

**ZONING BOARD OF APPEALS MEETING  
THURSDAY, AUGUST 25, 2022  
7:00 P.M.- TOWN HALL  
1529 NYS RTE 12  
BINGHAMTON, NY 13901**

**Present:** James Brewster, Chairman  
Aleta Kinne, Vice Chairperson  
Scott Smith, Board Member  
Daniel Wolters, Board Member Alternate

**Also Present:** Nicholas Cortese, Attorney  
Gavin Stiles, Ordinance Officer

**Absent:** Jon White, Board Member  
Edward Miller, Board Member

**James Brewster:** At 7:02, I'll call the meeting of the Zoning Board of Appeals to order. Thank you everyone for coming, we got a busy agenda tonight so just an overview of some things of the way it goes. First off Diane can we get a roll call on the Board Members please?

**Diane Aurelio:** Mr. Wolters, : present, Mr. Smith present; Mrs. Kinne: present, Mr. Brewster; present.

**James Brewster:** Even though we have a couple absent councilor we do have a quorum and we will continue on with our meeting. First we will go over the rules here. We'll take care of some administrative business first and then we go to the new business which is fairly quick, we go over the two new applications that come in and decide to move them over to our next meeting. Then we'll have two public hearings where we'll ask the applicant to answer the five questions again for the record that pertain to area variances. The public will have a chance to comment on each and any of those and once all of the hearings are closed, we'll cycle back here as a Board to discuss them in order again and come up with a completion one way or the other.  
The first order of business tonight is the approval of the minutes from July 26, 2022. So Aleta , Scott do you have any questions , comments, or corrections for those minutes? If not I'll seek a motion to accept them.

**Aleta Kinne:** I'll make a motion.

**Scott Smith:** Second.

**James Brewster:** Can we have a roll call.

<b>Diane Aurelio:</b>	Daniel Wolters, Alternate Board Member	Voted: Aye
	Edward Miller, Board Member	Voted: Absent
	Jon White, Board Member	Voted: Absent



James Brewster: The second application up is for 2022-V15 Stephen Giannini for 35 Wallace Road 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 Short EAF. Does the Board Members have any questions or comments on this application?

Scott Smith: Nothing that I can see.

Daniel Wolters: Not specific to this, is it normal for board members to speak to the neighbors? Is that typically done?

Aleta Kinne: It use to be encouraged to go out look at the project and speak with the neighbors to see without going into very much detail how they felt.

Daniel Wolters: Just to make them aware.

Scott Smith: They will receive a notice from the town and one of us will happen by.

Aleta Kinne: Do they still give out the cards?

Nicholas Cortese: The applicant gets a quick letter from the neighbors to support their case that does make a difference. You can knock on the neighbor's door during your site visit. Every applicant has to sign a document to authorize the ZBA Members to come and take a look at their property when they want to.

Aleta Kinne: If you speak to Amy she will help you out to get an ID card. Amy in HR Department.

Nicholas Cortese: Do you get a badge too?

Aleta Kinne: No just a card to run around with.

Scott Smith: Usually I give them a business card then at least they know my name.

James Brewster: All right, does anybody want to make a motion?

Scott Smith: Sounds like a good idea so, moved Mr. Chairman.

Aleta Kinne: So, move.

James Brewster: Motion made and seconded for approval of this application to move through to Planning Board next scheduled meeting our public hearing in September.

Diane Aurelio:	Daniel Wolters, Alternate Board Member	Voted: Aye
	Edward Miller, Board Member	Voted: Absent
	Jon White, Board Member	Voted: Absent
	Scott Smith, Board Member	Voted: Aye

Aleta Kinne, Vice Chairperson  
James Brewster, Chairperson

Voted: Aye  
Voted: Aye

The motion was thereupon declared adopted by a roll call of:4 to 0  
Ayes- 3            Nays- 0            Absent-2 (Miller & White )

\*\*\*\*\*

James Brewster: Just to review, there will be a Planning Board meeting to discuss this application and then you will come back in September and we will go through a public hearing and so forth and move through the five factors that pertain to an area variance in the State of New York and allow the applicant to answer those questions to the best of their ability in their own words and then follow up with the public comment and read some correspondence that we have received from various agencies and the public.

So, with that I will open up the public hearing for 2022-V 12 New York Power Authority at 1166 Castle Creek Road in the Town of Chenango, Tax map#066.10-1-1 located in the PDD-C Zone. of the principal structure, less than minimum required lot size from 6 acres to 2.5 acres, and less than minimum required lot depth from 450' to 264.3" in a Pdd-c Zone and Short EAF. The Board will review the environmental significance of the requested variance, if any, at said hearing. The applicant is here do you have any opening comments we have five minutes to give those otherwise we can get right into the five questions.

