

Zoning Board of Appeals
November 18, 2025, Minutes

Present: Dustin Geiger, Heather Nagel, Charity Donnan, Scott Hulbert

Others Present: Donna Falkner, Jonathan Witmer, Esq., Steven Chauncey, Kirk Richenberg, Carl Peter, Zach Kobylanski

6:30 pm Chairman Geiger opened the meeting with the pledge 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 §806, and pursuant to New York State Town Law §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 pm. on Tuesday, November 18, 2025** for the purpose of considering public opinion and comment about or concerning the following:

A public hearing for public comment on the proposed area variance for Chauncey Homes to convert an existing commercial building into five apartments located at 2517 Genesee Street in the Town of York, tax #60.20-1-24.12.

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: October 22, 2025

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

Donna K. Falkner

Zoning Board Clerk

Mr. Geiger asked for public comments and that Mr. Chauncey had submitted more information as did David Russo who was in favor of the project.

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. Granting this variance will not create an undesirable change to neighborhood character or a detriment to nearby properties. The project reuses the existing shell, reduces the intensity associated with past commercial activity, and brings the building up to current Group R-2 life-safety standards through the building-permit process. Parking

remains on site and orderly. The outcome is a quieter, better-managed property that fits the corridor. The surrounding area is primarily residential, populated with rental properties similar to the proposed use (example: 3678 Main St, 3602 Retsof Rd, 3706 Main St, 4002 Main St, and more), which aligns with the neighborhood's character and needs. The proposed construction will involve minimal work, with no exterior alterations to the property and only necessary cosmetic changes to the interior. The work will be conducted quietly and straightforwardly, ensuring there is no disturbance to the neighbors. All construction activities will be carried out in full compliance with building codes, energy codes, and safety standards.

Public comment – Mr. Richenberg asked what the health & safety concerns were for less than 860 ft.? Mrs. Nagel said all she could find online was “quality of life”. Mr. Richenberg said he didn’t think it’s prudent to do for profit and if they went to 4 apartments they would be compliant.

b. Alternate Options. The only variance-free path is to limit the interior to four dwellings that each exceed 860 sq ft. That approach throws away a needed home in a small town market and leaves inefficient circulation inside a fixed grid. By contrast, the five-unit interior plan fits five apartments within the existing structure and requires no footprint growth. This site already has the corridors, entrances, and service points to support five apartments. 3 Forcing 860 sq ft across all units would either drop to four homes or require additions that are not feasible, add cost and hard surface without delivering a public safety gain. The requested relief is therefore the most efficient way to harvest housing from the building we have, which is precisely the kind of low-impact supply the Town needs. Further, within our York portfolio we operate grandfathered sub-860-sq-ft apartments that continue to meet code and perform well for residents. This is practical proof that modest two-bedroom homes under 860 sq ft can be safe, livable, and stable in this community. We can submit the inventory table at the hearing. Without relief, the building yields only four dwellings; no other feasible method achieves five within the existing envelope.

c. The degree of variance. The relief is very modest and targeted: four units between 14.5% and 19.5% below 860; one unit above 860. We are not seeking studios or micro units. The plan provides five homes sized for small and young families. This is the minimum variance necessary to realize five safe, efficient layouts inside the existing frame. The site sits on Genesee Street near Routes 63 and 36, the travel center, and a former gas station, which makes it not an ideal place for larger three or four bedroom family apartments that typically look for quieter streets, yards, and play space.

d. Level of effect. No adverse physical or environmental effects are expected. There is no addition and therefore no change to stormwater from a new roof or pavement. Residential activity produces fewer deliveries and evening peaks than the prior commercial use. Parking

for five apartments is adequate and will be administered through leases, signage, and rules. The property gains façade upkeep and consistent management.

e. Not Self-Created. The difficulty arises from the existing structure and the 860-sq-ft minimum. The walls, spans, and mechanical chases dictate efficient two-bedroom layouts that naturally fall in the ~692–735–722–735 sq ft range for four of the five homes, as shown on the architect's plan. New York Town Law recognizes that even where a factor is self-created, it is not dispositive; here, the balancing test favors approval because the variance converts an underused building into five much-needed homes with no new footprint.

Public Comment – Mr. Richenberg said it was self created, they bought the building and knew what was in it.

Resolution:

Mrs. Nagel moved to close the public hearing at 6:47 pm, Mr. Hulbert seconded, all in favor, carried.

Ayes – 4 Nays – 0

Comments:

Mr. Peter said the 860 appears to be in the old code. Most single wide trailers were 750 ft in old code.

Mr. Chauncey said that in 2015 the two front apartments had area variances for smaller areas.

Mrs. Donnan asked if the building was the rectangular one and answer is yes.

Mrs. Nagel heard that the county was applying for a vacancy grant by the end of year?

Mr. Peter said that a person could get up to \$50,000 per unit.

Mr. Geiger said the area should be safer, 4 apartments rather than 5, does not agree with the variance.

Mrs. Nagel feels the same way, living space is too small.

Mr. Chauncey said rent would be different versus square footage. There are two 3 bedroom apartments in the front building. They are sometimes hard to rent because of affordability.

Mrs. Nagel said that the 2020 Livingston County report said the most acute need is for one bedroom to 3 bedrooms. Mr. Chauncey replied that 3 bedrooms were more affordable in 2020.

Mr. Peter said that there were 11 rentals presently there with Civic Imports (about 20 tenants).

Mrs. Nagel concerned about sidewalks or buffers between doors and parking area. Apartments 1 & 2 (closest to street) both doors open into driveway.

Mr. Chauncey said there would be no parking on Rt. 63 side. Mr. Peter said Mr. Russo had parking spots labeled.

Mr. Geiger said he could not completely block off 63 because firetrucks and emergency services would need access.

Mrs. Nagel said he could divide the area into 3 apartments, 843 sq. ft. each.

Mr. Geiger said that Mr. Chauncey's answer was not far off, however everything was self-created. He is not in favor of the variance.

Mr. Nagel appreciates what they are trying to do but the variance is not appropriate, suggests making it into 3 units and one unit in the front making it safer with a sidewalk or stoop in front.

Mrs. Donnan said there was a safety issue in 2015 with the Russo apartments but agrees with the rest of board.

Mr. Hulbert – no comments.

Resolution:

Mr. Geiger moved to deny the area variance, Mrs. Nagel seconded, all in favor, carried.

Ayes – 4 Nays -0

Mr. Chauncey asked who he would appeal to and Mr. Geiger said the State.

Resolution:

Mr. Hulbert moved to approve the October 21, 2025 minutes, Mrs. Donnan seconded, all in favor, carried.

Ayes – 4 Nays – 0

Genesee Valley Landscape/Bernecker Family Trust

Mr. Kobylanski said they would like to divide the property which he purchased in 2019. Mr. Kobylanski would have 3 acres with 270 ft. road frontage, leaving the other 716 acres farmland with 244 ft. road frontage and he would be putting in a separate driveway for the farmer.

Resolution:

Mr. Geiger moved to send the Genesee Valley Landscape/Bernecker Family Trust variance request to the county, Mrs. Donnan seconded, all in favor, carried.

Ayes – 4 Nays – 0

Resolution:

Mr. Hulbert moved to schedule a public hearing for Genesee Valley Landscape/Bernecker Family Trust on December 16 at 6:30 pm, seconded by Mrs. Nagel, all in favor, carried.

Ayes – 4 Nays - 0

Mr. Peter said there was a possibility Apple Country would be coming to us for a variance. The code requires landscaping on the road side. Mr. Peter feels it would be a detriment.

Resolution:

Mrs. Nagel moved to adjourn at 7:40 pm, Mrs. Donnan seconded, all in favor, carried.

Ayes – 4 Nays – 0

Submitted by

Donna K. Falkner, Clerk