



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, June 13, 2023

6:30 PM

Amherst Municipal Building

I. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
Ann M. Nichols	Town of Amherst	Member	Absent	
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	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	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	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, May 16, 2023

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Kelly J. Philips, Brian Bray
AYES:	Ronald Shubert, Kelly J. Philips, Brian Bray, Ellen Parker
ABSENT:	Ann M. Nichols

III. HEARINGS ON APPEALS

1. 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 Bycznski, 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.

06/13/2023

Petitioners, Mike and Andrea Beacham presented a revised plan for their fence location which will now be 6 feet from the south property line.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

HISTORY:

05/16/23

Zoning Board of Appeals

ADJOURNED

Next: 06/13/23

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

2. 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.

06/13/2023

Jason from GPI Consulting Engineers spoke and answered questions from the board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

HISTORY:

05/16/23

Zoning Board of Appeals

ADJOURNED

Next: 06/13/23

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

3. ZBA Item (ID # 27624)

4196 Sheridan Drive - Temporary Use Permit

The petitioners desire to use their property for a commercial use (landscaping business) which, is not permitted in the R-3 residential zoning district.

06/13/2023

Ari Goldberg, Esquire for the petitioners indicated that he would not be providing an overview of his clients' request and requested that the public be provided with an opportunity to offer testimony and that the Board adjourn the matter until its August meeting as recommended by the Planning Department.

The petitioners and several of their customers spoke in favor of the request.

Sandra M. Koerber of 54 Frankhauser Rd. spoke in opposition.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/15/2023 6:30 PM
MOVER:	Brian Bray, Member	
SECONDER:	Kelly J. Philips, Member	
AYES:	Ronald Shubert, Kelly J. Philips, Brian Bray, Ellen Parker	
ABSENT:	Ann M. Nichols	

4. ZBA Item (ID # 27616)

66 Beachridge Drive - Area Variance

The petitioner's proposed 6 foot high fence will be 6.5 feet from the south property line, whereas, the zoning ordinance requires 10 feet minimum.

06/13/2023

Ari Goldberg, Esq. spoke and answered questions from the Board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

5. ZBA Item (ID # 27614)

120 Via Foresta Lane - Area Variance

The petitioner's building addition is 34.29 feet from the south property line, whereas, the zoning ordinance requires 35 feet minimum.

06/13/2023

Brian Effinger spoke and answered questions from the Board.

Mary Fahey, 31 Nature Cove Ct, spoke in opposition to the variance.

There were no further speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

6. ZBA Item (ID # 27623)

555 North Forest Road - Area Variance

The petitioner's proposed 6-foot-high fence will be 0 feet from south property line, whereas, the zoning ordinance requires a 10 foot setback.

06/13/2023

The Petitioners, Todd & Bridget Demmy, spoke and answered questions from the Board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

7. ZBA Item (ID # 27620)

475 North Forest Road - Area Variance

The petitioner's proposed detached accessory garage will be **22.8 feet** in height, whereas, the zoning ordinance permits a maximum height of **20 feet**.

06/13/2023

Architect Frank Schneider spoke and answered questions from the Board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

8. ZBA Item (ID # 27627)

318 Washington Hwy. - Area Variance

The petitioner's proposed heat pump will be 1.4 feet from the south property line, whereas, the zoning ordinance requires 3 feet minimum.

06/13/2023

The Petitioner, Daniel Augustynek, spoke and answered questions from the Board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

9. ZBA Item (ID # 27618)

2350 Sweet Home Road - Area Variance

The petitioner's buildings number 9, 10, 11 & 12 require a minimum building separation of 29.66 feet, and whereas, the petitioner desires to construct sun room additions which will cause a building separation between buildings 9 and 10 to have a 24 foot building separation, and cause a building separation of 17.29 feet between buildings 11 and 12.

06/13/2023

Sean Hopkins, Esq. spoke and answered questions from the Board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

10. ZBA Item (ID # 27619)

380 Hartford Road - Area Variance

The petitioner's parcel division causes his/her existing detached accessory garage to be a minimum of 3.32 from the new northerly property line, whereas, the zoning ordinance requires a minimum of 5 feet, and whereas, the creation of the new parcel for the existing two family dwelling (lot no. 2) will be 65 feet in lot width, whereas, the zoning ordinance requires a minimum lot width of 120 feet, and whereas, the new parcel for the existing two family dwelling will be 7,280 s.f. in area, whereas, the zoning ordinance requires 8,600 s.f. in area, and whereas, proposed parcel number 1. Contains 40 existing dwelling units on a lot that is 139,890 s.f. in area, whereas, the zoning ordinance requires a lot area of 174,240 s.f. in area and whereas, the zoning ordinance does not permit parcels to be further reduced in area if already non conforming.

