



Zoning Board of Appeals

Regular Meeting

Minutes

5583 Main Street
Amherst, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Tuesday, May 16, 2023

6:30 PM

Amherst Municipal Building

I. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
Ann M. Nichols	Town of Amherst	Member	Present	
Ronald Shubert	Town of Amherst	Member	Present	
Kelly J. Philips	Town of Amherst	Member	Present	
Brian Bray	Town of Amherst	Member	Present	
Ellen Parker	Town of Amherst	Member	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	
Samuel A Alba	Town of Amherst	Sr. Deputy Town Attorney	Present	
Joanne A. Schultz	Town of Amherst	Deputy Town Clerk	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, April 18, 2023

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 27525)

1220 New Road - Special Use Permit Renewal

The petitioner desires to renew her special use permit for an auxiliary housing unit, whereas, the zoning ordinance requires the Zoning Board of Appeals to issue a new special use permit.

5/16/2023

Petitioner, Marie Evans, spoke and answered questions from the Board.

There were no further speakers from the public, therefore Chairwoman Nichols moved to close the hearing

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

2. ZBA Item (ID # 27364)

555 Casey Road - Area Variance

The petitioner's proposed accessory garage will be 1,064 s.f. in area, whereas, the zoning ordinance permits a maximum of 792 s.f. for all accessory structures.

04/18/2023

Petitioner spoke and answered questions from the Board.

Glen Spoth, 551 Casey Road, spoke to the Board regarding other issues at this property.

There were no further speakers from the public, therefore Chairwoman Nichols moved to close the hearing.

HISTORY:

04/18/23 Zoning Board of Appeals
Next: 05/16/23

ADJOURNED

RESULT:	WITHDRAWN
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3. ZBA Item (ID # 27360)

41 Meadowview Lane - Area Variance

The petitioner's 1,200 s.f. garage will create 1,683 s.f. of total accessory building area, whereas, the zoning ordinance permits a maximum of 1,254 s.f. of building area.

04/18/2023

Atty Laura Colca spoke and answered questions from the Board.

Nancy Serr, 8 Auden Court, and Jake Gruber, 40 Meadowview, spoke in opposition.

There were no further speakers from the public, therefore Chairwoman Nichols moved to close the hearing.

5/16/2023

Petitioner, Lino Oliveri, appeared with his attorney, Anthony Kroese, and answered questions from the board.

David Gunther, 2 Auden Court, and Nancy and John Serr, 8 Auden Court spoke in opposition.

There were no further speakers from the public, therefore Chairwoman Nichols moved to

close the hearing.

HISTORY:**04/18/23****Zoning Board of Appeals****ADJOURNED****Next: 05/16/23**

RESULT:	APPROVED W/ CONDITIONS [3 TO 2]
MOVER:	Ellen Parker, Member
SECONDER:	Ronald Shubert, Member
AYES:	Ann M. Nichols, Ronald Shubert, Ellen Parker
NAYS:	Kelly J. Philips, Brian Bray

4. ZBA Item (ID # 27521)

90 Pearce Drive - Area Variance

The petitioner's proposed 6 foot high fence will be zero feet from the south property line, whereas, the zoning ordinance requires a minimum setback of 30 feet.

5/16/2023

Petitioners, Mike and Andrea Beacham spoke and answered questions from the board.

Pauline Bycznsk, 89 Pearce Drive spoke in support of the application.

There were no further speakers from the public, therefore Chairwoman Nichols moved to close the hearing.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 6/13/2023 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

5. ZBA Item (ID # 27523)

2354 Wehrle Drive - Area Variance

The petitioner's proposed ground sign will be 6 feet from the road right of way, whereas the zoning ordinance requires 15 feet minimum, and whereas, the base for the sign will consist of two supports with a total width of 8 inches, whereas, the zoning ordinance requires the base to be no less than 75 percent of the width of the sign, or in this case 49.5 inches wide.

5/16/2023

Victoria Mueller, spoke on behalf of applicant and answered questions from the board. Ms. Mueller then withdrew her request for relief from the base width requirement.

No one spoke in opposition.

Chairman Nichols moved to close the meeting.

RESULT: **APPROVED W/ CONDITIONS [UNANIMOUS]**
MOVER: Ellen Parker, Member
SECONDER: Ronald Shubert, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

6. ZBA Item (ID # 27522)

1055 Youngs Road - Area Variance

The petitioner's proposed patio awning roof will be 19.8 feet from the south property line, whereas, the zoning ordinance requires a minimum setback of 30 feet.

5/16/2023

Attorney, Sean Hopkins, spoke and answered questions from the board.

Mr. and Mrs. Schwartz, 49 Treebrooke Court spoke in opposition.

