

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
SEPTEMBER 21, 2026**

The regular meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present are Byron Elias, Michele DeTraglia, Lenora Murad, Dan McNamara, Michele Mandia, and Dominick Timpano. Also in attendance were Town Attorney Herbert Cully, Codes Officer George Farley and Dory Shaw, Secretary. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting.

The application of **Mrs. Jo-Ann Fleischer, 18 White Pine Road, New Hartford, New York**. Mrs. Fleischer would like to place an 8'± or 10'± privacy fence on her property. Zoning allows for a 6' fence. Therefore, the applicant is requesting a 2'± or 4'± height Area Variance to construct this 8'± or 10'± privacy fence on her property. Tax Map #330.017-1-82; Zoning: Low Density Residential. Mr. & Mrs. Fleischer appeared before the Board.

Mr. Fleischer presented the Board with a picture of what the proposed 8' fence would look like. He also presented a signed petition of neighbors who support his application. He questioned the criteria for a tennis court and also addressed pickle ball as he feels this is as intrusive as a tennis court. He explained the location of his deck and they can look into the proposed tennis court. He is leaning towards the 8' fence rather than 10' and discussed the length of the fence, probably between 90' and 96'. A survey was done and Dr. Fleischer explained the property line and neighbors who are parallel to his property.

Chairman Bogar opened the Public Hearing to anyone in attendance: no response. The Public Hearing closed at approximately 6:15 P.M.

At this time, the Board Members addressed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no - all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Michele Mandia to approve the application of Mrs. Fleischer for an 8' fence per the application and the picture given to this Board not to exceed 96' in length, and that a Building Permit be obtained within one year of approval date; seconded by Board Member Dominick Timpano. Vote taken:

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Vote taken:

Chairman Randy Bogar – yes
Board Member Byron Elias – yes
Board Member Dan McNamara - yes
Board Member Lenora Murad – yes

Board Member Dominick Timpano- yes
Board Member Michale DeTraglia - yes
Board Member Michele Mandia – yes

Motion **approved** by a vote of 7 – 0.

The application of **Mrs. Megan Dischiavo, 2 Wilbur Road, New Hartford, New York**. Mrs. Dischiavo is proposing an addition onto her existing home. The proposed improvements cannot be constructed and meet the required setbacks. This proposal requires a side yard Area Variance of 6'± and a rear yard Area Variance of 8'±. Tax Map #329.013-2-39; Zoning: Medium Density Residential. Mrs. Dischiavo appeared before the Board with her contractor, Mr. Schawn McNamara.

Pictures of the existing home were presented to the Board Members. Mrs. Dischiavo also explained the type of work to be done and why she needs the variances, i.e., additional living space, wants to improve the home, update things that need to be improved, enhance the appearance of this home and neighborhood. She was asked about the tree, which will be taken down and she will get it in writing.

Chairman Bogar opened the Public Hearing to anyone in attendance: no response. The Public Hearing closed at approximately 6:25 P.M. Chairman Bogar addressed the County Planning 239 report and NYSDOT response, which both had no recommendations.

At this time, the Board Members addressed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no - all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: yes, all in agreement.

Motion was made by Board Member Dan McNamara to approve the application of Mrs. Dischiavo as requested and that a Building Permit obtained with one year of approval date; seconded by Board Member Michele Mandia.

Vote taken:

Chairman Randy Bogar – yes
Board Member Byron Elias – yes
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Board Member Dominick Timpano- yes
Board Member Michale DeTraglia –

Board Member Dan McNamara - yes

Board Member Michele Mandia – yes

Board Member Lenora Murad – yes

Motion **approved** by a vote of 7 – 0.

The application of **Mr. Patrick Green, 41 Court Knoll, New Hartford, New York**. Mr. Green is seeking an Interpretation as he is currently housing chickens on his property. The property is zoned Medium Density Residential and chickens are not allowed in a residential zone. Therefore, Mr. Green is seeking an Interpretation to keep the chickens on his property. Mr. & Mrs. Green appeared before the Board.

Chairman Bogar explained that this is an Interpretation but would actually require a Use Variance application and he explained the process for this.

Mr. & Mrs. Green explained to the Board that they feel their chickens are not a problem, they are kept clean and they don't have a rooster – more like pets and no one in their remote area has a concern. They are aware of a couple of people who are against this; but they have numerous neighbors who support this.

Town Attorney Cully explained the Code and the criteria necessary for chickens, i.e. in an Agricultural zone and three acres of land, which they do not possess. He also explained what has happened in the past with other applications and the outcome. He reiterated that they need to seek a Use Variance to proceed. Chairman Bogar explained that if they intend to do so, whatever expense they incurred at this time can be waived for the Use Variance.

Board Member Elias suggested opening up this discussion and to get further input from the applicant and people in attendance. Mrs. Green is trying to understand the existing zoning for this type of use and what is required. Town Attorney Cully thoroughly explained again what they would need to do with the Use Variance procedure.

Mr. and Mrs. Green explained that the chickens are small hens and contained – they don't know of any cases that cause illness and complaints of waste or odors. They make sure to protect their home and there is nothing they consider to be worried about. The chickens do not come out at all.

Michele Paladino, Court Knoll, addressed the Board. She lives next door and they have no problem with the chickens – they are like pets.

Resident: she has no problem with these chickens but she does not want to see any roosters.

Elaine Atkinson, Court Knoll, she read from a prepared statement which is a part of the file. She feels if this gets approved, there are no guidelines, who would routinely inspect this property – she is against this application.

Mrs. Green addressed the Board and that she knows now that they didn't follow proper procedures, but they aren't trying to hide anything – they want to teach their children responsibility. She will do whatever needs to properly be done.

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Mrs. Witchley, 10 Court Knoll. She is against this and she has seen a lot of hawks in the area recently and other animals that she has never seen before. There is agricultural land nearby if they want to have chickens there – it is not allowed in a residential area.

Mrs. Green responded that she hasn't seen any vulchers in the area.

Chairman Bogar asked if they are going forward with the Use Variance application which would be at another meeting date – she said yes. Chairman Bogar stated that there will be no decision tonight. The application stays until such time as they file for a Use Variance.

The Board went through what is an Interpretation again and the Use Variance procedure.

At this time, Board Member Dominick Timpano made a motion to vote on the Interpretation as submitted; seconded by Board Member Byron Elias. Board Member Dan McNamara's recommendation is not to vote. No further action on this.

Motion was made by Board Member Michele DeTraglia to vote on this tonight as an Interpretation that the chickens in this case are a domestic household. The chickens in this case constitute a domestic household thus not having to do application 118-69 raising livestock and they can withdraw if they want. She feels they have the right to come back for a Use Variance and/or the Interpretation if they come back. There was no second.

Mr. & Mrs. Green said they are withdrawing their application for an Interpretation and will come back for the Use Variance procedure. They understand what is required with this type of application.

The application of **Mr. Ahmed Abdo Algahim, 27 Cascade Drive, New Hartford, New York.** Mr. Algahim placed an accessory structure in the front yard, which is not allowed. To allow the structure to remain at its location, a 25'± Area Variance is required. Thus, Mr. Algahim is requesting a 25'± front yard Area Variance. Tax Map #330.019-1-10; Zoning: Low Density Residential. Mr. Algahim appeared before the Board.

Mr. Algahim said the shed is 32' from the center of the street and the size is 14' x 40'. He had been trying to get a permit for this for some time. He explained where this type shed came from and why he needs one this big, i.e., he has a lot of items placed in it. The shed was placed there when he got it. There is no where else he can place it – it is a removable shed. The yard isn't level.

Chairman Bogar asked why he didn't check with Codes before he had this built. Mr. Algahim said this explained this is on a curve and not located in the right of way. He stated again that he cannot locate it anywhere else on the property.

Codes Officer Farley stated this property is not considered a corner lot and explained why.

Chairman Bogar asked if there was anyone in attendance to address this application:

-Mr. Gutowski, 31 Cascade Drive. He feels the shed is oversized for that property. He explained visibility problems there and feels it creates problems especially with traffic where it is placed. Also, in the winter with snow accumulation this becomes a hazard with visibility. He feels this is too large for the parcel and intrusive.

There being no further input, the Public Hearing closed at approximately 7:25 P.M. Chairman Bogar stated a letter of opposition was received by Mr. & Mrs. Dave Nowakowski, 29 Cascade Drive, which has been made a part of the file.

At this time, the Board Members addressed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: yes - all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: yes, all in agreement;
- The requested variance is substantial – response: yes, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: yes, all in agreement.

Motion was made by Board Member Byron Elias to **deny** the application of Mr. Algahimas as requested as it does not meet the criteria; seconded by Board Member Michele Mandia. All in favor. Vote taken:

Chairman Randy Bogar – yes
Board Member Byron Elias – yes
Board Member Dan McNamara - yes
Board Member Lenora Murad – yes

Board Member Dominick Timpano- yes
Board Member Michale DeTraglia - yes
Board Member Michele Mandia – yes

Motion **approved** and the variance denied was by a vote of 7 – 0.

Codes Officer Farley will address this shed issue to take further action.

Motion was made by Board Member Byron Elias to approve the minutes of the June 22, 2026 meeting; seconded by Chairman Randy Bogar. All in favor.

Motion to adjourn at approximately 7:40 P.M. by Board Member Byron Elias; seconded by Chairman Randy Bogar. All in favor.

Respectfully submitted,

Dolores Shaw, Secretary
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