



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue
Elmira, NY 14904

**MINUTES APPROVED
BY BOARD OF APPEALS
6/24/2025**

BOARD OF APPEALS

MINUTES
APRIL 29, 2024

INFORMATIONAL HEARINGS (3)

MATTHEW DAVIS

(continued from September 20, 2023)

AREA VARIANCE-CHICKENS-UNDERSIZED LOT, ZONE: R-1
1607 PENNSYLVANIA AVENUE, PINE CITY, NY 14871

BRIAN GROSE, O/B/O ARBOR HOUSING & DEVELOPMENT

AREA VARIANCE 525-24-BULK DENSITY SCHEDULE-MAXIMUM
BUILDING HEIGHT 35 FEET;
PROPOSED BUILDING HEIGHT 44 FEET, 9 INCHES WITH
AVERAGE ELEVATION OF 38 FEET
1205 PLYMOUTH AVENUE, ELMIRA, NY 14904 ZONE: CR

JAMES GENSEL

INTERPRETATION 525-5 CONVENIENCE FOOD MART
A COMMERCIAL RETAIL USE THAT COMBINES 2 PRINCIPAL
USES ON A SINGLE PARCEL
1151 BROADWAY, ELMIRA, NY 14904 ZONE: CR

PUBLIC HEARING (1)

CHRISTIAN BRUNELLE, O/B/O, SONBYRNE SALES, INC.

171 ROUTE 5, WEEDSPORT, NY 13166
(SOUTHPORT BRYNE DAIRY PROJECT)
AREA VARIANCE-MAXIMUM LOT COVERAGE PERCENTAGE IN
THE COMMERCIAL REGIONAL ZONE
1151 BROADWAY, ELMIRA, NY 14904 ZONE: CR

Minutes of the Zoning Board of Appeals, Town of Southport, held at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York on April 29, 2024 at 7:00 p.m.

Board Members Present: Justin Faulkner
 Belinda Combs
 Shawn Crater
 Susan Silvers
 Ken Wrigley
 Kent Collier, Alternate

Others Present: Megan Dorritie, Town Attorney
 Peter Rocchi, Town Code Enforcement Officer
 Bonnie Balok, Secretary-Zoning Board of Appeals

1. Call to Order

Chairman Faulkner called the meeting to order at 7:02 pm.

2. Approval of the Minutes of March 20, 2024

Chairman Faulkner advised the next item on the agenda is the approval of the minutes of March 20, 2024.

2. Approval of the Minutes of March 20, 2024 *(continued)*

Mr. Wrigley noted one correction was needed; Ken Collier should be Kent Collier. Ms. Silvers made a motion to approve the minutes with the one correction; seconded by Ms. Combs. The minutes of March 20, 2024 were unanimously approved.

3. New Business

Chairman Faulkner advised the next item on the agenda is an informational hearing for Matthew Davis, 1607 Pennsylvania Avenue, Pine City, NY. Mr. Davis is requesting an area variance to keep chickens on an undersized lot, as per Section 525-33 (7)(a) in a residential one zone, Tax Map #: 118.03-1-2; Zoned: R1.

Chairman Faulkner explained Mr. Davis has provided written notification, via email, that he is withdrawing his application.

Informational Hearing for Mr. Davis adjourned: 7:04 pm

Original on File: Town Clerk

Copy: Town Supervisor-----Town Attorney-----Town Code Enforcement Officer-
Zoning Board of Appeals---Town Board-----Town Planning Board
Minutes to Matthew Davis, 1607 Pennsylvania Avenue, Pine City, NY 14871

Bonnie Balok, Secretary
Zoning Board of Appeals
April 30, 2024

**MINUTES APPROVED
BY BOARD OF APPEALS
6/24/2024**

113 East Chemung Place, Elmira, NY 14904

Re: 1205 Plymouth Avenue, Elmira, NY 14904

Area Variance 525-24-Bulk Density Schedule-Maximum Building Height 35 Feet; Proposed Building Height 44 Feet, 9 Inches with Average Elevation of 38 Feet Zone: CR**3. New Business** (*continued*)

Chairman Faulkner advised the next item on the agenda is an informational hearing for Brian Grose, Fagan Engineers, o/b/o Arbor Housing & Development, 113 East Chemung Place, Elmira, NY 14904; regarding 1205 Plymouth Avenue, Elmira, NY 14904, requesting an Area Variance 525-24-Bulk Density Schedule-Maximum Building Height 35 Feet; Proposed Building Height 44 Feet, 9 Inches with average elevation of 38 Feet Tax Map #109.08-2-51, Zone: CR

Present: James Gensel, Fagan Engineers, substitute for Brian Grose, o/b/o Arbor Housing & Development

James Gensel, Fagan Engineers, advised he would be substituting for Mr. Grose who was coaching a sporting event. The property is where the old Brookside Mobile Home site was located. The company is proposing senior housing which would consist of putting town houses and three (3) story apartments in, which the building code allows. Code allows a maximum building height of thirty five feet (35') and the company is proposing thirty eight feet (38') to forty feet (40'). The reason is to make the buildings more esthetically in line with the buildings within the neighborhood. The proposed height of the building is thirty eight feet (38'), but they are applying for forty feet (40') based on the ground elevation. This allows for the development of senior housing. The project will be subsidized through HCR grants and we need to have sixty (60) units to be competitive: five (5) town houses with twenty town houses total, and forty (40) apartment units; sixty (60) units total. They look like duplexes, but have four (4) units each. A site plan can be provided. The project could be accomplished as flat roof, but the stake holders prefer a peak roof to maintain esthetically like the neighborhood. The project will be totally for seniors, fifty five (55) plus, similar to Park Terrace in Pine City, NY. The project is required by the State to be all electric, and include elevators and sprinklers. Each year this opens up for funding. This is opening up for funding at this time and Arbor Housing and INHS will go through this process for funds. Only applications that have been approved will get funding. Goes along with Planning Board provision, fire department, storm water, fire, over one (1) acre, peak roof, sewer, esthetic purposes and maintenance service.

Attorney Dorritie advised she was present when the project was presented to the Planning Board. The Town Houses haven't been finalized as of last week. Mr. Gensel advised this is being worked on by Hamilton Stearns. The Town Houses are coming in at a higher cost than the company wanted, but they should have an answer at the next Planning Board meeting. Mr. Gensel explained the alternative would be to enlarge the apartment building to get fifty (50) to sixty (60) units.

Attorney Dorritie asked if there was a chance this might change and the height might be higher? Mr. Gensel advised the height might be different, but the project would still need a variance; they will know by the next Planning Board meeting. Behind the proposed project there is green space.

Ms. Combs asked if Mr. Gensel would provide the alternative? Mr. Gensel explained, if there was any expansion, they would update their document for the next meeting. Ms. Silvers advised the elevation would still be needed. Mr. Gensel advised this shows storm water and we anticipate going through that process in two (2) weeks.

Mr. Gensel explained town houses have become very popular. This type of unit is in high demand. The units are not market rate; they will be occupied based on a lottery. HCR (*Homes and Community Renewal*) looks for projects that provide a walkable community with essential services nearby. This project hits every checkbox on their list.

Mr. Crater asked if the project would need a variance for green space? Mr. Gensel advised no. The project has a use for the green space for storm water and landscaping will be included. Coming back to the ZBA next month, Mr. Grose will be here and provide additional details.

Minutes of April 29, 2024 – Informational Hearing – Brian Grose, o/b/o Arbor Housing & Development

113 East Chemung Place, Elmira, NY 14904

Re: 1205 Plymouth Avenue, Elmira, NY 14904

Area Variance 525-24-Bulk Density Schedule-Maximum Building Height 35 Feet; Proposed Building Height 44 Feet, 9 Inches with Average Elevation of 38 Feet Zone: CR

3. New Business *(continued)*

Attorney Dorritie asked about the County Planning Board referral? Mr. Gensel explained the County Planning Board hasn't had an area variance, but the County Planning Board saw this and recommended approval; not just local determination.

Public Hearing: Wednesday, May 15, 2024, 7:00 pm. Secretary Balok will send a copy of the legal notice and instructions to Mr. Grose and Mr. Gensel at Fagan Engineers.

Informational Hearing for Mr. Grose, o/b/o Arbor Housing & Development adjourned: 7:24 pm

Original on File: Town Clerk

Copy: Town Supervisor-----Town Attorney-----Town Code Enforcement Officer-
Zoning Board of Appeals---Town Board-----Town Planning Board
Minutes to Mr. Grose, and Mr. Gensel, o/b/o Arbor Housing & Development
113 East Chemung Place, Elmira, NY 14904 *(email to Mr. Grose and Mr. Gensel)*

Bonnie Balok, Secretary
Zoning Board of Appeals
April 30, 2024

**MINUTES APPROVED
BY BOARD OF APPEALS
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3. New Business (continued)

Chairman Faulkner advised the next item on the agenda is an informational hearing for James Gensel who is seeking an Interpretation of Section 525-5-Convenience Food Mart, a Commercial Retail Use that combines two (2) Principal uses on a single parcel. Property is located at 1151 Broadway, Elmira, NY 14904

Tax Map # 109.10-2-2 Zone: CR

Present: James Gensel, 1246 Pennsylvania Avenue, Pine City, NY 14871

Mr. Gensel advised the applicant coming up next before the Board concerns another convenience store in the area. Commercial Regional combines a single parcel for the sale of groceries and fuel. At the last meeting, a review of the project developed by Mr. Cleary, listed a convenience store with restaurant and fuel. Mr. Gensel explained his request concerns a convenience store and Section 525-5. The Town has a separate section in the Zoning Law, and if that is not followed, the Board is going to get rid of that section and the fueling station doesn't comply. Mr. Gensel explained he is asking the Board to interpret the convenience store over the fuel station guidelines. The reason he is asking the Board to do that is to treat this project just like the Board treated the Cleary project. With the Cleary project, the Board was required to give two (2) to three (3) variances for the fuel station, and the Zoning Board is supposed to limit the number of variances. If the Board didn't have to follow that guideline, the Board would not have given those variances. If the Board does not treat the applications the same way, the Board is giving out variances in a different way and the Board should not be doing this in fairness. For the integrity of the project they should follow the same. (*Handout provided Section 525-110-Vehicle Filing Station, Vehicle Repair, Vehicle Sales, and Heaving Equipment Vehicle Sales and/or Repair, and/or Contractor's Equipment Yard*). Further, under the 525 fueling requirements, they are not allowed to be open twenty four seven (24/7). There are a number of these items that are being glossed over on this application and this should be reviewed in full for the application.

Mr. Crater explained he was at the last Planning Board meeting, and he thought the Planning Board had hired an outside consultant, and asked why Mr. Gensel is here to ask the same as he asked the Planning Board? Mr. Gensel advised how can the Board review this? The Planning Board hasn't even reviewed it yet.

Attorney Dorritie asked Mr. Gensel if he was bringing this in his personal capacity as a resident? Mr. Gensel advised yes. Attorney Dorritie, asked Mr. Gensel what makes him an aggrieved person to discuss this status? Mr. Gensel explained, as a former ZBA chairman who has interpreted this one way and as a resident who lives nearby, he is concerned about the business operating twenty four seven (24/7) and this impacts his residence, which is one-half (1/2) mile away, and this area of the Town. Mr. Gensel explained any Town resident has right to question this. Attorney Dorritie advised she is not going to get into an argument with Mr. Gensel, but will ask him a series of questions. Attorney Dorritie asked Mr. Gensel, exactly what is the determination of the Code Enforcement Officer? Mr. Gensel advised, you tell me. Attorney Dorritie explained, it is her understanding, and asked Mr. Rocchi to correct her if she was wrong, there has been no determination made by the Code Enforcement Officer. That would be up to the Planning Board if there was going to be a determination. Mr. Gensel asked, with tonight's variance application, if they go beyond this variance, the Board is supposed to look at all variances required with the application or is the Board going to segment it? Attorney Dorritie advised, no this is absolutely not segmented; there is only one (1) area variance. Mr. Gensel acknowledged there is only one (1) area variance for the application. Attorney Dorritie advised, yes. Mr. Gensel explained there are two (2) or three (3) items that are the regular zoning that are not covered on this application, and in the County Planning Board application it listed this as a convenience store. Attorney Dorritie advised they can talk about that at the public hearing scheduled to be heard next. Mr. Gensel asked, what is this project defined as? Attorney Dorritie explained right now the Board is talking about the request for an interpretation because there is no underlying decision that can be challenged, and it is my recommendation that the Board not make a decision on interpretation. Mr. Gensel advised, that's fine and tonight's variance will be the only variance that is allowed. Attorney Dorritie advised she wasn't going to answer this question; this is not a back and forth.

Interpretation 525-5 Convenience Food Mart

A Commercial Retail Use That Combines 2 Principal Uses On A

Single Parcel 1151 Broadway, Elmira, NY 14904

Zone: CR

3. New Business *(continued)*

Mr. Crater explained tonight’s meeting is to vote on the application that is presented to the Board and that’s it. Mr. Gensel asked when the Board is reviewing variances, the Board is supposed to look at all variances, is that correct? Ms. Combs explained this is what the Board has had presented to us, this is what we will take up. Ms. Silvers advised that’s all the Board is looking at, if there is something else that the Planning Board is looking at that is different, she is sure they will send it to us.

Mr. Gensel advised the Board has to look at the variance request as a whole. Mr. Gensel asked if there were any other questions from the Board and advised he is looking for an interpretation and wants a public hearing at the next meeting. Attorney Dorritie explained that is not appropriate. Attorney Dorritie advised this is not properly before the ZBA. Attorney Dorritie advised she would be glad to discuss this with the Board or go into Executive Session if the Board would like, but she suggested the Board not act on this. Ms. Silvers advised we should wait to see what the expert hired by the Planning Board recommends; we are just talking about green space and take back.

Motion by Ms. Silvers, the Board is not going to consider the request for an interpretation brought by Mr. Gensel; seconded by Ms. Combs.

Secretary Balok called the roll: Ms. Combs-Yes; Mr. Crater-Yes; Ms. Silvers-Yes; Mr. Wrigley-Yes; Chairman Faulkner-Yes.

Interpretation Denied

Informational Hearing for Mr. Gensel adjourned: 7:35 pm

Original on File: Town Clerk

Copy: Town Supervisor-----Town Attorney-----Town Code Enforcement Officer-
Zoning Board of Appeals---Town Board-----Town Planning Board
Minutes to Mr. Gensel, 1246 Pennsylvania Avenue, Pine City, NY 14871
(email to Mr. Gensel)

Bonnie Balok, Secretary
Zoning Board of Appeals
April 30, 2024

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3. New Business (continued)

Chairman Faulkner advised the next item on the agenda is a public hearing for Christian Brunelle, o/b/o, Sonbyrne Sales, Inc., 171 Route 5, Weedsport, NY 13166, (Southport Byrne Dairy Project); Area variance for maximum lot coverage percentage in the commercial regional zone, Section 525-24, 1151 Broadway, Elmira, NY, 14904, Tax Map #: 109.10-2-21, Zoned: CR

Present: Mr. Brunelle, Senior Executive Vice President, Sonbyrne Sales, Inc. | Byrne Dairy & Deli Retail Stores

Mr. Brunelle advised he has been in front of this Board previously and the Planning Board three (3) times. Mr. Brunelle provided the Board with an updated site plan. Mr. Brunelle explained this has nothing to do with lot coverage, the project will include added drainage and we added a loading zone; also talked with Chemung County DPW, traffic study completed, traffic engineer recommended a left turn lane on Broadway and that will be included in the project. Zoning requires seventy percent (70%) lot coverage; the proposal is for eighty six percent (86%) lot coverage. As it sits there today, it is ninety one percent (91%). Referring to a map, brought in to provide a visual opportunity to see the project, Mr. Brunelle explained the dark green area is currently paved from the road to road, but can't add this into the calculations because, technically, this is not owned by the company, and will take anything outside the right of way and turn it into green space. By doing this it will eliminate the pavement and define the curb cuts.

Ms. Combs asked if the green space was because of the take back causing this issue? Mr. Brunelle advised this right of way line was right to the side walk; it was determined these are the real property lines. Ms. Combs reconfirmed the take backs caused the issue. Mr. Brunelle advised yes. Mr. Brunelle explained the light green area on the map shows eighty six percent (86%) and green space fourteen percent (14%). Chairman Faulkner asked if the dark green area was added in, what would the percentage be? Mr. Brunelle advised it would be twenty percent (20%), but he can't count this in because the company does not own this; further, this has less lot coverage and more green space. Mr. Brunelle advised Dunkin Donuts area has .23 acres and ninety four percent (94%) lot coverage. Mr. Brunelle explained there is no drainage on the proposed site now; the company will be putting in catch basins; this will be a drastic improvement.

Mr. Crater asked if this would go back to the County Planning Board? Mr. Brunelle advised, no; after discussion with his traffic engineer, civil engineer and, as per Andy Avery, Commissioner of Chemung County Public Works, the road is plenty wide, it just needs striping, which we agreed to do. This is a strange intersection because the intersection roads are controlled by NYS DOT, but both roads are under the jurisdiction of Chemung County; Chemung Public Works makes the decisions.

Mr. Collier asked about the five (5) questions that were answered, in writing, by Mr. Brunelle previously and one of the questions asks, whether the benefit could be achieved by some other method. Specifically, why the company couldn't reduce the size/square footage of the building to create more green space, why does he have to have that size building? Mr. Brunelle advised they have looked at many different layouts and this is the company's model to make it economically feasible and that is their decision.

Ms. Combs advised this is currently hardtop. Ms. Silvers explained that has been allowed in other circumstances in granting a variance. Mr. Crater explained they could leave it hardtop, but this identifies the ins and outs.

Attorney Dorritie asked if the company has an agreement with the County about their anticipated work in the right of way? Mr. Brunelle advised he does not, but they will be from Chemung County and that will be included in the curb cut permit, a Chemung County right of way work permit that will be based on this plan. NYS DOT does the same thing. We also add language on that says, "right of way work"; one (1) permit, but it will be for two (2) things. Mr. Brunelle advised this will be a Chemung County driveway permit; NYS DOT calls it Minor Commercial Driveway permit. Mr. Brunelle advised the Site Plan addition made here is dated April 10, 2024, left hand turn onto Broadway.

3. New Business *(continued)*

Chairman Faulkner opened the meeting up to the public meeting phase and advised the issue concerns a lot coverage variance; anyone wanting to speak should step up, give their name and address, and the time is limited to three (3) minutes.

Liv Lovejoy, 968 Pauline Avenue, Pine City, NY. Ms. Lovejoy advised twenty (20) parking spots were mentioned, and asked if there is a parking minimum on this lot that they are required to meet? Mr. Crater advised the square footage meets the minimum parking. Ms. Lovejoy advised the more green space the better especially coming into the community where the beautiful Southport sign is located. You want something nice there. Ms. Lovejoy also explained that mention was made, in the Planning Board minutes, about the sidewalks being striped. Ms. Lovejoy advised she was a student at Broadway and the students always walked down there to the store. Even if the sidewalk is on the other side, she was hoping the sidewalk be wide enough and be ADA accessible, and again coming into the Town, it would be good to make it look nice.

Sandy Clark, 424 Hillview Drive, Elmira, NY. Ms. Clark advised she hoped the Board would approve the variance for Byrne Dairy; she welcomed Mr. Cleary's business, but the Pizza Hut store is an eyesore coming into this Town now that it is closed. Byrne Dairy would make it look a lot better, it's welcoming, and the Town of Southport needs growth. Ms. Clark explained she is all for it, this helps the tax base and encourages the growth of Southport.

James Gensel, 1246 Pennsylvania Avenue, Pine City, NY. Mr. Gensel explained, as he mentioned, there are a number of other variances that could be potentially needed for this, but one in particular in regards to green space. The zoning requires ten percent (10%) of the parking area be green space set for landscape areas. Mr. Gensel advised we keep hearing about the old applications, the Dunkin and the Cleary hearing was under Form Based Zoning which had one hundred percent (100%) lot coverage, but under this variance the Town is required to have ten percent (10%) green space within the parking area. Mr. Gensel submitted a copy of that Code to the Board. Mr. Gensel explained that's specifically towards the green space and if the Board is going to give a variance over green space, the Board needs to review this piece. Chairman Faulkner asked Attorney Dorritie about the other variances Mr. Gensel had alluded to, that were not seen in front of the Board and asked if other variances were to surface, what procedures are in store for the Town of Southport. Attorney Dorritie advised there are two things going on here, one is for the site plan approval of Planning Board and this variance before the Zoning Board of Appeals, the one (1) application for a variance. The Planning Board is taking a broader look as part of the site plan review and thus far has not identified any other variances that should be considered. Should that come up, certainly that could be considered, but at this point it's only the one. Chairman Faulkner confirmed the ZBA is not here to determine if there are other variances out there that we could be hearing; just the one before us now. Mr. Crater stated if there was another variance, it would have to come back to the ZBA just like any other variance. Attorney Dorritie advised yes, all the public due process, a public hearing, public comments, any of the Board members could ask questions. Ms. Silvers explained the Planning Board is hiring a professional to assist them and give them guidance, and she is sure whatever is needed will come back to the Board. Mr. Gensel explained he would recommend this be tabled until the Board gets the review engineer's input. The Board is opening up an application multiple times. The person determining whether this needs to be an application in progress is the Zoning Officer not the Planning Board. It's not the Planning Board's job to refer variances to the ZBA; it's the Zoning Code Officer who determines if they do not meet the zoning. One section doesn't meet Code, Section 525-80-landscape with ten percent (10%) in the parking area. What does it hurt to wait one (1) more meeting? Ms. Combs advised we don't have that before us. Ms. Silvers explained landscape surface run off isn't before the Board; all the Board is looking at right now is just the green space. Mr. Gensel advised he would almost think it is to the applicant's benefit because if it is denied the Board would have to reopen this and have to have another informational hearing, but it's up to the ZBA.

Attorney Dorritie advised the Board can ask the applicant if they want to table this or it is within the ZBA's discretion to make the decision to vote on this tonight.

Chairman Faulkner asked if there was anyone else wanting to speak and if there was anyone who had called in? No others came forward. Chairman Faulkner closed the public hearing portion of the hearing.

Chairman Faulkner advised the Board will now ask the applicant to answer the five (5) Variance Questions.

The applicant, Mr. Brunelle, provided the following answers to the area variance questions: (*Read into the record from a document submitted in writing, dated March 20, 2024*).

Q1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance?

A. *Mr. Brunelle: This action will not change the character or the neighborhood or community considering the previous use, at this site, was commercial for thirty plus (30+) years. Also, the surrounding properties are all commercial developments which include Restaurants, Fast Food Drive-Throughs, Convenience Store with Gasoline Sales, Bowling Alley, etc.*

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

A. *Mr. Brunelle: No, an Area Variance would be the only way to achieve our site plan/layout and current business plan.*

Q3. Whether the requested area variance is substantial?

A. *Mr. Brunelle: The Area Variance is not substantial considering the previous site had-ninety one percent (91%) lot coverage. We are requesting eighty six percent (86%) lot coverage (sixteen percent (16%) Relief Requested) which would be a decrease in lot coverage compared to the current/previous use. Also, the project will include removal of impervious surface area in the County Right of Way creating even more green space in the total project area.*

Q4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

A. *Mr. Brunelle: The Area Variance will not have an adverse affect or impact on physical or environmental conditions of the neighborhood and district. It will improve the physical and environmental conditions of the neighborhood by adding more green space to the site. The site previously contained no drainage system or plan. This project will be proposing a drainage system which will benefit both the physical and environmental conditions of the neighborhood and district.*

Q5. Whether an alleged difficulty of compliance with the zoning requirement was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance?

A. *Mr. Brunelle: The difficulty was not self-created because of the irregularities with the site.*

The Board reviewed the five (5) area variance questions and provided their answers as follows:

Q1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance?

A. *Unanimous: No Combs, Crater, Silvers, Wrigley, Faulkner – all no responses*

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue,

A. *Unanimous: No Combs, Crater, Silvers, Wrigley, Faulkner – all no responses*

Q3. Whether the requested area variance is substantial?

A. *Unanimous: No Combs, Crater, Silvers, Wrigley, Faulkner – all no responses*

Q4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

A. *Unanimous: No Combs, Crater, Silvers, Wrigley, Faulkner – all no responses*

Minutes of April 29, 2024 – Informational Hearing – Christian Brunelle, o/b/o, Sonbyrne Sales, Inc.

171 Route 5, Weedsport, NY 13166

(Southport Byrne Dairy)

Re: Area Variance-Maximum Lot Coverage Percentage
In the Commercial Regional Zone-1151 Broadway, Elmira, NY

The Board reviewed the five (5) area variance questions and provided their answers as follows (*continued*):

Q5. Whether an alleged difficulty of compliance with the zoning requirement was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance?

A. *Unanimous: No Combs, Crater, Silvers, Wrigley, Faulkner – all no responses*

Ms. Silvers made a motion to vote on the variance for the Byrne Dairy Southport site, with a no vote denying the variance and a yes vote granting the variance; seconded by Mr. Crater.

Discussion on the Motion and Recommendation by Attorney Dorritie.

Attorney Dorritie advised the SEQR needed to be completed and the ZBA had to do this as an Unlisted Action, meaning it doesn't fall within one of the listed items.

Question 1: Will this variance increase in green space cause an adverse or significant environmental impact?

Answer: No.

Contingent upon the Planning Board, one (1) permit for DOT, as well as County right of way permit.

Green space that County approves or not; not asking for variance with County green space, just with Town's green space.

Ms. Silvers amended her motion, she made a motion to vote on the variance for the Byrne Dairy in Southport for SEQR purposes that it is an Unlisted Action, and there is no anticipation of a significant or adverse environmental impact, and with a no vote denying the variance and a yes vote granting the variance. Amended motion, seconded by Mr. Wrigley.

Discussion took place concerning adding any contingencies, the DOT permit and the Chemung County Driveway Permit that contributes to the overall green space of that area. The green space that the County approves or does not approve doesn't impact this site at all for what he is asking for. Decision was made not to include contingency conditions on the variance.

Chairman Faulkner asked Secretary Balok to call the roll.

Secretary Balok called the roll: Ms. Combs-Yes; Mr. Crater-Yes; Ms. Silvers-Yes; Mr. Wrigley-Yes; Chairman Faulkner-Yes. Unanimous vote yes. Variance granted.

Mr. Brunelle's Public Hearing Adjourned: 8:08 pm

Original on File: Town Clerk

Copy: Town Supervisor-----Town Attorney-----Town Code Enforcement Officer-
Zoning Board of Appeals---Town Board-----Town Planning Board
Minutes to Christian Brunelle, o/b/o, Sonbyrne Sales, Inc.
171 Route 5, Weedsport, NY 13166 (E: Christian.Brunelle@byrnedairy.com)

Bonnie Balok, Secretary
Zoning Board of Appeals
April 30, 2024

**MINUTES APPROVED
BY BOARD OF APPEALS
6/24/24**

4. Old Business

No old business

5. Discussion

No further discussion

6. Adjournment

Motion to adjourn: Mr. Crater

Seconded: Ms. Silvers

Adjourned: 8:09 pm

Bonnie Balok, Secretary
Zoning Board of Appeals
April 30, 2024

**MINUTES APPROVED
BY BOARD OF APPEALS
6/24/24**

Resolution No. 8

INTERPRETATION 525-5 CONVENIENCE FOOD MART
A COMMERCIAL RETAIL USE THAT COMBINES TWO (2) PRINCIPAL USES ON A SINGLE PARCEL
1151 BROADWAY, ELMIRA, NY 14904 ZONE: CR

AS DETAILED BELOW

DENIED

PROPERTY:	TAX MAP NO. 109.10-2-21 COMMONLY KNOWN AS 1151 BROADWAY	ZONED: CR ELMIRA, NY 14904
APPLICANT:	JAMES GENSEL, RESIDENT OF 1246 PENNSYLLVANIA AVENUE	PINE CITY, NY 14871
PROPERTY OWNER:	SONBYRNE SALES, INC. 171 ROUTE 5 CONTACT: CHRISTIAN BRUNELLE SENIOR EXECUTIVE VICE PRESIDENT	WEEDSPORT, NY 13166

RESOLUTION: SILVERS SECONDED: COMBS

WHEREAS, James Gensel, resident of the Town of Southport, residing at 1246 Pennsylvania Avenue, Pine City, NY applied for an interpretation of Section 525-5, Convenience Food Market a Commercial Retail Use that combines two (2) principal uses on a single parcel at 1151 Broadway, Elmira, NY 14904, Tax Map 109.10-2-21, Zoned: CR, and

WHEREAS, the Town of Southport Zoning Board of Appeals held an informational hearing on April 29, 2024 at 7:00 p.m., or as soon thereafter as it could be heard, at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, to consider the interpretation of the above listed Section 525-5, and

WHEREAS, based upon deliberation, consideration and discussion, the members of the Zoning Board of Appeals were of the opinion the requested interpretation, listed above, be denied, and

NOW THEREFORE BE IT RESOLVED the interpretation request, listed above, is denied.

Motion-to Deny Interpretation of 525-5-Convenience Food Market a Commercial Retail Use that Combines two (2) Principal Uses on a Single Parcel - ZBA Voted as Follows:

Ms. Combs-Yes; Mr. Crater-Yes; Ms. Silvers-Yes; Mr. Wrigley-Yes; Chairman Faulkner-Yes.

Interpretation Denied
Carried.
April 29, 2024

**RESOLUTION APPROVED BY THE
ZONING BOARD OF APPEALS
6/24/24**

**ZONING BOARD OF APPEALS
TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK**

**RESOLUTIONS
2024**

Resolution No. 9

AREA VARIANCE GRANTED

PROPERTY:	TAX MAP NO. 109.10-2-21 COMMONLY KNOWN AS 1151 BROADWAY	ZONED: CR ELMIRA, NY 14904
APPLICANT:	CHRISTIAN BRUNELLE, O/B/O SONBYRNE SALES, INC. 171 ROUTE 5	WEEDSPORT, NY 13166
OWNER:	SONBYRNE SALES, INC. 171 ROUTE 5	WEEDSPORT, NY 13166
RESOLUTION:	SILVERS	SECONDED: WRIGLEY

WHEREAS, Christian Brunelle, o/b/o Sonbyrne Sales, Inc., 171 Route 5, Weedsport, NY 13166, applied for an area variance for maximum lot coverage percentage in the Commercial Regional Zone, Section 525-24, at 1151 Broadway, Elmira, NY 14904, in a CR Zone, as per Town Code, Town of Southport, County of Chemung. The property is located in an CR zone and is commonly known as 1151 Broadway, Elmira, NY 14904, Tax Parcel, 109.10-2-21, and

WHEREAS, the Town of Southport Zoning Board of Appeals held a hearing on April 29, 2024 at 7:00 p.m., or as soon thereafter as it could be heard, at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, to consider the granting of the area variance, with three (3) individuals providing comments concerning the project; (2 general inquiries and 1 supportive comment), and

WHEREAS, based upon deliberation, consideration and discussion, the members of the Zoning Board of Appeals were of the opinion the area variance could be granted to allow for maximum lot coverage percentage in the Commercial Regional Zone, at 1151 Broadway, Elmira, NY 14904, and

NOW THEREFORE BE IT RESOLVED the area variance is granted to Christian Brunelle, o/b/o Sonbyrne Sales, Inc., for property located at 1151 Broadway, Elmira, NY, 14904, Tax Map 109.10-2-21 and the building inspector of the Town of Southport be and hereby is authorized to issue a permit for said use and that failure to complete the project within one (1) year from the granting of this area variance will render the variance null and void.

Yes-Grant Variance:	Combs, Crater, Silvers; Wrigley; Faulkner
No-Deny Variance	None
Carried.	
February 23, 2024	

**RESOLUTION APPROVED BY THE
ZONING BOARD OF APPEALS
6/24/24**