

Town of Pomfret  
Zoning Board of Appeals  
Pomfret Town Hall  
9 Day Street  
Fredonia, NY 14063

**March 4, 2025**  
**Hearing # 2-25**  
**6:30 PM**

***MINUTES***

**APPLICANT/OWNER:**

Stacy Rosberg  
10362 Chestnut Rd  
Dunkirk, NY 14048  
SBL: 112.08-1-18.1  
Special Use Permit

**PRESENT:** David Fridmann (Chairman), Ruth Eckstrom, Raymond Lewandowski, Michaelene Comerford, Alex Moon, Jonathan Townsend (Alternate), Nicole Waite (Zoning Clerk), Jeffrey Passafaro (Town Attorney), James McKillip (Assistant CEO)

**PUBLIC PRESENT:** Stacy Rosberg (Applicant), Lindsay Taber, Bailey Rosberg, Sara B. Michalak, Donald H. Michalak

- 1. CALL TO ORDER:** Chairman Fridmann called the meeting to order at 6:30 PM.
- 2. ACCEPTANCE OF MEETING MINUTES:** A motion was made by Michaelene Comerford to accept the minutes of Public Hearing #8-24 Chautauqua Watershed Conservancy and #1-25 Natalie Swanson. The motion was seconded by Raymond Lewandowski and carried unanimously.
- 3. NOTIFICATION OF MEETING:** Chairman Fridmann read the published Public Hearing Notice aloud.

**“NOTICE IS HEREBY GIVEN** that Public Hearing #2-25 will be held by the Pomfret Zoning Board of Appeals on March 4, 2025, at 6:30 PM at Pomfret Town Hall, 9 Day Street, Fredonia, NY 14063 to consider the appeal of Stacy Rosberg, for a Special Use Permit for property located at 10362 Chestnut Rd, Dunkirk, NY 14048. This property is described on the tax map as SBL:112.08-1-18.1.

The applicant is requesting an extension for the maximum number of inhabitable days of a transportable trailer dwelling unit. The Building Permit denial was based on requirements under the Town of Pomfret’s Zoning Code Section 300-61B “Temporary Transportable Dwelling Units – Inhabitation Time” which states the Maximum Number of Days Inhabited Per Time Period for the R2 District is 2 weeks per 3 months. The property is zoned Large Lot Residential (R2).

This Special Use Permit application is open to inspection at the Town of Pomfret Planning & Zoning Office, 9 Day Street, Fredonia, NY 14063.

**PLEASE TAKE FURTHER NOTICE** that the environmental significance of the proposed request under SEQRA will be reviewed by the Board at said hearing.

Any person may appear in person, or by agent or attorney. Please contact the Zoning Office at (716)672-7496 Ext. 7 with any questions. Communication in writing in relation thereto may be filed with the Zoning Clerk or at such hearing. All interested persons shall be heard.”

- 4. CORRESPONDENCE:** Clerk Waite received a response from the Chautauqua County Department of Planning and Development regarding the 239 Mandatory Referral, which states: “the proposal would be a matter of local concern” with informal comments to consider for this request.

Comments were also received from neighbor Donald Michalak regarding the pertinent zoning code sections. Those comments were forwarded to the Board, Town Attorney, Code Enforcement Officer, and Zoning Officer prior to the meeting.

- 5. SEQR PART 1 REVIEW:** The board reviewed the Part 1 SEQR submitted by the applicant. The following corrections were made: #3 was changed from 1.4 acres to 1.2 acres based on the parcel dimensions; for #4 ‘Agriculture’ was marked due to land use across the street; #5 was checked ‘No’ because it’s not an allowed use; #6 was checked ‘Yes’ because other properties in the neighborhood have trailers; #9 was checked ‘Yes’ because no construction is occurring; #11 was checked ‘No’ because they have a hose connected from the trailer to a septic tank; #13A was checked ‘Yes’ because the property abuts Canadaway Creek; for #14 ‘Early mid-successional’ was marked; and #16 was checked ‘No’. The board had no other concerns or comments on the Part 1 SEQR.
- 6. PROJECT DISCUSSION:** Stacy Rosberg introduced herself as the applicant, Lindsay Taber as her sister, and Bailey Rosberg as her daughter. She then explained she purchased the property in 2021 after moving from Virginia to New York. Her brother and his two children were homeless at the time, and she invited them to live with her. One of the children has been violent towards the other household residents. After trying to find other solutions the trailer was moved onto the property to house the minor. She is requesting to extend the inhabitation time for the trailer until November 2026 when the minor turns 18.