Caycee Hart: I think we can hop right into it. If you want a brief overview of the project I can do so but I think it is very straight forward.

James Brewster: Board members you want an overview or are you set We can always ask questions later.

Scott Smith: The application is fine.

Daniel Wolters: I read up on it

James Brewster: Aleta your all set? Yes. Then we will move forward with the five factors.

Nicholas Cortese: Number 1: Will the granting of this variance and your proposed project produce an undesirable change in character of the neighborhood or be a detriment to nearby properties?

Caycee Hart: The EV charging stations and the equipment associated with it and the proposed landscaping will give it a little bit more nice esthetic to the charging stations.

Ms. Kinne was unable to hear so the microphone was adjusted and readdressed the first factor again.

Caycee Hart: No, it will not the charging stations I'm proposing will have evergreen screening around it. So, it will not be a detriment to the adjacent properties or the

James Brewster: Number 2: Can you achieve the goal of your project by some other method that won't require a variance?

Caycee Hart: So, two of the variances are pre-existing for the accessory use to the building. This lot does not allow for that either. There is a retaining wall in the rear also a traffic truck that goes around the perimeter that would not be a safe location for these charging stations.

Aleta Kinne: Was there a reason why it wasn't put on the other side. By the truck pumps the parking of the north end?

Caycee Hart: It was definitely the property owner that picked the location. There are fuel tanks on the other side we want to stay clear of that. Also, it is a pretty busy convenience store we didn't want to take away parking.

James Brewster: Number 3: Is your variance request substantial? Is it going to be a big change from the existing site?

Caycee Hart: No, it will not. Like I said it makes sense for this site.

James Brewster: Number 4: will this project have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Caycee Hart: No, it will not we have been back and forth with DEC I'm sure we will talk about in a moment. Performing an environmental assessment there has been some confusion on going remediation . We don't believe there is any .Broome County do not have any records on remediation or monitoring wells on the site. But we are doing a Phase one just to confirm so we are covering all of our bases.

James Brewster: Actually, I have a question for you. We do a SEQR assessment and this is a separate state thing from the DEC. That's all I need to know.

Nicholas Cortese: This is basically determining whether or not radiation has been done or not or need to be in the future.

Caycee Hart: Basically, an environmental to see if there were any spills or mediation ongoing on the parcel. If they have records of hazardous materials on site will be captured and reported.

Nicholas Cortese: What kind of hindrance will it be if it came back there's a buried fuel tank or some kind of spill that needs to be remediated. What type of barrier would it be for you guys?

Caycee Hart: I think it would depend exactly what they come back with. I'd say if the soil that is still previously will be hazardous we would need to conform to the state's regulations. Excavating making sure the Phase one determine there is anything concerning and if there is we would have to follow the regulations.

Nicholas Cortese: For purposes of our environmental review I don't think that is a factor that can be handled subsequently view the environment as independently of any potential remediation . If there is remediation to be done DEC will order that and they would have to comply. We are not in charge of regulating that.

James Brewster: Number 5: is the difficulty encountered by your proposed project request for relief self-created? Usually, this answer is yes 99.5% of the time.

Caycee Hart: I go back to my previous response. This lot does not allow the accessory use in the rear. For ev charging station to be on this property is out front. Of the principal use.

James Brewster: We will address that as a board later. Anything else you might want to provide?

Caycee Hart: I'm here to answer any other questions you may have on the application.

James Brewster: We can always ask questions later, does anyone have anything to wrap this up?

Scott Smith: I'm good.

James Brewster: I stopped on question four and that kind of stopped the flow. Is there anyone for the public that would like to speak for or against this application? You folks with the other applications? But it is interesting though. Ok that brings me to the part where I read the correspondence associated with this application. First we go to ordinance.

Gavin Stiles: No objections.

James Brewster: Letter received August 8<sup>th</sup> for our engineer stated he has no engineering objections for this area variance.  
Planning Board: The Planning Board considered the request for the Mirabito Holdings LLC at said address for these variances Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory but contingent upon site plan approval  
Town Drainage Coordinator sent back his form with drainage review is not applicable in this situation.  
County comments from the 239 review I will read this in its entirety :  
The Planning Department has reviewed the above- cited case and has not identified any significant countywide or inter-community impacts provided the project follows applicable regulations. In addition:

- The project tax map and possibly the proposed project site location partially within the FEMA Special Flood Hazard Area and the project site appears to be close to the floodway boundary, and the applicant should know the risks of placing the project within a flood prone area within the SFHA.
- The project should provide one complete site plan that shows the entire project site, SFHA, monitoring well, zoning table and sheets 1,2, and EX-

1 for the site plan review and area variance and ensure the appropriate dimensions for traffic and pedestrian safety and emergency access.

