

IN THE MATTER OF THE APPLICATION OF:

Twinwood Forest, LLC. David Schaub

Carpenter Road, South Wales, New York

S.B.L. # 216.00-1-30,

Property Class: 312 - Vacant with Improvements

FOR: Use Variance from Section 200-41 B and from 200-28 B(1) of the Town of Wales Zoning Code

RESOLUTION - CASE 1-2026

DATE: March 18, 2026

**WHEREAS:**

1. The applicant, David Schaub, Twinwood Forest, LLC has applied for a use variance to permit two sheds on Carpenter Road, South Wales, New York, S.B.L. #216.00-1-30; and
2. The Zoning Board of Appeals (ZBA) held a duly noticed public hearing on March 18, 2026, at which all interested parties had the opportunity to be heard; and
3. The ZBA has reviewed all application materials, testimony, and evidence presented; and
4. The ZBA has considered the four statutory tests for a use variance as required by New York State law:
  - The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial;
  - The alleged hardship is unique to the property and does not apply to a substantial portion of the district or neighborhood;
  - The requested use variance, if granted, will not alter the essential character of the neighborhood;
  - The alleged hardship has not been self-created.

**NOW, THEREFORE, BE IT RESOLVED:**

That the Zoning Board of Appeals finds as follows:

1. No Reasonable Return: The applicant has not demonstrated, with competent financial evidence, that the property cannot yield a reasonable return for any permitted use. The Applicant will simply not be able to use the new, unpermitted sheds. Modifications of the existing shed could be an option. This property still has value for other approved uses and could be sold. The property can be used reasonably as is. Any financial issues are self-made.
2. Unique Hardship: The alleged hardship is unique to this property and appears to affect a substantial portion of the district or neighborhood. The Applicants were given previous acknowledgement that a permit was required for building on property. This property is under the same regulations as the other properties in the same zone. No main building and being used as living quarters.
3. Neighborhood Character: The request use variance, if granted, the variance wouldn't alter the essential character of the neighborhood. No immediate neighbors have opposed to the building of the sheds. This variance would all be for habitable

structures to exist, in a manner not like the rest of the neighborhood. Area has multiple recreational type residents (Vermont Hill Club) also has existing buildings.

4. Self-Created: The alleged hardship is, in whole or in part, self-created by the applicant. The applicant was made aware of issues well in advance of even purchasing the property. This land is not suitable for the use as stated in the code. All variances are self-created.

### **BE IT FURTHER RESOLVED:**

That the application for a use variance to allow two sheds at Carpenter Road, Wales, New York is hereby DENIED.

Motion by: Chairman Wilkolaski

Seconded by: ZBA member Geitler

ROLL CALL VOTE:

Chairman Wilolaski: NAY

Member Ingraham: NAY

Member Clothier: NAY

Member Geitler: NAY

Member Cornell: absent

Motion Failed: 4

Dated: March 18, 2026

### **IN THE MATTER OF THE APPLICATION OF DAVID SCHAUB/TWINWOOD FOREST, LLC FOR AN AREA VARIANCE FOR: Area Variance from Section 200-13 and from 200-52 of the Town of Wales Zoning Code**

**WHEREAS**, an application was filed with the Zoning Board of Appeals of the Town of Wales by David Schaub on behalf of Twinwood Forest, LLC for an area variance for the property located at Carpenter Road, South Wales, New York. S.B.L #216.00-1-30; and

**WHEREAS**, the application requests an area variance from Section 200-13 and 200-52 of the Town of Wales Zoning Code to appeal habitable dwellings must be constructed on a continuous fully enclosed foundation extending below the front line and no dwelling shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway or right of way in accordance with the Schedule of Area, Lot and Bulk Requirements of all districts; and

**WHEREAS**, the Board received a referral from the Building Inspector/Code Enforcement Officer Dan Whitehead indicating that the project is not in compliance with the zoning law and requires an area variance; and

**WHEREAS**, a public hearing on the application was held on March 18, 2026, at which the Board heard testimony and received comments from the Applicant, neighbors, and other interested parties; and

**WHEREAS**, the Board has reviewed all application materials, including an Agricultural Data Statement, Short Environmental Assessment Form, survey, plans and deed and has duly considered the standards for an area variance as set forth in New York State Town Law § 267-b, weighing the benefit to the Applicant against any detriment to the health, safety, and welfare of the community.

**NOW, THEREFORE, BE IT RESOLVED**, that the Zoning Board of Appeals, having considered the entire record of the proceeding, makes the following findings and hereby denies the application:

**1. Undesirable Change or Detriment to Properties:** The Board finds that the granting of this variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

Reasoning: There are other properties similar sized structures. No complaint or objection from neighbors.

**2. Feasible Alternative:** The Board finds that the benefit sought by the Applicant can be achieved by some other feasible method. Reasoning: Modification to existing sheds is feasible. These structures could be brought up to code with modifications. Make repairs to existing structures.

**3. Substantiality of Variance:** The Board finds that the requested area variance is substantial. Reasoning: 200-13, no and 200-52, no. In the context of an inhabitable shed, small concerns. Not as a storage shed but as a dwelling it would. All variances are substantial.

**4. Adverse Environmental/Physical Impact:** The Board finds that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Reasoning: Little to no impact on neighbors. Not as storage shed, but as a dwelling it could. Use does not vary from rest of area.

**5. Self-Created Difficulty:** The Board finds that the alleged difficulty was self-created. Reasoning: Always the case. This could have been avoided by getting a permit. All variances are substantial and self-created.

**BE IT FURTHER RESOLVED,** that the variance is not granted.

**BE IT FURTHER RESOLVED,** that a copy of this resolution shall be filed in the office of the Town of Wales Town Clerk and the Town of Wales Building Department.

**ROLL CALL VOTE:**

Chairman Wilolaski: AYE

Member Ingraham: NAY

Member Clothier: NAY

Member Geitler: NAY

Member Cornell: absent

Motion Failed: 3

Dated: March 18, 2026

By Order of the Zoning Board of Appeals Chairperson:

Edward Wilkolaski

**Denial of Use and Area Variance for Case#1-2026**

Dated: March 18, 2026

Town of Wales, New York

Edward Wilkolaski, Chairman

Zoning Board of Appeals

Respectfully Submitted by Michelle Homac, Zoning Board of Appeals Clerk