

October 7, 2021  
7:00PM  
Owego Town Hall  
2354 State Route 434  
Apalachin, NY 13732

MEETING OF THE TOWN OF OWEGO ZONING BOARD OF APPEALS

Present: Acting Chairman Dan Myers, Jack Legg, David Kresge, Janet Brown and alternate Martin Murphy.

Excused: Chairman Gary Phelps

Others Present: Planning & Zoning Administrator Joann Lindstrom, Town of Owego Attorney Irene Graven.

Acting Chairman Myers called the meeting to order. The minutes from the Regular Board Meeting held September 2, 2021 were considered. Janet Brown made a motion to accept the minutes as written. Jack Legg seconded the motion. Acting Chairman Myers, Mr. Kresge, Mr. Murphy, Mrs. Brown and Mr. Legg voted in favor of the motion.

Appeal No. 2099

The Board considered Appeal No. 2099, a request for a Special Use Permit to operate a psychology office out of the home submitted by Dr. Barbara Myers, 1392 Marshland Road in the Town of Owego.

*Appearance: Dr. Barbara Myers, Applicant*

*Exhibits: Application for a Special Use Permit dated September 8, 2021*

Acting Chairman Myers asked Dr. Myers for a brief overview of the request. Dr. Myers stated she has practiced psychology for thirty-one (31) years, and was in an office located in Apalachin. That office has since closed, and she now wants to use her residence as a place of business.

Acting Chairman Myers asked Ms. Lindstrom if there were any comments received from the public. There were no comments received. Acting Chairman Myers opened the public hearing. There was no one wishing to speak, and the public hearing closed.

Mr. Legg questioned what part of the house would be used for clients. Dr. Myers stated the newest addition to the house, as it has a separate entrance. Mr. Legg asked how many clients are scheduled at a time. Dr. Myers stated mostly one (1) client, on occasion two (2).

Mr. Murphy made a motion to approve the Special Use Permit for Appeal No. 2099. Mr. Kresge seconded the motion. Acting Chairman Myers, Mrs. Brown, Mr. Legg, Mr. Murphy and Mr. Kresge all voted in favor of the motion.

Reference:  
Appeal No. 2099 dated October 7, 2021

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: Dr. Barbara Myers  
1392 Marshland Road  
Apalachin, NY 13732

At a meeting of the Zoning Board of Appeals held on the 7<sup>th</sup> day of October 2021, the above referenced Appeal was considered and the Board by resolution GRANTED your request for a Special Use Permit pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follows, viz:

WHEREAS, a public hearing was held on the 7<sup>th</sup> day of October 2021, on notice according to law, at which Dr. Barbara Myers appeared, and gave testimony to questions put to her by this Board; and

WHEREAS, Dr. Myers explained that she lives at 1392 Marshland Road and would like to operate a psychology office, which she intends to see clients; and

WHEREAS, no public comments were received;

NOW, THEREFORE, be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant is requesting a Special Use Permit to operate a psychology office in a Residential A "RA" zoning district; and

2. Property is located at 1392 Marshland Road in the Town of Owego; and
3. Property is situate in a Residential A "RA" zoning district;

And by it further

RESOLVED, that the application for a Special Use Permit is here GRANTED.

Any and all other provisions of this Chapter not waived or modified by this decision are to be observed.

Appeal No. 2100

Next the Board opened Appeal No. 2100 a request for a Special Use Permit for Flood Plain Development submitted by Alexander Urda, on behalf of Kaneria, LLC.

*Appearance: Alexander Urda, of Urda Engineering, PLLC  
Mayur Kaneria, applicant*

*Exhibits: Application for a Flood Plain Development Permit dated September 24,  
2021*

Acting Chairman Myers reviewed the summary provided by Ms. Lindstrom as to what the owner has done, and is required to do for the building.

Mayur Kaneria of Kaneria LLC along with Alexander Urda, of Urda Engineering PLLC were present. Mr. Urda explained the proposed project is to install water tight "stop logs" in front of ingress and egresses that are not at base flood elevation. Mr. Urda explained that this would be a temporary fix, as Mr. Kaneria plans to rebuild in the near future. Mr. Kaneria echoed Mr. Urda, stating the Dunkin Donuts brand is very behind schedule due to difficulty finding supplies and workers. Mr. Kaneria stated that he is trying to do very minimal upgrades to the building because of the future tear down and rebuild, then will elevate the building to be compliant with the flood plain.

