

Zoning Board of Appeals
December 16, 2025, Minutes

Present: Dustin Geiger, Heather Nagel, Scott Hulburt

Others Present: Donna Falkner, Jonathan Witmer, Esq., Carl Peter, Zach Kobylanski, Kirk Richenberg, Jim Oswald and Richard Roberts

6:30 pm Chairman Geiger opened the meeting with the pledge, suspending the meeting until after the public hearing and read the public hearing ad.

**TOWN OF YORK
ZONING BOARD OF APPEALS**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of York, including Zoning Ordinance §806, and pursuant to New York State Town Law, including §267-a, that a public hearing shall be held by the Zoning Board of Appeals of the Town of York at the Town of York Town Hall, located at 2668 Main Street, York, New York at **6:30 p.m. on Tuesday, December 16, 2025** for the purpose of considering public opinion and comment about or concerning the following:

A public hearing regarding an area variance on the proposed project for the split of the Genesee Valley Landscape/Bernecker Family Trust lot at 4185 Main Street in Piffard (Wadsworth), tax map #70.-1-57 in the Town of York.

A copy of the application materials and other relevant submissions are available for review on the Town's official website at www.yorkny.org. All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: November 19, 2025

By Order of the Zoning Board of Appeals of the Town of York

Donna K. Falkner

Zoning Board Clerk

Mr. Geiger apologized for the lack of information about this public hearing on the website which was added yesterday.

Mr. Kobylanski explained what he wanted to do – split the lot into two, with Mr. Bernecker retaining the farmland. Mr. Kobylanski's lot where his business is needs 250 ft. road frontage and he lacks about 6 feet so needs a variance.

Mr. Geiger asked for public comment.

Mr. Richenberg asked what the current code for non-conforming use was.

Mr. Geiger said that it was under planned development and was rezoned.

Mr. Kobylanski stated it was agricultural with horticultural use under it.

Mr. Richenberg said it should be commercial and referred to §702, page 74. He does snowplowing.

Mr. Kobylanski explained that 80% of his business is landscaping, making mulch and selling products under horticulture.

Mrs. Nagel asked Mr. Richenberg if he meant #2 under §702. He said yes and §701.

Mr. Richenberg said the farmland should also be 250 ft.

Mr. Peter suggested they read the definition of agri-business on page 3 and horticultural uses on page 7.

Resolution:

Mr. Hulburt moved to close the public hearing at 6:48 pm, Mrs. Nagel seconded, all in favor, carried.

Ayes – 3 Nays – 0

Mr. Geiger stated that our definition of agri-business and landscaping was a stretch for him but he understood it better after reading Cornell University's definition.

Mr. Peter said our definition is vague because we can't list everything.

Mrs. Nagel is concerned about rezoning. Under #2 no non-conforming can be reduced in size. Are we able to do this?

Mr. Geiger said if it is an approved use, then we could change it.

Mr. Kobylanski said he has more sales now than when he started. The town already decided that he is horticultural and changed the zoning from planned development to agricultural.

Mr. Geiger said he feels the same way.

Mr. Hulburt stated he did not see where it doesn't fall under horticultural.

Mr. Witmer said he thinks it meets the definition of horticultural.

Mr. Richenberg said you're making another non-conforming lot within the town.

Mr. Geiger read the applicant responses for the area variance criteria.

Criteria for AREA Variances (Town Law § 267-b[3])

a. Public Safety and Welfare. Applicant's answer is no undesirable change to the neighborhood and board agreed.

- b. Alternate Options. Applicant unable to move it 15 feet from the line because it would block the entrance to his shop. Board's answer is no
- c. The degree of variance. Applicant's answer he is hoping to be 5 or 6 feet from the property line.
Board's answer is no.
- d. Level of effect. Applicant says no, as does the board.
- e. Not Self-Created. Applicant says yes, as does the board

Mr. Kobylanski said that the Berneckers acknowledge that they can't make changes to the lots- if approved tonight.

Mr. Geiger said the County said it was a matter of public opinion. See following letter:

Hello,

We have received Zoning Referral # 2025-099 in accordance with the provisions of Section 239-l and m of the NYS General Municipal Law.

The Livingston County Planning Department has reviewed this application and determined that it has no significant Countywide or inter-municipal impact in regard to existing County plans, programs, and activities. Therefore, approval or disapproval of this application is a matter of local option.

Please be aware that a determination of "No Significant Countywide Impact" should not be interpreted as either approval or disapproval by the County Planning Board.

Area Variance Criteria. The review of an area variance must weigh the benefits of the requested variance to the applicant against the potential negative impact on the neighborhood using the following five factor "balancing test" as set forth in the State statute:

1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance?
2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?
3. Is the requested area variance substantial?
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
5. Is the alleged difficulty for the applicant self-created? (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

Advisory Comment: The Town should carefully consider the benefits of the requested variance to the applicant against any potential negative impact on the neighborhood.

If you have any questions, please do not hesitate to contact me at 243-7550.

Make it a great day,
Amy Lutz, Administrative Secretary
Livingston County Planning Department
(585) 243-7550

Resolution:

Mr. Hulburt moved to approve the area variance for Genesee Valley Landscaping, Mrs. Nagel seconded, all in favor, carried.

Ayes – 3 Nays - 0

Resolution:

Mr. Hulburt moved to approve the November 18, 2025 minutes with the correction on page 3 and the addition of Mr. Witmer's findings, Mr. Geiger seconded, all in favor, carried.

Ayes – 3 Nays – 0

Mr. Oswald explained that he wants to put a small, 12'x24', building close to an original building but forward of his house and shop and 5 or 6 feet from the property line. It is zoned residential. Code requires 15 feet and he is compliant with road frontage. He needs two area variances.

Resolution:

Mrs. Nagel moved to send the Oswald area variance request to the county, Mr. Hulburt seconded, all in favor, carried.

Ayes – 3 Nays – 0

Resolution:

Mr. Hulburt moved to schedule a public hearing for the two Oswald variances on January 20, 2026 at 6:30 pm, seconded by Mrs. Nagel, all in favor, carried.

Ayes – 3 Nays - 0

Resolution:

Mr. Geiger moved to approve the 2026 meeting dates, Mrs. Nagel seconded, all in favor, carried.

Ayes – 3 Nays - 0

Resolution:

Mr. Hulburt moved to adjourn at 7:30 pm, Mrs. Nagel seconded, all in favor, carried.

Ayes – 3 Nays – 0

Submitted by
Donna K. Falkner, Clerk