

**TOWN OF SWEDEN**  
**Zoning Board of Appeals**  
**Minutes – May 15, 2025**

A reconvened meeting of the Zoning Board of Appeals (ZBA) of the Town of Sweden was held at the Sweden Town Offices, 18 State Street, Brockport, New York on May 15, 2025, commencing at 6 p.m.

Members present: Robert Carges; Stacey Costello; Kevin M. Johnson; Pauline Johnson; Mark Sealy.

Also present: Nat O. Lester, III, ZBA Counsel; Kris Schultz, Schultz Associates; Sam Simone.

Chairperson Carges called the meeting to order at 6 p.m. and asked everyone to say the Pledge of Allegiance.

**4740 Lake Road**

Chairperson Carges stated he reviewed the minutes from the last meeting to bring himself up to date. He asked if there were any additional questions or comments since the public hearing was still open. Chairperson Carges appreciated receiving the requested site drawings from the architect.

Mr. Schultz summarized what Mr. Matt had presented at the first meeting. His client purchased the vacant property, which originally had a house on it that burned down. His first rezoning application to the Town Board was for a proposed professional office that included the adjacent parcel under contract. That application was denied. He attempted to rezone a second time for a similar sized building but was denied. Mr. Simone has invested effort and money over the years to try and develop the corner property. The chances of someone wanting to build a single-family residence on the property are very slim, especially with all the development in the surrounding area. The property was vacant for several years after that until Mr. Simone made a third attempt to rezone the property to multi-residential on his own. Mr. Schultz discussed how important it is for towns to include transitional zoning in their comprehensive plans, i.e., business to multi-residential to single-family residential. The Town Board also had the expertise of the Town Engineer, Mr. Oberst, who knows the history of the Town of Sweden and is a good planner supporting Mr. Simone's request for multi-family rezoning for the Crestview property. The Crestview Drive property was rezoned to multi-family residential.

Mr. Schultz met with Mr. Simone to develop the Crestview Drive property with townhomes after seeing that the existing townhomes behind Wal-Mart filled up as fast as they were built. They looked at townhomes in Ogden as well and discovered that the rent for townhomes there is well over \$2,000 a month. Nowadays, town homes are looked at as comparable, especially with the ease and luxury of not having to take care of things, live in a new space, and have more time for other things. The townhouse market has greatly expanded.

Jim Fahey is the architect hired to do the townhouse design. He designs approximately 90 percent of the town homes in the area. He knows what is popular and has many different concepts to show as an example.

The site plan was presented to the Planning Board showing two different ways to site the building with parking in front of the building or the parking behind the building, which would eliminate the rear setback variance requested leaving only the variances for the pre-existing substandard lot size.

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The Town Engineer and Planning Board reviewed the informal plan, and both recommended parking in front of the building which is how residential lots typically are and a white vinyl fence to separate the residential units from the commercial development to the south.

Mr. Schultz stated a site plan showing the parking behind the units was formally accepted by the Planning Board and a public hearing was held. Mr. Schultz stated there were one or two people from the public, but they did not say anything.

The current plan design is close to being approved by the Planning Board after a thorough review to ensure that it is a good plan. The same plan was reviewed by MCWA and Pure Waters and they are all set to approve the plan.

Mr. Schultz stated the next step was to go to the ZBA to request the granting of three variances for the width of the lot and the depth of the lot and a fourth variance for the building rear setback to the south. He stated that acquiring additional land is not feasible.

Mr. Schultz stated he discussed this variance request with the Planning Board at the May 12 meeting. Chairperson McAllister explained he does not understand why the 200 ft. depth by 200 ft. width was created for multi-family zoning. If that requirement did not exist, variances would not be required. Mr. Schultz added that typically the board looks at how big the building is relative to the parcel and how much green space there is. The proposed layout is well within limits. In fact, it is quite a bit less than what is prescribed for multi-family.

Member Costello confirmed with Mr. Schultz that parking areas are not considered part of the green space. He added based on how the Town calculates green space and lot coverage; the proposed development is well below the maximum allowed. The Town Engineer, Mr. Oberst, does a thorough review making sure the requirements are met.

Mr. Schultz stated for townhouses, three parking spaces are required for each unit. His client is restricted as to where the safest spot is to enter the site, as far down as possible on Crestview Drive. He understands that the Board inquired as to what the setback would be for a four or five unit building instead of a six-unit building. The number of units was determined from an economically feasible standpoint. Having to reduce the number of units is a financial hardship that may stall the project. He asked his client to attend tonight's meeting to address this.

