

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – October 23, 2025

A regular 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 October 23, 2025, commencing at 6 p.m.

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

Absent: Pauline Johnson

Also present: Nat O. Lester, III, ZBA Counsel, Robert LaPoint, Code Enforcement Officer, Kris Schultz, Schultz Associates, Nicole King, Robert Laviano and Steve Licciardello, L and L Construction, John Egan.

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

Chairperson Carges waived the reading of the legal notice.

Application of Nicole King, 1746 Covell Road, Brockport, New York, for an area variance of 74.2 ft. to construct a proposed run-in shelter for horses located at 1746 Covell Road, Brockport, New York. The setback from the run-in shelter to the western lot line is 25.8 ft., where the setback requirement is 100 ft. from any property line. The eastern, northern, and southern setbacks to the run-in shelter are each over 100 ft.

Town of Sweden Ordinance §175-36 R1-2 One-Family Residential Districts, A. Permitted principal uses. (4) Customary agricultural operations; provided, however, that no storage of manure or odor - or dust-producing substance, nor barns used for housing any animals other than traditional domesticated pets, shall be permitted within 100 feet of any property line. The property is owned by Patrick and Nicole King, tax account number 114.01-1-35.

Also, application of Brandon Woods, LLC, 30 Forest Creek Drive, Spencerport, New York, for an area variance of four (4) ft. per apartment building. Applicant proposes constructing three (3) apartment buildings with a mean height between eaves and ridge of 40 ft. located on the south side of Transit Way and 281 ft. west of the intersection with Nathaniel Poole Trail, where the maximum building height is 36 ft. per MR-1 zoning regulations.

Town of Sweden Ordinance §175-39 MR-1, Multiple Residence District, B. Lot and area requirements shall be as follows: (1) Building height: 36 feet. The property is owned by Brandon Woods, LLC, tax account number 084.01-1-1.008.

Chairperson Carges announced the first public hearing.

1746 Covell Road – Area Variance – Horse Run-in Shelter

Nicole King, property owner, addressed the Board. She is proposing to put a run-in shelter on an existing stone pad directly behind her barn. The existing stone pad helps with runoff and erosion control and provides a good foundation, eliminating a lot of site work. In addition, the location is already well screened due to the existing barn and tall pine trees which would block the view from the neighbors and the road. The run-in shelter naturally would blend in with the surroundings. The run-in shelter is three sided and the opening faces east away from the closest neighbors and far away from the neighbors upwind from it. Mrs. King added that Member Johnson visited the site yesterday and can attest to that.

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Although the area variance is substantial, the run-in shelter is small at 10 ft. by 14 ft. and consistent with other agricultural uses in the area. Keeping it in this location also preserves open space on the property, aligns with the Town setback and visual goals.

Mrs. King stated she mentioned to her neighbors that she would like to bring her horses to her property and to construct a run-in shelter; they were excited to have horses around again.

In terms of the five variance criteria:

1. The placement will not create any undesirable change or detriment to nearby properties. The run-in shelter will remain screened and intrusive.
2. There is no feasible alternative without excavation or removal of vegetation creating run-off and disturbing soil. The existing stone pad is already well suited for the purpose of a base for a run-in shelter, making it the most practical and least destructive option.
3. The area variance is substantial, but the run-in shelter is small at 10 ft. by 14 ft. and consistent with other agricultural uses in the area.
4. The existing stone pad prevents environmental disturbances, and the run-in shelter will be cleaned daily. It will not produce any odor or attract pests of any kind. Mrs. King has owned horses for a long time and has operated a boarding farm.
5. The request isn't self-created; it is based on the property's layout. The barn's position and wind direction is a natural screening.

Mrs. King would be happy to answer any questions from the Board or public.

Chairperson Carges confirmed with Mrs. King that the existing pad is stone, not concrete. She stated the previous owners parked tractors and horse trailers on the pad.

Member Johnson confirmed with Mrs. King that the barn is a barn with garage doors for storage and that horses will not be housed in the barn.

Member Costello asked for clarification what the main reason, for example, existing stone pad, is preventing the run-in shelter from being placed farther away from the west property line? Mrs. King stated because of the stone pad, but also because there are water and electricity to the barn that will be used for the horses. The run-in shelter will not have water and electricity. Member Costello asked what the actual distance from the neighbor's residence is as it is approximately 85 feet from aerial photos. Mrs. King did not measure the distance from the neighbor's residence to the run-in shelter.

Member Sealy stated he has trouble understanding why the area variance isn't self-created because the subject property is three acres and could be placed at another location that meets code. He understands it would be less expensive, there is an existing pad, and it is more convenient with the use of water and electricity but is still self-created. Mrs. King stated she is not sure how to answer that because in general most area variances are self-created, but yes it would be a lot more expensive to put the run-in shelter somewhere else. In addition, the small shed behind the barn that Member Johnson saw was where feed and hay were going to be kept. It will be less functional with the run-in shelter located away from the existing barn and shed. The tree that sits in the middle of the property has a wet area and would not be the best location for the run-in shelter.

