

Minutes of a special meeting of the Johnson City Zoning Board of Appeals held on September 29, 2025 at 6:00pm at Village Hall, 60 Lester Avenue, Johnson City, New York.

Present: Edward Mazanek, Chairman  
Leonard Sas, Vice Chairman  
Dr. Stephen Holowinski, Secretary  
Donald Slota

Also Present: Keegan Coughlin, Village Attorney  
Kim Cunningham, Zoning Board Clerk (left at 6:30pm)

Absent: Christopher Brown  
Randy Shear, Code Enforcement Officer

Chairman Mazanek called the meeting to order at 6:05pm.

### **PRIVILEGE OF THE FLOOR**

Chairman Mazanek opened the privilege of the floor. There were no attendees at the meeting who wished to speak, therefore, Chairman Mazanek closed the privilege of the floor.

Attorney Coughlin opened the public hearing on the two area variances, one to be closer than 25 feet to the road in the front yard and two to be closer to the road than the principal structure boundary for 5 Mills Place.

Attorney Coughlin stated the public hearing is for anyone to speak for or against the application. He said this is a unique property as it has two front yards so it feels like a backyard on Balch but it is technically a front yard under the law. The Courts are very clear on the law when somebody has two street faces, they are both classified as front yards.

#### **5 Mill Place – Catherine Lewis**

2 Area Variances – Construction of Garden Shed  
Public Hearing

Catherine Lewis appeared on behalf of the application.

Eric Forman of Mill Place said she is at the end of a dead end street and there is no through traffic.

Attorney Coughlin explained that is a certainly a factor that the Board will consider when approving or denying the variance. If there are any questions, concerns or points anyone wants to make that it's a dead end, that is a good point.

Mr. Forman continued, the house is very small, there is no basement, no attic, no room on the side. He feels the shed is a necessity for the owner. It used to be a jungle out there with a lot of growth. Ms. Lewis has done great with visible landscaping. The neighbors are all for putting up the shed. It will give them some privacy and block the view coming up Balch Street. The neighbors signed a petition and think it's a



great idea for her. He said it was a shocker with her coming into the community and being hit with this. It seemed kind of cruel and not very welcoming. She has done a great job keeping the place neat and tidy.

Female neighbor spoke regarding Ms. Lewis having put a lot of money into the house and keeping the neighborhood neat and clean. She has spent a lot of money on landscaping and putting money into the house and keeping it nice.

Attorney Coughlin explained the requirement for the variance is not something someone is being punitive about it is what the law is and when somebody has a property with two fronts on a corner, they often times need variances to be too close to the road or front of the house, it is a little more unique where it is on the double of that the end here. So, her front yard and her back yard are legally both front yards which feels silly but that is what the courts have dictated as the process. I know in this particular instance it seems more absurd because it is really the end of the dead end but when it faces on a public street that is the law.

It does not matter that there is no entrance on that side of the building.

Ms. Lewis stated she couldn't find the code. No one has given her a copy of the Code. She has no clue what the code says. She has gone in the office and asked for a copy of it and they tell her to go online and look it up. She goes on line and looks it up and it says no results. She said she is fighting something she doesn't know if really exists.

Attorney Coughlin responded if she gives him 30 seconds, he will find it. He will also be happy to relay that back to the Mayor and the Village Board. Certainly, we can make sure people given that. He apologized for that happening.

Mr. Forman stated she has come in several times in the course of these three months to try and uncover it and get a hold of it. The only person there was from the water department and he couldn't find it.

Bob Potochniak from Exit Realty spoke regarding the home. He said the yard is very small square footage and a very small house. There is not a lot of storage, that is why she is asking to build a shed out back. It would allow her to put her car in the garage in the winter time and not have to worry about traveling in the snow. Her mother who is 94 and she also lives with her. There are several properties in the area that are similar.

Attorney Coughlin advised the Section is entitled Street Setback Encroachments Section 300.53-4. He gave a synopsis of the pertinent section of the code. The front setback shall be unobstructed except as provided in this section:

Uncovered landings, awnings, movable canopies, eaves, gutters, fire escapes. 15 feet is how far it can be from the street. It is not supposed to be in front of the house.

