



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, June 18, 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	Absent	
Erik A. Goergen	Town of Amherst	Member	Present	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
James Quinn	Town of Amherst	Assistant Planner	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Nora B. Robshaw	Town of Amherst	Deputy Town Attorney	Present	

II. APPROVAL OF MINUTES

1. Tuesday, May 14, 2024

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 29111)

9 Turnberry Drive - Area Variance

The petitioner's proposed fence will be 8 feet in height, whereas, the zoning ordinance limits fencing to 6 feet maximum in residential zoning districts.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/13/2024 6:30 PM
MOVER:	Erik A. Goergen, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Erik A. Goergen	
ABSENT:	Ellen Parker	

2. ZBA Item (ID # 29112)

140 Canalview Terrace - Area Variance

The petitioner's fence is 8 feet in height, whereas, the zoning ordinance limits fencing to 6 feet maximum in residential zoning districts.

06/18/2024

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:	Erik A. Goergen, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Erik A. Goergen
ABSENT:	Ellen Parker

3. ZBA Item (ID # 29115)

24 Monarch Drive- Area Variance

The petitioner's proposed deck will be 10 feet from the rear property line, whereas, the zoning ordinance requires 22 feet

06/18/2024

Scott of Mat&Son Home Improvement 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:	Erik A. Goergen, Member
SECONDER:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Erik A. Goergen
ABSENT:	Ellen Parker

4. ZBA Item (ID # 29114)

429 LeBrun Road - Area Variance

The petitioner's proposed 6 foot high fence will be within the required front yard of 30 feet, whereas, the zoning ordinance limits fencing to 3 feet in height maximum within the required front yard.

06/18/2024

Attny Lauren Adornetto spoke on behalf of the petitioner and answered questions from the

Board.

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

RESULT:	APPROVED W/ CONDITIONS [3 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Brian Bray, Kelly J. Philips, Erik A. Goergen
ABSTAIN:	Ronald Shubert
ABSENT:	Ellen Parker

5. ZBA Item (ID # 29113)

924 Klein Road - Area Variance

The petitioner's newly constructed dwelling is 41.3 feet from the front property line whereas, the zoning ordinance requires 51.8 feet minimum.

06/18/2024

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:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Erik A. Goergen
ABSENT:	Ellen Parker

6. ZBA Item (ID # 29116)

4224-4256 Ridge Lea Road - Special Use Permit

The petitioner desires to amend the location of his/her proposed service station (petroleum sales) accessory to his/her membership discount retail store (Costco), for which the Zoning Board of Appeals previously granted a special use permit, whereas, the proposed amended location requires a re-issuance of the special use permit.

06/18/2024

Attny James Baglioli spoke and answered questions from the Board.

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

RESULT:	APPROVED [3 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Brian Bray, Kelly J. Philips, Erik A. Goergen
ABSTAIN:	Ronald Shubert
ABSENT:	Ellen Parker

7. ZBA Item (ID # 29117)

4224-4256 Ridge Lea Road - Area Variance

The petitioner's proposed Dick's building will be 17 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 6.1 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 the north west and north east sides of the Dick's Sporting Goods building, and a proposed interior divider median will not provide a landscape area.

06/18/2024

Attny James Baglioli spoke and answered questions from the Board.

Joe Voytovich, 35 Bucyrus, spoke in opposition.

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

RESULT:	APPROVED [3 TO 0]
MOVER:	Erik A. Goergen, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Kelly J. Philips, Erik A. Goergen
ABSTAIN:	Ronald Shubert
ABSENT:	Ellen Parker

8. ZBA Item (ID # 28964)

4795 Sheridan Drive- Area Variance

The petitioner's proposed building number 2 is ~~35.76~~ ~~26.60~~ 25.60 feet from the front property line, whereas, the zoning ordinance requires ~~50~~ 55.16 feet minimum, and whereas, proposed buildings numbers ~~1 and 2~~ 2 will be ~~33~~ 24.66 feet ~~27.65 feet and 25.65~~ respectively from the east property line, whereas, the zoning ordinance requires ~~60 feet and 50~~ ~~66~~ 55.16 feet respectively, and whereas, the proposed number of dwelling units will be ~~(26)~~ ~~(21)~~ (12) 2 bedroom units, (2) 3 bedroom units and ~~(5)~~ (8) 1 bedroom units, which requires a minimum of 2.12 +/- acres whereas, the petitioner's parcel is 2.06 +/- acres, and whereas, the proposed vehicle use areas adjacent to both buildings will be a minimum of ~~8~~ 6 feet from the main building wall, whereas, the zoning ordinance requires 15 feet minimum.

06/18/2024

Attny Sean Hopkins and Petitioner Robert Savarino of RAS Development spoke and answered questions from the Board.

Attorney Cole M. Knoer, spoke on behalf of behalf of the neighbors in opposition.

Marc DiGiore - 4785 Sheridan, Edward Marecki - 4765 Sheridan, Carrie Wanamaker - 4775 Sheridan, spoke in opposition.

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

HISTORY:**05/14/24****Zoning Board of Appeals****ADJOURNED****Next: 06/18/24****ATTACHMENTS:**

- Concept Site Plan-Drawing C-100-Date-06-14-24 (PDF)
- Amended Variance Application & Supporting Documentation-Date-06-14-24 (1)-compressed (PDF)

RESULT: ADJOURNED [UNANIMOUS]**Next: 8/13/2024 6:30 PM****MOVER:** Erik A. Goergen, Member**SECONDER:** Ronald Shubert, Member**AYES:** Brian Bray, Ronald Shubert, Kelly J. Philips, Erik A. Goergen**ABSENT:** Ellen Parker**IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING**

There being no further business to come before the Zoning Board of Appeals, Member Goergen moved to adjourn, seconded by Member Philips and unanimously approved 4-0. The Zoning Board of Appeals meeting of June 18, 2024 was adjourned at 7:53 PM.