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Member Sealy suggested putting the run-in shelter alongside the metal clad barn instead of behind the shed which would provide less area variance and an additional barrier for any odors going across the property line. Mrs. King stated that it is a possibility but there would only be a decrease of approximately 15 ft., and a new stone pad would have to be installed and a lot of landscaping and a tree around the barn that would have to be removed.

Member Costello stated that her biggest concern is the odor that may go across the property line to the neighbors, who are nice, but may not live at that house their whole life; either may Mrs. King. It is a possibility that a new owner might bring in more than one horse causing more odor and there may be new neighbors to the west who do not like the odor.

Mrs. King stated her biggest advantage is that the wind comes from the west so most odors will move away from the west. Also, Mrs. King would maintain a clean run-in shelter. The other advantage is that the run-in shelter is movable as she is buying it from someone else to place on her property.

Member Sealy stated it is important to note that the area variance once granted runs with the land which means another structure for farm animals could be placed 25 feet from the lot line, for example, pigs.

Chairperson Carges confirmed with Mrs. King that the horses will stay out all year.

Chairperson Carges asked if there were any questions, comments, or concerns from the public.

John Egan, 456 Shumway Road – Member Egan stated Mrs. King's request seems reasonable, especially in a rural community.

Chairperson Carges asked if there were any more questions, comments, or concerns. If not, he would entertain a SEQRA motion. There were none.

Chairperson Carges offers the following resolution and moves for its adoption:

Having reviewed the application and Short Environmental Assessment Form of Nicole King, 1746 Covell Road, Brockport, New York, owner of real property situated at 1746 Covell Road, tax account number 114.01-1-35, in the Town of Sweden, County of Monroe and State of New York. The applicant is proposing to construct a horse run-in shelter, 140 sq. ft., at 1746 Covell Road, Brockport, New York. The requested area variance (74.2 ft.) is for the rear setback of 25.8 ft., for the proposed horse run-in shelter where the required setback requirement is 100 ft. from all property lines.

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 variance is an unlisted action which will not have a significant impact on the environment, which constates a negative declaration.

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

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

Motion carried.

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Member Sealy offers the following resolution for the application of Nicole King, 1746 Covell Road, Brockport, New York, for an area variance (74.2 ft.) to construct a proposed horse run-in shelter, 140 sq. ft., with a rear setback of 25.8 ft. located at 1746 Covell Road, Brockport, New York, where the setback requirement is 100 ft. from any property line be DENIED for the following reason:

- Mrs. King, applicant, has other options to locate the proposed horse run-in shelter on the property within code and meet the required rear setback.

Seconded By Member Costello

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

Motion failed.

Member Sealy offers the following motion to table the above resolution until Member Pauline Johnson can attend a future meeting to be decided and vote.

Seconded By Member Kevin Johnson

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

Motion carried.

Chairperson Carges announced the second public hearing.

Brandon Woods – Area Variance – Building Height

Kris Schultz, Schultz Associates, addressed the Board. He updated the Board on the background of the site. The property is zoned to permit this type of development. The site is located up on the hill and has large standing trees along the northerly portion of the property; everything to the south is the cemetery.

The project was before the Planning Board several times. Chairperson McAllister was in favor of two, 4-story apartment buildings as a proper way to manage land use, however, the rest of the Board was comfortable with three, 3-story buildings as there aren't any four-story buildings in the Town. Wood Trace will continue through the development as a dedicated road to Transit Way which is important for emergency vehicles and assist neighbors to the east with ingress/egress. All utilities will be provided.

Preliminary plans are currently before the Planning Board. Mr. Schultz noted that there was a similar area variance request that was granted about ten years ago for a project located on Redman Road. The code sets a certain density for a site, and to make the project economically feasible, the density should be met. This is an ambitious project, but currently there is a significant demand for this type of housing.

One of the biggest concerns for this project is how it will look, driving down Route 31. He distributed renderings of the development to the Board. The renderings show that the buildings will be lower than the trees along the north side of the development or the trees will shield the view of the buildings themselves.

Member Kevin Johnson asked what the level of Transit Way to the floor of the buildings is. Mr. Schultz stated there is a good amount of grading that goes up Transit Way, and then approximately another 40 ft. up from there. Mr. Egan approached the table and reviewed the renderings with the Board members.

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Mr. Schultz mentioned buildings located in the town and village that are tall, for example, Brockport College Suites on Redman Road, Royal Garden Apartments, SUNY Brockport, and the Holiday Inn.

Member Sealy asked for clarification of how the building height is determined. Mr. Schultz stated that the elevation of the ridge line and the elevation of the eave line is split to determine the elevation of the building.

