

**TOWN OF DAY ZONING BOARD OF APPEALS**

**REGULAR MEETING-DRAFT MINUTES**

**SEPTEMBER 15, 2025**

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**A REGULAR MEETING** 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 September 15, 2025.

The meeting was called to order by Chairwoman April Schmick at 7:00 pm with the following answering roll call: Board Member Steve Edwards, Board Member Jeremy Allen, Board Member Rob Zeglen, Attorney Matt Fuller.

**Motion** made by Board Member Jeremy Allen, seconded by Board Member Steve Edwards to approve August 18, 2025, Public meeting minutes.

Ayes: Chairwoman April Schmick, Board Member Jeremy Allen, Board Member Steve Edwards, Board Member Rob Zeglen

Carried: 4-0

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

Giovinazzo's had requested a Height Variance of 4' by proposing to raise the height of the soil grade by bringing in loads of topsoil in the front and the sides of the existing house so the height of the house will change from 44' to 34' which is 4' over the height limit.

**Summary of AREA VARIANCE CRITERIA:**

**Balancing Test**

**1. Undesirable change in neighborhood character or detriment to nearby properties:**

Chairwoman April Schmick states this will be an undesirable change because the height is significantly greater than neighboring homes and interferes with the view of the lake.

Board Member Jeremy Allen totally agrees with Chairwoman April Schmick's statement of being an undesirable change and he states there were several public objections and only two public comments for the variance.

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Board Member Steve Edwards agrees that this would be an undesirable change and states the height of the structure is not within the Town of Day Zoning Law and doesn't fit in with the surrounding homes.

Board Member Rob Zeglen agrees that this would be an undesirable change, and states doesn't align with the neighborhood and the Comprehensive Plan of the Town of Day wanting to keep a certain look in the Town of Day. He cited other factors including that it could set an undesirable precedent for the Town of Day and could open up additional zoning challenges and if granted might require changes to the Town of Day Comprehensive Plan.

**2. Whether benefit can be achieved by other means feasible to applicant:**

Chairwoman April Schmick says it can be achieved by the applicant, maybe not exactly what they want but is feasible and attainable. It seems the suggestions of the Board were dismissed but they could have very well worked: lowering the roof to make it slanted, removing the top floor changing to a flat roof entirely, redesigning interior space. No detailed reason why they could not make an accepted change.

Board Member Jeremy Allen agreed with Chairwoman April Schmick because she covered all bases that the benefit could be feasible to applicant-flat roof or slanted roof.

Board Member Steve Edwards states that the benefit could be feasible to applicant but revised plans for new structural design were never submitted.

Board Member Rob Zeglen states that the benefit could be feasible to the applicant, but he felt they did not adequately consider other options and did not provide sufficient details as to why they were not feasible. Rob Zeglen cited:

-Consider making use of the basement level for bedrooms and proceed with the alternative to remove one level permitting a sloped roof.

-Consider replacing the sloped roof with a flat roof as there are several in the Town of Day.

-A third alternative was backfilling the sides and back of the home, thus actually changing the rear height, so that a variance is not needed.

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Rob Zeglen provided reasons why he felt these options were not seriously considered and stated that a 5300-square-foot house provides many options for alternative floor layouts.

The price difference in making the changes is large but not in comparison to cost of home.

**3. Whether request is substantial:**

Chairwoman April Schmick says the request is substantial – the Town of Day Zoning Law states that a structure's height is to be 30 feet – a 4-foot variance is substantial, and it is noted there is a house just down the road from this property wanting a 2-foot height variance and they were denied.

Board Member Jeremy Allen agrees that the request for a 4-foot variance is substantial and the other property owner on the same road as this property was denied a 2-foot height variance. The house does obscure the view of the lake.

Board Member Steve Edwards says the request is substantial – on the street side of the house it is not overpowering but on the lake side it is a big structure!

Board Member Rob Zeglen says he feels that a 4' height variance is substantial-he has driven by road and lake and looked at it several times-it is a BIG house, and this variance request is not changing the existing as-built structure.

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

Chairwoman April Schmick states she feels the variance will have no physical or environmental effects on the surrounding area.

Board Member Jeremy Allen states the effects would be unknown if the virgin earth was disturbed and the topsoil would be brought in, and the runoff would go into the reservoir.

Board Member Steve Edwards states the architect, engineer and builder should have known what the Town of Day Zoning Law was and what the grade of property should be.

Board Member Rob Zeglen states there should be no physical or environmental effects due to modern drainage methods.

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**5. Whether alleged difficulty is self-created (which is relevant, but not determinative):**

Chairwoman April Schmick states the alleged difficulty is definitely self-created – original plans were not in line with Town of Day laws-whether or not a mistake was made by the first Code Enforcement Officer, she also pointed out that the height requirement information was on the same chart/page in the zoning laws as the setback requirements and that it does not seem plausible that it was not seen given that they allegedly brought the possible need for the setbacks to the prior Building Inspectors attention.

Board Member Jeremy Allen agrees that the alleged difficulty is definitely self-created- any competent, qualified professional should look forward to any up-and-coming possible problems preventing them from getting paid- they should have looked at the Town of Day Zoning Laws.

Board Member Steve Edwards agrees that the alleged difficulty is definitely self-created-the original architect and engineer should have known the Town of Day Zoning Laws.

Board Member Rob Zeglen agrees that the alleged difficulty is definitely self-created and appreciates what the applicant has provided but they and the professionals working for him should have researched the Town of Day Zoning Laws. Board Member Rob Zeglen also mentioned that an experienced builder who builds in the ADK would know that height restrictions exist.

Chairwoman April Schmick asked if the ZBA Board had any other points:

Board Member Rob Zeglen stated the applicant did not give details on why alternatives would not be entertained- just they didn't want to do any of them.

**Motion** made by Board Member Rob Zeglen, seconded by Board Member Steve Edwards to deny 4-foot variance.

Roll Call of Board: Chairwoman April Schmick supports denial

Board Member Steve Edwards supports denial

Board Member Jeremy Allen supports denial

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Board Member Rob Zeglen supports denial

Ayes: Chairwoman April Schmick, Board Member Steve Edwards, Board Member Jeremy Allen, Board Member Rob Zeglen

Carried: 4-0

Attorney Neidl wanted this statement on record that he came to the door of the Meeting Room at 6:40 pm and saw the ZBA Board sitting and talking tried to enter but was turned away until 7:00 pm which was the official starting time of the meeting.

Attorney Neidl asked Attorney Fuller if that was an Executive Session – Attorney Fuller stated no but it was questions from the Board, and he was giving them legal advice.

Attorney Neidl stated that it should have been part of the public meeting and Attorney Fuller said no-it was a private conversation.

Attorney Neidl stated he would see Attorney Fuller in court!

**Motion** made by Chairwoman April Schmick, seconded by Board Member Rob Zeglen to adjourn meeting at 7:25 pm.

Ayes: Chairwoman April Schmick, Board Member Rob Zeglen, Board Member Jeremy Allen, Board Member Steve Edwards.

**Carried: 4-0**