

**TOWN OF DAY ZONING BOARD OF APPEALS**

**PUBLIC HEARING-DRAFT MINUTES**

**AUGUST 18, 2025**

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**A PUBLIC HEARING** of the Zoning Board of Appeals of the Town of Day, County of Saratoga, State of New York, was held in Day Town Hall, 1650 North Shore Rd., Hadley, NY 12835 on August 18, 2025.

The meeting was called to order by Chairwoman April Schmick at 7:00 pm with the following answering roll call: Jeremy Allen, Rob Zeglen and Attorney Matt Fuller. Steve Edwards was not present.

**Motion** made by Jeremy Allen, seconded by Rob Zeglen to approve July 21, 2025, Regular meeting minutes.

**Ayes:** Chairwoman April Schmick, Jeremy Allen, Rob Zeglen

**Carried:** 3-0

**Public Hearing Conducted to Discuss Variance Application for Owen and Mary Shevlin: Parcel # 33.18-1-5, 1335 Kathan Rd., Corinth, NY 12822.**

Mr. Shevlin stated he had requested a Variance of a Front Setback of 14'6" to build a garage on his own property.

As requested at the July 21, 2025, ZBA meeting Mr. and Mrs. Shevlin submitted receipts for the mailing of the certified letters to neighbors within 500' to their property announcing the Public Hearing.

Also as required by the Zoning Board the Public Hearing was published in the Post Star.

No questions from the Board at this time.

Chairwoman April Schmick opened the hearing for public comment:

1. Ms. Kristy Bozenski, Overlook Terrace East, Corinth, NY 12822 called the PZ Clerk on August 6, 2025, to state she had received a certified letter from Mr. and Mrs. Shevlin, she has no problem with the variance application and would like

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her call to be entered into the record by the Zoning Board at the Public Hearing on August 18, 2025.

2. Ms. Jennifer Donnel, owning property near Mr. and Mrs. Shevlin's called the PZ Clerk on August 6, 2025; to state she had received a certified letter from Mr. and Mrs. Shevlin, she has no problem with the variance application and would like her call to be entered into the record by the Zoning Board at the Public Hearing on August 18, 2025.
3. Ms. Vicenza Schiera, 3 Overlook Terrace West, Corinth, NY 12822 called the PZ Clerk on August 6, 2025; to state she had received a certified letter from Mr. and Mrs. Shevlin, she has no problem with the variance application and would like her call to be entered into the record by the Zoning Board at the Public Hearing on August 18 2025.

Chairwoman April Schmick read into the record the three Voice Mails as stated above.

**Summary of AREA VARIANCE CRITERIA:**

**Balancing Test – 1.** Benefit can not be achieved by other means feasible to applicant - Rob Zeglen states it's a reasonable request to build a standard personal garage. Jeremy Allen states it's fine. Chairwoman April Schmick states there is no other feasible means.

The Board agreed unanimously with applicants having no other feasible means.

2. Undesirable change in neighborhood character or detrimental to nearby properties.

The Board agreed unanimously that the change will not be undesirable or detrimental to nearby properties.

3. Whether request is substantial:

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Jeremy Allen said yes, the variance was substantial. Rob Zeglen said yes, the variance was substantial. Chairwoman April Schmick said yes, the variance was substantial but not to the point that the variance should be denied – Mr. and Mrs. Shevlin should be able to build their personal garage.

4. Whether request will have adverse physical or environmental effects:

Rob Zeglen states no the variance would not have any adverse physical or environmental effects. Jeremy Allen states that the culvert to be put in has been approved by the Highway Superintendent and therefore the variance would not have any adverse physical or environmental effects. Chairwoman April Schmick agreed that the variance would not have any adverse physical or environmental effects.

5. Whether alleged difficulty is self-created:

Jeremy Allen states no. Rob Zeglen states it's a small lot and the property owners have no other choices. Chairwoman April Schmick agrees.

Chairwoman April Schmick closed Public Hearing.

**Motion** made by Rob Zeglen to approve Mr. and Mrs. Shevlin's 14'6" Front Setback Variance, seconded by Jeremy Allen. Chairwoman April Schmick agrees.

Ayes: Chairwoman April Schmick, Rob Zeglen, and Jeremy Allen

**Carried:** 3-0

Application for variance **PASSES.**

**Public Hearing Conducted to Discuss Variance Application for Frank and Melissa Giovinazzo: Parcel 33.11-2-5, 1168 Kathan Rd., Corinth, NY 12822**

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Chairwoman April Schmick opened floor for public comment:

Mr. Dave Davidson, 1150 Kathan Rd., Corinth, NY 12822 gave a presentation to explain his math written in detail in his letter and a drawing which he submitted to the Board to be entered in the Record:

Mr. Davidson states he is against the 4' height variance being requested because:

He states the Town of Day Law provides that one calculates "height" using an average of the vertical distances around the perimeter of the structure, rather than treating the vertical distance of any one side as determinative of "height" as the engineer for the applicant chooses to do.

The Code is specific- there can only be one "highest" point, typically, that's the roof ridge line.

The height variance needed as originally requested is still 10' not the 4' they are requesting now.

The Town of Day Code Enforcement Officer agrees with Mr. Davidson's statements and drawings.

Mr. James Pieniazek and Mrs. Barbara (Marie) Pieniazek, 1173 Kathan Rd., Corinth, NY 12822 submitted a letter to the Board to be entered in the Record:

Mr. and Mrs. Pieniazek states they are against the height variance being applied for because:

The Legislative Purpose and Intent of the Town of Day Zoning Law (adopted October 11, 2012) states that the purpose of the Zoning Law is to ensure that land use within the Town is consistent with the goals and recommendations of the Town of Day Comprehensive Plan-the plan's vision is grounded in the past and in the present – that in the future the town should look and feel as it does now – rural, rustic, quiet and unspoiled

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with woods, lakes and mountain views. It is to **protect the property values** by regulating the height, number of stories and size of a building.

Everyone must obey the law – no one is absolved from the Zoning Board Law, and no one can take it upon themselves to change the Town's Measuring Method.

Mr. Carl Thurnau, 1178 Kathan Rd., Corinth, NY 12822 asked if the Public Hearing Comments from the June 16, 2025, ZBA meeting was carried through to this meeting – Chairwoman April Schmick answered yes.

Attorney Benjamin F. Neidl in response to public comment states that:

Mr. Dave Davidson is not an engineer.

Mr. and Mrs. Pieniazek's speculation of maybe building across the road from the Giovinazzo's property should not have anything to do with the Board's decision.

Attorney Neidl states that even changing the house from a 3 story to a 1 story would not make a difference with the landscape and view of the lake.

Rob Zeglen asked Attorney Neidl what is the percentage of the house already constructed? – Attorney Neidl did not have that number.

Rob Zeglen asked Attorney Neidl what is the square footage of the total 3 story house? – Attorney Neidl stated that it was 5,386 square feet.

Rob Zeglen asked Attorney Neidl if the quote of the cost to remove the top floor was still confirmed at \$350K and the retaining walls quote is \$125,000 - \$150,000? Attorney Neidl said yes.

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Chairwoman April Schmick determined public comment finished. She closed the Public Hearing.

She stated that no determination would be made tonight and that the decision will be given at the September 15, 2025, Zoning Board of Appeals Meeting.

**Motion** made by Rob Zeglen to adjourn meeting and seconded by Jeremy Allen.

Ayes: Chairwoman April Schmick, Rob Zeglen and Jeremy Allen

**Carried 3-0**

Sandra Mahr

PZ Clerk