Member Pauline Johnson stated a four-unit building is better than no units. Mr. Schultz stated he does not know if his client would pursue doing anything if he cannot use the property. He added his client is not looking for a variance for the setback from Lake Road as that was reviewed by the Planning Board and Town Engineer and there were no issues. He is here tonight to discuss the requested area variances with the ZBA. Mr. Schultz understands the interest in this project but does not want an overlapping of each board's concerns and what each looks at. Member Pauline Johnson agreed this board's concerns are planning board issues. She had a discussion with the Planning Board Chairperson regarding the issues and it all must be considered in the granting of a variance.

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Member Costello agreed that all their concerns must be considered as to how the granting of a variance will impact the neighborhood, i.e., where the snow will be stored and where the dumpster will be located. Mr. Schultz stated if the lot were too small for the snowfall, it would have to be removed.

Member Pauline Johnson asked where the Town of Sweden sign is located on the property. The Board discussed where it was located on the plan, most likely in the ROW.

Mr. Schultz explained he understands the ZBA's predicament that a substandard lot was rezoned, with a proposed new use in a neighborhood that has a history of the being concerned about the immediate area. The neighborhood has seen a lot of commercial growth around it.

Mr. Simone arrived at the meeting.

Mr. Schultz noted that at the public hearing for site plan approval, residents did not show up with concerns. He added that it is unlikely that the Town Board would have rezoned the property if it thought the residents in the neighborhood would be upset.

Member Sealy asked for clarification of the variances being requested, are there three or four. The Clerk stated the Planning Board requested a variance for each lot line that did not meet the 200 ft. requirement and the rear setback based on its recommendation to have the parking lot in front of the townhouse units. Mr. Schultz agrees with the Planning Board's request as it is much more appropriate.

Mr. Schultz does not see any other reasonable way to develop the lot. It will never be rezoned commercial or construct a single-family home on the property. Member Costello asked why couldn't a single-family home be built? Mr. Schultz stated because he knows the market and to build an average house now, it would cost approximately \$400 to \$500 thousand dollars, plus the lot costs have increased significantly.

Member Pauline Johnson stated Mr. Simone bought the property in 1999 but did not request rezoning until 2008. Did Mr. Simone try to construct a single-family home during that time? Mr. Simone stated he did not. Chairperson Carges added that Mr. Simone's goal at that time was to rezone the property to commercial. Member Pauline Johnson stated that Mr. Simone could have built a single-family home with no variances needed during that time. Mr. Simone stated he never thought of it. Mr. Simone is a retired real estate broker and in his opinion the property was never suited for residential.

Member Pauline Johnson thanked Mr. Simone for having the property staked at the Board Member Costello's request. It is still hard for the board members to visualize the townhouses on the property. She appreciated the engineer's drawing to show the setbacks for a four-unit, five unit, and six-unit townhouse, it was helpful. Member Pauline Johnson asked if Mr. Simone would consider decreasing the number of townhouse units to four or five instead of six. It looks like there are too many units on that property which abuts a residential area. Mr. Simone is not willing to do that at this time.

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Mr. Simone stated he tried multiple ways to develop the property and make it profitable. He added he did not try a single-family home because the Town's Master Plan for that property was for commercial development, but the Town was not willing to rezone the property. Mr. Simone is now trying to construct residential and does not understand why there is an objection to it.

Member Pauline Johnson stated for any multi-residential development, a variance will be needed because it is a substandard lot.

Member Sealy discussed the greenspace requirement. He stated at the last meeting Mr. Matt confirmed there was 10,000 sq. ft. of grass area on the 22,000 sq. ft. property. Almost half of the area is greenspace, not including the parking. The proposed development meets the standard for greenspace. Mr. Sealy pointed out the plan the different areas of greenspace. Member Pauline Johnson pulled out the landscaping plan and requested help from Mr. Schultz in determining the grass areas because it does not look like there is that much green space. The Board discussed greenspace.

Member Costello stated the building will be very visible heading north on Lake Road and then heading east. It is located at one of our main intersections. The commercial plaza next to the proposed development is approximately two feet closer to Lake Road, however, it is a single story, and the townhouse building is two stories. Mr. Schultz stated additional landscaping can be proposed to help screen the building. Member Sealy stated the additional trees as discussed would screen the building heading north and east and help eliminate the "warehouse look" Member Costello was concerned about.

Member Sealy asked what type of trees would be planted. Mr. Schultz stated he must be careful not to obscure the sight distance when planting additional trees. The trees would have to be planted closer to the building. Mr. Simone agreed to that.

ZBA Counsel Lester confirmed with Mr. Schultz that the plan that is presented tonight is the one the Planning Board and Town Engineer have reviewed.

For the record, ZBA Counsel Lester asked what the distance of the commercial building to the road is. Member Costello stated the plaza is 46.2 ft. and the northwest front corner of the building is 40.7 ft.

Member Sealy stated it is significant to point out that no one from the public appeared for or against it.

Chairperson Carges asked if there were any other comments or questions. There were none.

Moved by Member Pauline Johnson, seconded by Member Sealy, to close the public hearing at 6:41 p.m.

Chairperson Carges – Aye  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

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Member Pauline Johnson requested to go into the Executive Session to review legalities with ZBA Counsel Lester.

Moved by Member Costello, seconded by Member Sealy, to go into Executive Session at 6:42 p.m.

Chairperson Carges – Aye  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

Moved by Member Pauline Johnson, seconded by Member Kevin Johnson, to leave Executive Session and return to the regular meeting at 7 p.m.

Chairperson Carges – Aye  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

Member Pauline Johnson offers the following resolution and moves for its adoption:

Having reviewed the application and Short Environmental Assessment Form of Samuel Simone, Simone's Properties LLC, owner of real property situated at 4740 Lake Road, tax account number 083.08-8-1.12, in the Town of Sweden, County of Monroe and State of New York. The applicant is proposing to construct a proposed 6-unit, ±5,060 sq. ft., townhouse building with access from Crestview Drive and is requesting the following four area variances for the substandard lot:

1. 199.39 ft. south property line (.61 ft. area variance).
2. 118.26 ft. east property line (81.74 ft. area variance).
3. 118.48 ft. west property line (81.52 ft. area variance); and
4. 20 ft. rear setbacks (30 ft. area variance).

The Zoning Board of Appeals declares itself Lead Agency for the environmental review of this application pursuant to the SEQRA Regulations [6 NYCRR§617.6 9b)], and determines that the proposed variances are unlisted actions, which will not have a significant impact on the environment, which constitutes a negative declaration.

**Seconded By** Mr. Sealy, and duly put to a vote, which resulted as follows:

**Vote:**  
Chairperson Carges – Aye  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

Motion carried.

The Zoning Board of Appeals is aware when Mr. Samuel Simone purchased the property on February 11, 1999; it was zoned single family residential. Mr. Simone would be able to construct a single-family home without obtaining any variances. In June 2008, Mr. Simone applied to the Town

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Board for rezoning the parcel from R1-2 Residential to B-1 Commercial and was denied on August 25, 2008. In September 2017, Mr. Simone again applied for rezoning from R1-2 Residential to B-1 Commercial and was denied in December 2017. On September 26, 2023, he was successful in obtaining a MR-1 (multiple residence) zoning from the Town Board. The Town's Comprehensive Plan supports the rezoning; multi-family residential development is appropriate as a transitional land use between lower density neighborhoods of single or two-family dwellings and the higher intensity commercial development.

However, according to the Town of Sweden Zoning Code, Chapter 175-39, MR-1 zoning requires properties to be 200 feet long by 200 feet wide and a 50 ft. rear setback. This parcel is a substandard lot, and NO multiple residence buildings can be constructed without obtaining at least three variances.

The Town of Sweden Planning Board has reviewed this project and approves the concept plan with the rear setback moved closer to the commercially zoned property to the south, allowing for more green space (frontage) in a residential neighborhood.

The ZBA requested the east and west (side) setbacks for 4 units, 5 units and 6 units. The proposed setbacks are as follows:

<u>Number of units</u>	<u>East side</u>	<u>West side</u>
6	40.7'	48.5'
5	62.2'	70.0'
4	83.7'	91.5'

The project engineer noted the commercial plaza to the south, is setback from Lake Road of 46.2 ft.

Mr. Samuel Simone requests the following area variances for the substandard lot:

- 1 199.39 ft. south property line (.61 ft. area variance).
- 2 118.26 ft. east property line (81.74 ft. area variance).
- 3 118.48 ft. west property line (81.52 ft. area variance); and
- 4 20 ft. rear setbacks (30 ft. area variance).

