



**ZONING BOARD OF APPEALS
TOWN OF CONESUS**

**FEBRUARY 26, 2024
7:00 PM**

A Regular Meeting/Public Hearing of the Zoning Board of Appeals of the Town of Conesus, County of Livingston and the State of New York was held at the Town Hall, 6210 South Livonia Road, Conesus, New York 14435 on the 26th day of February 2024.

PRESENT:	Mark Hopkins	-----	Chairman
	Mike Vogt	-----	Vice Chairman
	Mike Marino	-----	Member
	Ed Hynes	-----	Alternate
	Carol Crane	-----	Secretary
ABSENT:	Reinhard Gsellmeier	-----	Member
	Ken Wilkinson	-----	Member

OTHERS PRESENT: Ron Maxwell, Brian McCarty, Steve & JoAnn Hyde, James Ryan, Lois & Howard Heitner, Charlie & Cathy Dickerson, and other members of the community

CALL TO ORDER: Chairman Hopkins called the meeting to order at 6:57 PM. Chairman Hopkins led the Pledge of Allegiance

ANNOUNCEMENTS AND COMMUNICATIONS

1. Copy of February 26, 2024 Agenda
2. Copy of January 29, 2024 Meeting Minutes
3. Copy of Variance for Steve & JoAnn Hyde
4. Welcome to new member Mike Marino and new alternate Ed Hynes

APPROVAL OF MINUTES July 25, 2022
Not Available yet

APPROVAL OF MINUTES January 29, 2024
Postponed until next month.

OLD BUSINESS

RESOLUTION #07-2024

OPEN PUBLIC HEARING FOR AN AREA VARIANCE OF 20-FEET FOR A 2-LOT SUBDIVISION FOR TAX MAP #101.-1-19.113

On a motion from Mike Vogt and seconded by Mike Marino, the following resolution was

ADOPTED	Ayes	4	Hopkins, Marino, Vogt, Hynes
	Nays	0	
	Absent from this meeting	2	Gsellmeier, Wilkinson

Resolved that Chairman Hopkins declare the Public Hearing was duly published in the Livingston County News on February 16, 2024 and opened tonight at 6:58 PM.



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1. Tax Map #101.-1-19.113
James Ryan
72 Spinley Court
Rochester, New York 14626
(585) 245-1872

Mr. Ryan is requesting an Area Variance of 20 feet of road frontage for a 2-lot Subdivision located at 5445 East Lake Road currently owned by Craig Clayton. Zoning requirement is 150 feet.

RESOLUTION #08-2024

CLOSE PUBLIC HEARING FOR A 20-FOOT AREA VARIANCE FOR TAX MAP #101.-1-19.113

With no one wishing to speak either for or against, on a motion from Mike Vogt and seconded by Mark Hopkins, Chairman Hopkins declared the Public Hearing closed at 7:08 PM. Motion was carried unanimously.

RESOLUTION #09-2024

APPROVAL OF A 20-FOOT ROAD FRONTAGE AREA VARIANCE FOR A 2-LOT SUBDIVISION FOR TAX MAP #101.-1-19.113

On a motion from Mike Vogt and seconded by Mark Hopkins, the following resolution was

ADOPTED	Ayes	4	Hopkins, Marino, Vogt, Hynes
	Nays	0	
	Absent from this meeting	2	Gsellmeier, Wilkinson

Resolved the Zoning Board of Appeals approved the 20-foot road frontage Area Variance for a 2-Lot Subdivision of Tax Map #101.-1-19.113 located at 5445 East Lake Road currently owned by Craig Clayton.

RESOLUTION #10-2024

OPEN PUBLIC HEARING FOR AN AREA VARIANCE OF TAX MAP #101.46-1-2

On a motion from Mike Vogt and seconded by Mike Marino, the following resolution was

ADOPTED	Ayes	4	Hopkins, Marino, Vogt, Hynes
	Nays	0	
	Absent from this meeting	2	Gsellmeier, Wilkinson

Resolved that Chairman Hopkins declare the Public Hearing was duly published in the Livingston County News on February 16, 2024 and opened tonight at 7:10 PM.

1. Tax Map #101.46-1-2
Howard Heitner
5486 East Lake Road
Conesus, New York 14435
914-274-1370



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Mr. Heitner is installing a generator that he is requesting a 3-foot south side yard setback because it would be 2-feet from the property line. His neighbor wants the condition that it cannot be replaced with a generator any larger than 30" high (including base) with the dimensions of 36" x 34".

RESOLUTION #11-2024

CLOSE PUBLIC HEARING FOR AN AREA VARIANCE OF TAX MAP #101.46-1-2

With no one wishing to speak either for or against, on a motion from Mike Vogt and seconded by Mark Hopkins, Chairman Hopkins declared the Public Hearing closed at 7:20 PM. Motion was carried unanimously.

RESOLUTION #12-2024

APPROVAL OF A 3-FOOT AREA VARIANCE FOR TAX MAP #101.46-1-2

On a motion from Mike Vogt and seconded by Mark Hopkins, the following resolution was

ADOPTED Ayes 4 Hopkins, Marino, Vogt, Hynes
 Nays 0
 Absent from this meeting 2 Gsellmeier, Wilkinson

Resolved the Zoning Board of Appeals approved the 3-foot Area Variance on the south side setback located at 5486 East Lake Road currently owned by Howard Heitner in the Lake Upland District with the condition that it cannot be replaced with a generator any larger than 30" high (including base) and with the dimension of 36" x 34".

NEW BUSINESS

1. Tax Map #110.22-1-11.11
Steven Hyde
5792 East Lake Road
Conesus, New York 14435
585-409-8852

Mr. Hyde is requesting an 18-foot Area Variance on the front yard setback which fails to meet Section 155-38 C. He plans to build a 21' x 12' garage (1 car) on existing driveway w/attached carport located at 5792 East Lake Road in the Lake Upland District. Parking will be within the retaining wall area and he will be dropping the retaining wall. The Board would like to see what the grade and elevation are on this property by the next meeting.

RESOLUTION #13-2024

APPROVAL TO SCHEDULE A PUBLIC HEARING ON MARCH 25, 2024 FOR AN 18-FOOT VARIANCE FOR TAX MAP #110.22-1-11.11

On a motion from Mike Vogt and seconded by Mike Marino, the following resolution was

ADOPTED Ayes 4 Hopkins, Marino, Vogt, Hynes
 Nays 0
 Absent from this meeting 2 Gsellmeier, Wilkinson



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Resolved the Zoning Board of Appeals will schedule a Public Hearing from an 18-foot Area Variance on March 25, 2024 for Tax Map #110.22-1-11.11 currently owned by Steven & JoAnn Hyde located at 5792 East Lake Road in the Lake Upland District.

RESOLUTION #14-2024

APPROVAL OF WAIVER AND INFORMED CONSENT FORM

On a motion from Mike Vogt and seconded by Mike Marino, the following resolution was

ADOPTED Ayes 4 Hopkins, Marino, Vogt, Hynes
 Nays 0
 Absent from this meeting 2 Gsellmeier, Wilkinson

Resolved the Zoning Board of Appeals approved the representation of Donald A. Young as Attorney for the Zoning Board of Appeals variety of applications which may come before the Board with respect to matters unrelated to the Litigation along with his continued representation of the Town/Town Board.



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January 29, 2024

Conesus Zoning Board of Appeals
C/O Mark Hopkins, Chair
Town of Conesus
6210 South Livonia Rd.
Conesus, NY 14435

Re: Waiver & Informed Consent

Dear Members of the Conesus Zoning Board of Appeals:

I am writing out of an abundance of caution concerning my potential representation of the Town of Conesus Zoning Board of Appeals (the "ZBA") as it relates to the variety of applications which may come before it, including in order to address any potential and/or appearance of a conflict of interest based on the matter discussed herein.

You may recall that the law firm Boylan Code LLP ("BC") formerly represented the Town of Conesus (the "Town") Town Board, including relative to litigation involving the "Conesus Inn" (the "Litigation"). Among other things, the Litigation involves differing positions by the ZBA and the Town Board which are/may be adverse to each other. Said Litigation was primarily handled through BC by Terence Robinson at the time, with some assistance by myself. Mr. Robinson and I both left BC effective December 31, 2019, with Mr. Robinson joining the firm of Muehe Maue & Robinson, LLP ("MMR"), and my continuing to practice law independently as a solo practitioner.

As I understand it, after leaving BC, MMR, by Mr. Robinson, became and is currently legal counsel of record for the Conesus Town Board relative to the Litigation. I understand that the Zoning Board of Appeals (the "ZBA") retains the Zoghlin Group as counsel of record relative to the Litigation. After departing BC, I had offered to the Town to assist and cooperate with MMR relative to the Litigation, where necessary, but that I would ". . . be unable to assist the Zoning Board of Appeals in relation to matters regarding the Conesus Inn due to a conflict of interest . . ." Since that time, my involvement with the Litigation has been limited, and as of January 1 of 2023, I have removed reference to involvement in said Litigation from my Engagement letter(s) with the Town. I no longer intend to, nor will I assist or be involved with the Litigation, particularly given MMR's continuous representation as legal counsel of record for the Town Board relative to the matter since January of 2020.

I have discussed with the Town, including with the Chair of the Town Board and of the Zoning Board of Appeals, the potential/appearance of a conflict of interest that may arise given the details of the Litigation above, all in light of the Zoning Board's desire to have me represent



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it generally, including with regard to the variety of applications which may come before it, while I continue to represent the Town generally, as well.

I understand that you are comfortable with having me represent both the Town/Town Board generally, as well as the Zoning Board of Appeals, particularly given that MMR is and has been counsel of record relative to the Litigation, and further given that I will have no further involvement as legal counsel for any party relative to the Litigation.

Please acknowledge that you consent to (1) my representation of the Zoning Board of Appeals with respect to matters unrelated to the Litigation along with my continued representation of the Town/Town Board with respect to matters unrelated to the Litigation, and (2) waiver of any conflict/appearance of a conflict resulting from the facts herein, all by signing and returning the enclosed copy of this letter.

Very truly yours,

Donald A. Young

The undersigned hereby acknowledges reading this letter, waives any conflict, and authorizes Donald Young to act consistent with this letter.

Dated: Feb 26, 2024

Town of Conesus Zoning Board of Appeals

By: Mark Hopkins
Mark Hopkins, Chair of the Zoning Board of Appeals

GENERAL DISCUSSION

Nothing was discussed.



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With no further business, on a motion from Mike Vogt and seconded by Mike Marino, the meeting was adjourned at 7:46 PM. Motion was carried unanimously.

Respectfully submitted,

Carol Crane, Zoning Board of Appeals Secretary