Mr. Forman stated Ms. Lewis has a petition of the neighbors.

Attorney Coughlin asked that she give it to Ms. Cunningham so she can put that into the record.

Ms. Lewis presented the Petition and a letter she sent out to the neighbors.

Ms. Lewis was told the section of the code by the Fire Marshal and the Code Office. She was not able to pull it up but every time she went to the office, they gave her the section and told her to look it up. They



wouldn't print it for her even after she told them she couldn't find it. Attorney Coughlin said he could not find that Section either. Attorney Coughlin gave Ms. Lewis a handwritten note with the appropriate section of the code.

Attorney Coughlin added that code does not explain about the two front yards, but anything that is facing a street. It says the street setback should be unobstructed and it has to be at least 15 feet. In this case it is 15 feet, so she only needs the variance to be from twenty-five because that is where the principal structure is supposed to be and to be in front of your house even though its behind the front of your house.

She is confused about the front and the back yard of her house.

Attorney Coughlin explained any yard that faces a street is technically a front yard under the law. It's not that you can't have a shed or a garage, but you need a variance. The reasoning that the Courts have is that Front yard designations are different from side or back yard designations are that it fronts on a road not because it is the traditional front face of your house. The case that set the tone on that was that somebody built their house backwards so they could put everything in between their house and the street because they didn't like their neighbors and they said well, it's the back of my house. This Board's task with reviewing it and appreciating the four-part balancing test for an area variance to see if it makes sense for Ms. Lewis' property or if it makes sense to let her have the shed.

Attorney Coughlin stated his appreciation for the neighbors attending.

Chairman Mazanek read the Variance Requests, Environmental Summary and Department Head Comments and Staff Recommendations.

#### **Variance Requests:**

It is understood, the property owner at 5 Mill Place would like to build a garden shed at the back of her property. The lot is on a dead end with two "front" yards, so the setback no longer meets the front yard setback requirement, nor is a shed typically permitted in a front yard. The applicant is asking for an area variance for the shed to be in "front" of the principal structure and to be 15 feet from the road rather than 25 feet. as there are other properties in the area that do not meet the setbacks. The size of the shed is small, requiring no site plan review following the area variance review.

#### **Environmental Summary and Department Head Comments**

The applicant's proposal is type II action under SEQRA, no further SEQRA review is necessary at this time. The project requires a 239-m review comments below; and the following department head comments have been received at this time:

- Broome County Planning: The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project. However, we have the following concerns:
  - o The project should include the SEQR EAF (239 form notes this project is unlisted) and a site plan that shows the located of the proposed shed and the required and proposed setbacks.

Attorney Coughlin advised the 239 Form was checked incorrectly it is a Type II action so we can disregard that comment.

- Code Enforcement – Code enforcement officers found several similar circumstances within the area. Directly across the street on Balch a garage was constructed prior to the adoption of the zoning code well



within the setback. Examples of these circumstances also exist on Miriam and Virginia.

### **Staff Recommendations**

The Planning Department staff and the Planning Board recommends the ZBA's approval of the requested area variances with respect to placement of the shed with all County and Department Head comments. Granting the requested variance will not have negative impacts on the neighborhood character or environment

The Board had no further questions.

Chairman Mazanek closed the public hearing.

Chairman Mazanek reviewed the five-point criteria for an area variance.

- Whether or not there is an undesirable change in the character of the neighborhood or a detriment to nearby properties by the granting of this variance.

Chairman Mazanek since there are other properties in the area that have already put up a shed or a garage within that setback he would say probably not.

Attorney Coughlin stated additionally with the comments and the Petition from the neighbors, you could certainly say no. The Board agreed.

- Whether the benefit sought by the applicant can be achieved by some method which would be feasible for the applicant to pursue but would not require a variance.

Chairman Mazanek said it has already been discussed in depth her by the neighbors and counsel he would say no. Mr. Sas added and the unique nature of the property. The Board agreed.

- Whether the area variance is substantial.

Chairman Mazanek said no.

Attorney Coughlin advised they are close to what the requirement would be for the front of the house anyways, its set back from the road and it's not like it's right upon it and in front of the house you could say its not substantial because of the unique two frontages.

The Board agreed.