Member Pauline Johnson offers the following resolutions and moves for their adoption: Application of Samuel Simone, Simone's Properties LLC, 4740 Lake Road, Brockport, New York, for four (4) area variances to construct a multiple residence on a **substandard lot**. The applicant is proposing to construct a proposed 6-unit, ±5,060 sq. ft., townhouse building with access from Crestview Drive.

**Area Variance #1 –.61 ft. South property line**

1. An undesirable change will not be produced in the character of the neighborhood as the neighboring property to the south is zoned commercial.
2. The benefit sought by the Applicant cannot be achieved by another feasible method other than an area variance as the parcel is a substandard lot.
3. The proposed south setback area variance of .61 ft. is not substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and
5. Although the alleged difficulty is self-created, the Town Board approved the MR-1 zoning, thus creating a substandard lot.

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**Seconded By** Member Sealy, and duly put to a vote, which resulted as follows:

**Vote:** Chairperson Carges – Aye  
Member Costello - Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

**Motion carried.**

**Area Variance #2 –118.26 ft. east property line (81.74 ft. area variance)**

1. An undesirable change will not be produced in the character of the neighborhood as the neighboring property to the south is zoned commercial.
2. The benefit sought by the Applicant cannot be achieved by another feasible method as the parcel is a substandard lot.
3. Although the proposed east property line variance of 81.74 ft. is substantial, it is necessary because the parcel is a substandard lot.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and
5. Although the alleged difficulty is self-created, the Town Board approved the MR-1 zoning, thus creating a substandard lot.

**Seconded By** Member Sealy, and duly put to a vote, which resulted as follows:

**Vote:** Chairperson Carges – Aye  
Member Costello - Nay  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

**Motion carried.**

**Area Variance #3 -118.48 ft. west property line (81.52 ft. area variance)**

1. An undesirable change will not be produced in the character of the neighborhood as the neighboring property to the south is zoned commercial.
2. The benefit sought by the Applicant cannot be achieved by another feasible method as the parcel is a substandard lot.
3. Although the proposed west property line variance of 81.52 ft. is substantial, it is necessary because the parcel is a substandard lot.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and
5. Although the alleged difficulty is self-created, the Town Board approved the MR-1 zoning, thus creating a substandard lot.

**Seconded By** Member Sealy, and duly put to a vote, which resulted as follows:

**Discussion** This variance is granted conditionally upon the additional planting of pine trees or similar trees along the west property line for screening purposes as reviewed and approved by the Town Engineer and Planning Board.

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**Vote:** Chairperson Carges – Aye  
Member Costello - Nay  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

**Motion carried.**

**Area Variance #4 - 20 ft. rear setback (30 ft. area variance)**

1. An undesirable change will not be produced in the character of the neighborhood as the neighboring property to the south is zoned commercial.
2. The benefit sought by the Applicant cannot be achieved by another feasible method as the parcel is a substandard lot.
3. Although the proposed rear setback variance of 30 ft. is substantial, it is necessary because the parcel is a substandard lot. Moving the building to the south is closer to the commercially zoned parcel is more appealing than locating the building closer to the entrance road of a residential neighborhood.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and
5. Although the alleged difficulty is self-created, the Town Board approved the MR-1 zoning, thus creating a substandard lot.

**Seconded By** Member Sealy, and duly put to a vote, which resulted as follows:

**Vote:** Chairperson Carges – Aye  
Member Costello - Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson – Aye  
Member Sealy – Aye

**Motion carried.**

The four variances are approved only for the proposed six-unit townhomes presented on May 15, 2025. Any other proposed building(s) is not approved as part of this variance approval.

Moved by Member Sealy, seconded by Member Kevin Johnson, that the minutes of December 12, 2024, be approved.

Chairperson Carges – Abstain  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson - Abstain  
Member Sealy – Aye



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Moved by Member Sealy, seconded by Member Costello, that the minutes of March 6, 2025, be approved.

Chairperson Carges – Abstain  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson - Abstain  
Member Sealy – Aye

Moved by Chairperson Carges, seconded by Member Sealy, to adjourn the meeting.

Chairperson Carges – Aye  
Member Costello – Aye  
Member Kevin Johnson – Aye  
Member Pauline Johnson - Aye  
Member Sealy – Aye

Respectfully submitted,  
Phyllis Brudz  
Zoning Board of Appeals Clerk