06/13/2023

Sean Hopkins, Esq. spoke and answered questions from the Board.

There were no speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

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

11. ZBA Item (ID # 27621)

4625 Harlem Road - Area Variance

The petitioner's proposed ground sign will be 8.5 feet from the Harlem Road right of way, whereas, the zoning ordinance requires 15 feet minimum, and whereas, the base of the sign will be 6 feet in width, whereas, the zoning ordinance requires a minimum width of 9.75 feet.

06/13/2023

David M. Schoell AIA, spoke and answered questions from the Board.

Jane Cox, 4584 Harlem Road, had questions and spoke in opposition.

There were no further speakers from the public, therefore Acting Chair Schubert moved to close the hearing.

SECTION: 7-8-4B1(c) (height)

RESULT:	DEFEATED [UNANIMOUS]
MOVER:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Ronald Shubert, Kelly J. Philips, Brian Bray, Ellen Parker
ABSENT:	Ann M. Nichols

SECTION: 7-8-4B1(e) (setback)

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

SECTION: 7-8-4B1(h) (base width)

RESULT:	APPROVED [3 TO 1]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Ronald Shubert, Brian Bray, Ellen Parker
NAYS:	Kelly J. Philips
ABSENT:	Ann M. Nichols

12. ZBA Item (ID # 27625)

4224-4256 Ridge Lea Road - Special Use Permit

The petitioner desires to establish a service station (petroleum sales) accessory to his/her membership discount retail store (Costco), whereas, a special use permit is required for the establishment of such use.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/15/2023 6:30 PM
MOVER:	Kelly J. Philips, Brian Bray	
AYES:	Ronald Shubert, Kelly J. Philips, Brian Bray, Ellen Parker	
ABSENT:	Ann M. Nichols	

13. ZBA Item (ID # 27626)

4224-4256 Ridge Lea Road - Area Variance

The petitioner's proposed Dick's building will be 20 feet from the west property line, whereas, the zoning ordinance requires 30 feet minimum, and whereas, the vehicle use area serving the proposed Dick's building will be 6.12 feet from the west property line, whereas, the zoning ordinance requires 25 feet minimum, and whereas, the petitioner's buildings will not provide a minimum of 3 feet of landscaping adjacent to a portion of the north building wall, and along the south building wall of the proposed Dick's building and along the north and east walls of its Costco building as required by the zoning ordinance.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/15/2023 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Brian Bray, Member	
AYES:	Ronald Shubert, Kelly J. Philips, Brian Bray, Ellen Parker	
ABSENT:	Ann M. Nichols	

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Acting Chair Shubert moved to adjourn, seconded by Member Philips and unanimously approved 4-0. The Zoning Board of Appeals meeting of June 13, 2023 was adjourned at 8:24 PM.



Zoning Board of Appeals

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

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 27521

ZBA ITEM (ID # 27521)

APPROVED

90 Pearce Drive - Area Variance

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 **6 feet** from the south property line, whereas, the zoning ordinance requires a **30 foot** minimum setback, AND

WHEREAS, a public hearing was held on **June 13, 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 /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 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:	APPROVED [UNANIMOUS]
MOVER:	Ellen Parker, Member
SECONDER:	Brian Bray, Member
AYES:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 27524

ZBA ITEM (ID # 27524)

APPROVED

3800 Sheridan Drive - Area Variance

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 **June 13, 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/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:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 27624

ZBA ITEM (ID # 27624)

ADJOURNED

4196 Sherian Drive - Temporary Use Permit

DRAFT RESOLUTION

WHEREAS, **Cameron & Griffin Tolsma** has made application for a Temporary Use Permit, under

SECTION: 3-6-2A

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

4196 Sheridan Drive within a R-3 Zoning District

The petitioner desires to utilize the premises for a **landscaping business on a temporary basis** which requires the issuance of a temporary use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **June 13, 2023** after proper notice, AND

WHEREAS, this Board previously issued Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the subject temporary use permit request, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-8-6 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:

