

MINUTES
TOV Zoning Board of Appeals (ZBA)
Special Meeting
June 30, 2025

Call to order: ZBA Chairman Mike Taylor called the meeting to order at 6:32 pm with the Pledge.

Attendance:

ZBA Members: Michael Taylor, Nathan Juby, John Pavelock, Amanda Hewitt, and Joshua O’Kay.
Others: ZBA Secretary Kathy Pavelock, Town Attorney Evan Rossi, Liaison Darrin Smith,
Several applicants residents.

Minutes Approval:

John Pavelock made a **motion to approve the minutes for the June 9, 2025, ZBA Special Meeting with one spelling correction**. Seconded by Amanda Hewitt. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Aye, Nate Juby - Aye. **Motion Carried.**

Correspondence: Secretary Pavelock summarized the correspondence since the last ZBA meeting:

- Legal notices were submitted for this meeting and for the public hearing.
- Received a new application Var2025-02 and provided the applicant the list of documented proofs needed by the ZBA for a Use Variance.
- Received a new application Var2025-03 for an area variance.

Public Hearing:

6:45 pm VAR2025-01 Justin Schuessler; 217.018-1-44; 7580 W Lake St; Zone HR; 0.2 acre.

Applicant is requesting an area variance based on the Planning Board action of 3/20/2025 disapproving special use permit application SUP2024-08 due to nonconformance with Zoning Law section 1920A and Section 509.

John Pavelock made a **motion to open the public hearing for Var2025-01**. Seconded by Amanda Hewitt. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Aye, Nate Juby - Aye. **Motion Carried at 6:45 pm.**

Chairman Taylor read the public hearing notice. There were no written comments received by the secretary. Applicant Justin Schuessler summarized his request for an area variance. There were no comments from the public.

John Pavelock made a **motion to close the public hearing for Var2025-01**. Seconded by Josh O’Kay. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Aye, Nate Juby - Aye. **Motion Carried at 6:48 pm.**

Unfinished Business:

VAR2025-01 Justin Schuessler; 217.018-1-44; 7580 W Lake St; Zone HR; 0.2 acre. Applicant is requesting an area variance based on the Planning Board action of 3/20/2025 disapproving special use permit application SUP2024-08 due to nonconformance with Zoning Law section 1920A and Section 509.

The board asked the applicant if there were any changes to the application. The board also verified that the property has public water and sewer and there will be adequate trash receptacles. The board then discussed the application to balance the benefit to be realized by the applicant against the potential detriment to the health, safety and general welfare of the neighborhood or community if the variance were to be granted. The board discussed five factors related to the requested variance: undesirable change in the neighborhood, alternatives to variance, substantiality, impact on environment, and self-created difficulty.

After ZBA review of the application and TOV Zoning Law and discussion, John Pavelock made a **motion to approve the requested variance (Var2025-01) based on the following:**

- Section 509 C states, “Multifamily dwellings are allowed with one principal structure... Lots must be of minimum size for the zone where located ...” HR zone requires a minimum lot size of 20,000 square feet. Parcel 217.018-1-44 is approximately 10,725 square feet. ***This property is nonconforming with less than the minimum lot size of 20,000 square feet.***
- Section 1920 Nonconforming Uses states, “Any use of land or structures which by enactment of this law is made nonconforming may be continued on the premises and to the extent pre-

existing provided that: A. No nonconforming use shall be expanded, extended, or otherwise increased so as to occupy greater area of land than was committed to the nonconforming use at the time of such enactment..." ***The applicant is proposing no change in the building footprint and therefore will not occupy a greater area than was committed to the nonconforming use at the time of the Zoning Law enactment.***

