

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, August 13, 2026

CALL TO ORDER TIME: 7:00 PM

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

Attendance: Board Members: John Litts (Chairman), Paul Gargiulo, Russ Gilmore, Shawn Zerafa, Jessica Van Houten, Corey Miller, Mike Petty (Town Board); Board Staff: Dave Barton, David Gordon and Sarah Van Nostrand

Absent: Board Members: Bill Brown

New Public Hearings:

Arket Holdings LLC: Area Variance: 25 Oakes Rd: SBL #96.5-3-2

Applicant is seeking an area variance for backyard setback relief of 11.5 feet for an addition.

Review Status: Public hearing set for August 13, 2026.

Potential Action: Open public hearing

Present: no applicant at the time

Litts asked for a motion to open the public hearing.

Motion made by Gilmore, 2nd by Gargiulo.

All ayes, motion passed to open the public hearing.

No public comment

Continued Public Hearings:

Cohn, Chris: Area Variance: 1 Falcon Dr.: SBL #86.4-3-41

Applicant is seeking an area variance for 0.5 acres for minimum acreage for an accessory apartment.

Review Status: Public hearing opened July 9, 2026

Potential Action: TBD

Present: Sean William (Architect) and Chris Cohn (Applicant via Zoom)

No public comment

Williams said that he would like to request that the board grant them relief of 25% half an acre for the lot. The project is compliant in every other way all they need is the area relief. He would like the board to apply the 5-point balancing test and weigh the merit of the request. He would like to point out that ADUs require the property to be owner occupied. It would be adding one car and their house is the first house on the road in terms of traffic being generated they will not pass a single driveway.

Litts asked if the applicant would be willing to not have an ADU and just put an addition onto his residence and not have an additional dwelling unit.

Williams said that they are here to build an ADU and to not build an ADU would be something different than what the applicant is seeking.

Litts said in the applicants narrative it stated that it was going to be for family and didn't want to rent it to anyone else.

Williams said the main difference between an ADU and just an extension off of his house is the existence of a kitchen.

Cohn said that he sent Williams some drawings for an addition, essentially they could do an addition, he just isn't sure if that is still considered an ADU or not.

Litts said the question with that is cooking facility. If you do an addition to your house it would not be allowed to have its own kitchen, your family would have to use your kitchen. If that is something you are willing to do you don't need to be in front of this board.

Cohn said it would be beneficial for them to have their own way of cooking. They have stairs in their home the whole point of this is that his family cannot do stairs, so they are trying to make it one level to make it easier on them. If there is a way he can do this as an ADU and have a kitchen then he would prefer that, but if they are told they cannot then they will have to come up with other options.

Williams said his kitchen is a raised ranch, so the kitchen is on the second floor. So not having a kitchen in the ADU means the parents who cannot do stairs will need to go up and down a flight of stairs which will involve a lift or something like that which is another thing added onto the burden.

Litts said that the board had discussed term limits on variances and if it was feasible or if it had been done.

Gordon said in this case it would not be appropriate and the board also wanted to know if they could limit it to family. In that case it would bring up the question what is a family. The other issue is when the board imposes conditions on a variance the conditions have to be supported by some documented concern and documented evidence. At the hearing last month the concern that was raised was that they wouldn't have any control over the people coming in and it was thought that it might be better to restrict it to family only. It is a leap to think that this concern is any different than any other ADU in the town.

Litts said that you cannot pick your neighbors.

Gordon said it is very hard to justify a condition that would be a pretty significant stepping out for the board to do a condition like that.

Litts said so the board is not breaking ground with this one.

Gordon said he would recommend that the board is not there yet, it is not practical and goes against the generalized policies, it's not enforceable and with the way New York State law is moving it is not appropriate and violates the rule that the variance runs with the land.

Gordon went through the balancing test with the board.

1. Undesirable change in neighborhood character or to nearby properties?

Gargiulo said that the house was built when it was 2-acre zoning and was granted a variance to build the house that was given by the planning board when they signed off on all these lots. He feels that the 2-acre lot does not fall into the criteria here.

