

ZONING BOARD MEETING
TUESDAY—SEPTEMBER 28, 2021
ZONING BOARD OF APPEALS
7:00 PM—ZOOM

Present: James Brewster, Chairperson
Aleta Kinne, Vice Chairperson
Melanie Pandich, Board Member
Scott Smith, Board Member
Jon white, Board Member
Webb Sisson, Alternate Board Member

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

James Brewster: All right, I've got 7:00 so I will welcome everyone to the September meeting of the Town of Chenango Zoning Board of Appeals. Kari, can we have the roll call, please?

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

James Brewster: Ok, we have a quorum tonight, actually we have all members and our alternate. Our attorney, Nick Cortese, will not be here tonight because we are just accepting applications, so I gave him the night off upon his request.

Aleta Kinne: Mr. Chairman, can I ask a question about that? It's Aleta.

James Brewster: Sure.

Aleta Kinne: I don't know what the open meeting laws say about that but my personal opinion is that whenever we have our meetings, we need our counselor present in case any little thing comes up that we want to request information. I don't know if open meeting laws requires that or not.

James Brewster: Actually, it doesn't. Many towns don't even call their attorney in until they need something. Nick and I have had that conversation before. Certainly, for public hearings we absolutely need to have him here but for approving applications, if there is a question that comes up we can do one of two things at the pleasure of the Board here. I could text him and he could jump right on or we could make a note, it will be in the record that he can follow up with us on that question. If it's the pleasure of the Board to have him here now we can take a consensus and I can text him and he'll pop on. It's just at the moment he's not here.

Aleta Kinne: Yeah. It's been a few meetings that we've gone through without him and my personal opinion is I think he should be with us but I don't know how the rest of the Board feels.

James Brewster: We could take a motion if anybody wanted to float that to have him come on. Then we can have discussion after the motion.

Webb Sisson: I'd like to lean in here a little bit. Discussions with the attorney should be always with all Board Members, not just the Chairman. No private meetings with the Chairman, no socializing with the Chairman. If we're going to meet with the attorney, and it's come to my attention that it has happened, ok, the last meeting everybody left but you the Chairman and Mr. Cortese were still in there discussing. If it's discussion about anything to do with the Zoning Board, all of us should be present. Don't you think? That's the rules.

James Brewster: I do agree with that, as long as it's discussion about the Town. If it's not, so be it.

Webb Sisson: Well, just the way it looks, ok, ethically, ok? We shouldn't be meeting with the attorney privately. The attorney should not be meeting with us, I should say, privately. Any of us, ok? It's not good ethics.

James Brewster: There are certain procedural things that I need to know before I get into a meeting so the meetings run smoothly. So those conversations, ok yes, they should be announced. That would just extend meetings, they're no big deal, it's procedural. If you want to be involved I'm more than happy we can have procedural discussions before we start the formal business of the meetings. That's fine, we can do that.

Webb Sisson: I think that would be appropriate.

James Brewster: Ok.

Webb Sisson: And if any other Board Members want to lean in on that and listen in I think we would learn from it, ok? That's the idea.

James Brewster: Dually noted. So, would we like to have Nick here tonight? I can try to reach him by text. Is that a consensus? Anybody want to move for that?

Webb Sisson: I would like to have him present. He's supposed to be the attorney for the ZBA.

James Brewster: I'd like to get a consensus on that.

Webb Sisson: I don't have a vote so the rest of you get to vote.

Jon White: Well, Aleta said yes. There's a couple questions that I would have within the applications so I would say 'yes.'

James Brewster: Scott and Melanie?

Melanie Pandich: I have no preference one way or the other.

Scott Smith: I agree with Melanie.

James Brewster: Ok. I'll break the tie then and I will get ahold of him and we'll hold up just until I hear back.

Jon White: And also, my opinion too with the procedural stuff, Mr. Chairman, I feel that maybe it could be done in group emails so if somebody wanted to be more involved with that they could and if somebody didn't want to be involved with it they also have the option to stand down, stand away from it.

James Brewster: I like the idea. That's one of those procedural things, can we do that by email, because then it would have to be announced anyway in the public record. It's fine, I like the idea, and everybody would be involved with that so that's fine.

Jon White: Well that's something to possibly ask Nick about. What's the legality of that? In a lot of respects it's town email, so it becomes public record anyways. But, I'm not the attorney and I'm also a new member so I'm just brainstorming some ideas.

James Brewster: So, Nick asked me what we need specifically so that he could get his correct materials in front of him and I answered the majority of the Board feels you should be present to help answer any questions. There's no specifics. It was noted that Jon stated he possibly had some questions on some applications. So that's the text back and forth.

Ok, it looks like Nick is here. I don't know if he's fully here yet, or if he's still settling in.

Nick Cortese: Hello.

James Brewster: Hello Nick, thank you for coming on short notice. The Board requested your presence as I told you in a text. So, let's continue. We just got past the welcome and the roll call, we do have a quorum. Tonight folks, we have four applications under new business. There are applications that we will review for their completeness and their ability to forwarded onto the Planning Board and then scheduled for our October meeting where they'll be scheduled for public hearing with further discussion and public comment on the applications.