Zoning Board of Appeals

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

Meeting: 06/18/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 29111

ZBA ITEM (ID # 29111)

ADJOURNED

9 Turnberry Drive - Area Variance

DRAFT RESOLUTION

WHEREAS, **Habib Shiekh** has made application for an Area Variance(s), under

SECTION: 7-5-1

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

9 Turnberry Drive within a R-3 Zoning District

The petitioner's proposed **fence** will be **8 feet in height**, whereas, the zoning ordinance limits fencing to 6 feet maximum in residential zoning districts.
AND

WHEREAS, a public hearing was held on **June 18, 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, 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]**
MOVER: Erik A. Goergen, Member
SECONDER: Ronald Shubert, Member
AYES: Bray, Shubert, Philips, Goergen
ABSENT: Parker

Next: 8/13/2024 6:30 PM



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Town Clerk

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

3.2

DOC ID: 29112

ZBA ITEM (ID # 29112)

APPROVED

140 Canalview Terrace - Area Variance

WHEREAS, **Joseph H. Siero & Patricia L. Ball** has made application for an Area Variance(s), under

SECTION: 7-5-1

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

140 Canalview Terrace within a MFR-5 Zoning District

The petitioner's proposed **fence is 8 feet in height**, whereas, the zoning ordinance limits fencing to 6 feet maximum in residential zoning districts, AND

WHEREAS, a public hearing was held on **June 18, 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, 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:	Ronald Shubert, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Shubert, Philips, Goergen
ABSENT:	Parker



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/18/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 29115

ZBA ITEM (ID # 29115)

APPROVED

24 Monarch Drive- Area Variance

WHEREAS, **Rebecca Domanowski** 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 :

24 Monarch Drive within a R-3 Zoning District

The petitioner's proposed **deck** will be **10 feet** from the rear property line, whereas,
the zoning ordinance requires **22 feet**, AND

WHEREAS, a public hearing was held on **June 18, 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, 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:	Erik A. Goergen, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Goergen
ABSENT:	Parker



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Town Clerk

Meeting: 06/18/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 29114

ZBA ITEM (ID # 29114)

APPROVED W/ CONDITIONS

429 LeBrun Road - Area Variance

WHEREAS, **Michael & Laverne Murphy** 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 :

429 LeBrun Road within a R-3 Zoning District

The petitioner's proposed 6 foot high fence will be within the required front yard, whereas, the zoning ordinance limits fencing to 3 feet maximum within the required front yard, AND

WHEREAS, a public hearing was held on **June 18, 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, 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 the following condition:

1. That the existing hedgerow within the required front yard shall be maintained in perpetuity to hide the proposed fence.

RESULT:	APPROVED W/ CONDITIONS [3 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Philips, Goergen
ABSTAIN:	Shubert
ABSENT:	Parker



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 06/18/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 29113

ZBA ITEM (ID # 29113)

APPROVED

924 Klein Road - Area Variance

WHEREAS, **Harinder Pal Suph/ Oasis Homes of WNY** has made application for an Area Variance(s), under

SECTION: 2-5-2A(3)(a)

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

924 Klein Road within a R-3 Zoning District

The petitioner's newly constructed **dwelling** is **41.3 feet** from the front property line whereas, the zoning ordinance requires **51.8 feet** minimum, AND

WHEREAS, a public hearing was held on **June 18, 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, 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:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Goergen
ABSENT:	Parker



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 06/18/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 29116

ZBA ITEM (ID # 29116)

APPROVED

4224-4256 Ridge Lea Road - Special Use Permit

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 18, 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, 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:	APPROVED [3 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Philips, Goergen
ABSTAIN:	Shubert
ABSENT:	Parker



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Town Clerk

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

3.7

DOC ID: 29117

ZBA ITEM (ID # 29117)

APPROVED

4224-4256 Ridge Lea Road - Area Variance

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)**
- 4. SECTION: 7-2-3A(3)(h)&(i)(landscaping - divider median)**

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 **17 feet** from the **west** property line, whereas, the zoning ordinance requires **30 feet** minimum, and whereas, the vehicle use area (VUA) serving the proposed Dick's building will be **6.1 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 the north west and north east sides of the Dick's Sporting Goods building, and a proposed interior divider median will not provide a landscape area, AND

WHEREAS, a public hearing was held on **June 18, 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) 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 the area variance requests from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	APPROVED [3 TO 0]
MOVER:	Erik A. Goergen, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Philips, Goergen
ABSTAIN:	Shubert
ABSENT:	Parker



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Town Clerk

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

3.8

DOC ID: 28964

ZBA ITEM (ID # 28964)

ADJOURNED

4795 Sheridan Drive- Area Variance

DRAFT RESOLUTION- *amended*

WHEREAS, **RAS Development I, LLC** has made application for an Area Variance(s), under

- 1. SECTION: 3-15-5A(4) (front setback)**
- 2. SECTION: 3-15-5A(4) (side setback)**
- 3. SECTION: 3-11-B(2) (unit quantity)**
- 4. SECTION: 3-15-6 (VUA setback)**

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

4795 Sheridan Drive with a MFR-5 Zoning District

The petitioner's proposed **building number 2** is **25.60 feet** from the front property line, whereas, the zoning ordinance requires **55.16 feet** minimum, and whereas, proposed building number 2 will be **24.66 feet** from the east property line, whereas, the zoning ordinance requires **55.16 feet**, and whereas, the proposed number of dwelling units will be (12) 2 bedroom units, (2) 3 bedroom units and (8) 1 bedroom units, which requires a minimum of **2.12 +/- acres** whereas, the petitioner's parcel is **2.06 +/- acres**, and whereas, the proposed vehicle use areas adjacent to both buildings will be a minimum of **6 feet** from the main building wall, whereas, the zoning ordinance requires **15 feet** minimum.

