

TOWN OF MINA
ZONING BOARD OF APPEALS MINUTES
April 29, 2026

ZBA Members Present: Chuck Carter (Acting Chairman), Bryan Allison, Charles Armstrong, Joe DeBoe

ZBA Members Absent: None

Others Present: Karin Akin, Mayshark Builders; Gene Blakeslee; Rebecca Brumagin, Mina Town Supervisor (Acting Code Secretary); Joe Calimeri, Town of Mina Attorney; Connie Kranz; Robert Marx, Attorney, Woods Oviatt Gilman; Victoria Smith; Emmett Tenpas, Mayshark Builders

Call to Order: The Public Hearing was called to order at 7:00 pm by Chuck Carter, Acting Chairman.

Public Notice of the meeting was read and acknowledged: Post-Journal 4/25/26, Town of Mina Official Bulletin Board and Town of Mina website 4/24/26, Notification of Adjacent Properties 4/24/26.

Town of Mina Legal Representation: Town of Mina Attorney Joe Calimeri asked ZBA members if they each received and reviewed a copy of the Interpretation Application submitted by the Applicant in the letter dated March 4, 2026 from Woods Oviatt Gilman as that letter will be included as part of the record. ZBA members all responded in the affirmative.

Attorney Calimeri also stated that his role on behalf of the Town of Mina is to be available to ZBA members for process or legal questions but not his opinion as that is the responsibility of the ZBA. He recommended that ZBA members ask questions of everyone and then close the public hearing. The ZBA can then proceed with deliberations or a decision this evening or at a future open meeting.

ZONING BOARD OF APPEALS – APPEAL OF ZONING PERMIT DENIAL AND REQUEST FOR INTERPRETATION – BROWN “CALPIN” GARAGE; 2478 SHADYSIDE DRIVE, FINDLEY LAKE, NY 14736 ON THE TAX MAPS OF THE TOWN OF MINA AS 359.14-3-28 OWNED BY 2482A SHADYSIDE LLC.

- The present hearing is a request from 2482A Shadyside Road, LLC (“Shadyside”), the owner of real property located at 2478 Shadyside Drive, Findley Lake, NY pursuant to Section 903 of the Town of Mina Zoning Law (“Zoning Law”) and Section 267-a(4) of New York State Town Law to appeal the Town Code Enforcement Officer’s interpretation of whether a zoning permit is required pursuant to Section 703(A) of the Zoning Law.
- Shadyside retained legal counsel to present its case (Attorney Richard Marx, Woods Oviatt Gilman)
- The Town Code Enforcement Officer issued a denial on February 13, 2026 citing three bases for his decision:
 1. When the subdivisions were originally created, dedicated roads were established for subdivision use. While a land transfer did occur between the County and the

property owner, and Chautauqua County relinquished its rights, the residents of the subdivision did not sign off on relinquishing rights. Therefore, the original road remains in effect. As a result, the Town cannot approve work beyond repairs to the existing structure.

