhang with what looks like a woodpile, the additional structure will go beyond the current structure how far?

Jamie Geiger: It's going to go approximately nine feet from the house.

James Brewster: Ok, I'll move on to number four and we can cycle back. So keep in mind in this question environmental conditions, will the granting of this variance have an adverse impact or effect on the physical or environmental conditions of the neighborhood or district? Basically what that's asking is how much are you going to tear up your property to be an impact on the environment and physical environment conditions?

Jamie Geiger: Shouldn't affect it at all.

James Brewster: Ok. Any questions, anything for that? Ok and number five, this one is usually a fairly standard answer, is the difficulty encountered by your proposed project request for relief self-created? 99% of the time it is.

Jamie Geiger: Is the what?

James Brewster: It is self-created, because you're taking on a project that's not matching the Zoning Code of the Town. Basically, the answer is always 'yes.'

Jamie Geiger: Ok.

James Brewster: We can help you out there. Anybody have any questions on that? We can allow the public to speak now and come back if any of you have questions on those photos. So, is anyone here to speak for or against this application?

Serena Brown: Serena and James Brown, we live at 1605 on the side that they want to build off of.

James Brewster: On the south side?

Serena Brown: Yes. We're speaking against it because as it stands right now our bedrooms are bedroom to bedroom already. Our windows are here, their windows are here. I measured today, we literally just got this notice in the mail at 3:15 today so it wasn't a lot of time to throw anything together, we had no idea. I measured from our house to their fence is 17 feet. We certainly, even if they bring their house out and it's set back from the fence you're still only talking about 20 feet house to house, literally from the wall of the house to the house. The ordinance is there already where there's 20 feet, that's just how the houses were built, not their fault and not our



fault. We bought the houses and they're already fairly close. Our concerns are it just brings it very close to the property line there and not really the agricultural feel we want. It's starting to make it feel more like city as you get closer and closer. We're concerned because their house is a little bit up on a hill from us and so we don't know how it's going to affect or whatever but any kind of runoff or extra stuff that might come down and flood into our home there. We feel like privacy is already an issue. We knew the previous owners of the home so we know the inside of the home a little bit and I got those pictures off of Zillow from when it was being sold. We know that they have a finished basement and it's not my job to tell them where people should live or anything but it just seems to me to they have a finished basement, is there any way they could maybe separate a place off of there for the grandparents instead of building over towards the property line that's just...the fence is ok because the fence sets back. It's kind of at the end of our house and goes out maybe a little bit in but it's at the end of the house and goes back but this is going to literally come right up to our bedroom window and it'll be right there. So, that's our concern. I don't want to be passing muffins back and forth through windows.

James Brewster: I'll let you rebut but we need to make sure that all folks who want to speak tonight can. Ok, thanks. Is there anyone else who would like to speak about this application? Ok, you can have the floor again.

Jamie Geiger: The basement is not an option for two reasons: 1, my son lives there and 2, my parents would ne be able to negotiate the stairs. They are 86 and 85 and they both have serious health problems. The can no longer live on their own and the options were move them in with us or put them in a nursing home and I am not going to put them in a nursing home. But, the basement is not an option, there's no way they could negotiate those stairs. Any other questions?

Scott Smith: Are there any rooms besides, you said walking through a bedroom to get to a bedroom, could you expand one of those rooms to become a larger room for them?

Jamie Geiger: Both of the bedrooms that are at the back of the house are occupied. I live with my sister, she has one end of the house, I have the other. There's a bathroom in the middle.

Aleta Kinne: How long have you owned the house?

Jamie Geiger: It'll be two years in November.

Ed Miller: What about the garage?

Jamie Geiger: What about it?

Ed Miller: Why couldn't you turn it into a bedroom?

Jamie Geiger: I mean I suppose we could, but I'd rather keep the garage as a garage.

Aleta Kinne: I'm interested in another way of doing it other than what the plan is.

James Brewster: Ok, we can talk about that when we have our discussion. We just want to get through anybody who wants to speak and provide information for us. Last call for any either further questions from the Board and if we come up with some we can ask again or if anybody would like to speak. All right, hearing none I do have some correspondence to go through here. Our Ordinance Department is not here to start us off so I'll go to a letter we received from the Town engineer. He did state concerns, he believes that this does not meet the structure to structure separation and I can read those details in the letter if you'd like: 'This Board should consider the

separation and have owner confirm the neighbor has no concerns.' Well, I guess we've addressed that. Let me just read that letter for completeness here. Our engineer stated: 'The parcel currently does not meet the minimum district area requirements for lot size, frontage, or side setbacks. Similarly, nor do the adjacent parcels.' So everybody seems to have a problem, that's my editorial. 'This condition plus the proposed addition would result in a separation distance between this structure and the adjacent neighbor's structure to the south of approximately 22 feet total as opposed to the code requirement of 20+20=40 feet.'