WHEREAS, a public hearing was held on **June 18, 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) 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;

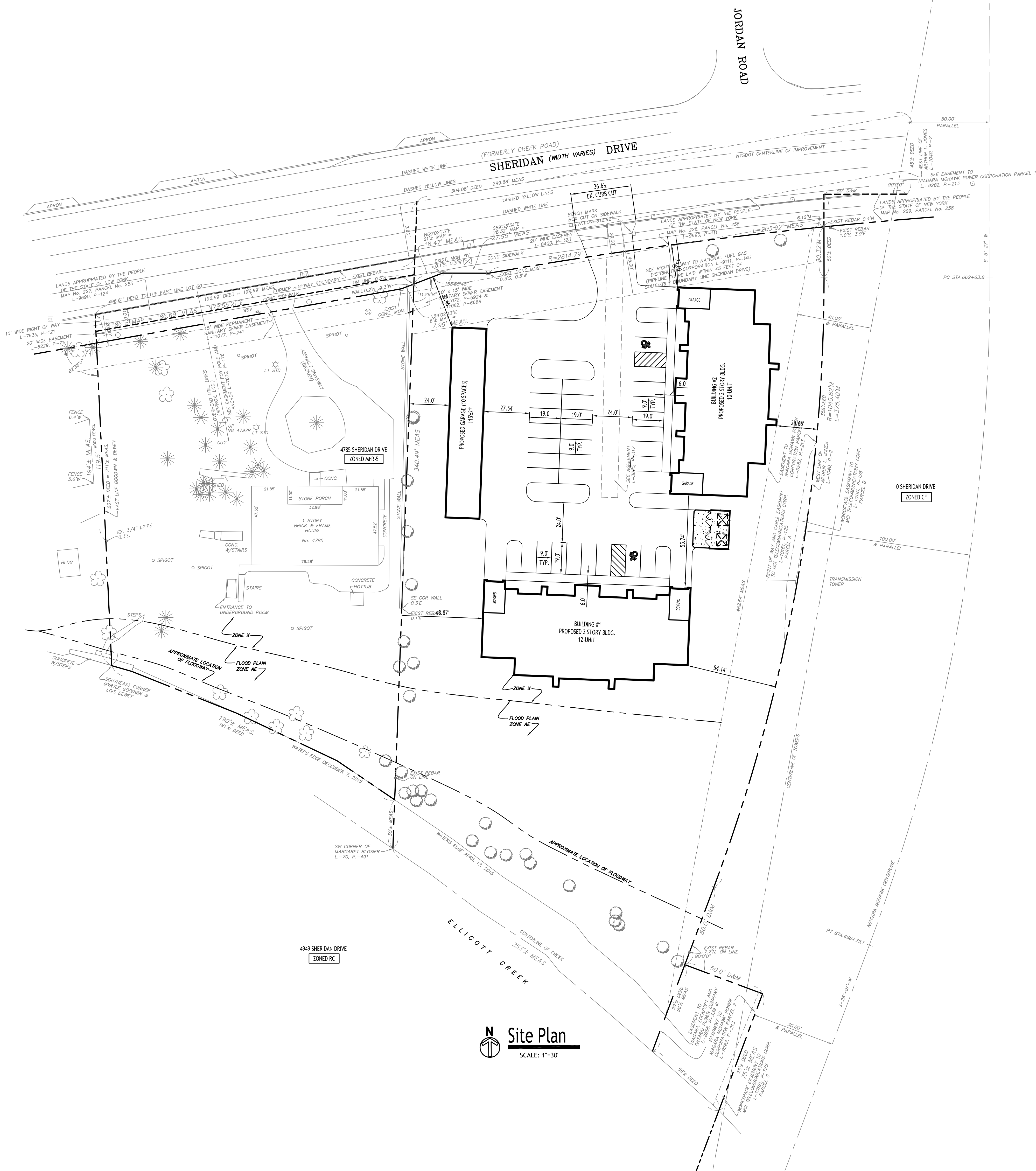
NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT: **ADJOURNED [UNANIMOUS]**
MOVER: Erik A. Goergen, Member
SECONDER: Ronald Shubert, Member
AYES: Bray, Shubert, Philips, Goergen
ABSENT: Parker

Next: 8/13/2024 6:30 PM

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Site Data		
SITE AREA = 2.06 AC		
ZONED: MFR-5		
PROPOSED USE: TWO MULTI-FAMILY BUILDINGS		
SETBACKS (BLDG.)	REQUIRED	PROVIDED
FRONT (BLDG #2)	55.16 FT	25.60 MIN.*
FRONT (GARAGE)	25 FT	32.68 MIN.
SIDE (BLDG LONG WALL / BLDG SHORT WALL) - BLDG #1	65.16 FT / 48.87 FT	48.87 MIN. (SHORT)
SIDE (BLDG LONG WALL / BLDG SHORT WALL) - BLDG #2	55.16 FT / 41.37 FT	24.66 MIN. (LONG)*
SIDE (GARAGE)	5 FT	24.0'
REAR (BLDG LONG WALL / BLDG SHORT WALL)	65.16 FT / 48.87 FT	> 66.0' (LONG)
SETBACKS (PARKING)		
FRONT (FROM R.O.W.)	20.0 FT	20.0'
SIDE (P.L.)	5.0 FT	> 5.0'
REAR (P.L.)	5.0 FT	N/A
MAIN BLDG WALL:	15.0 FT	6.0' MIN. *
END BLDG WALL:	10.0 FT	N/A
MIN. BUILDING SEPARATION:	45.12 FT	55.74'
MAX. BUILDING COVERAGE:	40% (0.82 AC)	< 40%
MAX. BUILDING HEIGHT:	35 FT	30.0'
MAX. DENSITY:	20 UNITS	22 UNITS *
PARKING: (9'x19')	44	34 SURFACE + 14 GARAGE
OVERALL:	X AC (XX%)	1.25 AC (60.6%)
INTERIOR:	5%	> 5%

* VARIANCE REQUIRED

NOTE: PROPOSED BUILDING MEAN HT (BLDG #1) = 32.58 FT (AVG. OF FRONT FACADE & REAR FACADE)
PROPOSED BUILDING MEAN HT (BLDG #2) = 27.58 FT
PROPOSED BUILDING MEAN HT (GARAGE) = 10.5 FT