Litts said he doesn't necessarily agree with that it is still in a 2-acre zone.

Barton said that the map was filed under 1-acre zoning and the town changed the zoning to 2-acre (Ag Zone) at that time the substandard lots became pre-existing and the bank at the time asked for side yard setbacks as some of the lots were sized such that the 100-foot minimum total side yard would have allowed houses only 8-feet wide. At that time the zoning board the zoning board granted variances for side yard setbacks. The lots were approved under 1-acre zoning and the town changed the zoning and the lots became pre-existing non-conforming.

Litts said just because they are pre-existing non-conforming does not exempt them from needing a variance.

Barton said that is correct it does not exempt them. In his letter to the board he mentions that the board could use the previous decision in theirs about it not being self-created as it is not their fault that it was subdivided and then the town changed the zoning.

Litts said that ADUs are allowed in the zone it becomes an acreage issue for this project.

Gilmore said that there is already a structure on the property and he is just improving that structure it is not like he is adding another structure. The neighbors didn't have any complaints about the use of the property they don't like that it is going to be an apartment their concern is the occupants of the apartment.

Van Houten agrees.

Zerafa said he doesn't think it is a detriment.

Litts said that it is the consensus of the board that it would not have an undesirable change or detriment to the neighborhood.

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

Litts said the feasibility of not having a kitchen or cooking facility to eliminate the need for a variance the applicant doesn't think that it is feasible they would like a cooking facility in the unit. In his opinion there is no other feasible method.

Gargiulo agrees.

Gilmore agrees.

Zerafa said he agrees especially with that it is for the parents and the idea is to get rid of the stairs.

Van Houten said that the existing building has stairs.

Litts said that this application is for his parents but in the future it might not be as the variance runs with the land.

Gordon said if a totally unrelated family comes in it would be inappropriate to ask them to share the kitchen at that point it would be appropriate to have the ADU.

Litts said if that was feasible for them to not have a kitchen facility then they could just start building. He feels that it is the board's consensus that there is no feasible alternative.

3. Whether the request for relief is substantial?

Zerafa said that it is a 25% increase which is substantial.

Van Houten said that it is substantial.

Litts said that the request is substantial.

Garguilo said isn't the footprint of the buildings not changing.

Gilmore said correct.

Litts said the lot coverage did not change.

Williams said it is changing a little bit.

Litts asked by how much.

Williams said it would be about 300 sq. ft. but if that is the issue they can eliminate that.

Litts said that is for lot coverage, but they are talking about density. The actual building doesn't change but the density will because it is an accessory dwelling unit.

Gordon said that the variance is 25% for area but he think it is fair to remember what really is at stake here is not the additional feet that they are putting it is that you are taking this particular lot from one family to give or take two families. The thing for the board to consider is that the same rule allowing ADUs as an accessory use is in every district. If this was in a half-acre district you would have the same issue regardless of the square footage increase you are essentially putting in another family and that is considered acceptable under the code. It is substantial in the 25% but what the board is actually doing is putting another family on the site and the thing for the board to remember is the policies is in favor of that in general.

Litts said that the variance is substantial but it is not detrimental. It is substantial at 25% and it is 2-acre zone in that particular area of town there are several lots that are less than 2-acres. He doesn't know if being substantial in his opinion would be a detriment.

Van Houten said the impact of it is not substantial, the numbers show substantial but the impact of it is not.

Zerafa said he feels that the math does come out to a substantial number.

Gargiulo said he agrees.

Gordon said he thinks the consensus of the board is that it is substantial.

4. Whether the request will have adverse physical or environmental effects?

Gilmore said he doesn't see any.

Van Houten agrees.

Litts said that he feels it would be minimal because the ADU is limited to 1-bedroom, minimal traffic and ADUs are something that federal, state and town want to see. He thinks that it would not have an adverse physical or environmental impact.

Board agrees.

5. Whether alleged difficulty is self-created?

Litts said that the town board changed the rules midstream, but it is self-created because it is an ask. He feels that it is less of a factor because the town changed their requirements.

Gordon said he thinks the board's answer is that it is not self-created.