Nick Cortese: That is not a thing.

James Brewster: Yeah, I know. But I'm reading this into the record for completeness. 'Does the three foot setback reflect the wall, or does it include any eaves, roof overhang, or footers?' And he's talking about the proposed project. 'The Board should consider the resultant separation, and perhaps have the owner confirm their neighbor in writing has no concerns.' That was the Town engineer. The Planning Board referred to us a favorable referral, ensure the accuracy of the property boundaries and have a neighbor letter stating they have no concerns, but they've come to the record. Town Drainage Coordinator has stated that this application is not applicable for his purposes and Broome County Planning provided us a favorable referral with no countywide impacts addressed and the other departments from the County had no response. We did not receive public correspondence, but obviously we've had public discussion in the record. That's all the correspondence I have and last call for anything before I close the public hearing.

Scott Smith: Well, we're going to have discussion ourselves.

James Brewster: Not right now.

Jon White: When we get to it.

Scott Smith: Yeah.

James Brewster: If you're all in agreement I will close the public hearing.

Scott Smith: Before you do, if in any event that something comes up that we have a question for either side, will we be able to ask it?

James Brewster: That's my understanding.

Scott Smith: Just making sure.

James Brewster: Ok, with that I will close the public hearing for 2022-V14 and we'll move onto our next application. I'll open the public hearing for 2022-V15, Stephen Giannini of 35 Wallace Rd, tax map number 128.07-4-3, application for a double area variance to have a driveway with less than required side yard setback from 10' to 3' and an addition with less than required distance from an adjacent home from 20' to 18' in a Residential Zone and a short EAF. Do we have the applicants here tonight?

Stephen Giannini: Yes.

James Brewster: So you got see how it's done and we know that you submitted some answers via a letter but we'll take you through again like I did for the record. Do you have an opening statement at all you'd like to just summarize?

Stephen Giannini: We are just continuing the driveway that's already there, we're continuing it to the back. We're putting up a garage, the pad's already poured and the garage should be coming next week. We wanted to put a slight addition onto the side of the house so that we could add a half bath, laundry room, and a mudroom. We have two dogs and it's difficult to get them out of the house without them slipping out the front door. We need kind of a two-entry system so that if they sneak into the mudroom they don't get out. So, we would like to do that. It works perfectly with the house, it's a stone home, I've already hired a stone mason. He's going to stone it just like it is now and the driveway will go right against our house as it is. As I've mentioned, the driveway just continues the current driveway to the back of the house.

James Brewster: All right. So again, I'll take you through these questions and number one is will the granting of this variance and your proposed project produce and undesirable change in the character of the neighborhood or be a detriment to nearby properties? The qualification is why.

Stephen Giannini: I think it will be an improvement to the neighborhood because we're putting in a lovely concrete driveway and the addition is going to match the house perfectly and I don't see how it would cause any detriment to the neighborhood whatsoever.

James Brewster: Ok, questions on number one? So you say you're continuing the driveway, then you said concrete. Will you be removing the existing?

Stephen Giannini: Yes, the asphalt will come up and the concrete will go where the asphalt is.

James Brewster: Ok.

Ed Miller: So the existing driveway is...

Stephen Giannini: Asphalt.

Ed Miller: And the setback of the existing driveway is what?

Stephen Giannini: She just had the property surveyed so it's actually a foot off the line so that's where it's been. It's going to be exactly where it was. I'm not changing where it is. Where it is is perfect, I just want it concrete.

James Brewster: Factor number two, can you achieve the goal of your project by some other method that will not require a variance? You may have already addressed that.

Stephen Giannini: I can't install the driveway without, it's got to be there. It's the best way to put the slight addition on the house, it's the most cost-effective way to do it and we're not really house to house it's garage to house because it will be her garage that we're next to, not like in the situation with the bedroom windows. It's structure to house.

James Brewster: Anything on that? No. Is your variance request substantial? In other words, is it going to be a big change from what the existing zoning allows?

Stephen Giannini: No, because the driveway's the same with the exception of the 18 feet between structures. That's the only change in zoning factors.

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

Stephen Giannini: I can't see how it would. I don't see how it would have any adverse effects at all.

James Brewster: Any questions? And number five, is the difficulty encountered by your proposed project request for relief self-created?

Stephen Giannini: Yes, Gavin and I talked about the self-created thing so I understand that.

James Brewster: Any questions or comments at this point from the Board?

Board: Not at this point.

James Brewster: Ok. Is there anyone here from the public that would like to speak for or against this application?

Gail Bielefeldt: My name is Gail Bielefeldt, I live at 37 Wallace Rd and at the time when Mr. Giannini bought the property it was not surveyed. I did have it professionally surveyed by Brian Bush Land Surveys so that we would all know where the property line stood between that side of the house. The stake that starts at the road, which I didn't realize is about very close to the existing driveway. As it goes up it is a straight line in a surveyor's world but it almost looks crooked and it was assumed that the property line was on the garage that was built in the 1980s when Gerry Waterman applied for a variance and had his garage placed. In fact that garage is 2'1" and then the property line runs past that. The driveway would have to be three feet from my property line by the garage is what I'm hearing. Is that correct?