- Whether the proposed variance will have an adverse effect on the physical or environmental characteristics in the neighborhood.

Chairman Mazanek said this was already discussed and he would say no. The Board agreed.

- Whether the alleged difficulty is self-created.

Attorney Coughlin advised the Board could say no because Ms. Lewis did not build the subdivision and have something with two front yards and barely any side yard.



The Board agreed.

Chairman Mazanek asked for a motion. Attorney Coughlin advised there are two variances, to be in front of the principal structure and to be 15 feet from the road in stead of 25.

Motion to approve the area variances from 25ft to 15ft and to be in front of the principal structure for 5 Mill Place including the Department Head Comments and stipulations was made by Dr. Holowinski and seconded by Mr. Slota.

Motion Carried— Vote:

Yes – 4 (Slota, Holowinski, Sas, Mazanek) No – 0 Absent – 1 (Brown)

Chairman Mazanek said Congratulations you have been approved.

Attorney Coughlin stated Ms. Lewis can now get her building permit. She does not need a site plan. She will get a letter telling her this was approved within five business days. If you can't get a hold of Randy in the next two days, he asked Mr. Potochniak to give him a call. He doesn't know that rule off the top of his head.

Ms. Lewis said in the building when they were looking to do this, they didn't need a building permit to do this because it was under a certain size.

Attorney Coughlin said then you probably don't. You can move forward with your shed then. He doesn't know that size rule off the top of this head.

Chairman Mazanek said he thinks it is 12 x 12 144 sq feet.

Ms. Lewis asked if there was a fee for the variance.

Chairman Mazanek answered no. Keegan said technically yes but if they didn't charge you at this point....

Ms. Lewis thanked the Board.

### **151 Pearl Avenue – Stephan Moore**

Hardship Waiver Application – Ground Mount Solar Project

Stephan Moore appeared on behalf of the application.

Chairman Mazanek stated that this project was held over because we were stuck on the following part of the use variance test.

- The Board would need to make a determination that the applicant cannot realize a reasonable return provided the lack of return is substantial as demonstrated by competent financial evidence.

Attorney Coughlin advised the Board asked him to do at the last meeting on this topic was to see if there were potential outcomes to justify the financial evidence as presented and his advice would be that there aren't absent additional information. He said that Chairman Mazanek mentioned to him before the meeting that he did some extra engineering homework.



Chairman Mazanek explained typically with homes with east-west roofs, it costs a little more but you would have to put solar panels on both sides so you can generate power all day long. If your roof isn't big enough you could also utilize the garage roof as well. It could solve the problem but may not be the desirable outcome you are looking for but it is a possibility.

Mr. Moore stated he did look at that two years ago before he thought about this route. The issue is his east facing roof, it is a cape cod, so the dormers that stick out shadow and with fire code you have to be x number of feet away off the edge so by the time you factor in dormers and the x number of feet. The west side is the only side that will work. There is a large dormer off the back so it would shade the one side a little more. The porch is such a flat pitch they used roll roofing and they recommend very strongly against installing panel on roll roofing there is a propensity of leakage.

He explored everything he could with the roof. He did contact two local companies, they did a google image, flew a drone and they both said it wouldn't be worth his time.

Mr. Moore did some quick googling looking at financial loss more from the idea of the loss he would be experiencing as far as if he had it if he'd be able to sell it. Zillow came back with comparable homes that had solar vs. homes that didn't and it was 4-5% higher selling price. The Department of Energy had an average increase for homes with solar \$15,000 in selling price. Rocket Mortgage had the data that showed that homes that had solar sell faster and often over asking price and then the national renewable energy labs had a very interesting number. They said for every dollar you save in the course of a year from paying a utility company, that is worth about \$20 on the asking price of your home. He would not be paying NYSEG \$200 per month times 12 times 20 and that comes out to be about \$48,000 which he feels like is the high end. His Zillow number was about \$140,000 so 4% of that was their increase so he would be losing in that sense. His total cost of the system that he was quoted is \$41,000 but \$15,000 would come back to him with rebates.

Chairman Mazanek read the Staff Recommendations.