PARKING CALCULATION:

MULTI-FAMILY
2 SPACES PER UNIT
22 UNITS x 2 = 44 SPACES REQ'D (9'x19')

BUILDING DENSITY (ALLOWABLE):	BUILDING DENSITY (PROPOSED):
PER MFR-5 ZONING REQUIREMENTS	PER MFR-5 ZONING REQUIREMENTS
1 BEDROOM = 3,630 SF OF SITE	1 BEDROOM = 3,630 SF OF SITE
2 BEDROOM = 4,356 SF OF SITE	2 BEDROOM = 4,356 SF OF SITE
3 BEDROOM = 5,445 SF OF SITE	3 BEDROOM = 5,445 SF OF SITE
QTY OF 0 1-BEDROOM UNITS = 0 SF	QTY OF 8 1-BEDROOM UNITS = 29,040 SF
QTY OF 20 2-BEDROOM UNITS = 87,120 SF	QTY OF 12 2-BEDROOM UNITS = 52,272 SF
QTY OF 0 3-BEDROOM UNITS = 0 SF	QTY OF 2 3-BEDROOM UNITS = 10,890 SF
= 87,120 SF	= 92,202 SF
= 2.00 ACRES	= 2.12 ACRES

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS, CARMINA WOOD DESIGN ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



CARMINA WOOD DESIGN

111 Bain Street, Suite 332
Cohasset, Maine 04020
Phone: (356) 937-9009

487 Main Street, Suite 500
Cohasset, Maine 04020
Phone: (716) 842-3165

Proposed Multi-Family

4795 Sheridan Drive
Amherst, NY

REVISIONS:	
No.	Description

PRELIMINARY
NOT FOR CONSTRUCTION

DRAWING NAME:
**Site Plan
Concept**

Date: 6/14
Drawn By: P. She
Scale: As No

DRAWING NO.

C-100

Project No: 24-4xxx



Area Variance Application

Town of Amherst – Planning Department

Applicant Information

Property Owner Name(s): _____

Phone Number: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

Applicant Name(s): _____

Phone Number: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

Property Information

Address: _____

SBL No.: _____ Zoning District: _____

Project Description

Current Use: _____

Proposed Use: _____

Briefly Describe the Proposed Project (attach additional information if necessary):

- ☐ I have the following conflicts pursuant to section 809 of the General Municipal Law as follows (see conflict disclosure on back of instruction page)

A completed Amended Part 1 of the Full Environmental Assessment Form is attached as Exhibit "1".

Office Use Only

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve a

Appl. No. _____

TOWN CLERK USE
DATE: _____
TIME: _____
REC'D BY: _____

Date Filed: _____

Mtg. Date: _____

Accepted By: _____

7/23/2021 X:\ZBA\Forms\TOA area variance application_07_27_2021.docx

Packet Pg. 23

Attachment: Amended Variance Application & Supporting Documentation-Date-06-14-24 (1)-compressed (28964 : 4795 Sheridan Drive- Area



Area Variance Application

Town of Amherst – Planning Department

Area Variance Request

No area variance will be granted without a showing by you (the applicant) that the following have been addressed. Attach any supporting materials to support your case.

1. **Character of Neighborhood.** Describe whether an undesirable change will be produced in the character of the neighborhood or if a detriment to nearby properties will be created if a variance is granted.

2. **Other Alternatives.** Describe whether the benefit being sought can be achieved by some other feasible method, other than an area variance being granted:

3. **Substantial.** Describe whether or not the requested variance is substantial in nature:

4. **Physical or Environmental Conditions.** Describe if the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district, including but not limited to traffic circulation, noise, or odor.

5. **Not self-created.** Describe if the alleged difficulty was self-created (did you cause the need for the variance). This response shall be considered by the Board of Appeals but shall not necessarily preclude the granting of the variance:



Area Variance Application

Town of Amherst – Planning Department

6. **Benefit to Applicant.** Describe how the requested variance would benefit you and your project.

Disclosure Affidavit

I maintain that the information provided above is true and accurate to the best of my knowledge:

Property owner or applicant name (print): _____

Property owner or applicant signature: Sean Hopkins

Date: _____

☐ If the applicant is not the property owner, has a letter of permission allowing the applicant to file this application been provided.

STATE OF NEW YORK COUNTY OF ERIE
On the _____ day of _____ in the year _____ before me,
The above individual personally appeared, personally known to
me or proved to me on the basis of satisfactory evidence to be
the individual whose name is subscribed to the within instrument
and acknowledged to me that he/she/they executed the same for
the purposes therein stated.

WITNESS my hand and official seal:

Signature of Notary Public

Print Name

Office Use Only

☐ SEQR is not required. ☐ 239M is applicable _____

☐ The applicant is also seeking a _____ which is attached.

Attachment: Amended Variance Application & Supporting Documentation-Date-06-14-24 (1)-compressed (28964 : 4795 Sheridan Drive- Area

**Exhibit 1 – Amended Part 1 of Full
Environmental Assessment Form
dated June 14, 2024**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Multifamily Project		
Project Location (describe, and attach a general location map): 4795 Sheridan Drive - Town of Amherst - Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed project ("action") consists of the development of the 2.1 acre Project Site at 4795 Sheridan Drive as a proposed multifamily project consisting of two-buildings totaling 22 units along with all proposed site improvements and the demolition of the existing structures. The project layout is depicted on the Site Plan and Site Plan with Contours [Drawing C-100] prepared by Carmina Wood Design. The proposed action has been defined broadly to include all required discretionary approvals and permits as well as all proposed site improvements including proposed multifamily buildings, detached garage buildings, access aisles and parking spaces, lighting, storm water management improvements and all required utility improvements. The project purpose is to redevelop the Project Site as a multifamily project per the existing MFR-5 zoning classification of the Project Site. The Project Sponsor believes the project will not result in any potentially significant adverse environmental impacts and that the issuance of a negative declaration is both appropriate and justified.		
Name of Applicant/Sponsor: RAS Development I, LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338 E-Mail: shopkins@hsmlegal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Bruce Platt, c/o Michael Blinkoff, Esq.	Telephone: 716-332-6014 E-Mail: mblinkoff@blinkoff.com	
Address: 501 JJ Audubon Parkway, Suite 400		
City/PO: Amherst	State: NY	Zip Code: 14228

