

Zoning Board of Appeals
October 21, 2025, Minutes

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

Others Present: Donna Falkner, Jonathan Witmer, Esq., Rochelle Moore, Steven Johnson, Kirk Richenberg

6:30 pm Chairman Geiger opened the meeting with the pledge.

Resolution:

Mr. Hulburt moved to approve the September 16, 2025 minutes, Mrs. Nagel seconded, all in favor, carried.

Ayes – 4 Nays – 0

Mr. Geiger said we were continuing the variance request to change the bike shop to a rental residential. He read the county response.

From: AmyLutz@livingstoncountyny.gov <AmyLutz@livingstoncountyny.gov> on behalf of LCPlanningBoard@livingstoncountyny.gov <LCPlanningBoard@livingstoncountyny.gov>
Sent: Wednesday, October 15, 2025 10:37 AM
To: Dustin Geiger <dgeiger@yorkny.org>
Cc: abpierce4@gmail.com <abpierce4@gmail.com>; apriles1974@gmail.com <apriles1974@gmail.com>; clara Mulligan <cmulligan5325@gmail.com>; HeatherFerrero@livingstoncountyny.gov <HeatherFerrero@livingstoncountyny.gov>; John vanheusen <johnvanheusen@yahoo.com>; kevin fahey <kfahey@rochester.rr.com>; TheodoreGriswold@livingstoncountyny.gov <TheodoreGriswold@livingstoncountyny.gov>
Subject: Re: ZR#2025-077 Rochelle Moore

Good morning,

We have received Zoning Referral #2025-077 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.

An Area Variance will be required:

- §613 Accessory Dwelling Units D. states "The area for the unit shall not exceed forty (40) percent of the area of the principal dwelling unit."
- The proposed is larger than 40% of the principal dwelling, and will correctly require an Area Variance.

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.

A Use Variance has also been applied for:

- The Town has classified the rental apartment as "Commercial Use" and is requiring a Use Variance.
- §613 G states: "The accessory dwelling unit shall not be used for rental property."

Use Variance Criteria. In order to receive approval for a Use Variance, the Applicant must demonstrate to the Board unnecessary hardship. Such demonstration includes all of the following:

1. Cannot realize a reasonable return
2. Alleged hardship is unique and does not apply to substantial portion of district or neighborhood
3. Requested variance will not alter essential character of the neighborhood
4. Alleged hardship has not been self-created

Advisory Comment: The Applicant must demonstrate to the Town that all of these hardship criteria are met.

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

Mr. Geiger continued with the updated application Ms. Moore submitted today and her answers to criteria questions for area & use variances.

Variance Application – 2671 Main Street, York, NY 14592 Responses to #7 – Criteria for AREA Variance
7a – Public Safety and Welfare

The granting of the requested variances will not result in an undesirable change to the character of the neighborhood, nor will it pose a detriment to nearby properties. The structure at 2671 Main Street has historically operated as a bike shop under a special use variance. It is a small, separate building already configured for limited use, and its conversion to a two-bedroom rental apartment would be a natural fit within the neighborhood's predominantly residential setting. The structure is functionally integrated with an adjacent multifamily residential rental property under common ownership, with which it shares a driveway. This arrangement supports a seamless transition to residential rental use. No changes are proposed to the building's exterior. The conversion will reduce activity relative to its previous commercial use resulting in lower traffic and noise and will be fully code compliant. This residential rental reuse supports the broader public interest by adding a needed housing unit to a community with constrained housing supply.

7b – Alternate Options The benefit sought converting the structure into a modest residential rental unit cannot be reasonably achieved through any other means without requiring a variance. The building is small and standalone, not suitable for principal residence use under current zoning without significant and impractical alterations. Maintaining it as commercial space has proven infeasible, and the permitted uses under the current zoning do not align with the building's form or community demand. A residential rental conversion within the existing footprint and infrastructure represents the least disruptive and most logical solution.

7c – The Degree of Variance The variance requested is not substantial. The proposal involves no physical expansion and does not increase the building's nonconformity. The structure has long existed in this location and operated under multiple variances for specialized use. This request simply seeks to allow a change in use from commercial to residential rental, preserving the structure's scale and footprint. Given the property's integration with a neighboring residential parcel under common ownership, the change represents a minimal variance in practical terms.

7d – Level of Effect The proposed use will have no adverse impact on the physical or environmental conditions of the surrounding area. All work will be completed internally and will utilize existing systems (e.g., electric, water, sewer). No changes to the land or footprint are planned. Additionally, residential rental use will reduce vehicle trips and activity compared to a commercial operation, lowering the overall impact on neighboring properties. This project is environmentally low-impact and consistent with neighboring land use.

7e – Not Self-Created The hardship is not self-created. The structure and its nonconforming conditions were inherited from previous owners and approved under prior variances. The applicant has not altered the use or structure, but rather is seeking to repurpose it in a way that is sustainable and appropriate to current community needs. The zoning restrictions and the building's inherited configuration create the hardship— not the actions of the applicant. Furthermore, it is noted that the current bike shop use is not a viable use for the commercial property given its location. The bike shop that had previously occupied the space had ceased most or all its operations years prior to vacating the space. There are no other viable bike shops in the area to utilize the space and other nearby commercial spaces in more lucrative locations have continued to fail. Meanwhile, the need for residential apartments in the community make the conversion to a residential rental apartment the most feasible option likely to generate approx. \$1,200 a month in rental income or \$14,400 a year compared to \$0 of income being generated while the building is limited to a bike shop use.

Responses to #8 – Criteria for USE Variance

8a – Unreasonable Current Zoning Designation The current zoning designation does not allow for reasonable return under permitted uses. The building is small, disconnected from the main residence, and limited in utility. Prior commercial use under a special variance is no longer feasible, and permitted uses such as principal residences or home occupations do not work within the context of this structure. Efforts to identify viable commercial tenants have failed, and the property remains underutilized. A residential rental conversion is the only practical and economically viable reuse that aligns with the building's size, configuration, and surroundings.

8b – Unique Circumstances This hardship is unique to the property. The structure was previously granted a special use variance tied to a specific use and resident. It is physically and operationally distinct from other properties in the district— particularly due to its detached nature, shared access with another residential rental parcel, and prior commercial use. These characteristics do not apply broadly to others in the area.

8c – Character of the Area The proposed use will not alter the essential character of the neighborhood. On the contrary, the residential rental conversion aligns with the surrounding land uses, which include multifamily and single-family housing, as well as community related facilities, all within the primarily agricultural district. The structure will retain its current exterior appearance, and its internal conversion will result in a quieter, more integrated presence in the area. Residential rental use is more compatible with the neighborhood than commercial operations and supports the evolving needs of the community.

8d – Not Self-Created The hardship is not self-created. The structure's nonconforming nature and its commercial use under a special variance were inherited conditions. The applicant is simply seeking to adapt the property for productive, code-compliant use that addresses a documented housing need. The existing zoning designation, as applied to this specific structure, prevents reasonable use and return without relief. Furthermore, it is noted that the current bike shop use is not a viable use for the commercial property given its location. The bike shop that had previously occupied the space had ceased most or all its operations years prior to vacating the space. There are no other viable bike shops in the area to utilize the space and other nearby commercial spaces in more lucrative locations have continued to fail. Meanwhile, the need for residential apartments in the community make the conversion to a residential rental apartment the most feasible option likely to generate approx. \$1,200 a month in rental income or \$14,400 a year compared to \$0 of income being generated while the building is limited to a bike shop use.

Mr. Geiger said that Mr. Peter had her apply for a area and use variance.

Mrs. Donnan stated it was already residential.

Ms. Moore said, without any advertising, people have reached out to her about renting.

Mr. Richenberg asked if any additional information was on the updated application.

Mr. Geiger had read financial information she clarified.

Mr. Geiger read the area variance answers and asked for comments. There were none

Mr. Geiger read alternative options and said it's still viewed as commercial because it's a rental. Neighbors to the north came in last month and supported the project.

Mr. Geiger read answer to self created. They seek to repurpose the property. The bike shop had ceased prior to vacating the property. He asked for comments. Mr. Richenberg questioned the word inherited, was it given to her? Mrs. Donnan said she's provided supporting information. Mr. Geiger asked if there was a better word than inherited. It doesn't take away from the character of area. Structure retains outside area and rental fits the area more. Applicant simply trying to adapt with financial information.

Mr. Richenberg asked if it could become another commercial property if given a special use permit? Mr. Hulburt said no one is knocking at the door. Mrs. Nagel asked if there was another business to go there? Ms. Moore thinks this would be a long term solution and Mrs. Nagel agreed. Mrs. Donnan said it fits the area better. Mrs. Nagel said York is a hard town to pull in foot traffic. Mr. Geiger stated that we try to follow the code to the best of our ability. Mr. Johnson said it takes people to come in to town.

Mr. Geiger asked for any other public comment.

Resolution:

Mr. Hulburt moved to approve the use variance, seconded by Mrs. Nagel, all in favor, carried.

Ayes – 4 Nays – 0

Resolution:

Mrs. Donnan moved to approve the area variance, seconded by Mr. Hulburt, all in favor, carried.

Ayes – 4 Nays – 0

Mr. Geiger asked Mr. Johnson to explain Chauncey Homes proposed project for 2517 Genesee St., the northwest corner of 36 and 63. His company wants to convert the auto shop into five apartment units and needs an area variance relief from the 860 sq. ft. minimum for four of the units. There is adequate parking and grassy area to the north could also be used. He will label parking spots. Good for starter families. 120 sq ft for bedrooms, open floor plans and washer and dryer hookups. Mr. Geiger said that it needs a firelane, large enough to accommodate fire trucks especially on 63 end. Mr. Geiger concerned about undersized living room especially with no yard space. Mrs. Nagel said wonderful but need to stick to code. Mr. Johnson said there is a good size grassy area on the north side.

Mr. Geiger said this will have to go to planning board.

Resolution:

Mr. Hulburt moved to schedule a public hearing for Chauncey Homes on November 18 at 6:30 pm, seconded by Mrs. Donnan, all in favor, carried.

Ayes – 4 Nays - 0

Resolution:

Mr. Hulburt moved to send the information to county by November 3, seconded by Mrs. Nagel, all in favor, carried.

Ayes - 4 Nays - 0

Mr. Geiger asked Mr. Johnson to get information to us by October 31 and to pay the \$150 fee to Town of York for advertising.

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