James Brewster: As you know he's asking for a three-foot setback, we'll have to look at that.

Gail Bielefeldt: It is staked, Bush staked it so that we'd all know where that property line was and any workmen coming to work on the property would know where the property line is. The fence runs .9' from the property line so that's on the property all the way back on that side of the house.

James Brewster: And for the record you did send us pictures today.

Gail Bielefeldt: Yes, some pictures were sent by my daughter.

Jon White: I've seen the site. I went to the site with Gavin and measured it so I'm familiar with the property line. The front part of the driveway right now is about 10 inches off the property line.

James Brewster: Ok, we'll discuss that later I want her to have her time. I just wanted to get on the record that someone in your family sent pictures today.

Gail Bielefeldt: Yes they did.

James Brewster: So we have photographs and some of us went out.

Gail Bielefeldt: And I'm not begrudging them a driveway, I knew whoever purchased the house, the lady that lived there before used that driveway and she didn't have a garage. I knew someone, when they purchased the house, would need a driveway and a garage obviously. That's a necessity not a luxury. I just wanted to make sure they're a proper distance. Last July we had a fire across the street at 38 I believe, Gerry Waterman's property and that property next to Smith's property fortunately the firemen came it was well extinguished and there was very minimal damage to that house and thankfully not to any other homes because on that side they're quite tight together. But, I just wanted to make sure that there's some proper distance between the property line because it's mine and his, for safety for the vehicles coming and going and all that. I'm not begrudging anyone a driveway I just want it to be safe and I just can't figure out how you're going to do ten feet of a house and then the width of a driveway safely. Must be maybe that driveway's going to run right up against the side of the house. I don't know, I'm not a

contractor and I don't pretend to be. I just want to make sure that it's going to be from the property line so everybody has kind of what they want.

Jon White: We can have that discussion more, you'll hear our discussion I think as a Board more and we will have questions probably for both of you, but we can get that into more detail without getting into too much discussion now.

James Brewster: Thank you. Anyone else? No, ok. I have correspondence. Starting off with Ordinance, no comments they're not here. Town engineer has no objections, his only comment was to see the Highway Superintendent's comments and we'll get to that. Planning Board sent back a favorable referral with no commentary. The Town Drainage Coordinator did submit a conditional approval with statements saying that the applicant needs to maintain the catch basin location. There's no changing that. Broome County Planning was favorable on this project with no countywide impacts and nothing from Health, DPW, NYS DOT or the BMTS. Like I said, we received those photos and an email from the next door family today in our emails, and that's all the correspondence I have.

Gail Bielefeldt: The drainage brought it up because that will be maintained and not be messed with, right? Because when we had water several years and that drainage system saved a lot of people's basements and such when we had a lot of water problems so that will be maintained and made to stay there and not in any way changed, correct?

James Brewster: That's what's been recommended to us.

Gail Bielefeldt: Ok.

James Brewster: Ok, last call and with that I will close the public hearing now for 2022-V15. All right, thank you everyone who is in attendance for participating and being here, it's quite a big crowd tonight. Now we'll move on, we'll have our Board discussion and we'll go back to 2022-V14 for the Geigers on Route 12. First I should say that I've been advised by Nick as far as SEQR goes these are all type II.

Nick Cortese: They are.

James Brewster: They are all type II so we do not have to go through the SEQR form and make a declaration. Who wants to start on 2022-V14?

Jon White: This revolves around where the property line is and I don't know as if we really know where the property line is. She is saying that the fence is on the property line but do we really know that the fence is on the property line? That kind of goes back to what the engineer said about needing the know where the property line was.

James Brewster: Correct. We should've received, it's part of the required package is to have a site plan and we have somewhat of a site plan.

Jon White: Right, somewhat of a site plan but we don't actually have, it's not like it's been surveyed immediately nor has it been...Ms. Geiger, do you know when's the last time it's been surveyed?

Jamie Geiger: I don't know.

Jon White: Ok.

James Brewster: So there's an annotation just on the broad parcel mapper map that I think I need come clarity on. It says 'currently 9', will be 10' when completed.' Did you annotate that?

Jamie Geiger: There were blueprints drawn up for the addition.

James Brewster: Ok, so I guess my interpretation of this is your current overhang extends out 9' from the house. Is that fair or is that just an assumption?

Jamie Geiger: I don't know, like I said they had a plan drawn up for the addition and he was out and measured everything.

James Brewster: Yes, there is a plan for the addition. Tell me if I'm wrong anybody, I'm not seeing placement.

Ed Miller: There's no site plan.