### **Staff Recommendations**

The Planning Department staff and Code Enforcement Staff recommend the ZBA's denial of the requested hardship use variance for ground mounted solar. The proposed project is not required to allow the property owner a reasonable rate of return on their investment. The property, while unique generally, is not so unique as to not be applicable to similarly situated properties on the northside of Johnson City.

Attorney Coughlin stated the Board disagreed with that final portion of the recommendation so they can scratch that.

Mr. Moore questioned who the recommendation came from.

Attorney Coughlin responded from the general Planning Staff, which consists of the Planning Director Stephanie Yezzi, Randy Shear, Code Officer and consultation with his office. Attorney Coughlin told him he would talk to him.

Mr. Moore said the original moratorium meeting said solar but then said ground-mount solar. One of the concerns was life span/recyclability but then roof mount wasn't moratorium'd but ground mount was. It was really a pause on the idea of aesthetics. That was the Village Board. This Board through the four questions cleared that hurdle pretty quickly. It is interesting that one Board placed the moratorium on the



aesthetics and the other Board says he is being faced with more challenging financial questions. If they had had that discussion before we may not even be sitting here.

Attorney Coughlin stated that is exactly the purpose of moratoriums, to force those discussions and contemplate all the potential opinions and impacts of the legislative decisions of the Village Board, generally. Typically, what he sees from other clients, not speaking about the Village, is that people care way more about the aesthetics than anything else and so he was also surprised at how quickly here everyone said that made sense. Part of what happened for his application for that factor here was his willingness to screen the location on his property, not really impacting as many of the other people.

What the Village Board generally was looking to make sure was contemplated in their solar law was all possible ground mount development not just one that is tucked away nicely on a property. There is no way to say one that is properly screened and tucked away is okay without rewriting the law. That was exact inherently the flaw that was identified by the Village Board in the code that they are contemplating as part of the moratorium.

Attorney Coughlin advised the state groundwork is a moving target every couple weeks, particularly as it relates to assessment and what the state regulates vs. local. Local regulates most ground-mount under 5 megawatts which is the majority of what is being developed. The big commercial solar developers will put 2 five megawatt facilities next to each other to avoid the state looking at them.

Mr. Sas asked Attorney Coughlin about discussion at the last session that he was going to seek help from his associate with research. The dilemma is the garden variety shed, garage, porch, the balancing test the Board is obligated to follow. Unfortunately, because of the unique circumstances of this, it's not a balancing test you have to meet each and every one of the criteria so that is the dilemma this Board faces.

Attorney Coughlin added the main crux of the research was seeing if there was a way to close the review from the property at large and the reasonable return on that investment vs. the reasonable return on the solar project in and of itself. If it was just the project that math seems to work, but when you factor in the larger investment of the property, which we are required to do, the answer came back no.

As much as he take his legal hat off and personally think the proposed project with willingness to screen, feels like when you are going to allow ground mount period, those are the ones that you want to allow, the law is not quite as flexible. Ironically, if he was willing to guess, the Village Board is probably going to allow in smaller situations like Mr. Moore's with appropriate screening and all the appropriate guiderails put in place that they don't have currently in their law but that is guessing and unfortunately the timing of the tax credits may make that not economically viable for people to pursue until there is a change in the federal election and then it will be viable again.

The Board had no further questions.

Attorney Coughlin asked for a motion. Or if the Board chooses not to make a motion in 62 days go by and it gets denied procedurally. But why leave Mr. Moore hanging on the vine for a couple more weeks.

Mr. Sas stated he does not see that the Board has any viable option to ignore the balancing test. Mr. Mazanek agreed. Attorney Coughlin said not without ignoring his advice.



Motion to deny the hardship use variance for 151 Pearl Avenue was made by Mr. Sas and seconded by Mr. Slota. The motion carried with three voting in the affirmative and one voting in the negative.

Motion Carried— Vote:

Yes – 3 (Slota, Sas, Mazanek)      No – 1 (Holowinski)      Absent – 1 (Brown)

Attorney Coughlin stated to summarize, regrettfully the Board denies. He will pass along the message and he asked Trustee Thorn to share the message with the Village Board too that the Zoning Board finds the project at hand, but generally they would have been ok with a project like this, but they understand the limitations of their authority. Mr. Sas acknowledged they don't have latitude.