- The SEQR should reference the site plan review and area variances and address/confirm the “no” response to 16. Floodplain and 20. remediation )See BCGIS and BCHD, 2005 2009 comments. The case file was routed to the Binghamton Metropolitan Transportation Study (BMTS), New York State Department of Transportation \_NYSDOT),, Broome County Health Department (BCHD), and Broome County Office of Emergency Services (OES) for review. BMTS, NYSDOT and BCDH had no comments.
- Broome County Health Department: I don’t see any concerns for this project impacting the portable water well. A for the monitoring well, again this is where the DEC may have input on how the project may affect any existing mitigation efforts.

James Brewster:

That’s all for now, there is comments from 2009 that we will talk about later if there relevant. There were some comments received today that I will read: from Kimley & Horn this is a letter addressing the concerns we had as a board coming from our discussion to move this to the public hearing. The applicant answered the questions.

- Question 20 of the SEQR part one has the site of the proposed action or an adjoining property been subject to remediation (on going or completed) for hazardous waste? Should be yes instead of no and the applicant should specify this has been corrected. Response this has been corrected with a revised Short EAF Form.
- Question 16 in SEQR part one ( is the project site located in the 100-year flood plain?. Should be yes instead of no. will the charging stations need to be raised up like the gas station was during construction? Response: The Short EAF has been corrected revised to state that there is a 100-year floodplain on the property. See attached grading plan that shows the 100-year floodplain per FEMA preliminary floodplain map number 36007C0210F. The project limits are outside this floodplain and the top of the equipment pad is over a foot above the floodplain.
- Will DEC need to weigh in on the application? Response: DEC advised that we perform a Phase I Environmental Site Assessment. A Phase I ESA is being obtained and will be able to confirm if there are any ongoing remediations or environmental concerns.
- Will the existing retaining wall behind the gas station need to be extended. The area that the charging stations are proposed is relatively flat see attached grading plan.

James Brewster:

That’s all the correspondence I have. The grading plan is filed in the Ordinance Office. I guess now comments opposed to questions. So, if you have questions for her now is the time.

Aleta Kinne:

The County pretty well asked the same three questions I asked a month ago. The communication is sufficient. I just feel I ’d like to here more from the Planning Board or DEC. Who said it is relatively flat? Flat that wasn’t the idea

according to the other paper work it is below flood level. They raised the station a few feet and you can see where they raised it. It was planned to be raised, people can be standing in ankle deep water.

- James Brewster: Do you have a question? Is there something you can ask her about?
- Aleta Kinne: Who said it is relatively flat, is that your response.
- Caycee Hart: The comment is behind the ev charging stations the retaining wall is not warranted these are the existing grades. As far as the floodplain elevation this is from FEMA 100-year floodplain. It is shown on the grading plan and it does not conflict with our charging stations. WE have dropped some spot elevations on that floodplain line so you can get with the base flood elevation Our top of path is about a foot above that.
- Aleta Kinne: My question about the retaining wall had nothing to do with it being flat. I live on that creek it gets very angry and every time it gets angry a little more land goes away. Its so close to the creek anyway. It seems to me if DEC felt the retaining wall would prevent losing any more land there by bringin it closer. Alex didn't think it was a problem? Washing away the bank the creek moves.
- Gavin Stiles: I don't think he had any objections.
- James Brewster: This is Nick or Diane, this is going back to the Planning Board? We can ask they take into consideration our comments, that in their bailiwick.
- Nicholas Cortese: Yes.
- James Brewster: Are you going to require them a floodplain certificate.
- Gavin Stiles: I would have to get with Alex on that,
- James Brewster: Is he Floodplain Manager?
- Gavin Stiles: I'm technically the Floodplain Manager well Stormwater Manager my certification allows to work under a design professional. So, I would go to Alex ahead of that.
- James Brewster: That may or may not be pertinent to the variances. Any questions on the variances?
- Scott Smith: If we were to grant the variances the resolution to include any problems in that realm?
- Gavin Stiles: I would say yes it would be captured in site plan review in which Alex would have some oversight on and we would address at that point.
- Nicholas Cortese: Obviously in their recommendation to you guys they as to condition the approval on the site plan. I think that is an advisable idea. We also have an



electric vehicle charging station Local Law I'm not sure if the applicant has complied with all those requirements. It's up to the applicant to make sure that happens as well. As it relates to the floodplain there is nothing that prevents any one from granting site plan approval because it is close to the floodplain. At the end of the day that's their project and if it gets flooded they are aware of the situation and it's not really the town's problem. It's the gas station owner's problem.