Acting Chairman Myers asked if there were any comments received from the public. Dennis Randall, 1699 Main Street Apalachin, left a comment with the Planning & Zoning office that he had no objection to the "stop logs" being used, but was concerned with possible flooding from the drains emptying back into his property and hindering his drainage. It was determined that Mr. Randall's concerns would be addressed at a future site plan review for the construction of

the new building. Acting Chairman Myers opened the public hearing. There was no one wishing to speak, and the public hearing was closed.

Mr. Urda had many questions regarding the utilities to the building, and the freezer/cooler at the building. At this time, it was recommended by Irene Graven, Town Attorney, to call Ron Schmidt, the town's Certified Flood Plain Manager, to assist in answering these questions. Mr. Urda questioned if the electrical box in the building would need to be elevated because the "stop logs" would be in place and keep the water from entering the building. Mr. Schmidt answered no. Mr. Urda questioned if the electrical box on the outside of the building would need to be elevated because the electrical panel sits up higher than the flood level. Mr. Schmidt answered no. Mr. Schmidt did mention that the freezer/cooler unit is to be included in the flood proofing. Mr. Urda stated it would not be cost effective to flood proof the structure because of the materials it is made of. There was much discussion about the cooler/freezer and suggestions on what could be done to keep it safe from future flooding. Acting Chairman Myers asked if the freezer/cooler could be fastened to the ground, and if that would be acceptable. Mr. Schmidt stated it would be acceptable, however the refrigeration unit would need to be flood proofed. Mr. Urda stated the refrigeration unit is on top of the structure and out of the potential way of flooding.

Mr. Murphy reiterated that this would only be a temporary fix until a new, elevated building could be completed. Mr. Urda and Mr. Kaneria both answered this was only temporary, but unsure of timeline because of supply and demand.

At this time, Mrs. Brown put on record that she owns the parcel next to the proposed project, and would have to abstain from voting.

Mr. Legg made a motion to approve the Special Use Permit for Flood Plain Development for Appeal No. 2100 with the following contingencies:

- The cooler/freezer is anchored to the concrete slab
- Installation of a flood barrier between cooler and main building
- Refrigeration unit not in reach of flood water
- Leak proof "stop logs" used on windows and doors
- Sealing off general penetration sites for water
- Raising the drive thru window three and a half inches
- Utilities Director, Tyson Stiles, will be contacted regarding the Back Check Valve
- These measures are temporary until new building is constructed
- Must show good faith with progress

Mr. Kresge seconded the motion. Acting Chairman Myers, Mr. Murphy, Mr. Legg and Mr. Kresge all voted in favor of the motion, with Mrs. Brown abstaining.

Reference:

Appeal No. 2100 dated October 7, 2021

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall, 2354 State Route 434, Apalachin, New York:

To: Kaneria, LLC  
7858 State Route 434  
Apalachin, NY 13732

At a meeting of the Zoning Board of Appeals held on the 7<sup>th</sup> day of October 2021, the above reference Appeal was considered and the Board by resolution GRANTED your request for a Special Use Permit for Flood Plain Development pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follows, viz:

WHEREAS, a public hearing was held on the 7<sup>th</sup> day of October 2021, on notice according to law, at which Mayur Kaneria of Kaneria LLC appeared with his engineer Alexander Urda of Urda Engineering PLLC, and gave testimony put to him by this Board; and

WHEREAS, Mr. Kaneria and Mr. Urda explained the "Stop Logs" are a temporary fix; and

WHEREAS, the applicant agrees to use leak proof "stop logs" to seal off any water penetration sites, install a flood barrier between the cooler/freezer and the building, anchor the cooler/freezer to the concrete slab and ensure that the refrigeration unit is out of flood water, and raise the drive thru window three and half inches; and

WHEREAS, the applicant agrees to contact Utilities Director, Tyson Stiles, about the back check valve to prevent sewer damage; and

WHEREAS, the applicant agrees to show "Good Faith" in keeping the project moving forward, due to current supply and demand of supplies and workers; and

WHEREAS, Mr. Randall's concerns about stormwater will be addressed at a future date;

NOW, THEREFORE, be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant is requesting a Special Use Permit to install a flood barrier in a Highway Interchange (HIC) zoning district;
2. Property is located at 7858 State Route 434 in the Town of Owego;
3. Property is situate in a Highway Interchange (HIC) zoning district;

And be it further

RESOLVED, that the application for a Special Use Permit is hereby GRANTED.

Any and all other provisions of this Chapter not waived or modified by this decision are to be observed.

With there being no further business, the meeting was adjourned.