James Brewster: So we'll have to do the best we can.

Jon White: So anyways, without knowing where the property line is, how do you know, how close are you truly to the property line? And even with the neighbor's house?

Serena Brown: From the previous owners, we were friends with the previous owners, it's our understanding that their property line actually goes beyond the fence line possibly up to our shed but we have a fence there so it was never an issue but the property line I believe actually does extend beyond the fence line towards our house. I'm not a surveyor, that's from the previous owners. That's how...

Jon White: The one thing I've got to say is assumptions can be screw ups so that's the thing there.

Serena Brown: Yes, it's just that's what he relayed to us back when they lived there.

Jon White: And I've seen places that, oh that fence is on the property line, and the property line's on the other side of the fence and then the fence is on somebody else's property. This is where it kind of becomes a sticky wicket being that type to the property line.

Ed Miller: Yeah, I don't see how, I think they've got to define that kind of stuff, right?

Jon White: Yeah, you would have to either locate the pins or have that line surveyed.

Ed Miller: And do a site plan.

Jon White: And verify what is what and I mean, that is what Alex Urda is saying essentially in his letter and in his recommendations. If they're correct saying that their house is 17' off and she's going to be 3' off with their addition it meets that 20' separation from adjacent to adjacent building, that's all good, if the property line is where it's supposed to be.

Ed Miller: Is it 20' from adjacent building or 20' from the property line, the setback?

Nick Cortese: For principal structures it's ten feet to the property line and 20' from structure to structure so the more stricter of the two setbacks would apply depending on the scenario that we're talking about.

James Brewster: And in this case the stricter is the ten feet, so that's the only applicable part.

Serena Brown: This is Agricultural so doesn't that make a difference?

James Brewster: We're in Board discussion right now, I'm sorry. Yes, we do have to consider that it's an Agricultural Zone but that's usually laid out for us.

Jon White: 20' to 3' side yard setback in an Ag zone.

James Brewster: Ok, so yeah it does say...

Nick Cortese: Principal use, side yard setback is 20' and I don't believe that there's those same annotations in Ag Zone as there is in Residential Zone. No, there's not. So, it's side yard setback is 20' from the property line, there is no building to building requirement in the Ag Zone. It's just that one setback. I misspoke I'm sorry, that applies to Residential Zones only.

James Brewster: Ok, so they did ask for 20' down to 3'. Clearly it's already nonconforming or so we presume.

Scott Smith: Nonconforming because of the structure that is there?

James Brewster: Because the house exists within 20' without a site plane, just eyeballing it. That's an assumption and I shouldn't say that definitively. That's my opinion from looking at it. Especially the overhang part.

Jon White: Ms. Geiger, that overhang's going to come off, correct? That overhang where the door is and the firewood's stored, that's all going to come off to put this addition on?

Jamie Geiger: Yes.

Scott Smith: The addition is larger than the overhang.

Jamie Geiger: By a little bit, yes.

Scott Smith: Sorry. Redefine a little bit.

Jamie Geiger: I don't know the exact measurements. I believe it's a couple feet, three feet maybe.

Aleta Kinne: It's going to be a little wider.

Jamie Geiger: If the overhang that you're stating, it says it's nine feet?

James Brewster: Yeah, I'm just looking at a comment that was submitted with the application for your property says 'currently 9', will be 10' when complete,' that could mean anything. It's written in red and the little addition is highlighted in red so I'm kind of thinking that the red pen comment went together?

Jamie Geiger: Well, I know that the total addition will be 10' from the side of my house, not from the overhang. It's going to be 10' from the side of the house.

James Brewster: Ok. Well, that helps a little but still we don't know and I'm troubled we didn't get a comment from Planning because now, we have a requirement that they provide a site drawing for a variance but is there any actual requirement for a site plan? To my knowledge, no.

Nick Cortese: Think about all the applications that you've ever received. How many of them actually have a legitimate engineered-drawn site plan? Like, zero. I think that for the most part we've required that there just be a reasonable depiction of what it's going to look like because the project itself is still subject to receiving a building permit, right? So, if it does turn out that the construction of the addition exceeds whatever variance that you may grant this evening, a building permit would not be granted because the structure would not be able to be constructed legally. So, there may be a requirement that incident to obtaining a building permit that a survey be obtained ahead of time such that we know for sure where the property line is and we also know for sure whether or not the setback is being complied with. But in terms of not having knowledge of where the property line is right now, that's more of a project-based consideration and less of a variance-based consideration in my opinion.

Jon White: Right, ok. I mean, the one good thing is it's a bedroom and it does border their bedroom. I don't see 80-something year old people creating a lot of ruckus at midnight so...

Ed Miller: I see it as the neighbor doesn't want it and the Town engineer basically prefaced his opinion on that and if they don't want it they don't want it, you know? If that was me I would be outraged if somebody let somebody have a variance next door to me that wasn't part of the law.