James Brewster: Anything else? Ok I will close the public hearing now for 2022-V12 we will be back to discuss the rest of the process.

James Brewster: Ok I'd like to open the public hearing for 2022-V13 Nancy Karns at 85 Aitchison Road in the Town of Chenango, Tax map#111.09-1-1 located in the Agricultural Zone. Application for an area variance to have a detached garage in front of the principal structure. The Board will review the environmental significance of the requested variance, if any, at said hearing. Applicant's can come up to the microphone.

Ms. Karns: I think this will be a lot simpler.

James Brewster: Going second you know what is coming. Just jump right in to the five factors? Any opening remarks just jump right in, ok.

James Brewster: Number 1: will the granting of this variance and your proposed project produce an undesirable change in character of the neighborhood or be a detriment to nearby properties?

Nancy Karns: No.

James Brewster: And why?

Fay Clark: Want me to handle this? Ok it will be designed to match the home, there is no adjoining property on the side where the garage is. So, it will not affect anyone on that side.

James Brewster: Number 2: can you achieve the goal of your project by some other method that won't require a variance?

Fay Clark: No, because where the sewer is coming into the house and where the grey water is located. The whole septic system is on that side. You can't go in the back yard and on the other side is a steeper hill.

James Brewster: Number 3: Is your variance request substantial? In your words does it look like it will be a big change from our existing zoning allows.

Fay Clark: No, it will not be attached to the home.

James Brewster: You already have an attached garage?

Fay Clark: Yes.

James Brewster: Any questions on number three guys? No.

James Brewster: Number 4: Will the proposed action have an impact s project have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? In other words, are you tearing up a lot of your property that will impact anyone?

Fay Clark: No.

James Brewster: Number 5: is the difficulty encountered by your proposed project request for relief self-created? Usually, this answer is yes 99.5% of the time because of the zoning. We will count that as a yes. Everyone ok with that?

Fay Clark: Yes.

James Brewster: Any questions at all before we open it up to the public? Is there anyone here from the public that would like to speak for or against this application? No.

Aleta Kinne: Very nice landscaping and layout of the property.

James Brewster: Correspondence go to ordinance first.

Gavin Stiles: No objections.

James Brewster: So, our engineer dated August 8<sup>th</sup> we have no engineering objections. Planning Board favorable advisory to the Zoning Board of Appeals. Drainage Coordinator sent the form in with an approval. Broome County comments no subject to 239 Review. Although the Health Department since the owner is aware of the locations of the septic system components and is the reason for locating the garage where it is proposed, I would not have any comments to add for this project.

James Brewster: We did not receive any public comment by email or letter therefor no further questions. So, I will close the public hearing2022-v13 and get into our board discussion.

Aleta Kinne Can we finish them up so they don't have to wait and sit through the other application?

Scott Smith: So, moved Mr. Chairman.

James Brewster: All in favor? Board unanimously agreed. Do you mine Ms. Hart? No. Ok we will change the script a little bit. So, we have to do SEQR on both these applications tonight. This is Part Two of the EAF.

Nicholas Cortese: Ok you are all familiar with this No means no to small impact, Yes means moderate to large impacts might incur Answer verbally that would be great.  
Number 1. Will the proposed action create a material a conflict with an adopted land use plan or zoning regulations?

Board: No.

Nicholas Cortese: Number 2. Will the proposed action result in a change in the use or intensity of use of land?

Board: No.

Nicholas Cortese: Number 3. Will the proposed action impair the character or quality of the existing community?

Board: No.

Number 4. Will the proposed action have an impact on the environmental characterizes that caused the establishment of a Critical Environmental Area /(CEA)?

Nicholas Cortese: Number 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?

Board: No.

Nicholas Cortese: Number 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

Board: No.

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

Board: No to both.

Nicholas Cortese: Number 8. Will the proposed action impair the character or quality of important historical, archaeological, architectural, or aesthetic resources?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nicholas Cortese: You've answered "no to small impact" with respect to part two of the EAF, so under part three my assumption is that you'd be making a motion for a negative declaration under SEQR. If that is the case you are free to make that motion at any time.