-) **may be of a temporary nature and may not involve the erection or enlargement of any permanent structure;**
-) **will be not be generally consistent with the policies of the Comprehensive Plan;**
-) **does not meet the criteria as specified in sections 1-11-4A & 6-8-6C ;**
-) **will not be compatible with the existing uses adjacent to and near the property;**
-) **will not be in harmony with the general purpose of the Zoning Ordinance;**
-) **will tend to depreciate the value of adjacent property;**

-) **will create a hazard to health, safety or the general welfare;**
-) **will alter the essential character of the neighborhood and be detrimental to the neighborhood residents; and**
-) **will 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/DENY a Temporary Use Permit for the subject address.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/15/2023 6:30 PM
MOVER:	Brian Bray, Member	
SECONDER:	Kelly J. Philips, Member	
AYES:	Shubert, Philips, Bray, Parker	
ABSENT:	Nichols	



Zoning Board of Appeals

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

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 27616

ZBA ITEM (ID # 27616)

APPROVED W/ CONDITIONS

66 Beachridge Drive - Area Variance

WHEREAS, **Robert A. Schell** has made application for an Area Variance(s), under

SECTION: 2-5-2A(5)(b)(2)

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

66 Beachridge Drive within a CR-3A Zoning District

The petitioner's **proposed 6 foot high fence** is **6.5** feet from the **south** property line whereas, the zoning ordinance requires a minimum of **10** feet, AND

WHEREAS, a public hearing was held on **June 13, 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 subject to:

1. The Town Board granting a license agreement to permit the fence within the Town's sanitary sewer easement.

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



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Town Clerk

Meeting: 06/13/23 06:30 PM
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Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 27614

ZBA ITEM (ID # 27614)

APPROVED

120 Via Foresta Lane - Area Variance

WHEREAS, **Harold Price** has made application for an Area Variance(s), under

SECTION: 3-5-2B

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

120 Via Foresta Lane within a R-2 Zoning District

The petitioner's **building addition** is **34.29** feet from the **south** property line whereas, the zoning ordinance requires a minimum of **35** feet, AND

WHEREAS, a public hearing was held on **June 13, 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:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



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Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 27623

ZBA ITEM (ID # 27623)

APPROVED

555 North Forest Road - Area Variance

WHEREAS, **Todd & Bridget Demmy** have made application for an Area Variance(s), under

SECTION: 2-5-2(5)(b)(3)

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

555 North Forest Road within a R-3 Zoning District

The petitioner's proposed 6 foot high fence will be **0 feet** from the south property line, whereas, the zoning ordinance requires a **10 foot** setback, AND

WHEREAS, a public hearing was held on **June 13, 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:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Brian Bray, Member
AYES:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



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Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 27620

ZBA ITEM (ID # 27620)

APPROVED

475 North Forest Road - Area Variance

WHEREAS, **Ralph Reitz** has made application for an Area Variance(s), under

SECTION: 3-6-3B

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

475 North Forest Road within a R-3 Zoning District

The petitioner's proposed detached accessory garage will be 22.8 feet in height, whereas, the zoning ordinance permits a maximum height of 20 feet, AND

WHEREAS, a public hearing was held on **June 13, 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:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 27627

ZBA ITEM (ID # 27627)

APPROVED

318 Washington Hwy. - Area Variance

WHEREAS, **Daniel & Danelle Augustynek** have made application for an Area Variance(s), under

SECTION: 2-5-2A(1)(e)

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

318 Washington Highway within a R-3 Zoning District

The petitioner's proposed heat pump will be **1.4 feet** from the south property line, whereas, the zoning ordinance requires **3 feet** minimum, AND

WHEREAS, a public hearing was held on **June 13, 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:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 27618

ZBA ITEM (ID # 27618)

APPROVED

2350 Sweet Home Road - Area Variance

WHEREAS, **Essex Homes of WNY, Inc.** has made application for an Area Variance(s), under

SECTION: 3-15-5

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

12350 Sweet Home Road within a MFR-5 & OB Zoning District

The petitioner's buildings number 9, 10, 11 & 12 require a minimum **building separation** of **29.66** feet, and whereas, the petitioner desires to construct sun room additions which will cause a building separation between **buildings 9 and 10** to have a **24 foot building separation**, and cause a **building separation of 17.29 feet** between **buildings 11 and 12**, AND

WHEREAS, a public hearing was held on **June 13, 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:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Brian Bray, Member
AYES:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 27619

ZBA ITEM (ID # 27619)