Aleta Kinne: I think it needs to be studied about doing it in a different way. He suggested through the garage, a hallway to build on the back or it's a big backyard. There's plenty of room behind.

James Brewster: Are you on septic?

Jamie Geiger: No, a well.

James Brewster: I meant for sewer.

Jamie Geiger: No.

James Brewster: Ok, thank you.

Aleta Kinne: There must be a way to add on back here instead of here. We don't want these housing areas to all of a sudden begin to look like they're sitting on top of each other. I'm finding that these residential areas were set up long ago, small lots, quarter-acre lots, probably after World War II a lot of them. Now people are coming and buying these small lots knowing they're a small lot and they're there a couple of years and all of a sudden the house is too small, let's go out this way and it isn't really fair to the person at the next property.

James Brewster: This is Agriculturally zoned, which requires larger spacing. So, as far as one of the factors goes, 20' to 3' is pretty big.

Jon White: It's very substantial.

Scott Smith: While I agree that a couple of 80-year-olds aren't going to be causing a ruckus, the next occupants of that room, it's inevitable, might not be as quiet if there are children or whatever. I think that adding in an Agricultural Zone, if we do it now then these lots are going to continuously get smaller and smaller until it looks like downtown. Maybe not to that extreme but I think it sets a bad example. If you look at the house I think there's a few other options where they could go.

James Brewster: Ok. So I just want to try to tie these comments into the five factors, that might be under number one the character or it might be physical or environmental? In my opinion it's not environmental.

Jon White: More character.

Scott Smith: Yeah, undesirable change in the character and is substantial to a degree that, I mean we've said in the past, substantial but not in a terrible way. Well sometimes, maybe it's not terrible but it's not a positive effect on the area.

Ed Miller: I think under the circumstances there is another way to do it, like going out the back or using the garage.

James Brewster: Ok. Mr. Wolters, do you have anything?



Dan Wolters: No, I think the neighbor's concern is a legitimate one. If the garage were to be turned into a room and then apply for another variance to offset the garage in front of the house or something and that would require another application I would assume, that's something that would be different from what it's zoned but it's not something that would impact immediately a neighbor whereas this, there's real potential for impacting a neighbor.

James Brewster: Ok.

Jon White: I think on the garage side there's a bit more room on that side of the property compared to the side she's looking to do now, put that addition on now.

James Brewster: Are we satisfied with our discussion? Anything else? Otherwise we'll go through our consensus with Nick taking us through the Resolution.

Nick Cortese: Factor number one is, the requested variance will or will not produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties? Let's hear from everybody.

Jon White: Will.

Ed Miller: Will.

Aleta Kinne: Would.

Scott Smith: It will.

James Brewster: It will.

Nick Cortese: And if somebody could synopsise why for the record, that would be useful.

Jon White: I think it goes back to kind of what Scott brought up of adding on and making the lot smaller, you're crowding the other house and there's other options to be looked at to be able to achieve the same goal.

Nick Cortese: Piggy-backing off of that thought, number two, can the benefit be achieved by another method or can it not?

Aleta Kinne: Can.

Jon White: Can.

Ed Miller: Can.

Scott Smith: I believe it can.

James Brewster: It appears it can be.

Nick Cortese: And again, if somebody could just give a little summary of your previous discussion.

Ed Miller: I think possibly off the back or convert the garage.

Aleta Kinne: Agreed.

James Brewster: There appears to be other availability of land for repositioning of the proposed structure, and they could put it out the back like was suggested.

Nick Cortese: Number three, is the variance substantial?

Jon White: Yes.

Ed Miller: Yes

Aleta Kinne: Yes.

Scott Smith: Yes.

James Brewster: I think it is, yes.

Nick Cortese: And I think you all have made that fairly clear. Would the requested variance or would it not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district?

Jon White: I'd say not.

James Brewster: This factor I say no.

Aleta Kinne: On the physical, not the environmental. But the physical.

James Brewster: Explain. The physical of the whole neighborhood?

Aleta Kinne: It would have an effect on the physical.

Nick Cortese: In what way?

Aleta Kinne: The distance. Crowding.

James Brewster: I see that as more as character, but I see what you're saying.

Jon White: That can fall under number one's guideline, the number one with the detriment to the character of the neighborhood.

Nick Cortese: What does everybody say individually?

Ed Miller: I think that yeah, it's a physical difference because if you know the setback's 20' and you drive down there and see that this one's 3', it's just my opinion.

Jon White: I say won't.

Scott Smith: I would say would for one neighbor whose environment has been adjusted in an uncomfortable manner.

Nick Cortese: Just to reiterate, the statutory question is whether it would have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district?

Scott Smith: Ok, so the whole neighborhood would not be affected.

James Brewster: Correct. And we haven't mentioned anything about drainage or flooding, that would be insignificant in my opinion. I'm going to give that a will not have an effect, that'll be my vote if you will.