Aleta Kinne: So, moved.

Scott Smith: Second.

James Brewster: Motion made and seconded for a "Negative Declaration under SEQR. Can we have a roll call.

Diane Aurelio:	Daniel Wolters, Alternate Board Member	Voted: Aye
	Edward Miller, Board Member	Voted: Absent
	Jon White, Board Member	Voted: Absent
	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: 4 to 0  
Ayes- 4            Nays- 0            Absent- 2 (Miller & White)

\*\*\*\*\*

James Brewster: Do we have any specific further questions or discussion on this application? No. Ok we can discuss the five factors to include them in the resolution and codify them.

Aleta Kinne: I think there fine.

James Brewster: Through their written and oral testimony they have shown enough for that.

Daniel Wolters: I drove by it and it seems very reasonable.

Nicholas Cortese: Alright we can go through the factors and put down on paper here.

Will or will not the variance produce an undesirable change in the character of the neighborhood?

Board: No.

Nicholas Cortese: Can the goal be achieved by some other method other than getting a variance?

Board: No.

Nicholas Cortese: Is this variance substantial or is it not?

Board: It is not.

Nicholas Cortese: Would or would not the variance have an adverse impact or effect on the physical or environmental conditions of the Neighborhood?

Board: Would not.

Nicholas Cortese: Was this self- created?

Board: Yes.

Nicholas Cortese: Is this a motion to grant, deny or grant with conditions for this variance?

Board: Grant.

Nicholas Cortese: Ok so this is all set to go and when you are ready you can make a motion to grant the variance.

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

In the Matter of the Application #: 2022-V13 of Nancy M. Karns  
for an area variance to install an accessory structure (detached garage)  
ahead of the front line of the principal structure in the Agricultural District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V13**

**WHEREAS**, on or about July 18, 2022, Nancy M. Karns ("Applicant") duly filed an application for an area variance for property she owns within the Town, located at 85 Aitchison Road, designated as Tax Map No. 111.09-1-1 and located in an Agricultural District, wherein Applicant requested a variance to construct an accessory structure (detached garage) ahead of the front line of the principal structure on said property, which is not allowed as of right 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 August 25, 2022 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the

possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

**WHEREAS**, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on August 25, 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-V13 for an area variance to construct an accessory structure (detached garage) ahead of the front line of the principal structure on said property, which is not allowed as of right in in the Agricultural District, is **granted**.
8. This Resolution shall take effect immediately.

James Brewster: I will seek that motion if you so choose.

Scott Smith: So, moved.

Daniels Wolters: Second

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Scott Smith and seconded by Daniel Wolters. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne, Vice Chair	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Absent
Edward Miller	Voted: Absent
Daniel Wolters	Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4 to 0 2 absent ( White & Miller).

James Brewster: The resolution has been adopted that means your variance has been approved.

Nancy Karns: So, what do we do now just go ahead.

Gavin Stiles: Come and see me for the building permit down the hall.

Nancy Karns: Any time?

Gavin Stiles: Between 8 to 4 we can set you up with a building permit application and bring some drawings, we'll guide you through it.

\*\*\*\*\*

James Brewster: Now we go back to 2022-V12 charging stations. Who would like to begin?

Aleta Kinne: I'm just a little bit lost here, I don't want to hold this project up but I felt it is needed. Until we get what the conditions are from the Planning Board. and DEC. I'm having difficulty with it. I still would like to know it doesn't affect some of our variance but.

Aleta Kinne: The size of the lot can't be changed.

James Brewster: To me they are existing conditions. Wouldn't these be granted prior to the gas station being approved?

Nicholas Cortese: Maybe, maybe not. I think everybody is pretty well aware of the checkered history of zoning approvals for the last twenty-five years or so. The reality is that if you are expanding this use, which is what is happening by the construction of these accessories. Then the lot should be in conformance. Let's just assume this is a pre-existing non-conforming use. As long as the use didn't expand any. But since they are expanding add more accessory structures more things on the property. Now we are at a point the property has to come into conformity to the zoning code. The six acres lot size and the fifty-foot lot depth those really don't have any bearing other than the parcel coming into

compliance of what the zoning code says. Where they plan on locating it that does has something to do with the conditions on site. The applicant did explain that it would be more difficult to place it somewhere else. Obviously you guys are free to decide however on this. My personal thought on this the DEC study it will be done and any results from that they will have to comply with. That is something we don't have any ability to regulate or make any decisions on anyway. Regarding the flood potential the Planning Board will be able to handle that during their site plan review. I imaging you have all your answers lined up and ready to go for the Planning Board consideration. I don't know if that helped or not.

- Aleta Kinne: Oh yes that helped. So, will Planning Board be talking about where it needs to be raised.
- Nicholas Cortese: Yes, that is exactly the type thing the Planning Board will do for site plan review.
- Aleta Kinne: I'm ok with that.
- Scott Smith: As Gavin has stated you will be working with Alex Urda Town Engineer to work through any other difficulties that may arise.
- James Brewster: Just so you know the map covers the 100-year floodplain covers the lot. There are ways to you can either get out of it or you can go above it. That is how you would mitigate it. She testified they are going above it. It is a little tricky to visualize that's how you get out of that regulation.
- Aleta Kinne: That good they are having that study done.
- James Brewster: You made the comment people being in ankle deep in water that may still happen but the project should be elevated enough to prevent that from happening.
- Nicholas Cortese: I think this whole parcel is in trouble if there is a flood. I'm sure they know that.
- Aleta Kinne: That bridge has been closed a couple of times.
- Nicholas Cortese: At the end of the day the developer is taking the risk locating yourself there. As long as we make them aware of the risk and the appropriately conditioned site plan if the Planning Board chooses to do so. Make sure they mitigate any potential flood problem. What ever the Planning Board deems appropriate I think we are on the right track.
- Aleta Kinne: I'm more concerned about the bank washing away.
- Nicholas Cortese: I'm curious to know, are you doing any more pervious surface there? Or just ripping up and paving back over again? You're not expanding the impervious surface?



Caycee Hart: We are basically putting our parking stations behind the pavement. So, the charging stations themselves will have additional pavement

Nicholas Cortese: For Ms. Kinne's peace of mind what is the anticipated impact to the embankment on the creek?

Caycee Hart: We are not touching the creek or embankment at all. It is probably fifty feet from our project. We are not impacting it.

Nicholas Cortese: Ok thanks.

James Brewster: There's a lot of material you see definitely something happening There still is a lot of material there it's going to take a lot. That is why the wall is part of the mitigation.

Nicholas Cortese: Your points are well taken.

James Brewster: For clarity the newest variance would be in front of the structure and the other two are just rearing their ugly head.

Nicholas Cortese: It's just housekeeping.

James Brewster: Does that make sense to everybody on the other two variances?

Scott Smith: Just going to ask if the lot was bigger, wider, deeper or whatever you wouldn't need two of the variances?

Gavin Stiles: If they had six acres you wouldn't be talking about that one.

Scott Smith: Ok say it was six acres, would they need that one at all? No. So, the front-line thing, ahead of the main structure if it was next to it a variance would not be needed at all.

Gavin Stiles: It would have to meet the side setback requirements.

Scott Smith: Is this a common thing that configuration a common thing slightly ahead of the main building?

Gavin Stiles: Sure. We just did one.

Scott Smith: How is this one different?

Gavin Stiles: You would find a lot that big.

Scott Smith: But they would know about it. It's just lot sizes and dimensions.

Nicholas Cortese: the really confusing thing about this is that the minimum lot size is in the Pdd-c District is six acres. There are zero properties that have six acres in Pdd-c

Interesting the lot depth and the lot dimensions three-fifty by four-fifty if you multiple that and convert it to acreage it is like 3.6 acres. So, the minimum lot dimensions are actually smaller than the lot size. One of the many strange quirks of the town zoning, but that's the way it is written.

Scott Smith: With that all said it is a simple change for us and were trusting Gavin and his people to take care of Ms. Kinne's concerns.

Nicholas Cortese: Also, Planning Board and DEC.

Scott Smith: So, with that in mind I vote that we move forward with it. Can we group these or do they have to go individually?

Nicholas Cortese: We have to do SEQR First We can do one since it's all the same project. My assumption will be that all of the variance will be the same determination on all the factors. Usually you make three motions they way we have done it and will continue to do it. One resolution equal one variance. multiple variances are a parliamentary thing. We have to do the SEQR on this one. I'll ask the Board Members a series of questions related to the potential environmental impacts of this project. Answering no by the Board means that no to small impact may occur and yea means a moderate to large impact may occur.

James Brewster: If everybody is comfortable we will move forward with SEQR Part Two. For NY Power Authority.

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

Board: No.

Nicholas Cortese: Number 2. Will the proposed action result in a change in the use or intensity of use of land?

Board: No.

Nicholas Cortese: Number 3. Will the proposed action impair the character or quality of the existing community?

Board: No.