2. The drawings submitted indicate major structural modifications and therefore require review and approval by a licensed professional engineer, including an engineer's stamp.
 3. No truss certification was provided for the 16" truss joists shown in the submitted plans.
- In a letter with attachments dated March 4, 2026 from Woods Oviatt Gilman to the Town of Mina Zoning Board of Appeals (attached), the Applicant contends the following and requests that the ZBA reverse the denial and require the Town Code Enforcement Officer to approve the Application:
 - A Zoning/Building Permit Is Not Required – Shadyside requests an interpretation of Section 703(A) of the Zoning Law as it applies to the Application and scope of work as Shadyside's Application consists of renovation work and does not create additional dwelling units or types of uses, and/or "home repairs or improvements not involving additions or enlargement of floor space." Shadyside requests that ZBA issue a determination that no zoning permit is required for the work.
 - The Town Cannot Enforce Alleged Private Rights – The Town Code Enforcement Officer cannot deny the Application on the grounds of his subjective opinion that such work would interfere with the rights of private third persons and the letter cited various court cases.
 - The Private Residents Do Not Possess Easement Rights – The easement referenced by the Town Code Enforcement Officer is shown on a map from 1903 where a roadway was planned where the garage is currently situated. In 1971 the garage had been constructed on the abandoned right of way and in the 1990s, the Town approved permits for substantial improvements to the garage. Any rights that were held by neighboring landowners have long since been abandoned.
 - The Remaining Bases of Denial Will Be Resolved – The Town Code Enforcement Officer denied the Application because he required the review and approval of a licensed professional engineer, including an engineer's stamp, and a truss certification. None of the requirements in Section 703(B) reference those needs. However, Shadyside is in the process of hiring a licensed professional engineer who will address those issues.
 - Attorney Robert Marx reiterated and expanded upon the points made in the Applicant's letter dated March 4, 2025. He stated that he is requesting an interpretation by the ZBA that the Applicant doesn't require a building permit or, in the event a building permit is required, for the ZBA to reverse the code enforcement officer's denial of a building permit. He noted that representatives (Emmett Tenpas & Kara Akin) from the contractor, Mayshark Builders, are in attendance and can answer technical questions the ZBA may have about the renovations/improvements that are being requested. He stated that ZBA

is an appellate board that has the authority by Town Law and Town Code to make its own decision and doesn't have to defer to the code enforcement officer and requested that ZBA approach this with fresh eyes.

- Attorney Marx stated that the Applicant purchased the property in September 2025 and in October 2025 sought to make repairs and improvements to the 1800 square foot garage. The garage is already on the property and they are not planning to alter the footprint; there will be improvements to the garage where it is sitting and will continue to sit. Applicant applied for a building permit and there were questions regarding the right of way or easement. In January 2026 asked for a decision and in February 2026 received the decision from the code enforcement officer and he denied the permit. The code enforcement denial listed three issues; two of which have been resolved and there is just one remaining issue - the right of way easement issue as it relates to the design.
- Attorney Marx is asking ZBA to determine that they don't need a building permit – as Town Code allows for exclusions – interior modifications unless additional dwelling or different types of uses are created and home repairs not involving additions or enlargements of floor space. They are not changing the use and characterize it as home improvement and repairs. Building has been in existence since at least 1971 and in the 1990's was improved.
- Emmett Tenpas stated that plans are to demolish the lower part of the building and put in a proper foundation as the concrete blocks are disintegrating and foundation is of questionable quality. Plans are to save the upper part, remove the dormer and make a hip roof. They are not moving or increasing the footprint. They are not changing the use of the structure; there are three bedrooms now on the second floor and there will be three bedrooms (two on the second floor and one on the first floor) when they are done. They plan to Add two bathrooms and reduce the garage storage area. They also plan to move the stairway entrance from the exterior of the building to inside. Living space will increase by approximately 25% as the garage storage will be reduced proportionately.
- If ZBA determines the Applicant needs a building permit, then the Applicant asks that ZBA determine that denial of the building permit by the code enforcement officer was incorrect.
- The reason given for denial by the code enforcement officer was "When the subdivisions were first created, dedicated roads were established for subdivision use while a land transfer did occur between the County and the property owner and Chautauqua County relinquished its rights, the residents of the subdivision did not sign off on relinquishing their rights. Therefore, the original road remains in effect as a result the Town cannot approve work beyond repairs to the existing structure."
- Attorney Marx showed a Google map of the current road but the subdivision map from 1903 shows a road that goes through where the garage is currently located. There is no ingress or egress issue and so it is a nonissue. The roadway has sufficient ingress and egress for neighbors. It is not a Town issue as case law cited in the March 4, 2026 letter states that Towns cannot deny a site plan, building permit or any kind of zoning approval

because of private rights. The neighbors can take it to court if they feel their rights have been violated.