Nick Cortese: So we have a majority on that. And lastly, do we agree that the hardship is self-created?

Board: Yes.

Nick Cortese: Ok, so to run this back the requested variance will produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties, the benefit sought by

the applicant can be achieved by another method other than the granting of the variance, the requested variance is substantial, it would not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district, and the hardship giving rise to the variance is self-created. What's left to determine is whether this is a motion to grant, deny, or grant with conditions this variance.

James Brewster: So, let's keep in mind what Nick said earlier about the potential conditions we could put on there and to more constrict the, well certainly it'd be the conditional granting if that was the case but also there's still the building permit process which we can put conditions on it so the building permit process would be more stringent than it already is. So, that's just something to consider, laying it out there again otherwise we can make our determination whichever way we'd like to go.

Aleta Kinne: I'm going to deny it because if you do it with conditions you've still got the same footage there so I deny it.

Ed Miller: I deny it as well, because of the neighbor.

Jon White: Yeah, because even with the property line condition, they survey the property and everything's good, they still were able to build it, you've got a neighbor that feels that they're being overcrowded. She has other options to be able to do something, I say deny.

Scott Smith: I concur.

James Brewster: Ok, we can go with that.

Nick Cortese: Based on all the forgoing discussion, the Resolution is complete, my editing is done based on our discussion and this would be a Resolution to deny the variance application 2022-V14 for an area variance to construct a home addition with a side yard setback of 3', less than the minimum side yard setback of 20' in the Agricultural District. If you are comfortable with this Resolution you can make a motion to adopt it and deny the variance.

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

In the Matter of the Application #: 2022-V14  
of Jamie E. Geiger for an area variance to construct a home addition  
with a side yard setback of 3 ft. in the Agricultural Zoning District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V14**

**WHEREAS**, on or about July 29, 2022, Jamie E. Geiger ("Applicant") duly filed an application for an area variance for property she owns within the Town, with a street address of 1607 NYS Route 12, designated as Tax Map No. 095.09-1-29, and located in an Agricultural Zoning District, wherein Applicant requested a variance to construct a home addition with a side yard setback of 3 ft., which is less than the minimum side yard setback of 20 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 September 27, 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 September 27, 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** produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties.
2. The benefit sought by the Applicant **can** 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 **does not outweigh** 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-V14 for an area variance to construct a home addition with a side yard setback of 3 ft., which is less than the minimum side yard setback of 20 ft. in the Agricultural District, is **denied**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on September 27, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Aleta Kinne and seconded by Ed Miller. The ZBA members voted as follows:

James Brewster, Chair	Voted: Nay
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye
Edward Miller	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4-1.

James Brewster: The Resolution has been adopted?

Nick Cortese: Yes, and the variance has been denied.

James Brewster: The variance has been denied. Now it's time for us to discuss 2022-V15 for 35 Wallace Rd. To get us back on track here, this is a double area variance so we'll have two different Resolutions to consider and the first one is the driveway with less than side yard setback from 10' to 3'. This is Residential and we have an addition with less than distance to a neighboring structure from 20' to 18', roughly similar to what we just discussed or things that came up. Who wants to begin?

Aleta Kinne: I didn't see the pictures.

Ed Miller: I didn't either.

Jon White: 37 Wallace got their property surveyed, the survey line is there. The front of the driveway, the side of the driveway is 10 inches off the front stake. There is enough room, me and Gavin went out and measured for the 10' off the house and they would have enough room that you would fall in that 18' for the 10' addition put on their house to the garage. The driveway would have to be right tight to the addition to maintain that 3' off the property line, and then my recommendation is the front of the driveway has got to be cut and then you're going to stay 3' off the property line. You're not just going to stay 3' at one part and expect to have...

Ed Miller: So it's not parallel to the property line. ^

Jon White: Yeah, it's nonconforming but you're taking this now and you're going to redo this so you've got to make this conform, is my opinion.

Nick Cortese: You are correct, Jon.

Jon White: So, the room is there to do that. Basically, the neighbor all they're concerned about is they stay 3 feet off the property line is my take from what she has said. They'll still have an 18' separation off of that from their garage to that mudroom. I don't see a problem with it as long as they maintain that 3-foot separation. And it's just the garage and driveway, it's not like you're having a thousand cars, even 20 cars a day going down to that garage so your minimal chances of something happening is going to be small. Yeah, the realm of possibilities in an icy condition and you slide and possibly hit her garage when Mr. Giannini is going down to his garage. That could happen but that's what you have automobile and homeowner's insurance for.

Ed Miller: So the 3-foot is the driveway from the property line and the addition will still be 18'.

Jon White: Yeah, that'll be 18-foot off the garage. And then if he doesn't do the addition and wants to put the driveway in, he can stay 10-foot off the property line then. The driveway is just going to be tight to the existing house as it is now.

James Brewster: Right, I think you hit it on the head where now the existing driveway is not compliant, and that's why I asked if he was going to rip it up so that will have to come over from that stake in order to be compliant. Whichever way we go that's going to have to be a condition we'll have to wrap in there.

Jon White: Is it going to bother anybody else? I don't think so, I don't think the neighbors have any other objections other than the property line.

Scott Smith: Drain.

Jon White: Well yeah, and the drain of course. That whole area's got nothing but problems once that water comes down off that hill.

Sally Giannini: We aren't going to touch the drain.

Jon White: Right, that's beneficial for everybody including yourself, that part. And I understand we got dogs. I understand the mudroom.

Sally Giannini: It's mainly the laundry.

Jon White: Where's your currently laundry now?

Sally Giannini: In the basement, which gets water.

Jon White: Right, and as you get older it's not as easy to go up and down those stairs and everything else.

Sally Giannini: We would like to get as much out of the basement as possible.

Jon White: Right, I don't see any problems with it. It's just got to stay 3-foot off, I don't think the neighbors have any objections as long as the driveway's 3-foot off.

James Brewster: Personally, I got a sense that you were not opposed as long as things lined up correctly according to the plans.

Gail Bielefeldt: Correct, and we do have the property line now because there was a question obviously when we purchased the property, the bank didn't require a survey but I thought for all intents and purposes we'll all find out where the property lines are and that way we'll know where it is for the future. Who knows who's going to purchase the property next, and you just don't know.

Jon White: And with the previous applicant, that's why I asked if they had a property survey and if the survey was done even in the last 20 years. The survey map was given to them when she had purchased the house because the survey's the gospel. Those guys have to go into court and say yes, that's the line and that is how I come up with it and that's it. So, now you have that definitive line and everybody has to adhere to it.

Gail Bielefeldt: And like they said the drain saves some people some stuff and it's necessary.

Jon White: It's all you can do when that water comes off Smith Hill, I've seen it firsthand.

Gail Bielefeldt: So have we.

Stephen Giannini: So have we.

James Brewster: All right, I'm going to rope everybody back to the table here. Anybody else, any concerns?

Dan Wolters: If my understanding is correct, the current edge of the driveway is 10 inches to 1 foot from the property line so when the driveway gets torn up...

Jon White: They can move the driveway over towards their house a little bit.

Dan Wolters: And still be able to maintain...

Jon White: And actually the existing driveway is a bit wider than the 12-foot.

Dan Wolters: That's kind of what it looked like, quite wide.

Aleta Kinne: What's the distance here? From the post to her garage?

Gail Bielefeldt: Are you talking about the post that's next to the garage?

Scott Smith: Yes.

Gail Bielefeldt: 2 feet, 1 inch. It's listed there.

Stephen Giannini: But none of your Town maps showed that, we didn't know that at all. Your Town maps showed her garage on our property so that's fine.

Jon White: You can't trust Broome County GIS. It says right there do not trust the boundary markers.

Stephen Giannini: I got it, that's fine. We just have to redo our addition, that's all. We have to do new plans for our addition because it won't fit. If I have to be 3 feet off, I can't do it. If I have to move the driveway over 3 feet...

Jon White: No, here's the property line. The edge of the driveway has to be three feet off the edge of the property line.

Stephen Giannini: Right, and right now it's 10 inches.

Jon White: So you move that 10 inches that way.

Stephen Giannini: Right, and I can't put my addition on anymore so I'll have to put it behind, but I can do that.

Jon White: You can put your addition on. You're only coming 10-foot off the side of your house with that 10 feet, and then you've got another 12 feet of driveway so your driveway is going to be right tight to your addition...

Stephen Giannini: Which was the plan.

Jon White: So you're 22 feet but you're 26 feet to your property line. So that's on the back by her garage. On the front, you're tighter so all you've got to do is instead of your driveway coming at an angle, you straighten it up and go straight in. You can still do your project how you want to do it, you've just got to maintain that 3 feet off the edge of her property.

Stephen Giannini: Ok.

Jon White: That's why me and Mr. Stiles went out today and measured it.

Sally Giannini: And moving it at the street?

Stephen Giannini: We're worried about the drain.

Jon White: Don't forget you can raise the drain a touch probably with some elevation depending on the road and I'm only speaking, that's something you would have to take up with the Highway Department.

James Brewster: Again, we are just laying out the land boundaries and then these details will get ironed out with the building permit and discussions again with the Highway to see how it all fits in but we're just outlining what the boundary has to look like since you requested 3 feet, we're trying to get you that.

Jon White: It'll work, it'll fit in.

James Brewster: Once you touch a nonconforming property then it all has to re-conform. Anything else? I'm satisfied with the questions I had already had.

Jon White: I'm good, I spoke my piece.