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, ☐ Yes ☒ No or Village Board of Trustees		
b. City, Town or Village Planning Board or Commission ☒ Yes ☐ No	Site Plan Approval - Planning Board	To be Determined
c. City, Town or Village Zoning Board of Appeals ☒ Yes ☐ No	Area Variances - Zoning Board of Appeals	April 2024
d. Other local agencies ☒ Yes ☐ No		
e. County agencies ☒ Yes ☐ No	DSCA - Erie County Health Dept; ECWA - Water	To be Determined
f. Regional agencies ☐ Yes ☒ No		
g. State agencies ☒ Yes ☐ No	NYSDOT - Highway Work Permit, DEC - SPDES Permit	To be Determined
h. Federal agencies ☐ Yes ☒ No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		☐ Yes ☒ No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		☐ Yes ☒ No
iii. Is the project site within a Coastal Erosion Hazard Area?		☐ Yes ☒ No

C. Planning and Zoning**C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☒ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☒ Yes ☐ No

If Yes, identify the plan(s):

NYS Heritage Areas: West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

C.3. Zoning**3.8.b**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No

If Yes, what is the zoning classification(s) including any applicable overlay district?

Multifamily Residential District Five ("MFR-5")

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☒ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No

If Yes,

i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central School District

b. What police or other public protection forces serve the project site?

Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?

Fire district in which the Project Site is located.

d. What parks serve the project site?

Various parks including Amherst State Park.

D. Project Details**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Multifamily Residential

b. a. Total acreage of the site of the proposed action? 2.06 acres

b. Total acreage to be physically disturbed? 1.35 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.06 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: _____ months

ii. If Yes:

- Total number of phases anticipated _____

- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year

- Anticipated completion date of final phase _____ month _____ year

- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses?

☒ Yes ☐ No

3.8.b

If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	22
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)?

☐ Yes ☒ No

If Yes,

- i. Total number of structures _____
- ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
- iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage?

☒ Yes ☐ No

If Yes,

- i. Purpose of the impoundment: Stormwater runoff
- ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☒ Other specify: Surface stormwater runoff
- iii. If other than water, identify the type of impounded/contained liquids and their source. _____
- iv. Approximate size of the proposed impoundment. Volume: _____ TBD million gallons; surface area: _____ acres
- v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
- vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): Underground chamber system

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)

☐ Yes ☒ No

If Yes:

- i. What is the purpose of the excavation or dredging? _____
- ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
 - Over what duration of time? _____
- iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____

iv. Will there be onsite dewatering or processing of excavated materials?

☐ Yes ☐ No

If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting?

☐ Yes ☐ No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?

☐ Yes ☒ No

If Yes:

- i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No

If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☒ Yes ☐ No

If Yes:

i. Total anticipated water usage/demand per day: _____ 4600 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☒ Yes ☐ No

If Yes:

- Name of district or service area: ECWA Consolidated Water District
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☒ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☒ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☒ Yes ☐ No

If Yes:

i. Total anticipated liquid waste generation per day: _____ 4180 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

Sanitary sewer.

iii. Will the proposed action use any existing public wastewater treatment facilities? ☒ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: Town of Amherst WWTP
- Name of district: Town of Amherst Consolidated Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

- Do existing sewer lines serve the project site? ☒ Yes ☐ No
- Will a line extension within an existing district be necessary to serve the project? ☐ Yes ☒ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

- iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐ Yes ☒ No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

- v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

- vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

- e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☒ Yes ☐ No

If Yes:

- i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 0.9 acres (impervious surface)

_____ Square feet or 2.1 acres (parcel size)

- ii. Describe types of new point sources. building roofs, pavement parking lot

- iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

on site stormwater management system

- If to surface waters, identify receiving water bodies or wetlands: _____

- Will stormwater runoff flow to adjacent properties? ☐ Yes ☒ No

- iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐ Yes ☒ No

- f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐ Yes ☒ No

If Yes, identify:

- i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

- g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐ Yes ☒ No

If Yes:

- i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐ Yes ☐ No

- ii. In addition to emissions as calculated in the application, the project will generate:

- _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
- _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
- _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
- _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
- _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?

☐ Yes ☒ No

3.8.b

If Yes:

- i. Estimate methane generation in tons/year (metric): _____
- ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?

☐ Yes ☒ No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?

☐ Yes ☒ No

If Yes:

- i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend
☐ Randomly between hours of _____ to _____.
- ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____
- iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____
- iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No
- v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____
- vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐ Yes ☐ No
- vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No
- viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?

☐ Yes ☒ No

If Yes:

- i. Estimate annual electricity demand during operation of the proposed action: _____
- ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____
- iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐ Yes ☐ No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: _____ 7:00 a.m. to 5:00 p.m.
- Saturday: _____ As needed
- Sunday: _____ Not applicable
- Holidays: _____ Not applicable

ii. During Operations:

- Monday - Friday: _____ Not applicable - residential project
- Saturday: _____
- Sunday: _____
- Holidays: _____

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?

☒ Yes ☐ No

3.8.b

If yes:

i. Provide details including sources, time of day and duration:

The project will result in short-term unavoidable noise impacts during construction resulting from construction activities during hours as listed above previously.

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?

☐ Yes ☒ No

Describe: _____

n. Will the proposed action have outdoor lighting?

☒ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

The lighting will be dark sky compliant without any lighting spillover onto adjacent properties per the Town's lighting standards.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?

☐ Yes ☐ No

Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day?

☐ Yes ☒ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?