Another order of business here is the approval of our meeting minutes from August 24. Are there any corrections or discussion on the minutes? If not I'll take a motion and a second to approve the minutes from August 24.

Aleta Kinne: Mr. Chairman, I move that we accept the minutes.

James Brewster: Any second?

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

James Brewster: Ok, motion made by Mrs. Kinne and seconded by Mr. White. Let's do a roll call.

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

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

Ayes – 5 Nays – 0

James Brewster: Minutes from August are approved and may be posted as soon as possible. Onto new business now.

Aleta Kinne: Mr. Chairman, can I ask another question?

James Brewster: Sure can. Go right ahead.

Aleta Kinne: Seeing as we're back to ZOOM, do you have to do that little spiel about the numbers?

James Brewster: No, and thanks for asking. I asked Nick that question today and he has informed me that it is now law. Correct, Nick? Thank you.

Aleta Kinne: Thank you.

James Brewster: Thanks for bringing that up. Now we'll move onto new business. We'll start off with application 2021-V010, Michael Mastro at 267 Poplar Hill, application requesting an accessory building exceeding maximum height from 16' to 24' in a Residential Zone and a short EAF to go with that. Do we have any questions or discussion on that? Does the application look complete to everybody? Do we have a map, diagram of the property, discussion?

Jon White: It appeared on my end from what I reviewed everything was there.

James Brewster: I tend to agree with that. Ok, well if everybody is satisfied with that application then I'll take a motion and a second to move that forward to the Planning Board and then to our October meeting, I don't have the date in front of me. Kari, do you have that?

Kari Strabo: October 26th.

James Brewster: Ok, so we'll schedule it for the October 26th meeting and also to go through the Planning Board. Do I have a motion?

Jon White: I'll first motion.

Melanie Pandich: I'll second it.

James Brewster: Ok, moved by Mr. White, seconded by Mrs. Pandich to move 2021-V010 on through to the appropriate channels. Roll call.

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

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

James Brewster: Ok, move that one through. Thanks. Next application is 2021-V011, Travis and Lindsay Flanagan of 75 Smith Hill Rd, Application for an area variance to construct an inground pool ahead of the front line of the house in an Agricultural zone and we'll do a short EAF on that. Any questions or discussion on whether or not the application is complete?

Aleta Kinne: Is there anyone here for that application?

James Brewster: It appears not.

Aleta Kinne: Ok. Thank you.

James Brewster: Anything else? It looked fine to me as far as the paperwork that's attached to it goes.

Jon White: It looked in order to me.

James Brewster: All righty then, I'll take a motion to move that through to the Planning Board and also onto our October 26th meeting for public hearing.

Aleta Kinne: I'll move it forward.

James Brewster: Thank you, do I have a second?

Scott Smith: Second.

James Brewster: Ok, moved by Mrs. Kinne, seconded by Mr. Smith and a roll call.

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

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

Ayes – 5 Nays – 0

James Brewster: Ok, please move that one through. Moving onto 2021-V012, David Conklin of 70 Stacy Dr, applying for an area variance to construct a garage ahead of the front line of the principal structure in an Agricultural zone and we'll do a short EAF. Is the applicant here tonight? Any questions from the Board or evaluation as to whether or not it's complete?

Jon White: I did notice, Mr. Chairman, that on the short EAF question 5B was not answered. 5A was but 5B wasn't.

James Brewster: Ok.

Jon White: So, I figured if the applicant was present we could have him say yes, no, or not applicable to that question and we could move forward. But, it appears he's not.

James Brewster: Correct. Sometimes we do handle this at the meeting or Kari can contact him and have that prepared for us by the public hearing.

Jon White: Right. To me it's a small thing so I just wanted to bring it to everybody's attention that I did notice it reading through, looking over the application that it was not there. I think it's a small oversight and it's nothing that I would want to table this on and make him wait another month.

James Brewster: Ok.

Aleta Kinne: I had a question for him and it was about the neighbor across the road. It is close proximity and I just wanted to make sure that before our public hearing he talks to that neighbor and notifies them like we have in the past. Kari can probably let him know that also.

Kari Strabo: Yeah.

James Brewster: Yeah. Ok, anything else? Ok. So, you've noted those, Kari?

Kari Strabo: Yes.

James Brewster: Ok, thanks. Then I'll seek a motion for moving this through onto the Planning Board and to our October 26th Zoning Board meeting for public hearing.

Scott Smith: So moved, Mr. Chairman.

James Brewster: Ok, moved by Mr. Smith. Do I have a second?

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

James Brewster: Ok. Motion made and seconded. Roll call please.

Kari Strabo:	Jon White, Board Member	Voted: Aye
	Scott Smith, Board Member	Voted: Aye

Melanie Pandich, Board Member Voted: Aye
Aleta Kinne, Vice Chairperson Voted: Aye
James Brewster, Chairperson Voted: Aye

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

Ayes – 5 Nays – 0

James Brewster: Ok. Onto 2021-V013, Michael Panko at 1362 River Rd, applying for an area variance to construct an accessory structure exceeding the maximum size from 1500' to 2560' in an Agricultural zone and we'll do a short EAF. Any questions or discussion on the contents of the application? Is it complete?

Jon White: Mr. Chairman, I do. This is the one I was concerned about that I would like to have Nick's input on. I did notice he submitted the GIS picture of the outline of their property but then on their site plan where they're showing the new building, it's showing it as a separate parcel from the parcel that the house is on. So, was this combined into one whole parcel because this boundary survey is a 2013 map, so has everything been combined into one or are we going down the road of a separate parcel and now this is a possible use variance?

James Brewster: That's a good question. I looked at it. It looked like it had been combined on the GIS for what it's worth

Michael Panko: Mr. Chairman, this is Mike Panko. I am on the call. Yes, the property I want to say either last year or the year before was all combined so that is all one parcel as it sits right now.

James Brewster: Ok. Anything else, Jon?

Jon White: No, that was it. I just happened to see the old survey map and it was showing two tax map numbers and I just wanted to make sure everything was in a row for us and for the Town, too. It's all one tax map, I guess we're good to go.

James Brewster: Right, and just for completeness, Mike, when we have the public hearing just restate that because that's the official declaration of your testimony towards the application. Just to help clear us up, even though it's been said here, the public hearing's kind of the thing.

Michael Panko: Not a problem, I'm happy to answer any other questions. Thank you.

James Brewster: Anything else, Board Members, on this application? All right then. So, I will seek a motion to approve 2021-V013 to be sent to the Planning Board and then to be sent to be scheduled for our October 26th Zoning Board meeting.

Jon White: I'll motion for first.

Aleta Kinne: I'll second.

James Brewster: Roll call, please.

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

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

Ayes – 5 Nays – 0

- James Brewster: All right, Kari, thanks. We'll move those along. The rest of the agenda tonight is empty. We have no public hearings, certainly no discussions. Therefore, does anybody have any questions now that we're all here for Nick? Anything that you wanted to know?
- Aleta Kinne: Yes, I do. I'm wondering is there a regulation on how long we can hold that public hearing open that we tabled?
- Nick Cortese: No. What one are we talking about, the charging stations?
- Aleta Kinne: Yes.
- Nick Cortese: Yeah, technically speaking that can remain open. I haven't heard anything from the applicant there in over two months. Maybe they abandoned the project, I don't really know. But honestly, Kari, that's something for you guys in Ordinance to look into and figure out because they've disappeared on us.
- Kari Strabo: Ok.
- James Brewster: Ok. Anything else for Nick? Or any questions for anybody?
- Jon White: Mr. Chairman, what would we have to do if they decided they weren't going to do the project and wanted to abandon it.
- Nick Cortese: They would withdraw their application.
- James Brewster: And it just goes away, and we keep moving on.
- Nick Cortese: If they choose not to deny the application the reality is that we would still have an open public hearing that we would have to close and we would have to dispose of the matter somehow. So, if they didn't withdraw their application then we would have to move forward based on the information that we have and the Board would have to cast a vote however it sees fit. So, I think that that's a worthwhile thing for Ordinance to lock down for the October meeting. At least we can have some more feedback as to where the applicant stands.
- James Brewster: Right, and Nick maybe we can point out that even if they do come back and we continue the public hearing and we wind up being satisfied with the amount of information we can close it but if we needed to digest that information we have what, 62 days from the time of closing?
- Nick Cortese: Yes I believe it's 62.
- James Brewster: Ok. The SEQR would be a shorter time frame to complete than that though, right?
- Nick Cortese: Well because it's not a coordinated review the various timelines and deadlines don't apply as they ordinarily would if this was let's say a type I action where you'd have to give other involved agencies notice and so on and so forth. So, what the statute says with unlisted actions where there's not multiple agencies reviewing it, is that you just have to decide SEQR kind of as soon as practicable. So, there really is no timeline as it relates to SEQR for unlisted actions where there is no coordinated review. There are various deadlines and things like that that you do need to make happen when you have coordinated reviews which is not this scenario.
- James Brewster: Ok, great. Thanks. I wanted to point that out to kind of give everybody a perspective on timing, especially with the application that we're not pressed. If we can make the decision on the night

that we were there then that's fine but we can take time to digest the information up to a certain point.

Nick Cortese: Yes.

James Brewster: All right, next on the agenda is adjournment so if we have nothing else I'll seek that motion.

Jon White: I'll first motion.

Melanie Pandich: I'll second.

James Brewster: Ok, thanks. I have a motion, voice vote on that and we're out of here, right?

Board: Aye.

James Brewster: All right, thanks.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Kari Strabo". The signature is written in black ink and is positioned below the typed name.

Kari Strabo, Sr. Clerk