- Section 1920 Nonconforming Uses further states, "Multifamily dwellings are allowed with one principal structure... Lots must be of minimum size for the zone where located and must additionally have at least 2,000 to 4,000 square feet (as mandated by the planning board) per dwelling unit after the first two..." ***The applicant is proposing no change in the building footprint using the existing structure to add a dwelling unit to the existing second floor and another unit to the existing basement. Changing from a 2 unit dwelling to a 4-unit dwelling in this application will not impact the coverage on this lot.***
- ***The proposed action of updating the dwelling from a 2-unit dwelling to a 4-unit dwelling supports the TOV Comprehensive Plan to increase residential density in the Hamlet zones.***

The motion was seconded by Amanda Hewitt. No further discussion. Poll vote:

Josh O'Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Nay, Nate Juby - Aye. **Motion Carried 4 to 1.**

John Pavelock made a **motion to add the following conditions to the decision:**

- **The building footprint shall remain as is except for any requirements of NY State Codes such as additional egress structures. These items are not considered additional square footage of the building footprint.**
- **The parking lot configuration shall comply with the TOV Zoning Law.**

The motion was seconded by Amanda Hewitt. No discussion. Poll vote:

Josh O'Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Aye, Nate Juby - Aye. **Motion Carried.**

The decision will be written with assistance from Town Attorney Rossi. Final document will be sent to the Planning Board for further consideration of granting a special use permit. The applicant will be provided a copy of the decision.

New Business:

Var2025-02 Justin Hansen; 199.000-1-6.17; 8131 Dixon Rd; Zone RR2; 0.2 acre.

Applicant is requesting a use variance based on the Codes Officer denial of a building permit for an Auto Repair business which is not an allowed use in zone RR2 (Zoning Law section 430B). The applicant Justin Hansen was present to describe his proposed plans for an Auto Repair business within an existing pole barn on Dixon Road. The ZBA explained the documented proof they will need for granting a use variance. The applicant was provided a copy of the NYS Local Government guide titled "Zoning Board of Appeals." Documented Proof for Use Variance (all 4 proofs are required for approval):

1. Applicant cannot realize reasonable return (competent financial evidence).
2. Alleged hardship is unique & does not apply to substantial portion of zone area (neighborhood).
3. Use variance will not alter essential character of zone area (neighborhood).
4. Alleged hardship has not been self-created.

The applicant will prepare the required documentation and notify the ZBA secretary when he is ready to come before the board again.

New Business (cont.):

Var2025-03 Veronica Migon (Jeffrey Moore); 217.000-1-14.1; 7840 Yager Rd; Zone RR2.

Applicant is requesting relief from Zoning Law section 420A row 2 for a reallocation.

Jeffrey Moore representing property owner Veronica Migon explained the need for an area variance. They are requesting 66' relief for frontage. The current law requires ¼ or 200' whichever is greater of the existing lot road frontage. The planning board is proposing a change to the Zoning Law that will require 200' (no ¼ stipulation). This change will take time as the board presents all their recommended changes to the Town Council, public input, public hearing, and final action by the council. The 66' relief will allow for 200' frontage with the option to provide for other lots of the same frontage in the future. The reallocation went before the Planning Board in June. The Planning Board decided that they would not be able to approve the reallocation based on the current law.

The ZBA requested that Jeff Moore provide an updated Power of Attorney stating ZBA actions rather than Planning Board actions. The board also discussed SEQR (Type 1, no action required). The board also requested documentation on the five factors related to the requested variance: undesirable change in the neighborhood, alternatives to variance, substantiality, impact on environment, and self-created difficulty. John Pavelock made a **motion to declare the application substantially complete**. Seconded by Josh O'Kay. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Aye, Nate Juby - Aye.

Motion Carried.

John Pavelock made a motion to schedule a public hearing for July 21, 2025 at 6:35 pm. Seconded by Mike Taylor. No discussion. Poll vote: Josh O'Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor - Aye, Nate Juby - Aye. **Motion Carried.**

John Pavelock **made the motion to adjourn**, seconded by Mike Taylor.

Motion Carried 8:05 pm.

Minutes Prepared by:
Kathy M. Pavelock /s/
ZBA Secretary