There were no further speakers from the public, therefore Chairwoman Nichols moved to close the hearing.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Kelly J. Philips, Member
SECONDER: Brian Bray, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

7. ZBA Item (ID # 27524)

3800 Sheridan Drive - Area Variance

The petitioner's proposed vehicle use area will be 10.5 feet from the westerly property line, whereas, the zoning ordinance requires a minimum setback of 15 feet.

RESULT: **ADJOURNED [UNANIMOUS]** **Next: 6/13/2023 6:30 PM**
MOVER: Ann M. Nichols, Member
SECONDER: Ronald Shubert, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

8. ZBA Item (ID # 27520)

689 Paradise Road - Area Variance

The petitioner desires to divide his/her parcel into two parcels which will be 55 feet in lot width, whereas, the zoning ordinance requires lots created after May 23, 2006 meet the minimum requirements of the zoning ordinance, and in this case a minimum lot width of 65 feet for each parcel.

5/16/2023

Nicole Detanna and Mario Madriguez spoke on behalf of the petitioner and answered questions from the Board.

Mr. and Mrs. Arnoldo, 685 Paradise Road, spoke in opposition to the application.
Bill Prenevau, 254 Shady Grove, spoke in opposition to the application.

Tom Vlachos, 262 Shady Grove, spoke in opposition to the application.
Alexi Marchuk, 691 Paradise Road, spoke in opposition to the application.

There were no further speakers from the public, therefore Chairwoman Nichols moved to close the hearing.

RESULT:	DENIED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

9. ZBA Item (ID # 27526)

3105-3135 Niagara Falls Boulevard

The petitioner desires to establish parcels of land without public road frontage, whereas, an Open Development Area approval must be issued by the Amherst Zoning Board of Appeals pursuant to NYS Town Law section 280-a(3).

05/16/2023

Petitioner's attorney, Art Pierce spoke and answered questions from the board.

There were no speakers from the public, therefore Chairwoman Nichols closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

SEQR Determination

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Member Bray moved to adjourn, seconded by Member Philips and unanimously approved 5-0. The Zoning Board of Appeals meeting of May 16, 2023 was adjourned at 8:30 PM.



Zoning Board of Appeals

5583 Main Street
Amherst, NY 14221
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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 27525

ZBA ITEM (ID # 27525)

APPROVED

1220 New Road - Special Use Permit Renewal

WHEREAS, **Marie C. B. Evans** has made application for a Special Use Permit, under

SECTION: 6-8-2

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

1220 New Road within a SA Zoning District

The petitioner desires to renew her special use permit for an **auxiliary housing unit** previously issued by the Zoning Board on April 21, 2020, AND

WHEREAS, a public hearing was held on **May 16, 2023** after proper notice, AND

WHEREAS, this Board previously issued a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the original special permit request, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-6-7 of the Town of Amherst Zoning Ordinance, AND

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the proposed use:

-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **meets the criteria as specified in section 6-8-2;**
-) **will be compatible with the existing uses adjacent to and near the property;**
-) **will be in harmony with the general purpose of the Zoning Ordinance;**
-) **will not tend to depreciate the value of adjacent property;**
-) **will not create a hazard to health, safety or the general welfare;**
-) **will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and**
-) **will not otherwise be detrimental to the public convenience and welfare, AND**

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT a Special Use Permit for a period of two (2) years the subject address.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 27364

ZBA ITEM (ID # 27364)

WITHDRAWN

555 Casey Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **William Wallace** has made application for an Area Variance(s), under

SECTION: 6-8-1B

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

555 Casey Road within a SA Zoning District

The petitioner's proposed **accessory garage** will be **1,064 s.f. in area** whereas, the zoning ordinance permits a maximum of **792 s.f.** for all accessory structures feet, AND

WHEREAS, a public hearing was held on **May 16, 2023** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT: WITHDRAWN



Zoning Board of Appeals

5583 Main Street
Amherst, NY 14221
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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 27360

ZBA ITEM (ID # 27360)

APPROVED W/ CONDITIONS

41 Meadowview Lane - Area Variance

WHEREAS, **Limo Olivieri** has made application for an Area Variance(s), under

SECTION: 6-8-1B

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

41 Meadowview Lane within a R-3 Zoning District

The petitioner's proposed **1,200 s.f. garage** will be will create **1,683 s.f.** of total accessory building area, whereas, the zoning ordinance permits a **maximum of 1,254 s.f.** of building area, AND

WHEREAS, a public hearing was held on **May 16, 2023** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) are not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance

that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst subject to:

1. The petitioner adhering to the requirements of section 7-1-12 of the Zoning Ordinance limiting commercial vehicles and trailers within residential zoning districts.
2. The existing accessory shed must be removed

