

**TOWN OF NORTH EAST
ZONING BOARD OF APPEALS
MINUTES OF FEBRUARY 19, 2026**

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, ("ZBA") took place on Thursday, February 19, 2026, at 5:00 pm in the Town of North East Town Hall, 19N Maple Ave., Millerton, NY. ZBA members present were Chair Edith Greenwood, Julie Schroeder, Jeffrey Stark, Karen Pitcher, Henry Smedley, and Judith Carlson, secretary to the Board. Present in the audience were Ed Covert, Josephine Vitiello, Tyler Graham, Aly Morrissey, and Julie Singletary.

**Josephine and Erasmo Vitiello
Review and final vote on the decision for the
reconsideration (rehearing) of 2005 decision for
208 Cooper Road Tax parcel #7169-00-347714**

Chair Greenwood entertained a motion to open the regular meeting of the Zoning Board of Appeals. Pitcher so moved; Stark seconded; all voted in favor and the motion passed.

Greenwood said the first order of business was to formalize the straw vote that the ZBA took at the January 15, 2026 meeting. Greenwood asked for a motion to deny the application of Josephine and Erasmos Vitiello for a rehearing of the ZBA decision dated April 28, 2005, corrected as of May 19, 2005, submitted in September of 2025. Pitcher so moved; Schroeder seconded.

In discussion, Stark stated that a party cannot make a motion for reconsideration to this Board. Greenwood stated that she was not making a motion to reconsider, she was making a motion to deny a rehearing of the application. Stark stated that the Vitiello's cannot make an application for reconsideration, only a member of the Board can make a motion for reconsideration under section 267 of the town law. Greenwood asked Stark how the motion should be drafted. Stark replied that the motion should be amended to state "does any member of the Board wish to reconsider the 2005 decision concerning the Vitiellos and if no member of the Board wishes to reconsider the 2005 decision there will be no rehearing".

Stark moved that we determine that there was not previously a rehearing of the 2005 decision so that if we chose, we could approve of a hearing tonight. No one seconded the motion as amended. The motion failed.

Stark said that the statute says a motion for the ZBA to hold a hearing to review any order not previously reheard may be made by any member of the Board. Stark moved to rehear the 2005 Vitiello decision. There was no second. The motion failed.

After discussion of the two different draft decisions, Greenwood made a motion to accept the resolution prepared by Warren Replansky, as corrected, and to authorize the chair to file the decision with the Town Clerk. Schroeder seconded the motion.

In discussion, Stark read the following prepared remarks into the record.

The only issue presented to the ZBA in 2005 was whether the Vitiellos had a prescriptive easement over the driveway giving access to Cooper Rd. This Board determined the Vitiellos did have a prescriptive easement. Accordingly, the Vitiellos did not require a variance. The Board should have simply overruled the Building Department ruling pursuant to Section 180 – 100A of the zoning code. In that event, the Board could not have attached any conditions to its ruling. Moreover, it is now undisputed that the ZBA has no power to reverse or modify a decision of the Highway Superintendent or the town engineer. Consequently, the Board's 2005 decision cannot be read as prohibiting the Highway Superintendent from reconsidering his letter of February 17, 2005, to the Board in light of new circumstances.

Unfortunately, the letter from the Building Inspector to the Vitiellos dated February 24, 2014, sets forth his understanding, based on advice from the town attorney, that he cannot issue a Certificate of Occupancy unless the Vitiellos have complied with all the conditions imposed by the ZBA in its decision, including the sightline and drainage issues addressed in the Highway Superintendent's letter dated February 17, 2005.

This is a true catch twenty-two. Although we all now agree that this Board does not have the power to reverse or modify the Highway Superintendent's determinations, the Vitiellos are told that the Highway Superintendent's determination cannot be modified because they were imposed by the ZBA in its decision.

I believe we owe it to the Vitiellos that we clarify our 2005 decision and make it clear to all concerned that this Board has no power to determine whether the Vitiello's driveway now or ever met the applicable standards. If the Vitiellos believe it does, their proof and arguments should be directed to the Highway Superintendent and/or the town engineer.

If the Vitiellos do not succeed before those officers, their appeal does not come to us but rather to the court.

Greenwood asked Carlson to take a roll call vote:

Julie Schroeder - Aye

Jeff Stark - Nay

Karen Pitcher - Aye

Henry Smedley - Recused

Edith Greenwood – Aye

The motion passed.

Stark asked to let the record reflect that he is filing a dissenting opinion dated today and he is handing the document to the secretary.

Greenwood stated that the next item on the agenda is the return of escrow to David Berger. This relates to the Altman/ Berger special permit escrow that was put in place in December. The special permit has been issued.

Greenwood made a motion to authorize the return of the unused balance in the escrow account of \$340.00 to David Berger. Stark seconded; all were in favor and the motion passed.

Greenwood stated that the next item on the agenda was the January 15, 2026, ZBA minutes. Pitcher and Stark made minor corrections.

Greenwood asked for a motion to accept the minutes of January 15, 2026, as corrected. Pitcher so moved; Stark seconded; all were in favor and the motion passed.

Greenwood asked the Board if they would like to continue the 5:00 pm meetings for the winter through April. The Board agreed and determined the regular ZBA meeting would begin at 5:00 pm through April and then resume at 7:00 pm starting time for May through October.

5:20 pm - Greenwood asked for a motion to close the meeting. Stark so moved; Schroeder seconded; all were in favor and the motion passed.

Respectively Submitted,



Judith Carlson

Zoning Board of Appeals Secretary

Date Approved: 5/21/26

RECEIVED
MAY 28 2026
TOWN OF NORTH EAST
TOWN CLERK