Nicholas Cortese: Number 4. Will the proposed action have an impact on the environmental characterizes that caused the establishment of a Critical Environmental Area /(CEA)?

Board: No.

Nicholas Cortese: Number 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?

Board: No.

Nicholas Cortese: Number 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

Daniel Wolters: Yes.

Nicholas Cortese: That is a compound question, this project obviously increases the use of energy but it is also a green project that reduces our reliance on other energy.

Caycee Hart: We are not pulling from the grid.

Gavin Stiles: It's a wash.

Board: Small raising it to moderate No.

Nicholas Cortese: It is four ev charging stations not thirty-four. Obviously this will have an increase in energy , does it consider the measures to save the energy to the extent, its kind of explode my mind.

Scott Smith: I agree no to small impact.

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

Board: No.

Nicholas Cortese: Number 8. Will the proposed action impair the character or quality of important historical, archaeological, architectural, or aesthetic resources?

Board: No.

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

Board: No.

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

Board: No.

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

Board: No.

Nicholas Cortese: You've answered "no to small impact" with respect to part two of the EAF, so under part three my assumption is that you'd be making a motion for a "Negative Declaration" under SEQR. If that is the case you are free to make that motion at any time.

Daniel Wolters: So, moved.

Aleta Kinne: Second.

James Brewster: Motion made and seconded for a "Negative Declaration". Roll call please.

Diane Aurelio:	Daniel Wolters, Alternate Board Member	Voted: Aye
	Edward Miller, Board Member	Voted: Absent
	Jon White, Board Member	Voted: Absent
	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: 4-0-2 absent (Miller & Wolters)

Ayes- 4            Nays- 0            Absent- 2 (Miller & White )

\*\*\*\*\*

Nicholas Cortese: Alright any discussion on the factor before we move on No, cool. Let me ask you this as well are you wanting all of the factors the fact-finding determination that we make now to cover all three variance or is our calculous as the principal structures and lot dimensions that is a determination that we should make. If you are comfortable making one fact finding for all three variances that's fine or we can do it differently for each one that is fine also.

Aleta Kinne: I'm fine with one.

Scott Smith : I'm also fine.

Nicholas Cortese: Will or will not the variance produce an undesirable change in the character of the neighborhood?

Board: No.

Nicholas Cortese: Can the goal be achieved by some other method other than getting a variance?

Board: No.

Nicholas Cortese: Is this variance substantial or is it not?

Board: It is not.

Nicholas Cortese: Would or would not the variance have an adverse impact or effect on the physical or environmental conditions of the Neighborhood?

Board: Would not.

Nicholas Cortese: Was this self- created?

Board: Yes.

Nicholas Cortese: Is this a motion to grant, deny or grant with conditions for this variance? I now you discussed conditions on the variances upon site plan approval from Planning Board. I'll add it any other conditions that directly pertain to these variances that you are contemplating.

James Brewster: We really can't count on DEC because they are independent. They are going to have to comply anyway.

Daniel Wolters: Did I read there will be no additional signage.

Caycee Hart: The only signage will be on the charging stations themselves at the head of the stalls. Nothing on the street frontage or building.

Daniel Wolters: With the evergreens how can people now they are there. I don't have an electric car.

Caycee Hart: They will be on various sites when they come here. It will also be on your cell.

Nicholas Cortese: Just the one condition, yes.

Board: Grant.

Nicholas Cortese: Ok so this is all set to go and when you are ready you can make a motion to grant the variance with condition receive site plan approval from the Planning Board.

\*\*\*\*\*

**RESOLUTIONs**

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

In the Matter of the Application #: 2022-V12  
of Caycee Hart o/b/o Mirabito Holdings, Inc.  
for an area variance to install electric vehicle charging stations in the PDD-C District  
on a 2.50-acre lot, which is less than the minimum lot size of 6 acres in said District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V12 (LOT SIZE)**

**WHEREAS**, on or about July 12, 2022, Caycee Hart (“Applicant”), the duly authorized agent of Mirabito Holdings, Inc. (“Mirabito”) duly filed an application for an area variance for property owned by Mirabito within the Town, located at 1166 Castle Creek Road, designated as Tax Map No. 066.10-1-23 and located in a PDD-C District, wherein Applicant requested a variance to construct and accessory installation electric vehicle charging stations on a 2.50-acre lot, which is less than the minimum lot size of 6 acres in said District; and

**WHEREAS**, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, the Town of Chenango ZBA determined on August 25, 2022 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

**WHEREAS**, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on August 25, 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-V12 (LOT SIZE) for an area variance to install electric vehicle charging stations on a 2.50-acre lot, which is less than the minimum lot size of 6

acres in the PDD-C District, is **granted with the following condition: Site Plan approval from the Planning Board.**

8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Aleta Kinne and seconded by Daniel Wolters. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne, Vice Chair	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Absent
Edward Miller	Voted Absent
Daniel Wolters Alternate	Voted Aye

The motion was thereupon declared adopted by a roll-call vote of 4 to 0 2 absent ( White & Miller)

#### **ZONING BOARD OF APPEALS**

\*\*\*\*\*

#### **ZONING BOARD OF APPEALS**

**Town of Chenango, Broome County, New York**

In the Matter of the Application #: 2022-V12  
of Caycee Hart o/b/o Mirabito Holdings, Inc.

for an area variance to install electric vehicle charging stations in the PDD-C District on a lot with a depth of 264.3 ft., which is less than the minimum lot depth of 450 ft. in said District

#### **RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V12 (LOT DEPTH)**

**WHEREAS**, on or about July 12, 2022, Caycee Hart (“Applicant”), the duly authorized agent of Mirabito Holdings, Inc. (“Mirabito”) duly filed an application for an area variance for property owned by Mirabito within the Town, located at 1166 Castle Creek Road, designated as Tax Map No. 066.10-1-23 and located in a PDD-C District, wherein Applicant requested a variance to construct an accessory installation of electric vehicle charging stations on a lot with a depth of 264.3 ft., which is less than the minimum lot depth of 450 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 August 25, 2022 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

**WHEREAS**, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on August 25, 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-V12 (LOT DEPTH) for an area variance to construct an accessory installation of electric vehicle charging stations on a lot with a depth of 264.3 ft., which is less than the minimum lot depth of 450 ft. in the PDD-C District, is **granted with the following condition: Site Plan approval from the Planning Board.**
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Scott Smith and seconded by Aleta Kinne. The ZBA members voted as follows:

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



Daniel Wolters Alternate Voted: Aye

The motion was thereupon declared adopted by a roll-call vote of 4 to 0 2 absent (White & Miller)

\*\*\*\*\*

**Town of Chenango, Broome County, New York**

In the Matter of the Application #: 2022-V12  
of Caycee Hart o/b/o Mirabito Holdings, Inc.  
for an area variance to install electric vehicle charging stations  
ahead of the front line of the principal structure in the PDD-C District

**RESOLUTION ON AREA VARIANCE APPLICATION #: 2022-V12 (FRONT LINE)**

**WHEREAS**, on or about July 12, 2022, Caycee Hart (“Applicant”), the duly authorized agent of Mirabito Holdings, Inc. (“Mirabito”) duly filed an application for an area variance for property owned by Mirabito within the Town, located at 1166 Castle Creek Road, designated as Tax Map No. 066.10-1-23 and located in a PDD-C District, wherein Applicant requested a variance to construct an accessory installation of electric vehicle charging stations ahead of the front line of the principal structure on said property, which is not allowed as of right 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 August 25, 2022 that the requested variance constitutes an Unlisted Action as defined under said regulations. The ZBA has considered the possible environmental impacts of the requested variance and has determined that it will not have a significant adverse impact on the environment, and the ZBA adopts a negative declaration with respect thereto; and

**WHEREAS**, after due notice by publication in the official newspaper of the Town of Chenango, the ZBA held a public hearing to consider said application on August 25, 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 **not** 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-V12 (FRONT LINE) for an area variance to construct an accessory installation of electric vehicle charging stations ahead of the front line of the principal structure on said property, which is not allowed as of right in the PDD-C District, is **granted with the following condition: Site plan approval from the Planning Board.**
8. This Resolution shall take effect immediately.

At a regular meeting of the Zoning Board of Appeals of the Town of Chenango, held on August 25, 2022 at Chenango Town Hall, 1529 NYS Route 12, Binghamton, New York 13901, the foregoing motion was made by Daniel Wolters and seconded by Scott Smith. The ZBA members voted as follows:

James Brewster, Chair	Voted: Aye
Aleta Kinne, Vice Chair	Voted: Aye
Scott Smith	Voted: Aye
Jon White	Voted: Absent
Edward Miller	Voted: Absent
Daniel Wolters Alternate	Voted Aye

The motion was thereupon declared adopted by a roll-call vote of 4 to 0 2 absent ( White & Miller)

\*\*\*\*\*

James Brewster: Without any objection I will adjourn the meeting at 8:15 p.m.

Respectfully submitted



Diane Aurelio  
Ordinance Secretary