RESULT:	APPROVED W/ CONDITIONS [3 TO 2]
MOVER:	Ellen Parker, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Parker
NAYS:	Philips, Bray



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 27521

ZBA ITEM (ID # 27521)

ADJOURNED

90 Pearce Drive - Area Variance

DRAFT RESOLUTION

WHEREAS, **Michael and Andrea Beacham** have made application for an Area Variance(s), under

SECTION: 7-5-3

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

90 Pearce Drive within a R-3 Zoning District

The petitioner's proposed 6 foot high fence will be **zero feet** from the south property line, whereas, the zoning ordinance requires a **30 foot** minimum setback, AND

WHEREAS, a public hearing was held on **May 16** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is/are not substantial, that it will /will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will/will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted (does not) outweigh(s) the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is/is not the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT / DENY an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 6/13/2023 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 27523

ZBA ITEM (ID # 27523)

APPROVED W/ CONDITIONS

2354 Wehrle Drive - Area Variance

WHEREAS, **Victoria Mueller/Brian A. Goldstein** have made application for an Area Variance(s), under

1.) SECTION: 7-8-4B(1)(e)(setback)

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

2354 Wehrle Drive within a OB Zoning District

The petitioner's proposed ground sign will be **6 feet** from the **road right of way**, whereas the zoning ordinance requires **15 feet minimum**, AND

WHEREAS, a public hearing was held on **May 16** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweigh(s) the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	APPROVED W/ CONDITIONS [UNANIMOUS]
MOVER:	Ellen Parker, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 27522

ZBA ITEM (ID # 27522)

APPROVED

1055 Youngs Road - Area Variance

WHEREAS, **1055 Youngs Road, LLC** has made application for an Area Variance(s), under

SECTION: 5-5-2B

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

1055 Youngs Road within a CF Zoning District

The petitioner's proposed patio awing roof will be **19.8 feet** from the **south property line**, whereas, the zoning ordinance requires a minimum **30 foot** setback, AND

WHEREAS, a public hearing was held on **May 16** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweigh(s) the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance

that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



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Town Clerk

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Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 27524

ZBA ITEM (ID # 27524)

ADJOURNED

3800 Sheridan Drive - Area Variance

DRAFT RESOLUTION

WHEREAS, **NAC Real Estate , LLC** has made application for an Area Variance(s),
under

SECTION: 4-6-2B

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

3800 Sheridan Drive within a MS Zoning District

The petitioner's proposed vehicle use area will be **10.5 feet** from the **westerly** property line, whereas, the zoning ordinance requires a minimum setback of **15 feet**, AND

WHEREAS, a public hearing was held on **May 16** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is/are not substantial, that it will /will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will/will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted (does not) outweigh(s) the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is/is not the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT/DENY an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 6/13/2023 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	



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Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 27520

ZBA ITEM (ID # 27520)

DENIED

689 Paradise Road - Area Variance

WHEREAS, **Barbara Cristiano /Via Savoia Company, LLC** has made application for an Area Variance(s), under

SECTION: 3-6-2B (minimum lot width)

SECTION: 1-11-4E (no existing lot shall be reduced in dimension)

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at :

689 Paradise Road within a R-3 Zoning District

The petitioner desires to divide his/her existing single-family home parcel by creating two parcels which will be **55 feet** in width, whereas, the zoning ordinance does not permit existing lots to be reduced in dimension, in this case the creation of **two lots** which will be less than **65 feet** in width, AND

WHEREAS, a public hearing was held on **May 16** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) are substantial, that it will have an adverse impact on the physical or environmental conditions of the neighborhood and that it will create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted

does not outweigh(s) the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is not the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, the alleged difficulty is self-created; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby **DENY** an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	DENIED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

5583 Main Street
Amherst, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 05/16/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 27526

ZBA ITEM (ID # 27526)

APPROVED

3105-3135 Niagara Falls Boulevard

WHEREAS, **Wegmans Food Markets, Inc.** has made application for an Open Development Area, under

Section: 280-a(3)

of the New York State Town Law for the property owned by him/her at :

3105-3135 Niagara Falls Boulevard within a GB Zoning District

The petitioner desires to establish parcels of land without public road frontage, whereas, an Open Development Area approval must be issued by the Amherst Zoning Board of Appeals pursuant to NYS Town Law section 280-a(3), AND

WHEREAS, a public hearing was held on **May 16, 2023** after proper notice, AND

WHEREAS, pursuant to section 280-a(3) of New York State Town Law an applicant may appeal to the Zoning Board of Appeals for an area variance for relief from the requirements that building lots to be on a public dedicated street, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted

outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an open development area approval pursuant to section 280-a(3) of NYS Town Law.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker