



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, April 16, 2024

6:30 PM

Amherst Municipal Building

I. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
Brian Bray	Town of Amherst	Member	Present	
Ronald Shubert	Town of Amherst	Member	Present	
Kelly J. Philips	Town of Amherst	Member	Present	
Ellen Parker	Town of Amherst	Member	Present	
Erik A. Goergen	Town of Amherst	Member	Absent	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
James Quinn	Town of Amherst	Assistant Planner	Present	
Nora B. Robshaw	Town of Amherst	Deputy Town Attorney	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, March 19, 2024

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 28856)

91 Boxelder Lane - Special Use Permit

The petitioner desires to establish a medical treatment spa out of her dwelling, whereas, the zoning ordinance requires the issuance of a special use permit by the zoning board of appeals for a type 2 home occupancy

04/16/2024

Petitioner Lauren Weeks spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

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

SEQR Determination

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

2. ZBA Item (ID # 28852)

190 Sunrise Boulevard - Area Variance

The petitioner's 6 foot high solid fence is 1+/- feet from the north property line, whereas, the zoning law requires a 10 foot minimum setback for fences taller than 3 feet in height.

04/16/2024

Petitioner and his attorney spoke and answered questions from the Board.

There were no further speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 5/14/2024 6:30 PM
MOVER:	Brian Bray, Member	
SECONDER:	Kelly J. Philips, Member	
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker	
ABSENT:	Erik A. Goergen	

3. ZBA Item (ID # 28854)

30 Farmington Road - Area Variance

The petitioner's rear addition will be 22'-8" from the rear property line, whereas, the zoning ordinance requires a minimum setback of 30 feet.

04/16/2024

Dave Sutton, 5409 Main St, spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

4. ZBA Item (ID # 28851)

200 South Union Road - Area Variance

The petitioner's driveway enlargement will create 190 s.f. of paved area in excess of what the zoning ordinance permits within the required front yard.

04/16/2024

The Petitioner spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Ellen Parker, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

5. ZBA Item (ID # 28844)

95 Wyeth Drive- Area Variance

The petitioner's single family dwelling will be 5 feet from the rear property line, whereas, the zoning ordinance requires a minimum setback of 30 feet.

04/16/2024

Petitioner Adam Cole spoke and answered questions from the Board.

Attorney Ralph Lorigo, representing Sladjana Keselj residing at 118 Heim Rd, spoke in opposition.

Terry Starinsky-122 Heim Rd, Donna & Rick Suchan-71 Sovereign Ct, Richard Petit-44 Wyeth Dr, Andrew Deley-111 Wyeth Dr, spoke in opposition.

There were no further speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	DENIED [0 TO 4]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
NAYS:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

6. ZBA Item (ID # 28855)

170 Campbell Boulevard - Area Variance

The petitioner's attached garage will create a total building area for all accessory structures and attached garages equal to 1,606.7 s.f., whereas, the zoning ordinance limits the building area to a maximum of 1,592 s.f. and whereas, the proposed addition will be 20 feet from the front property line, whereas, zoning ordinance requires 50 feet minimum.

04/16/2024

Petitioner, Michael Anton Sciortino, spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

7. ZBA Item (ID # 28857)

20 Pine Court - Area Variance

The petitioner's rear addition will be 15 feet from the rear property line, whereas, the zoning ordinance requires a minimum setback of 35 feet.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

8. ZBA Item (ID # 28858)

1542 Maple Road - Area Variance

The petitioner's proposed parking area expansion will not be providing a high impact screen along the easterly property line, whereas, the zoning ordinance requires such screening.

04/16/2024

Kris Winkler spoke on behalf of Kaleida Health and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

9. ZBA Item (ID # 28859)

1630 Maple Road - Area Variance

The petitioner's additional wall signage will create a total sign area of 249.5 s.f. for the

premises, whereas, the zoning ordinance limits the total sign area to 213.12 s.f.

04/16/2024

Randy DiNatale spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Ellen Parker, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

10. ZBA Item (ID # 28847)

208 & 214 Joe McCarthy Drive - Area Variance

The petitioner's proposed town home building will have 4 units, whereas, the zoning ordinance permits a maximum of 2 units, and whereas, the proposed building will be 21.50 feet from the front property line and 17.44 feet from the west property line, whereas, the zoning ordinance requires 50 feet minimum, and whereas, the building will be 29.05 feet from the south property lines, whereas, the zoning ordinance requires 50 feet minimum, and whereas, the building will be 10 feet from the easterly property line, whereas, the zoning ordinance requires 37.5 feet, and the parking area (driveway) for the westerly unit will be 17.44 feet from the road right of way, whereas, the zoning ordinance requires 20 feet, and whereas, the a medium impact screen is not being provided along the east property line, adjacent to the proposed driveway for the easterly unit.

04/16/2024

Attorney Sean Hopkins spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

SEQR Determination

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

11. ZBA Item (ID # 28848)

226-280 Joe McCarthy Drive - Area Variance

The petitioner's proposed 3 story multi family building will have 30 units, whereas, the

zoning ordinance permits a maximum of 13 units, and whereas, the proposed building will be 13 feet from the front property line, whereas, the zoning ordinance requires 70 feet minimum, and whereas, the building will be 29 feet from the south property line, whereas, the zoning ordinance requires 52.5 feet, and whereas, the building will be 52 feet from the easterly property line, whereas, the zoning ordinance requires 70 feet, and whereas, the vehicle use area will be 15 feet from the road right of way, whereas, the zoning ordinance requires 20 feet, and whereas, the premises will provide 50 off street parking spaces, whereas, the zoning ordinance requires 60 spaces minimum.

04/16/2024

Attorney Sean Hopkins spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairman Bray closed the public hearing.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

SEQR Determination

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Member Philips moved to adjourn, seconded by Member Parker and unanimously approved 4-0. The Zoning Board of Appeals meeting of April 16, 2024 was adjourned at 8:06 PM.



Zoning Board of Appeals

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

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 28856

ZBA ITEM (ID # 28856)

APPROVED W/ CONDITIONS

91 Boxelder Lane - Special Use Permit

WHEREAS, **Lauren Weeks** has made application for a Special Use Permit, under

SECTION: 6-8-6B(2)

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

91 Boxelder Lane within a MFR-5 Zoning District

The petitioner desires to establish a medical treatment spa out of her dwelling, whereas, the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals for a type 2 home occupancy, AND

WHEREAS, a public hearing was held on **April 16, 2024** 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 6-8-6;**
-) **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 with the condition that sign will only be on side door.

RESULT:	APPROVED W/ CONDITIONS [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 28852 A

ZBA ITEM (ID # 28852)

ADJOURNED

190 Sunrise Boulevard - Area Variance

DRAFT RESOLUTION

WHEREAS, **Jacob Schwartz** has made application for an Area Variance(s), under

1. SECTION:2-5-2A(5)(b)(3)

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

190 Sunrise Boulevard within a R-3 Zoning District

The petitioner's 6 foot high **solid fence** is **1 +/- feet** from the **north** property line, whereas, the zoning law requires a **10 foot** minimum setback for fences taller than 3 feet in height.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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: 5/14/2024 6:30 PM

MOVER: Brian Bray, Member

SECONDER: Kelly J. Philips, Member

AYES: Bray, Shubert, Philips, Parker

ABSENT: Goergen



Zoning Board of Appeals

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

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 28854

ZBA ITEM (ID # 28854)

APPROVED

30 Farmington Road - Area Variance

WHEREAS, **Mary Beth & Jim Basil** have made application for an Area Variance(s),
under

1. SECTION:3-6-2-B

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

30 Farmington Road within a R-3 Zoning District

The petitioner's rear **building addition** will be **22'-8"** from the **rear property line**,
whereas, the zoning ordinance requires a minimum setback of **30 feet**.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 28851

ZBA ITEM (ID # 28851)

APPROVED

200 South Union Road - Area Variance

WHEREAS, **Elizabeth Trampusch and Joseph Zaheer** have made application for an Area Variance(s), under

1. SECTION:2-5-2A(1)(h)(iii)

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

200 South Union Road within a MFR-5 Zoning District

The petitioner's proposed **driveway** enlargement will create a paved area which will be **190 s.f. in excess** of what is permitted in the required front yard, whereas, the zoning ordinance limits driveways to a maximum of 50 % of the area between the face of the front of the house and the front property line.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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:	Ronald Shubert, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 28844

ZBA ITEM (ID # 28844)

DENIED

95 Wyeth Drive- Area Variance

WHEREAS, **Adam Cole** has made application for an Area Variance(s), under

SECTION: 3-6-2B

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

95 Wyeth Drive within a R-3 Zoning District

The petitioner's **single family dwelling** will be **5 feet** from the rear property line, whereas, the zoning ordinance requires a minimum setback of **30 feet**.

WHEREAS, a public hearing was held on **April 16, 2024** 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 substantial, it will have an adverse impact on the physical or environmental conditions of the neighborhood, it will create an undesirable change in the character of the neighborhood and the alleged difficulty/hardship was self created; AND

WHEREAS, the subject piece of land was a reservation area not part of the original realty subdivision, and not intended to be a developable building lot, AND

WHEREAS, the petitioner purchased the piece of land from the County of Erie through a foreclosure auction for the sum of one thousand dollars, AND

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

does not outweigh 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, 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 the area variance from the above-mentioned section of the Zoning Ordinance of the Town of Amherst.

RESULT:	DENIED [0 TO 4]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
NAYS:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



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Town Clerk

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 28855

ZBA ITEM (ID # 28855)

APPROVED

170 Campbell Boulevard - Area Variance

WHEREAS, **Michael Anton Sciortino** has made application for an Area Variance(s),
under

1. SECTION:6-8-1B (building area)

2. SECTION: 3-3-2B (setback)

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

170 Campbell Boulevard within a NCD-SA Zoning District

The petitioner's attached garage will create a total building area for all accessory structures and attached garages equal to 1,606.7 s.f., whereas, the zoning ordinance limits the building area to a maximum of 1,592 s.f. and whereas, the proposed addition will be 20 feet from the front property line, whereas, zoning ordinance requires 50 feet minimum.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.7

DOC ID: 28857

ZBA ITEM (ID # 28857)

APPROVED

20 Pine Court - Area Variance

DRAFT RESOLUTION

WHEREAS, **Peter H. Grau** have made application for an Area Variance(s), under

SECTION:3-5-2-B

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

20 Pine Court within a R-2 Zoning District

The petitioner's rear **building addition** will be **15 feet** from the **rear property line**, whereas, the zoning ordinance requires a minimum setback of **35 feet**.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 28858

ZBA ITEM (ID # 28858)

APPROVED

1542 Maple Road - Area Variance

WHEREAS, **Kaledia Health** has made application for an Area Variance(s), under

SECTION:7-2-4B (landscaping)

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

1540 & 1542 Maple Road within a CF Zoning District

The petitioner's proposed **parking area** expansion will not be providing a **high impact screen** along the **easterly property line**, whereas, the zoning ordinance requires such screening.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 28859

ZBA ITEM (ID # 28859)

APPROVED

1630 Maple Road - Area Variance

WHEREAS, **4545 Shimerville, LLC** has made application for an Area Variance(s),
under

SECTION:7-8-8 A

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

1630 Maple Road within a OB Zoning District

The petitioner's additional wall signage will create a total sign area of 249.5 s.f. for the premises, whereas, the zoning ordinance limits the total sign area to 213.12 s.f.

WHEREAS, a public hearing was held on **April 16, 2024** 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, 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:	Ronald Shubert, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 28847

ZBA ITEM (ID # 28847)

APPROVED

208 & 214 Joe McCarthy Drive - Area Variance

WHEREAS, **MEL Investors, LLC** has made application for an Area Variance(s),
under

- 1. SECTION: 3-11-2B (density)**
- 2. SECTION: 3-15-5A(4) (building setbacks)**
- 3. SECTION: 3-15-6 (parking setback)**
- 4. SECTION: 7-2-4B (landscaping)**

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

208 & 214 Joe McCarthy Drive within a MFR-5 Zoning District

The petitioner's proposed town home building will have **4 units**, whereas, the zoning ordinance permits a maximum of **2 units**, and whereas, the proposed building will be **21.50 feet** from the **front property line** and **17.44 feet** from the **west property line**, whereas, the zoning ordinance requires **50 feet** minimum, and whereas, the building will be **29.05 feet** from the **south property lines**, whereas, the zoning ordinance requires **50 feet** minimum, and whereas, the building will be **10 feet** from the **easterly property line**, whereas, the zoning ordinance requires **37.5 feet**, and whereas the **parking area** (driveway) for the westerly unit will be **17.44 feet** from the road right of way, whereas, the zoning ordinance requires **20 feet**, and whereas, a **medium impact screen** is not being provided along the east property line adjacent to the proposed driveway for the easterly unit.

WHEREAS, a public hearing was held on **April 16, 2024** 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 substantial, however, 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:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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

Meeting: 04/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.11

DOC ID: 28848

ZBA ITEM (ID # 28848)

APPROVED

226-280 Joe McCarthy Drive - Area Variance

WHEREAS, **MEL Investors, LLC** has made application for an Area Variance(s),
under

- 1. SECTION:3-11-2B(3) (number of units)**
- 2. SECTION: 3-15-5A(4) (building setbacks)**
- 3. SECTION:3-15-6 (parking setback)**
- 4. SECTION:7-1-6A (parking quantity)**

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

208 & 214 Joe McCarthy Drive within a MFR-5 Zoning District

The petitioner's proposed **3 story multi-family building** will have **30 units**, whereas, the zoning ordinance permits a maximum of **13 units**, and whereas, the proposed building will be **13 feet** from the **front property line**, whereas, the zoning ordinance requires **70 feet** minimum, and whereas, the building will be **29 feet** from the **south property line**, whereas, the zoning ordinance requires **52.5 feet**, and whereas, the building will be **52 feet** from the **easterly property line**, whereas, the zoning ordinance requires **70 feet**, and whereas, the **vehicle use area** will be **15 feet** from the road right of way, whereas, the zoning ordinance requires **20 feet**, and whereas, the premises will provide **50 off street parking spaces**, whereas, the zoning ordinance requires **60 parking spaces** minimum.

WHEREAS, a public hearing was held on **April 16, 2024** 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 substantial, however, 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:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen