

Organization River Area Council of Governments

Board Cooperative ZBA

Date and Time Wednesday, October 7 2015 at 7:30 PM

Place Town of Champion Offices Board Room (rear of building) 10 N Broad St, West Carthage NY

Contact [Chris Vargulick](#) Town Clerk Phone (315) 493-3240 Fax(315) 493-2900

Minutes

RACOG
Cooperative Zoning Board of Appeals

TO: Members of the Co-op ZBA, T/Champion Board, T/Wilna Board, V/Carthage Board, Town/Village Clerks, Zoning Enforcement Officers, Timothy Farley, T/Champion Attorney, Mark Gebo, T/Wilna & V/Carthage Attorney and Planning Board Chairmen

FROM: Christina Vargulick, Cooperative ZBA Secretary

DATE: October 14, 2015

RE: Minutes from October 7, 2015

PRESENT: D. Austin, M. Gump, L. Haverstock and T. Kight

EXCUSED: R. Blank

Chairperson Kight called the meeting to order at 7:30pm. The roll was called.

Motion by D. Austin, seconded by L. Haverstock to dispense with the reading of the August 12, 2015 minutes and to approve the minutes as presented. Ayes-4, Nays-0. Motion carried.

Chairperson Kight reviewed an area variance application for parcel no. 86.33-4-42 (Log 2015-4) submitted by Joshua Jensen. Mr. Jensen explained that he would like to extend an existing porch but that there is not a sufficient setback from the rear and right sides. T. Kight advised Mr. Jensen that the Board will require exact measurements of each non-compliant setback to make its determination. Motion by D. Austin, seconded by L. Haverstock to schedule a public hearing on an area variance for parcel no. 86.33-4-42 on November 4, 2015 at 7:30pm. Ayes-4, Nays-0. Motion carried.

Chairperson Kight reconvened the public hearing for variances to the setbacks from residences submitted by OWN Energy. T. Kight discussed a meeting with the T/Champion Attorney that clarified action to be taken by the ZBA and the Planning Board. T. Kight opened the meeting for public comment. No one spoke for or against the requested variances to the setbacks. Chairperson Kight instructed the Board that each variance would be considered individually since each of the requests is unique.

Board members reviewed the application and map for parcel no. 93.00-2-47.2 owned by Randy Elmer. The requested area variance is 846'6". Members asked James Muscato, representing OWN Energy, to compare the cost of underground installation of the proposed transmission line to installation above ground. Mr. Muscato estimated a four-fold increase in the cost if the line was underground. M. Gump suggested an alternate route that would increase the setback from the residence. J. Muscato responded that there was no compelling reason to move the pole farther away. T. Kight questioned efforts to contact K. O'Leary, a property owner affected by the proposed construction. J. Muscato affirmed that a waiver had been mailed on 7/28/15 and submitted evidence of the mailing.

Board members reviewed the applications and maps for parcel nos.:

- 93.00-1-28.3 – Murcrest Farms requested variance of 647'5" (Mangan residence).
- 93.00-1-29.1 – Murcrest Farms two requested variances of 215'8" (O'Leary residence) and 754' 10" (Dealing residence).
- 93.00-1-32.2 – Murcrest Farms three requested variances of 128'10" (Kidder residence), 359'6" (Davis residence), and 176'2" (Micek residence).

Motion by L. Haverstock, seconded by M. Gump to approve the area variance for Randy Elmer, parcel no. 93.00-2-47.2. Roll call vote: M. Gump-aye, D. Austin-nay, L. Haverstock-aye and T. Kight-nay. The motion failed therefore the variance is denied.

Motion by D. Austin to deny the area variance for Murcrest Farms, parcel no. 93.00-1-29.1. The motion received no second .

At this point in the meeting, Chairperson Kight placed a hold on all action pending the official close of the public

hearing. Motion by M. Gump, seconded by D. Austin to close the public hearing. Ayes-4, Nays-0. Motion carried. The hearing was closed at 8:47. Chairperson Kight requested that the Board repeat the previous motions and vote at this time as a matter of procedure.

The following resolution was offered by L Haverstock, who moved its adoption, and seconded by M. Gump, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from OWN Energy, acting as agent for Randy Elmer, parcel number 93.00-2-47.2 for a variance of Article 5; Section 535; §H1, and;

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and accepted the SEQR from T/Denmark, held a public hearing and received comments thereat; and;

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes that the proposed construction would produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could be achieved by burying or re-routing the proposed transmission lines.
- C. The Board concludes that the variance is substantial.
- D. The Board concludes that the variance would have an adverse visual impact on the physical conditions of the neighborhood.
- E. The Board concludes that the alleged difficulty is self created.

NOW, THEREFORE BE IT RESOLVED that the application OWN Energy, as agent for Randy Elmer, parcel number 93.00-2-47.2, for a variance of Article 5; Section 535; §H1 of the T/Champion Zoning Law is hereby denied.

The foregoing resolution was duly put to a vote as follows:

D. Austin.....nay
 R. Blank.....absent
 M. Gump.....aye
 L. Haverstock.....aye
 T. Kight.....nay

The following resolution was offered by D. Austin, who moved its denial, and seconded by T. Kight, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from OWN Energy, acting as agent for Murcrest Farms, parcel number 93.00-1-29.1 for a variance of Article 5; Section 535; §H1, and

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and accepted the SEQR from T/Denmark, held a public hearing and received comments thereat; and

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes that the proposed construction would produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could be achieved by burying or re-routing the proposed transmission lines.
- C. The Board concludes that the variance is substantial.
- D. The Board concludes that the variance would have an adverse visual impact on the physical conditions of the neighborhood.
- E. The Board concludes that the alleged difficulty is self created.

NOW, THEREFORE BE IT RESOLVED that the application OWN Energy, as agent for Murcrest Farms, parcel number 93.00-1-29.1, for a variance of Article 5; Section 535; §H1 of the T/Champion Zoning Law is hereby granted.

The foregoing resolution was duly put to a vote as follows:

D. Austin.....aye
 R. Blank.....absent

M. Gump.....nay
L. Haverstock.....nay
T. Kight.....aye

Motion by M. Gump, seconded by L. Haverstock to adjourn voting on the remaining area variances until a full board is present to avoid the tie vote. Roll call vote: M. Gump-aye, D. Austin-aye, L. Haverstock-aye, and T. Kight-nay. Motion carried.

J. Muscato requested that the Board schedule a public hearing on the area variance applications to build outside the existing right-of-way. Motion by D. Austin, seconded by M. Gump to schedule a public hearing on applications from parcel nos. 93.00-1-24.1; 93.00-2-44; 93.00-1-28.3; 93.00-2-47.1; 93.00-1-38; 93.00-1-29.1; 103.00-1-17.22; 103.00-1-16; 93.00-1-32.2; and 93.00-2-47.2 to build the transmission line outside of the existing right-of-way. Ayes-4, Nays-0. Motion carried.

J. Muscato officially withdrew the area variance applications submitted for above ground construction. The Board acknowledged the action.

Motion by M. Gump, seconded by D. Austin to adjourn. The meeting adjourned at 9:25pm.

Christina Vargulick
RACOG Cooperative ZBA, Secretary