Board agrees.

Gordon said he likes to add two additional considerations and they are is the relief the minimum needed. The five factors are baked into the overall consideration of whether the benefits to the applicant outweigh the detriment to the neighborhood.

Litts said it is his opinion that the granting of the variance would not impact the neighbors in a detriment, he thinks that the benefit to the applicant outweighs that.

Board agrees.

Gordon asked does the board agree that the relief asked for is the minimum needed.

Board agrees that there is no other way out.

Straw Poll:

Van Houten-aye

Gilmore-aye

Litts-aye

Gargiulo-aye

Zerafa-aye

New Business:

7 Leonta Ct LLC: Variance: 7 Leonta Ct: SBL #88.69-10-25

Applicant is seeking to build a second two family dwelling on their property.

Review Status: Application and survey circulated to board.

Present: Patti Brooks (Surveyor) & Anthony Lanteri (Applicant)

Brooks said that Lanteri had submitted an application to the building department and had them look at the site and come up with some recommendations. When she started going through the code it wasn't as cut and dry as it seems to be. The lot is 11,000 square foot and is located at the intersection of Leonta Ct and Commercial Ave. Lanteri is looking to put a second two family on the property. Per the use table multi-family and two-family dwellings are permitted in the CB zone subject to site plan and special use permit. Then there is another section of the code for the Hamlet Overlay District which restricts dwelling units to the second floor, but there is no map that shows the limit of the overlay. When you look at the definition of the overlay district the purpose of it is to protect the character of the core commercial area. If you look at the tax map of the area the core commercial area is Main St, Vineyard Ave and Church St. the core surrounds it and the property is outside of that area and is in more of a residential area. The property is just on the border of CB zone and R-1/4. She would proposed that since multi-family and two-family dwellings are allowed in the CB zone and it doesn't seem to fit the definition of where the Hamlet Overlay District would be and since there is no map that she proposes, that section of the code wouldn't apply to this

property. When you look at the dimensional standards for residential it states that it is the minimum lot size required for a dwelling. When you get to the commercial districts it doesn't have that restriction. There is nothing in the commercial district that state if you have 5,000 sq. ft. per lot you can only have 1 two-family dwelling or one multi-family dwelling. She stated that the applicant does not need a variance because the density is in conformance with the code. He doesn't need a variance to have residential on the first floor because it is already allowed in the CB District and she doesn't feel that this property meets the definition of the Hamlet Overlay District. What they would need based on the plans that they have now the code requires that the parking be in the back or side of the principal building. She put the parking in front because it is consistent with all of the residential buildings along Leonta Ct and it allows for a nice backyard for the residents to be able to use. There are currently already 5 parking spaces there they would be adding 3 additional parking spaces.

Site map was shown.

Lanteri said that when he first approached the town they suggested that the two buildings be connected to each other.

Brooks said that she feels that it would look better if they are separated as this lot used to be two separate lots in the original subdivision. Some of the lots in this area are still 50-foot-wide lots with homes on them. She thought that it would look better if the buildings were separated.

Litts asked if they would be able to split that lot.

Brooks said they could.

Litts asked if they would still be in conformance, it would meet the setbacks.

Brooks said it would, but going through the code she doesn't see what benefit that would gain them and the applicant would prefer to keep it on one lot.

Litts asked what is your ask.

Brooks said that the applicant was originally told to appear before this board for an area variance. He met with the building department and made a submission to the board but wasn't put on an agenda until a survey was done so this board could figure out how much of an area variance does he need.

Litts said in order to appear before the board a determination would have been made before this point.

Lanteri said the building department denied his building permit.

Litts asked why was it denied.

Brooks said it was denied for two things one was for density for having 2 two-families on an 11,000 sq. ft. lot because if you require 5,000 sq. ft. per dwelling unit you would require 20,000 sq. ft. and you don't need 5,000 per dwelling units because they are in a commercial district where that density

per dwelling unit does not apply. Secondly you need a commercial use on the first floor because in accordance with the overlay district.

Lanteri said because there is an apartment on the first floor it was denied and it was because of density not realizing it was a CB zone.

Brooks said no matter what they will need a variance for parking.

Barton said he thinks area variance for the density as well.

Brooks said no.

Litts said they need 5,000 per.

Brooks said you don't need 5,000 per in the central business district it is not per. She said if you look at 1 Grove St there are 63 units on 1.3-acres so that is 1 unit per 900 square feet. The apartments at the intersection of Church St and Vineyard have 5 units on 8895 square feet or 1 unit per 1780. The apartments at 6-8 Church St have 14 units on 21,308 square feet or 1 unit per 1520 square feet. The multifamily 11 Vineyard Ave 4 units on 0.2-acres or 1 unit per 2200 square feet. They are seeking 4 units on an 11,000 square foot property which would be 1 unit per 2750. All in the central business district the number of units, density will be 80% absolutely, the setbacks absolutely but the dwelling units doesn't apply.

Barton said he agrees because that is the case all through the hamlet.

Litts said the next issue is the actual map for the overlay so they are going to see if they can find verbiage.

Barton said that he tried to find it but will continue to look for it.

Litts said they will need a variance for the parking.

Brooks said that they are looking to add three more parking spots in the front yard where according to the code they should be in the side or rear yard.

Litts said that more information is needed on what variances will be needed, parking will still be the issue. He asked the board if they would be willing to set a public hearing for next month and then finalize what variances are needed.

Gordon said when the board sets a public hearing it will be published in the paper. When you publish it in the paper you have to publish what the variances are for. His first question was what district is it in. If the town hasn't laid out the boundaries for the district it would go to the building department first and then the town board might want to fix that.

New Public Hearings:

Arket Holdings LLC: Area Variance: 25 Oakes Rd: SBL #96.5-3-2

Applicant is seeking an area variance for backyard setback relief of 11.5 feet for an addition.

Review Status: Public hearing set for August 13, 2026.

Potential Action: Open public hearing

Present: Ryan Arket

Gargiulo asked how he was going to maintain that wall once its built.

Arket said that the slope is much further back than it seems, he said he could build back 15 feet if he wanted to.

Gordon went through the balancing test with the board.

1. Undesirable change in neighborhood character or to nearby properties?

Litts said no because there is already a structure there they are just expanding it a little.

Board agrees.

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

Litts said that there is an existing structure and wants to increase the size of it a little bit and he does not see a feasible alternative to what the applicant wants to build.

Board agrees.

3. Whether the request for relief is substantial?

Litts said that the request for relief is fairly substantial but given the topography of the land and the unique situation there he doesn't think it is a detriment.

4. Whether the request will have adverse physical or environmental effects?

Litts said there will not be as the structure is already there.

Board agrees.

5. Whether alleged difficulty is self-created?

Litts said that it is self-created.

Gordon asked is the variance the minimum necessary and the overall question is does the benefit to the applicant outweigh the detriment to the neighborhood.

Litts said he believes that the benefit to the applicant does outweigh the detriment to the neighborhood because in this case the neighborhood has a really steep slope.

Board agrees.

Straw Poll:

Van Houten-aye

Gilmore-aye

Litts-aye

Gargiulo-aye

Zerafa-aye

New Business:

Clemente Concrete Batch Plant: Appeal: 3260 Route 9W: SBL #80.3-2-8

Applicant is appealing Building Department Determination regarding the height of the silo and building.

Review Status: Appeal documents circulated to board.

Present: TJ Ruane (Attorney), Luke Clemente (Applicant) and John Lyon (Engineer)