☐ Yes ☒ No

If Yes:

i. Product(s) to be stored _____

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?

☐ Yes ☒ No

If Yes:

i. Describe proposed treatment(s): _____

ii. Will the proposed action use Integrated Pest Management Practices?

☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?

☐ Yes ☒ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

• Construction: _____ tons per _____ (unit of time)

• Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

• Construction: _____

• Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

• Construction: _____

• Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility?

☐ Yes ☒ No

3.8.b

If Yes:

- i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____
- ii. Anticipated rate of disposal/processing:
 - _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
 - _____ Tons/hour, if combustion or thermal treatment
- iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

- i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____
- ii. Generally describe processes or activities involving hazardous wastes or constituents: _____
- iii. Specify amount to be handled or generated _____ tons/month
- iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____
- v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

- ☐ Urban ☐ Industrial ☐ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☒ Other (specify): Park County Club

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0.9	+ 0.9
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	0	0
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Greenspace and Landscaping</u>	2.1	1.2	- 0.9

c. Is the project site presently used by members of the community for public recreation?

☐ Yes ☒ No

3.8.b

i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?

☐ Yes ☐ No

If Yes,

i. Identify Facilities: _____

e. Does the project site contain an existing dam?

☐ Yes ☒ No

If Yes:

i. Dimensions of the dam and impoundment:

- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____

iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?

☐ Yes ☒ No

If Yes:

i. Has the facility been formally closed?

☐ Yes ☐ No

- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?

☐ Yes ☒ No

If Yes:

i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?

☐ Yes ☒ No

If Yes:

i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:

☐ Yes ☐ No

☐ Yes – Spills Incidents database

Provide DEC ID number(s): _____

☐ Yes – Environmental Site Remediation database

Provide DEC ID number(s): _____

☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?

☐ Yes ☒ No

If yes, provide DEC ID number(s): _____

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☒ No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ >5 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☒ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Hudson silty clay loam	34 %
Schoharie silt loam	66 %
_____	_____ %

d. What is the average depth to the water table on the project site? Average: _____ 2 feet

e. Drainage status of project site soils: ☐ Well Drained: _____ % of site
☐ Moderately Well Drained: _____ % of site
☐ Poorly Drained: _____ 100 % of site

f. Approximate proportion of proposed action site with slopes: ☒ 0-10%: _____ 75 % of site
☐ 10-15%: _____ % of site
☒ 15% or greater: _____ 25 % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☒ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☒ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☒ Yes ☐ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☒ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☒ No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? [The project has been designed to avoid impacts to both the designated Floodway and the 100 yr. Floodplain on the rear of the Project Site.] ☒ Yes ☐ No

j. Is the project site in the 100-year Floodplain? ☒ Yes ☐ No

k. Is the project site in the 500-year Floodplain? ☒ Yes ☐ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☒ No
If Yes:

i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____

Typical suburban species _____

n. Does the project site contain a designated significant natural community? ☐ Yes ☒ No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): _____

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐ Yes ☒ No

If Yes:

i. Species and listing (endangered or threatened): _____

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐ Yes ☒ No

If Yes:

i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐ Yes ☒ No

If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No

If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☐ No

i. If Yes: acreage(s) on project site: _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☒ No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☒ No

If Yes:

i. CEA name: _____

ii. Basis for designation: _____

iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐ Yes ☒ No

3.8.b

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☒ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☒ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☒ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☒ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

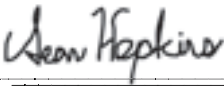
G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name RAS Development I, LLC

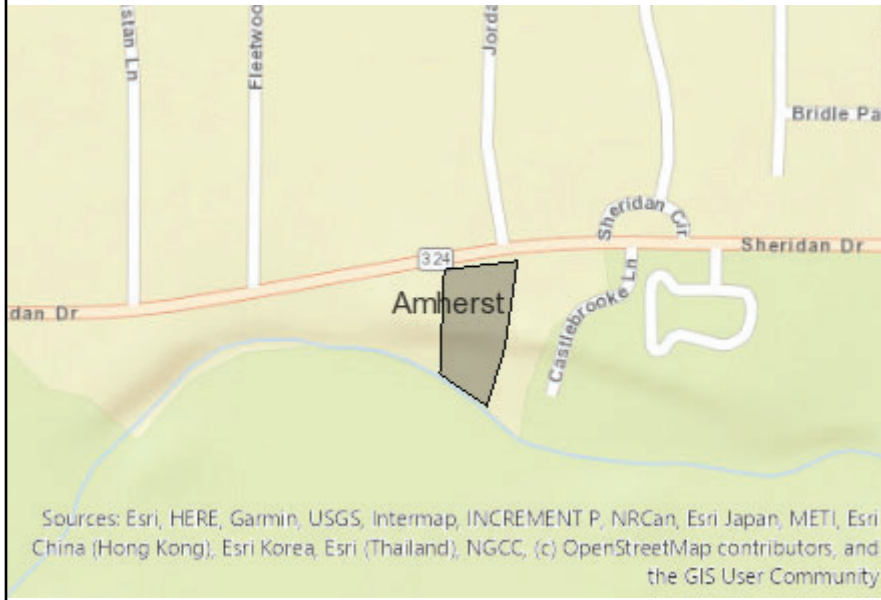
Date June 14, 2024

Signature



Title Counsel for Project Sponsor

PRINT FORM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

E.2.p. [Rare Plants or Animals]	No	3.8.b
E.3.a. [Agricultural District]	No	
E.3.c. [National Natural Landmark]	No	
E.3.d [Critical Environmental Area]	No	
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.	
E.3.f. [Archeological Sites]	Yes	
E.3.i. [Designated River Corridor]	No	

TOWN OF AMHERST ATTACHMENT
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM

1. For each applicable category of proposed new structures, including additions to existing structures, provide the following information for all soil types on the project site (according to *Soil Survey of Erie County, NY; Table 11, Building Site Development, pp 294-305*):

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
Hudson Silty Clay Loam	☒				
Schocharie silt loam	☒				

2. If the Soil survey indicates either "severe" or "moderate" suitability for the proposed types of construction, a geotechnical and hydrological analysis based on one test per 3.5 acres of project area must be provided (per Town Board resolution, 3/17/03, amended 6/16/03).

[to be submitted at a later date] ☒ Geotechnical report attached ☐ Not applicable

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes ☒ No
On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes ☒ No

If so, the property may be within an area of the Town that is affected by a moratorium on connections to the sanitary sewer system.

4. Are there alternative locations on the site for this project? ☐ Yes ☒ No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:

4795 Sheridan Drive - 2.1 ac

4774 & 4780 Sheridan Drive - 5.03 ac

6. Are you aware of current or future plans or intentions by others in the Town of Amherst to develop property within 1000± ft. of the present project request: ☐ Yes ☒ No

Describe _____

(Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns.)

7. Maximum number of vehicular trips to be generated per hour upon completion of project 10
Source: ITE Trip Generator

8. Will blasting occur during construction? ☐ Yes ☒ No

9. Does the project propose to connect and be tributary to the public sanitary sewer system? ☒ Yes ☐ No

10. Proposed net additional gallons per day (gpd) of sanitary sewer discharge upon completion of project:

5,720 average flow 24,611 peak flow.

(Please note that average flows of 2,500 gpd or greater will require an Engineer's Report that includes a detailed downstream sewer capacity analysis and the identification of and commitment to required I/I offset work during peak wastewater flow conditions.)

**Exhibit 2 – Updated Description of
Requested Area Variances & Justification
for Requested Area Variances for the
Proposed Project Pursuant to The
Balancing Test and Five Criteria Contained
in NYS Town Law Section 267-b(3)(b)**

EXHIBIT 2

AMENDED DESCRIPTION OF REQUESTED AREA VARIANCES PROPOSED MULTIFAMILY PROJECT AT 4795 SHERIDAN DRIVE TOWN OF AMHERST ZONING BOARD OF APPEALS

I. Introduction and Updated Description of the Proposed Multifamily Project:

The Applicant is seeking area variances in connection with the proposed multifamily project to be located at 4795 Sheridan Drive. The project layout depicted on the Site Plan prepared by Carmina Wood Design consists of a 12-unit building and 10-unit building [total of 22 units] along with related site improvements including the required 44 parking spaces [including 10 garage spaces].¹ Reduced-size copies of the updated Site Plan and the updated Site Plan with Contours showing the layout of the proposed multifamily project along with a reduced-size copy of the survey of the Project Site are provided at **Exhibit “3”**.

II. Description of Requested Area Variances and Justification for Requested Area Variances:

The proposed multifamily project requires the following area variances from the Zoning Board of Appeals (“ZBA”):

1. **The front yard setback of Building #2 is less than permitted pursuant to Section 203-3-15-5A(4) of the Zoning Code [55.16 ft. required based on mean building height of 27.58 ft. vs. 25.60 ft. proposed].**
2. **The side yard setback on the east side of building #2 is less than permitted pursuant to Section 203-3-15-5A(4) of the Zoning Code [55.16 ft. required for Building #2 based on mean building height of 27.58 ft. (long side of building) vs. 24.66 ft. proposed].**

[Note: The property directly to the east of the Project Site consists of a National Grid utility Right-of-Way.]

¹ The proposed multifamily project previously consisted of 26 units (all 2-bedrooms units) as depicted on the Concept Site Plan presented to the Zoning Board of Appeals during the public hearing it held on May 14, 2024.

3. **The lot area is less than required pursuant to Section 203-3-11-B(2) of the Zoning Code [Lot area of 2.12 acres required vs. 2.00 acres proposed].**

[Note: The required lot area that was required pursuant to the layout depicted on the previous Concept Site Plan was 2.6 acres based on 26 units comprised of two-bedroom units.]

4. **The proposed on-site vehicle parking areas fronts both Building #1 and #2 but is located closer than the minimum buffer required pursuant to Section 203-3-15-6 of the Zoning Code [15 ft. required along main wall vs. 6 ft. minimum proposed].**

III. Justification for Requested Area Variances:

NYS Town Law §267-b(3)(b) sets forth a statutorily mandated balancing test to be considered by a Zoning Board of Appeals (“ZBA”) in connection with its review of a request for area variances. The statutorily mandated balancing test requires a zoning board of appeals to balance the benefits that will be realized if the requested relief is granted against the resulting detriments to the health, safety and welfare of the community.

The granting of the requested area variances will result in substantial benefits to the Applicant since it will allow the Applicant to proceed with the proposed multifamily project pursuant to the project layout depicted on the Site Plan. In applying the statutorily mandated balancing test set forth above, NYS Town Law §267-b(3)(b) requires a ZBA to consider five criteria as described below:

1. **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 requested area variances?**

The granting of the requested area variances by the ZBA will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed multifamily buildings to be constructed on the Project Site will feature high quality architectural materials. The granting of the requested east side yard building setback area variances as measured

from the National Grid Right-of-Way directly east of the Project Site are beneficial since otherwise the building would need to be located closer to the western boundary of the Project Site.

2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance?

It would not be possible for the Applicant to receive the benefits it will receive if the requested area variances are granted without seeking relief from the Zoning Board of Appeals. There are not any feasible alternatives to the requested area variances that would eliminate the need for the requested area variances while simultaneously allowing the Applicant to receive the benefits it will receive if the requested area variances are granted in furtherance of the proposed project layout..

3. Whether the requested area variances are substantial?

The reason the magnitude of the variance is relevant is that, generally, the larger the difference the more likely it is that a negative effect would be generated. See Matter of Human Development Services of Port Chester v. Zoning Board of Appeals of the Village of Port Chester, 110 A.D.2d 135, aff'd, 67 N.Y.2d 702. However, in any particular case, the facts may demonstrate that while a variance may seem noteworthy on paper, no negative effect would be produced and, accordingly, the sought-after variance should be granted.