For the record if you buy any late model vehicle, they no longer even give you the donut. You cannot trust that thing in lieu of the donut they give you; the inflation emergency packet. It doesn't work.

**NEW BUSINESS** – None

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Sas. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 6:41 pm.

Respectfully submitted,

Kim Cunningham  
Zoning Board Clerk



9/14/2025

Petition For Support Of Neighbors

To: Concerned Neighbors and Johnson City Village Board.

From: Catherine Lewis and Martha Penwell, 5 Mills Place, lot#-237-4164,

Subject: Neighborhood support to continue construction of what will be a lovely garden shed at 5 Mills Place in the back of house on the Batch Street side.

This petition is to request your support for the completion of the new garden shed in the backyard of our property.

The shed is much needed for storage as our home is very small with no basement or attic space. We currently have no storage space for lawn equipment, garden tools, work table, storage containers and seasonal items that need to be stored during the winter.

The shed will be 12x16 built on a concrete pad and will have windows and flower boxes. The siding, color, and shape will match our house. We really are just trying to improve the property and make our lives more comfortable. My mother, Martha, is 94 years young and helped her grand-son-in-law to design this lovely shed. She is very anxious to see it completed and hopes to be able to enjoy it.

As soon as the village allows us to continue with construction, and as soon as we can get our builder back to complete the shed, the work will be done within one week. We will do everything to not disrupt any of our neighbors during that time.

Thank you for your consideration and for continuing my mother and me to your very pleasant neighborhood.

Catherine Lewis



**Petition For The Completion Of Our Neighbor's Storage Shed**

To: Johnson City Village Board.

Re: Petition in support of proposed storage shed at 5 Mills Place in the backyard on Balch Street Side of property.

We the undersigned residents of Mills Place, Balch Street, and Colville Avenue are signing this petition in support of the completion of the shed in the backyard of 5 Mills Place on the Balch Street side of the property. We are in agreement that there are no front yards on Balch Street as there are no front doors or, in fact, no mailing addresses on Balch Street.

Our neighbor, Catherine Lewis, has shared the construction plans with us as she stated in her Petition For Support Of Neighbors.

We understand and support this project and do not believe it will negatively impact the aesthetics or the property values of our neighborhood. We have no objection to the plan proceeding as she described and ask that you grant the necessary approval to allow for its complete construction as soon as possible.

We would like to give Catherine and her mother, Martha, a proper welcome to our neighborhood and to the Village of Johnson City.

Name (Print)	Address	Signature	Date
Eric Forman	5 Mills Place	Eric Forman	9/14/25
Maureen Myernik	10 Mills Place	Maureen Myernik	9/14/25
Shirley KRN	14 Mills Place	Shirley KRN	9/14/25
Karen Haines	5 Colville Ave	Karen Haines	9/14/25
Terrie Haines	2 Mills Place	Terrie Haines	9/14/25
Cynthia M. Morris	13 Colville Ave	Cynthia M. Morris	9/14/25
Galina Kotik	9 Mills Pl	Galina Kotik	9-14-25
Annie Kotik	9 Mills Place	Annie Kotik	9-14-25
Daniel Sauer	1971 Bradleywood Rd	Daniel Sauer	9-14-25
Jessica Duff	9 Colville Ave	Jessica Duff	9/14/25



Name (Print)

Address

Signature

Date

Kimberly J Wheaton 20 Colville Ave Kimberly J. Wheaton 9/14/2025

Debbie Battaglia 33 Colville Ave Debbie Battaglia 9/14/25  
Beth Battaglia 11 Beth Battaglia

Nadya Kotik 98 Deyo Hill Rd, Johnson City Nadya Kotik 9/14/25  
Rich Grotzner 27 Colville <sup>NY</sup> Ave. Johnson City 9/14/25

\* Anne McCarthy 144 Virginia Ave, Johnson City, NY Anne McCarthy 9/14/25  
\* Leslie Campbell 21 Colville Ave, Johnson City, NY Leslie P. Campbell 9/14/25

Kristin Morris 12 colville ave Kristin Morris 9/27/25

Sinde Morris 12 colville ave Johnson City 9/27/25

Monica Morris 12 colville ave Johnson City 9/27/25