Clemente said that they have a project pending in the planning board and have been having discussions with the building department going over the code. This is a ready-mix concrete plant. There are two types of silos in this project there is a cement silo which is a metal silo it is not insulated, not enclosed and the reason for that is because it is devoid of any moisture so it does not matter what the outside temperature is it flows year-round. Inside the building here which is called the batch plant, the building itself is under 35 feet but there is an aggregate (ag) silo inside and when it was brought up to the building department mentioning that the request was that the ag silo be 60 feet to match the 60 feet. There is no question that silos are allowed to go to 60 feet but the issue that came up because the silo is not outside but being inside the footprint that the aggregate silo needs to have an enclosure around it and it is also made of metal. The aggregate contains moisture and in order for the plant to work in the cold temperatures what generally happens is that heat from the part of the building that is 32 feet and the heat would naturally rise and keep the aggregate silos warm so it doesn't freeze in the winter time. The building department felt that the cement silo was a silo and got the 60 foot in height but once you put the insulation around it, it somehow lost its protection. Their position is it was a silo and still is a silo the fact that it is an insulated silo doesn't change its characteristics as a silo. In the first instance they are not looking for a variance they are looking for a determination to review the decision of the building department on whether this is a silo and is allowed the 60-foot protection that is in the code.

Litts said his opinion is once you put a building around it, it is no longer a silo it becomes part of the structure. He read in their application that the reason for 60-feet is for storage to be able to dump into the trailer and to be able to not need to rehandle it with a loader. He asked what is the shape of the silos.

Clemente said these are rectangle shaped silos. The reason silos are tall is that they function on gravity.

Litts said to mitigate this instead of going height wise could they do a larger footprint length and width to reduce the height. Are they purely gravity or are these auger or conveyor.

Clemente said that they are fed by conveyor but it is gravity fed through the plant. It goes into a scale at the bottom and that scale then discharges it to a belt that brings it to the low point for the mixer.

Litts said why couldn't it be a lower height and a wider footprint.

Clemente said that there is an angle of repose for aggregate, if you get wider you are not going to get that feed coming down to the discharge point. The height is what gives you that sharp angle so that it is coming straight down.

Litts said what is the angle of repose for each item and how big is the discharge shoot to the belt, could they increase the length of the discharge shoot so the angle could be moved.

Lyon said that are 3 different silos, the sand, the number 1, its not like you just dump the material in.

Litts said you have 3 silos and instead of making them 60 feet, you decrease the height, increase the width and instead of coming out to just a single point you come out to a rectangular door which is larger and your angle of repose would probably stay the same if you could make it longer storage that way instead of high you stretch it out and go long.

Clemente said that would also make the plant longer as well.

Litts asked by how much.

Clemente said that they would have to check that.

Litts said that is an avenue that the board could consider because the board has to grant the least amount of relief.

Ruane said that in the first instance they sat down with the building department and they each have their own interpretation of the code.

Litts said you want to know if a silo is a silo if it is in a building.

Ruane said when it is built out the silo outside will be the cement silo which needs to be 60 feet.

Litts said that is stand alone and not in a building.

Ruane said the only thing outside of insulating that silo because the ag silo whether you call it a building or not has to be insulated, so they have to put walls around it. Whether that constitutes a building or not. The only extra room in there is just so they don't create multiple separate buildings. The building itself is 32 feet, it's only the silo that comes out.

Litts said if you wanted to heat each silo separately you could without the need for the board.

Clemente said if they built a 32-foot-high building and put a silo on top of it and go to 60 feet and there is no quarrel that a silo on the roof of a 32-foot building that goes to 60 feet is still a silo.

Litts said given that it doesn't have its own foundation it has the foundation and footprint of the building.

Clemente said it does have its own foundation. That ag silo just like the cement silo have their own foundation.

Lyon said it is not one building each section is its own compartment.

Clemente said there is a foundation for each section. The foundation for that silo is not the foundation for the building.

Litts said what you had said if you put it on top of a building.

Clemente said if he puts it on top of the building he still needs to support it, the roof is not going to support the silo. They should not be quarreling over whether it is a building what it is, is an insulated silo. There is nothing in the code that states if the silo is insulated its not a silo anymore. Sometimes you have a silo that doesn't requires insulation and sometime you have a silo that does require insulation and there is no distinction in the code about it.

Barton said he has heard this argument before and he understands where it is coming from he would agree with it except for what the code tells him that building height is.

Litts asked what is the factor to say that this isn't a silo.

Barton said the determination gives the building height gives the definition of the vertical distance average from the finished lot grade on all sides of the building to the highest point of the roof if the roof is flat or to the average level of the eaves and the highest point of the roof if the roof is of any other type. He thinking was if you put a silo through the roof and box it in and insulate it, it looks like a building and therefore the highest part of the roof is the silo. If those silos were separate they wouldn't be having this conversion even though they would look like boxes.

Lyon said it is three separate foundations.

Litts asked if the buildings are conjoined.

Lyon said they are separated by the silo.

Litts asked if they are completely separate, there is no adjoining roof line, no adjoining structure.

Lyon said there are ways to have movement within but they are separate buildings.

Clemente said there are three compartments in the building all the building is 32 feet, three foundations, the ag silo has its own foundation and that goes up through the roof line and gets the

insulation.

Barton said just so the board knows that is the part that he struggled with the most. If you have a building and put say a water tower on top of the building that would be allowed and are allowed to go above the maximum height up to 15 feet more.

Litts said isn't that for fire suppression.

Barton said there are other examples in the code. He struggled with this because they are indeed mechanicals and storage for the conveyance of aggregate, etc. to a conveyor and off it goes.

Ruane said that one of the things that he thinks got lost is that the silo has its own foundation. It is not a building with a silo inside it, it is three separate foundations.

Litts said that they have three separate foundations but the buildings are connected.

Van Houten asked what are the foundations made of.

Clemente said they are concrete.

Van Houten asked are they slabs.

Clemente said that they are poured floors with 4 walls.

Lyon described how the silos are going to be constructed.

Clemente said it is only the silo that goes above the 35 feet there are going to be no other improvements above the 32-foot line. The only thing going above the roof is the ag silo that is wrapped in insulation. He said since it seems the biggest issue is that the building is connected what if he puts separation in.

Litts said he is not sure if that would work either. He would say even if they are separated that it is still all one building.

Zerafa asked what if the silo wasn't in the middle of the three structures.

Litts said it has to batch down the middle. If it is determined that it is a building you will need to go for a height variance. He asked if there was a way to bring down the elevation of the silo.

Clemente asked to bring the roof line down.

Litts said to bring the roof line down, but to also bring down the height of the silo.

Clemente said there is a conveyor and that the truck gets loaded right underneath the silo taking advantage of the full 60 feet then it goes to the scale.

Litts said his question is from the scale to the silo to the floor what type of elevation are they talking about.

Clemente said by the time it gets on the belt it is probably less than 8 feet off the ground.

Litts said that 8 feet off the ground can it be dropped 6 feet. Why is it 8 feet for access.

Clemente said they will take a look at it.

Litts said if it can be dropped from 8 feet to 4 feet. If you get closer to that 45-foot mark the better you will be.

Discussion about mitigation took place.

Litts said we are not making a determination right now but how does the board about this being a building.

Ruane said if the board feels that it is a building what barring does that have on what they are seeking.

Litts said you can have a 60-foot silo but you cannot have a 60-foot building.

Ruane said so the board is leaning towards it being a building and also not a silo. If that concrete silo also contained aggregate it would need to be insulated. If putting insulation and walls around turn it into a building because nowhere in the northeast or at least in the Town of Lloyd could you have an aggregate silo. The code just says silo it doesn't limit what kind of silo.

Discussion about the definition of what the applicant thought a silo is took place and is it a silo if it has insulation.

Discussion about the definition of building took place.

Barton said that they are proposing to enclose most of their mechanicals to reduce noise so there may be a benefit to it not just a detriment to the neighborhood.

Litts said it comes down to the definition of is this a silo and if it is a building getting it down closer to the 45-feet.

Gargiulo asked is there another way to insulate this silo without building a building around it.

Ruane said there is no way to have an aggregate silo that is not insulated.

Clemente said it has to be insulated from the elements because outside temperatures will freeze that piece of steel.

Discussion about alternative ways to insulate took place and why they may work or may not work.

Litts said until the board gets more information they wouldn't set a public hearing.

Gordon said procedural it sounds like the board is mixing the appeal with mitigating the variance.

He is wondering what hearing the board would set.