- Neighbors Connie Kranz and Victoria Smith stated that the letter they received indicated that the structure was adjacent to their property but it is down the road and has no bearing on them. They feel that the proposed changes do not impact them and they are not opposed to the project.
- Gene Blakeslee stated that he worked on the structure previously and the proposed usage has not changed. The prior owners used the bottom area as a garage and the upstairs as living quarters.
- Town of Mina Code Enforcement Officer Tom McNinch shared the following:
 - There are substantial changes being made to the structure – much more than a repair. A building permit is required because there are major structural changes – they want to suspend the second floor, tear out all the block walls, tear up the floor, add a crawl space, redo the footers all the way around and then change the type of structure from a block foundation to a wood foundation. Because of all the structural work that needs to be done to the property requires a permit. It has nothing to do with a change of use. What they are doing goes beyond the scope of a repair. He clarified that he was not saying that the changes aren't better than the current structure but it's beyond the scope of repair and what we have allowed for structures previously built on these roads.
 - The main reason why it was denied is because of the paper roads/ghost roads around the lake and the need to fairly enforce building requirements on these roads. Things happened back in the 70's and 80's and we can't correct them. People have rights to all of these roads, they are recorded, they are on maps and property owners can't just build on these. To his knowledge, the Town has never directly denied anybody a permit because during zoning, changes are worked out to move the house or structure so that it isn't on the access road. This is a very unique situation and he expressed that everything needs to be fairly enforced.
- Additional information was provided by Emmett Tenpas regarding the construction method for lifting the second floor and replacing the foundation and first floor.
- Attorney Marx shared that if the building permit is denied, the problem doesn't go away and the structural issues will only get worse. Not only is it unlawful for the Town to deny, it is a good idea to allow the Applicant to repair it and make it a safe structure.
- Tom McNinch – New York State Building Code requires that if you are opening up a wall to add a header for a window or sliding glass door, you are required to get a building permit because of the structural change. The work that is being done on this project is way more than a structural change than just adding a header. By all means it does require a permit as per New York State.
- Extensive discussion with input from Attorney Calimeri and Attorney Marx was held on distinguishing between the Town of Mina's zoning permit and building permit requirements as they apply to this Application.
- In regard to the issue of the subdivision paper road/ghost road, a zoning permit may be required if ZBA's interpretation agrees with the code enforcement officer.

- For the proposed structural changes, both the code enforcement officer and Attorney Robert Marx agreed that the Applicant requires a building permit, however, a zoning permit is not needed for the structural changes.

Adjournment of Public Hearing: As there were no additional comments from the public and ZBA members expressed that no additional information is needed to deliberate on the Applicant's request, at 8:35 pm Chuck Carter made a motion that was seconded by Charles Armstrong to close the Public Hearing portion of the meeting. The motion was approved unanimously.

ZBA Deliberation and Decision: Discussion took place among the ZBA members and after considerable deliberation, it was determined that the proposed project did not require a Zoning Permit because it constituted an interior modification not altering the existing use of the property and because the proposed renovation did not enlarge the floor space of the property. A motion was subsequently made by Charles Armstrong and second by Bryan Allison that pursuant to Sections 703(1) and 703(2) of the Town of Mina Zoning Law effective June 12, 2025, a Zoning Permit was not necessary for the applicant 2482A Shadyside LLC for 2478 Shadyside Drive, Findley Lake, NY on the tax maps of the Town of Mina as 359.14-3-28 and furthermore the Zoning Board of Appeals authorizes the issuance of a building permit for this application.

Bryan Allison - Aye

Charles Armstrong - Aye

Chuck Carter - Aye

Joe DeBoe - Aye

The motion was approved unanimously.

Adjournment of Meeting: As there was no other business to come before the ZBA, at 8:37 pm, Chuck Carter motioned to close the meeting. It was seconded by Charles Armstrong and approved unanimously.

Respectfully submitted,

Rebecca N. Brumagin
Mina Town Supervisor (Acting Code Secretary)