Robert LaPoint, Residential Building Inspector, read the definition of building height from the Town code as follows:

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Member Sealy stated that in the informal meeting minutes from the Planning Board, Mr. Schultz stated the buildings could meet the 36 ft. height requirement. Mr. Schultz explained that his understanding was the building height would be compliant until the architectural drawings were completed. The Planning Board was relieved to see that there would be three, 3-story buildings instead of two, 4-story buildings and recommended the applicant go to the ZBA for a building height area variance.

Chairperson Carges stated that the dormers would have to be removed to meet the building height requirement. Member Schultz stated the look of the building would have to be butchered instead of building a nice-looking structure.

Mr. Schultz stated that one of the Planning Board's comments was that this is the perfect spot to put this type of development as it is not next to a single-family residential development, it is well off the main road, it is behind a commercial-industrial development, and it backs up to a cemetery. Also, it is a site that has all utilities, is not crowding any roads, and the site was part of the industrial corridor on Transit Way, including a large regional detention pond.

Chairperson Carges confirmed with Mr. Schultz that the regional detention pond can handle this development.

Chairperson Carges asked if there were any more questions, comments, or concerns.

John Egan, 456 Shumway Road – Mr. Egan confirmed with Mr. Schultz that if gas weren't available, the applicant would still be seeking approval for three, 3-story buildings and requesting a 4 ft. area variance for each building.

Mr. Egan stated the area variance is self-created because the applicant could build three, 2-story buildings, however, it may not be feasible to do that. Mr. Schultz has never had a variance request that wasn't self-created.

Mr. Egan stated how disappointed he was with the Villas at Brandon Woods development because there was supposed to be forever wild areas that would remain; however, the wooded area has all been removed. Mr. Schultz explained that the owners of the development changed and the fire code required the loop to be connected, which resulted in the trees being removed. Member Egan stated all of the trees were removed.

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Mr. Egan is surprised that there is no one from Talamora Trail at tonight's meeting. There will be traffic congestion as anyone living in the new development working in the city will go right onto Rte. 31 out of Talamora Trail. Mr. Schultz acknowledged that traffic was brought up as a concern by the Town Engineer at a planning board meeting and is being addressed with a request for a traffic study.

Mr. Egan's final comment is that most of the development will be parking spaces. He hopes in the future that the boards will "think outside the box," interconnecting more roads would help without pushing people away from developing.

Member Costello asked if there was ductwork in the roof. Mr. Schultz stated there could be associated piping with the building being sprinkled. Mr. Schultz added that the roof design is not just for aesthetics but for functionality. Member Costello stated the aesthetics of a flat roof would be terrible; she asked if there are any other options. Mr. Schultz stated no, it would be a tough situation. Other options are considered first to avoid having to make an application to the ZBA.

Member Sealy summarized that the proposed pitch of the roof is due to the snow load and it being able to handle the weight. Lowering the roof could potentially not be functional and affect the look of the building.

Member Sealy offers the following motion to close the public hearing.

Seconded By Member Kevin Johnson

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

Motion carried.

Member Sealy offers the following resolution and moves for its adoption:

Having reviewed the application and Short Environmental Assessment Form of Brandon Woods LLC, Transit Way, Brockport, New York, owner of real property situates on the south side of Transit Way, 281 ft. west of the intersection with Nathaniel Poole Trail, tax account number 084.01-1-1.008, in the Town of Sweden, County of Monroe and State of New York. The applicant proposes constructing three (3) apartment buildings with a mean height between eaves and ride of 40 ft.

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 Member Kevin Johnson, and duly put to a vote, which resulted as follows:

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

Motion carried.

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Member Sealy offers the following resolution and moves for its adoption: Application of Brandon Woods LLC, for an area variance of four (4 ft.) per apartment building, with the mean height between eaves and ridge of 40 ft. located on the south side of Transit Way, Brockport, New York, be approved for the following reasons:

1. An undesirable change will not be produced in the character of the neighborhood or detriment to nearby properties.
2. The benefit sought by the Applicant cannot be achieved other than by an area variance.
3. The proposed variance is not substantial as it is a small percentage of the overall height of the building.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood as there are many existing buildings.
5. The alleged difficulty was not self-created unless the building is designed with a flat roof which is not functional or aesthetically pleasing.

Seconded By Member Stacy Costello, and duly put to a vote, which resulted as follows:

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

Motion carried.

Moved by Member Costello, seconded by Member Kevin Johnson, that the minutes of July 31, 2025, be approved.

Vote: Chairperson Carges – Aye
Member Costello – Aye
Member Kevin Johnson – Aye
Member Sealy – Abstain

Motion carried.

Moved by Member Costello, seconded by Member Kevin Johnson, to adjourn the meeting until Thursday, November 13, 2025.

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

Motion carried.

Respectfully submitted,
Phyllis Brudz
Zoning Board of Appeals Clerk