APPROVED

380 Hartford Road - Area Variance

WHEREAS, **Hartford Road, Inc.** has made application for Area Variances, under

1. **SECTION: 3-10-3B (accessory garage setback)**
2. **SECTION 3-10-2B(3) (lot width two family)**
3. **SECTION 3-10-2B(3) (lot area two family)**
4. **SECTION 3-10-2B(3) (lot area apartment complex)**

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

380 Hartford Road within a MFR-5 Zoning District

The petitioner's parcel division causes his/her existing detached **accessory garage** to be a minimum of **3.32 feet** from a new northerly property line, whereas, the zoning ordinance requires a minimum of **5 feet**, and whereas, the creation of the new parcel for the existing two family dwelling will be **65 feet** in lot width, whereas, the zoning ordinance requires a minimum lot width of **120 feet**, and whereas, the new parcel for the existing two family dwelling will have a lot area of **7,280 s.f.** whereas, the zoning ordinance requires **8,600 s.f.** in area, and whereas, proposed parcel **number 1**. Contains 40 existing dwelling units on a lot that is **139,890 s.f.** in area, whereas, the zoning ordinance requires a lot area of **174,240 s.f.** in area and the zoning ordinance does not permit parcels to be further reduced in area if already non-conforming, AND

WHEREAS, a public hearing was held on **June 13, 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 the area variances 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:	Shubert, Philips, Bray, Parker
ABSENT:	Nichols



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 27621

ZBA ITEM (ID # 27621)

4625 Harlem Road - Area Variance

WHEREAS, **Park School of Buffalo** has made application for an Area Variance(s), under

1. **SECTION: 7-8-4B1(e) (setback)**
2. **SECTION: 7-8-4B1(h) (base width)**

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

4625 Harlem Road within a C-F Zoning District

The petitioner's proposed ground sign will be **8.5 feet** from the Harlem Road right of way, whereas, the zoning ordinance requires **15 feet** minimum, and whereas, the base of the sign will be **6 feet** in width, whereas, the zoning ordinance requires a minimum width of **9.75 feet**, AND

WHEREAS, a public hearing was held on **June 13, 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 the area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.12

DOC ID: 27625

ZBA ITEM (ID # 27625)

ADJOURNED

4224-4256 Ridge Lea Road - Special Use Permit

DRAFT RESOLUTION

WHEREAS, **Ridlea Associates, LLC** has made application for a Special Use Permit, under

SECTION: 4-7-2A

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

4224-4256 Ridge Lea Road within a SC Zoning District

The petitioner desires to establish a **service station** (petroleum sales) accessory to his/her membership discount retail store (Costco), whereas, a special use permit is required for the establishment of such use, AND

WHEREAS, a public hearing was held on **June 13, 2023** after proper notice, AND

WHEREAS, this Board previously issued Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the subject 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 6-4-10;**
-) **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, this Board believes it is necessary to impose the following conditions on its approval of the special use permit as permitted by section 8-6-7 of the Zoning Ordinance to minimize adverse impacts upon other property in the neighborhood; AND

- 1.
- 2.

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 the subject address.

RESULT: **ADJOURNED [UNANIMOUS]**
MOVER: Kelly J. Philips, Brian Bray
AYES: Shubert, Philips, Bray, Parker
ABSENT: Nichols

Next: 8/15/2023 6:30 PM



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/13/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.13

DOC ID: 27626

ZBA ITEM (ID # 27626)

ADJOURNED

4224-4256 Ridge Lea Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **Ridlea Associates, LLC** has made application for an Area Variance(s), under

- 1. SECTION: 4-7-2B (bldg. setback)**
- 2. SECTION: 4-7-2B (VUA setback)**
- 3. SECTION: 7-2-3A(2)(landscaping)**

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

4224-4256 Ridge Lea Road within a SC Zoning District

The petitioner's proposed Dick's building will be **20 feet** from the **west** property line, whereas, the zoning ordinance requires **30 feet** minimum, and whereas, the vehicle use area serving the proposed Dick's building will be **6.12 feet** from the west property line, whereas, the zoning ordinance requires **25 feet** minimum, and whereas, the petitioner's buildings will not provide a minimum of **3 feet** of **landscaping** adjacent to a portion of the north building wall, and along the south building wall of the proposed Dick's building and along the north and east walls of its Costco building, AND

WHEREAS, a public hearing was held on **June 13, 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.

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 8/15/2023 6:30 PM

MOVER: Kelly J. Philips, Member

SECONDER: Brian Bray, Member

AYES: Shubert, Philips, Bray, Parker

ABSENT: Nichols