Chairman Fridmann asked how long the minor has been living in the trailer. Ms. Rosberg said since May of 2024. Michaelene Comerford brought up a concern that the type of trailer isn’t built for year-round habitation. James McKillip (Assistant CEO) passed around photos he took of the trailer and property.

Chairman Fridmann asked if the Chautauqua County Department of Health had inspected the trailer. Based on the photos it looked like there could potentially be multiple code violations that would not pass an inspection. The response was that it hadn't been inspected. He asked if the minor's father is living in the trailer too. Ms. Rosberg said he does not, but checks on her. She added that the trailer has a kitchen, shower, and running water.

Raymond Lewandowski asked why the Village of Fredonia contacted the Town Code Enforcement Officer with a zoning complaint. Ms. Rosberg explained that the sump pump runs through their tree line by the creek, and the underground pipe is clogged by tree roots. The line has been dug out, and currently a hose is connected to the septic tank instead. The trench had standing rainwater/melted snow in it, and she believes someone saw it and thought it was waste water going to the creek.

Chairman Fridmann asked if there are other outstanding code violations on the property. Mr. McKillip said there is also an unregistered vehicle on the property, but that the applicant has indicated they plan to move it into their garage in the spring when the snow melts.

7. **PUBLIC COMMENTS:** Chairman Fridmann opened the public comment portion of the hearing. Speakers were instructed to state their name and address prior to making comments.
  - Donald Michalak, 10390 Chestnut Rd, Dunkirk: Stated he is not for or against the proposed Special Use Permit but has questions regarding the Town Code as it pertains to the request. He submitted his questions in writing prior to the hearing. The Board agreed to address his questions during their discussion.
  - Sara Michalak, 10390 Chestnut Rd, Dunkirk: Attending because she wants to learn more about the situation. Has safety concerns.
8. **BOARD REVIEW/QUESTIONS:** The Board went through Donald Michalak's Town Code questions. The parcel has one utility, water, so the minimum lot size is 1 acre. The minimum frontage is less than the required minimum, but it is a previously non-conforming lot, making it grandfathered in.

Chairman Fridmann asked if the person living in the trailer uses the property address as her mailing address. Ms. Rosberg said she does, which means the trailer is being inhabited by a resident, not a visitor or guest. He mentioned the trailer did not have license plates on it, so he questioned whether it was road safe. Ms. Rosberg reported it had been inspected when her brother bought it, that it is currently registered, and she believes he has insurance on it.

The Board then discussed how far from the side yard the trailer is. The minimum side yard setback required is 10 feet, but the trailer seems to be approximately 4 feet from the lot line. Ms. Rosberg replied that she is willing to move it to meet the 10 feet, or possibly behind their garage and pool instead. Raymond Lewandowski instructed her

to work with Warren Kelly (Code Enforcement Officer) prior to selecting a location to ensure it meets all the setback requirements.

Chairman Fridmann stated the main concerns that complicate rendering a decision are: 1. There are existing and/or potential violations with a junk vehicle, the trailer already having been there longer than is allowed, and the setbacks not being met; and 2. The request is unusual and immense. A typically requested extension is for a few weeks. The applicant is asking for 20 months.

Bailey Rosberg asked the Board if they had any other ideas or resource suggestions for their situation, and a few ideas were talked about.

Chairman Fridmann asked what guarantee there is that the trailer would be removed from the property after November 2026. Ms. Rosberg explained her plan for that time, but the board had concerns due to outside laws and forces beyond the applicant's control regarding legally removing someone from a property.

The Board agreed they want the Chautauqua County Department of Health to inspect the trailer set up and submit a report prior to a decision being made. If the trailer doesn't pass the inspection the board wouldn't be able to issue a permit.

