

MINUTES
TOV Zoning Board of Appeals (ZBA)
Special Meeting
August 23, 2023

Call to order: 2023 Chairman John Pavelock called the meeting to order at 6:31 pm.
Pledge of Allegiance to the Flag.

Attendance:

ZBA Members: John Pavelock, Amanda Hewitt, Joshua O’Kay, and Mike Taylor.
There is one vacancy on the board.
Others: Secretary Kathy Pavelock. Applicant Carson Styles and several residents.
Zoning/Codes Officer Reay Walker and the town board liaison were unable to attend.

Minutes Approval:

Amanda Hewitt made a **motion to approve the minutes for the July 26, 2023, ZBA Special Meeting**. Seconded by Josh O’Kay. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor – Aye, Vacancy – n/a. **Motion Carried.**

Correspondence:

Secretary Pavelock read the materials received on August 22, 2023 via email from applicant Carson Styles. This was information regarding an update to the variance application, reducing the variance from 10,640 square feet (SF) to 640 SF.

Public Hearing/Unfinished Business:

Var2023-01 Broadway Group Carson Styles; 2374 NYS Rte 49 at NYS Rte 13; 217.000-2-24,25,26,27 (4 Lots). Requesting an Area Variance to construct 12,480 SF retail store, 2,480 SF (24.8%) over maximum of 10,000 SF (ZL Sections 620.3 and 420 Schedule A).

Chairman Pavelock provided a summary of the current application before the ZBA including the ability of the public to comments since the public hearing was adjourned rather than closed on July 26, 2023. Chairman Pavelock asked the applicant Carson Styles if he had any new information to present to the board.

Mr. Carson requested that the application be updated, reducing the variance requested from 10,640 SF to 640 SF. The ZBA informed the applicant that the board could review and approve an updated application. Mr. Styles updated, initialed and dated application Var2023-01. Mr. Styles provided some additional photos to illustrate the size of the new proposed structure. He also provided a new completed area variance questionnaire for the updated variance request.

The ZBA reviewed the updated application. Josh O’Kay made a **motion to accept the amended application Var2023-01 as of August 23, 2023 and to declare the amended application as complete**. Seconded by Amanda Hewitt. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor – Aye, Vacancy – n/a. **Motion Carried.**

The updated description for Var2023-01 is as follows: Applicant - Broadway Group Carson Styles; Address - 2374 NYS Rte 49 at NYS Rte 13; Tax Map numbers - 217.000-2-24,25,26,27 (4 Lots). Requesting an Area Variance to construct 10,640 SF structure, 640 SF (6.4%) over maximum of 10,000 SF (ZL Sections 620.3 and 420 Schedule A).

Chairman Pavelock asked if anyone would like to comment on this application stating we would use the same rules as July 26, 2023 including 5 minutes per speaker and to record your name and street address on the speaker signup.

Chris Barnhart – Asked if the ZBA required the applicant to provide a cause and need. Chairman Pavelock provided the role of the ZBA for area variances. Mr. Barnhart is against granting the variance.

Mike Piper – For granting a variance. As a member of the Planning Board (PB), Mike explained that at our last meeting PB Chairman Calvin Collins pointed out that the Comprehensive plan encourages cluster development.

Robert Barnes – Against granting a variance. Granting a variance will open a can of worms allowing anyone to request the building of structures larger than 10,000 SF including himself.

Calvin Collins – Provided written comments read by Secretary Pavelock (attached). The ZBA assumes based on the comments, Mr. Collins is for granting a variance.

No other public comments were offered at this meeting.

Amanda Hewitt made a **motion to close the public hearing for Var2023-01**. Seconded by Josh O’Kay. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor – Aye, Vacancy – n/a. **Motion Carried at 7:12 PM.**

The ZBA discussed the amended application and any information provided by the applicant that will form the basis of the decision. The ZBA discussed other buildings within the town all of which meet the requirement or were grandfathered. The discussions included the history of selecting 10,000 SF as the maximum footprint for structures. Former Comprehensive Plan Committee member Amanda Hewitt stated the limit did come from the Comprehensive Plan. This limit was extensively discussed and was not an arbitrary number. The suggested limit of 10,000 SF was suggested and ultimately approved by the town council in approving the Zoning Law. Most of the ZBA commented that they have not received adequate justification for granting variances over the 10,000 SF.

Josh O’Kay made a **motion to approve Var2023-01 with a 640 SF variance to build a 10,640 SF footprint structure at 2374 NYS Rte. 49 at NYS Rte. 13, Tax Map numbers – 217.000-2-24,25,26,27 (currently 4 Lots)**. Seconded by Amanda Hewitt. Poll Vote: Josh O’Kay – Nay, Amanda Hewitt – Nay, John Pavelock – Nay, Mike Taylor – Nay, Vacancy – n/a. **Motion Defeated.**

Other: Applicant for ZBA member appointment

Nathan Juby submitted an application to the Town Council to fill the current vacancy on the ZBA. Supervisor Davis asked that the ZBA meet with Mr. Juby to discuss his desire to serve on the ZBA. Mr. Juby was present at the meeting and answered questions posed by the ZBA. The ZBA provided a brief overview of the duties of ZBA members.

John Pavelock made a **motion to recommend that Nate Juby be appointed to the ZBA to fill the current vacancy with a term ending 12/31/2024**. Seconded by Amanda Hewitt. Poll Vote: Josh O’Kay – Aye, Amanda Hewitt – Aye, John Pavelock – Aye, Mike Taylor – Aye, Vacancy – n/a. **Motion Carried.**

Having no other business before the board, Amanda Hewitt made a **motion to adjourn**, seconded by John Pavelock. All in favor. **Motion Carried at 7:40 PM.**

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

From Calvin Collins

1. Notes on Page 25 of Comprehensive Plan

"Encourage development on intersections of Major Highways"

2. Note at least ZBA meeting

10,000 Sq. Ft. in Comprehensive but should be

10,000 Sq. Ft. in Zoning Law ⁴⁶
Early Version of Zoning Law ~~had~~ had limits of Building Footage
Law changed sometime between 2000-2013

3. Other Building in area

Opposite side of Rt 13. Former Hobbs Hardware
now "Top of the Hill"

Three Building over 17,000 Sq. Ft. includes
main building over 12,000 Sq. Ft.

4. There is no business like JB Market on

Rt. 49 between Constaniz & Rowe

5. Three Existing Buildings will be removed.