James Brewster: Last call before we toss it over to Nick and go through the factors.

Scott Smith: Go Nick.

Nick Cortese: Will or will not the requested variance produce an undesirable change to the character of the neighborhood or cause a detriment to nearby properties? This is the addition, not the driveway.

Board: Will not.

Nick Cortese: Can or cannot the goal be achieved by another method other than getting the variance?

Board: Cannot.

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

Board: No.

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

Board: Would not.

Nick Cortese: Is it self-created?

Board: Yes.

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

In the Matter of the Application #: 2022-V15 (ADDITION)  
of Stephen Giannini for an area variance to construct home addition  
18ft. from an adjacent single-family dwelling in the Residential Zoning District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V15 (ADDITION)**



**WHEREAS**, on or about August 15, 2022, Stephen Giannini (“Applicant”) duly filed an application for an area variance for property he owns within the Town, with a street address of 35 Wallace Road, designated as Tax Map No. 128.07-4-3, and located in a Residential Zoning District, wherein Applicant requested a variance to construct a home addition 18 ft. from an adjacent single-family dwelling, which is less than the minimum distance of 20 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 September 27, 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 September 27, 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-V15 (ADDITION) for an area variance to construct a home addition 18 ft. from an adjacent single-family dwelling, which is less than the minimum distance of 20 ft. in the Residential District, is **granted**.
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on September 27, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Scott Smith and seconded by Jon White. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye
Edward Miller	Voted: Aye

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

Nick Cortese: Variance number two. Same song, different verse. This is for the driveway as opposed to the addition. Will or will not the requested variance 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 be achieved by some other method other than a variance, or can it not?

Board: Cannot.

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

Board: Yes it is.

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

Board: Would not.

Nick Cortese: Is it self-created?

Board: Yes.

Nick Cortese: Ok, so we had talked about placing a condition or conditions on this particular variance application. If this is a motion to grant I'm assuming it's going to be granted with conditions. What are we thinking about for those conditions?

Jon White: The whole edge of the driveway has to be 3-foot off the property line and the location of that storm drain has to remain in its current location and maintained.

Nick Cortese: So the entire length of the driveway has to be three feet off the property line and...

Jon White: And the drain in the front of the driveway has to be in the same location and maintained throughout its life.

Aleta Kinne: Catch basin.

Nick Cortese: Catch basin is the appropriate term for that?

Aleta Kinne: Yes.

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

In the Matter of the Application #: 2022-V15 (DRIVEWAY)  
of Stephen Giannini for an area variance to construct a driveway  
with a side yard setback of 3 ft. in the Residential Zoning District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V15 (DRIVEWAY)**

**WHEREAS**, on or about August 15, 2022, Stephen Giannini (“Applicant”) duly filed an application for an area variance for property he owns within the Town, with a street address of 35 Wallace Road, designated as Tax Map No. 128.07-4-3, and located in a Residential Zoning District, wherein Applicant requested a variance to construct a driveway with a side yard setback of 3 ft., which is less than the minimum side yard setback of 10 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 September 27, 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 September 27, 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-V15 (DRIVEWAY) for an area variance to construct a driveway with a side yard setback of 3 ft., which is less than the minimum side yard setback of 10 ft. in the Residential District, is

**granted with the following conditions: the entire length of the driveway has to comply with the area variance and be no less than three feet away from the property line, and the catch basin at the front of the driveway cannot change location and must be maintained by the property owner.**

8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on September 27, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Jon White and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Aye
Edward Miller	Voted: Aye

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

James Brewster: Your variances are approved.

Stephen Giannini: Thank you. Jon, you said there was 26 feet to play with there by the house?

Jon White: From the edge of your house to that property stake is 26 feet.

Stephen Giannini: Ok, and I only need 22 so that works out fine because I still have 4 feet. We'll curve the first part of the driveway.

Jon White: You can just move that over just to stay the 3- foot off. Your back part of your driveway is going to curve towards the garage. Now everybody will be happy.

Stephen Giannini: That'll work. I just didn't know there was that much room.

Jon White: Yeah, that's what me and Gavin measured so.

James Brewster: Jon, this is just you going out and getting measurement intelligence today right?

Jon White: Today.

James Brewster: There's nothing else?

Jon White: Nothing else, there's nothing else.

James Brewster: Anywho, that's the end of our application discussions. I do have something just to run by. This happened a while back but I got a note from our Board rep that if in the even that anybody ever in the future needs to recuse themselves, out the door. Then we'll come back and get you. We have not necessarily faulted on that to my knowledge but I'm just letting everybody know that that's the policy of the Town and I was told of it. That's what I wanted to bring up and so if that ever happens again, it's fairly rare. Anything else for the good of the order from Board Members? All set? Without objection I will adjourn the Zoning Board of Appeals meeting for September.

Board: No objections.

James Brewster: Ok. We're done, thank you very much. (8:38 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