- 9. ADJOURNMENT:** Michaelene Comerford made a motion to adjourn and defer the hearing at 7:35 PM. The motion was seconded by Raymond Lewandowski and carried unanimously. The hearing will be continued on April 1, 2025 at 6:30PM.

**April 1, 2025  
6:30 PM**

PRESENT: David Fridmann (Chairman), Ruth Eckstrom, Raymond Lewandowski, Michaelene Comerford, Alex Moon, Jonathan Townsend (Alternate), Nicole Waite (Zoning Clerk), James McKillip (Assistant CEO)

PUBLIC PRESENT: Stacy Rosberg (Applicant), Shawn Farley, Sam Allesi, David Swanson, Linda Carlson, Sara Michalak

- 1. CALL TO ORDER:** Chairman Fridmann called the meeting to order at 6:30 PM.
- 2. PROJECT DISCUSSION:** Chairman Fridmann asked the applicant if there had been any changes or updates since March 4<sup>th</sup>. Shawn Farley, the owner of the trailer, brought the vehicle's title and handed it to the board for review. Stacy Rosberg indicated she also had a copy of her property survey. She said the Department of Health had come out to inspect the trailer and had no concerns.

Mr. Fridmann gave Ms. Rosberg a copy of an email from Assistant Code Enforcement Officer Jim McKillip that documented his two site visits, and the outstanding code violations, which include the trailer in question, and a separate unlicensed and unregistered van. He then explained that the Zoning Board of Appeals is in a dilemma due to Town Code Chapter 300-103B(5)(c)[1], which he read aloud:

“Whenever an application is made to the Town of Pomfret, Code Enforcement Officer, Zoning Officer, Planning Board, or Zoning Board of Appeals, the Code Enforcement Officer shall first determine whether the premises (property or building or other structure) which is the subject of the application presently before the Code Enforcement Officer, Planning Board, or Zoning Board of Appeals is also the subject of an existing violation. In such case, the existing violation shall be corrected, remedied, or removed, to the satisfaction of the Code Enforcement Officer, Planning Board, or Zoning Board of Appeals prior to the present application being taken up under consideration by the Code Enforcement Officer, Planning Board, or Zoning Board of Appeals.”

Subsection 2 also states that the Zoning Board of Appeals does not have the authority to grant a special use permit until the existing violation is cured, satisfied, and/or removed. As a result, the Zoning Board of Appeals cannot legally render a decision or issue a special use permit.

Alex Moon made a motion to close the public hearing without a decision, citing Chapter 300-103B(5)(c)[1]. The motion was seconded by Ruth Eckstrom and carried unanimously by roll call vote.

**ROLL CALL:**

1. Raymond Lewandowski – AYE
2. Alex Moon – AYE
3. Ruth Eckstrom – AYE
4. Michaelene Comerford – AYE
5. Jonathan Townsend (Alternate) – AYE
6. Chairman David Fridmann – AYE

Mr. Fridmann explained to the applicant that Warren Kelly (Code Enforcement Officer) would be sending them a letter about the outstanding violations, including a deadline for getting them taken care of.

3. **PUBLIC COMMENTS:** Neighbors that were in attendance asked if they could speak, since they were unable to attend the previous hearing date.
  - David Swanson: Explained that there are concerns with the trailer situation that are affecting the neighborhood’s quality of life, including loud arguments late at night, trash, wastewater going into the creek. He was also concerned about the effect it would have on property values. Chairman Fridmann commented that the Town’s site visits show the wastewater is being fed into a septic tank and not the creek.

- Linda Carlson: Echoed Mr. Swanson's complaints and asked what the outcome of tonight means for them as neighbors. Chairman Fridmann explained that the trailer can no longer be inhabited, but that it could potentially remain vacant on the property if it meets the Town Code's requirements.
  - Sam Allesi: Commented that the trailer itself is visibly in bad shape, which is a concern whether it's inhabited or not.
4. **ADJOURNMENT:** Jonathan Townsend made a motion to adjourn the hearing at 6:44 PM. The motion was seconded by Raymond Lewandowski and carried unanimously.

Respectfully Submitted,

*Nicole Waite*

Nicole Waite

Planning & Zoning Clerk, Town of Pomfret