Litts said that he needs to do a little more research on the definition of a silo. If the board does determine that it is a building and if they can get it down to 45 feet it will save the applicant a whole lot of work.

Gordon said that there are three different ways to answer the question. One way is definitional which will just lead everyone in circles. The next way is where the applicants are is from an industrial standpoint, as he looks at these rules they are not industrial they are visual the reason for the height is for visual impact and visual definition it's not negative impacts it's how do you define for different zones the height of a house is going to be different for the height of a factory and its going to be different for the height of a multi-family complex.

Discussion about visual impacts took place.

Clemente explained about the design of the silos and why they are the way they propose.

Concrete Batch Plant-Public Appeal: Appeal: 3260 Route 9W: SBL #80.3.-2-8

Applicant is appealing Building Department Determination.

Review Status: Appeal documents circulated to board. Building Department response circulated to board.

Present: Bruce Epperson (Appellant)

Epperson said that he believes with clarification that the determination may not in fact be a conflict.

Litts asked what are you seeking that the board give you a determination on.

Epperson said the determination as initially stated is a concrete batch plant is permitted in the light industry zoning district. It is permitted in the light industry zoning district because it is a business engaged in manufacturing and assembly there is no dispute about that. The second half of it says it is an industry that produces no noticeable level of noise, odor, dust.

Litts asked if the applicant has standing.

Gordon explained how standings work with the courts and how it works with the board.

Epperson said that Barton issued a determination based on his belief that this project meets that definition as it didn't produce those things therefore was a light industry. In his response he notes that how do you know what is objectivable and how do you know what level you need to meet to be objectivable. Barton says that the standard you should use is the standards that are used for site plans and the SEQRA determinations. If it meets site plan approval and if it meets a finding of no significant impacts at the Planning Board those are the standards to use for objectivable of nuisances. What that means is the determination is not final; the determination is not binding until the Planning Board votes for site plan approval. Usually in traditional zoning you give a

determination and then that allows them to go onto a site plan determination.

Litts said that SEQRA addresses that.

Epperson explained another project in another town that got land use approval and never went for site plan and got around that by not hitting the threshold that triggers site plan approval.

Litts said that is not what this project is doing.

Epperson said if this applicant was to stop the way this determination is wrote they could do the same thing here. The clarification would be no final determination as to the land use classification until site plan has been issued.

Gordon said he thinks what he is getting at is based on the building inspectors determination if he decides not to proceed with an approval he can then change around the nature of the project and just do the activity as it has been approved by a zoning matter and not even bother with the site plan approval. The building inspectors determination states that everything is going to be enclosed.

Epperson said what he is asking is that it be explicit in the determination that the land use approval which is the definition of light industry is contingent upon site plan approval and a SEQRA finding of no significance.

Garguilo said that the zoning codes have been voted on and the definition of light industry mentions batch plants and even mentions where they cannot be.

Litts said you don't dispute that a concrete batch plant is light industry?

Epperson said no a batch plant that meets site plan approval and a SEQRA determination meets the zoning code.

Litts said that it is going through the process. Its allowed in the light industrial and if it meets the threshold and does not have excessive noise, vibration, etc. its approved.

Epperson said that the land use approval does not happen until site plan approval is also approved.

Gordon said in most other definitional issues in the code they are categorial definitions and what that does is to regulate the project. There are two separate issues here, one is it the right type for this project. The second is SEQRA and you look at all the impacts that the project is going to cause.

Discussion about industry, light and light industry definitions took place.

Gordon said that Barton was looking at plans for a similar plant as he had nothing else to look at because SEQRA hasn't happened yet. Unfortunately the zoning definition here is going to be subject to what the planning board finds. Barton made a determination based on the information that he had.

Discussion about walkway gateway overlay zone and light industrial zone took place.

Litts asked for a motion to set a public hearing.
Motion made by Gargiulo, 2nd by Van Houten.
All ayes, motion passed to set the public hearing for next month.

Minutes to approve:

July 9, 2026

Litts asked for a motion to approve the minutes.
Motion made by Gilmore, 2nd by Miller.
All ayes, motion passed to approve the minutes.