For example, in Matter of Frank v. Scheyer, 227 A.D.2d 558, 642 N.Y.S.2d 956 (2d Dept. 1996), the parcel was 19,983 square feet. However, the zoning code required a minimum lot size of one acre or 43,560 square feet. The variance at issue was more than 54%. Nevertheless, based on the facts presented, no harm would result to the community and the Court directed the zoning board of appeals to grant the application. The Court took similar action in Matter of Shaughessy v. Roth, 204 A.D.2d 333, 611 N.Y.S.2d 281 (2d Dept. 1994), in which the premises contained 50 feet of frontage and 5,000 square feet of area. The zoning code required 80 feet of frontage and a

minimum lot size of 10,000 square feet. Accordingly, the application concerned a 50% reduction in lot area coupled with a second area variance seeking a 62.5% reduction from the required frontage. Nevertheless, based on the facts in the record, the Court directed the respondents to issue the variances. Additionally, in Matter of Sasso v. Osgood, 86 N.Y.2d 374 (1995), the applicant sought area variances for a 60% reduction in lot area and a 50% reduction in lot width. Based on all of the facts presented, the Court of Appeals, the State's highest court, overturned the holding of the appellate court and directed that the requested area variances be granted.

Merely because requested area variances may seem noteworthy on paper does not mean that any "harm" would be generated on the surrounding community, and it is "harm" that is balanced against the interest of the applicant according to the Town Law §267-b(3) test. As mentioned previously, the granting of the requested area variances in furtherance of the proposed multifamily project will not result in any "harm" on the surrounding community.

4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

The granting of the requested area variances will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. A completed Amended Part 1 of the Full Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQRA") is provided at **Exhibit "1"**. It is also important to mention that the proposed multifamily project will also require Site Plan Approval from the Planning Board which will trigger the need to submit detailed technical documentation including engineered plans and a SWPPP with Engineer's Report prepared by Carmina Wood Design demonstrating the project will comply with all applicable technical standards for stormwater management, lighting, etc.

5. Whether the alleged difficulty was self-created?

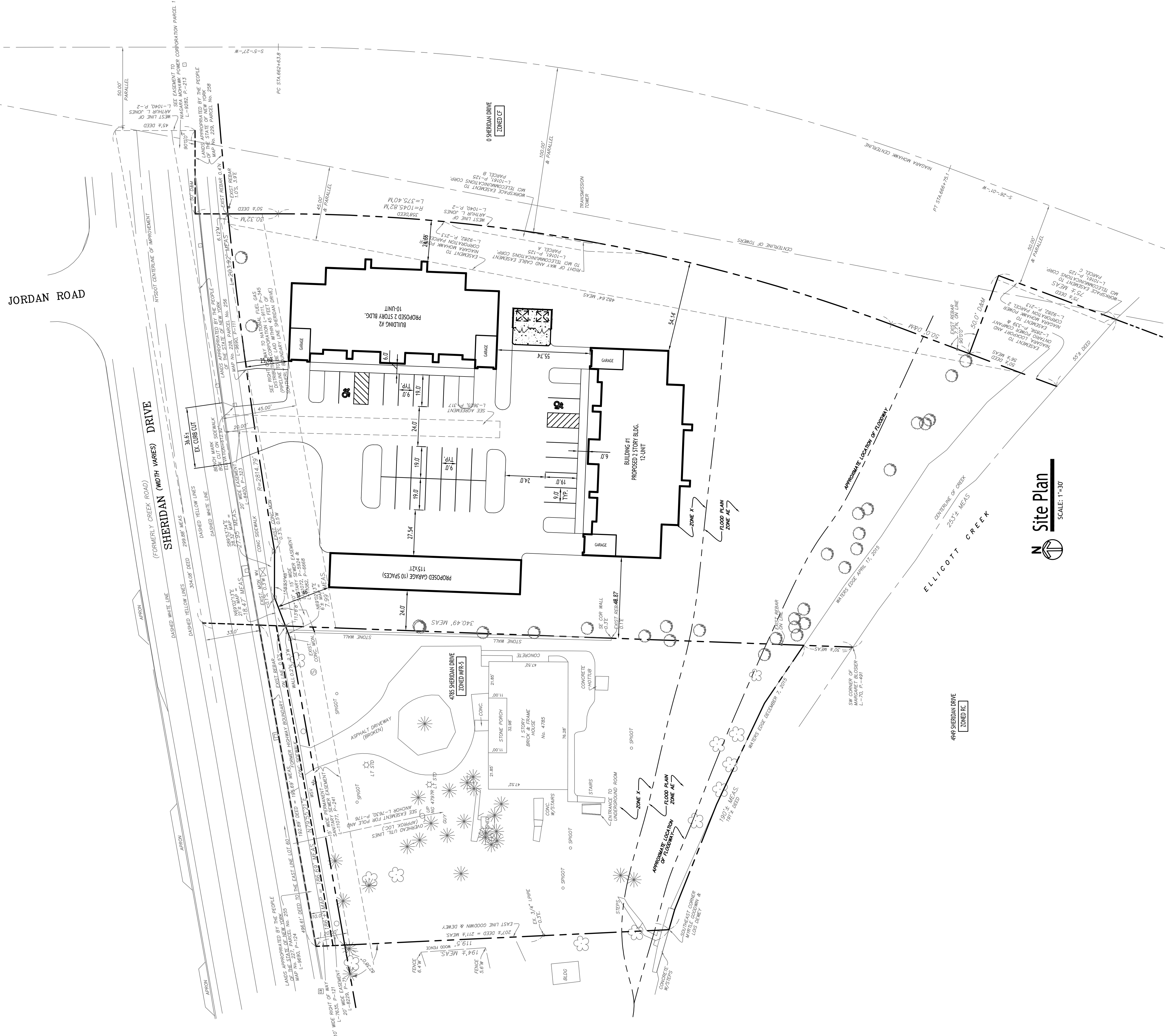
Town Law Section 267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant a requested area variance. It is the position of the Applicant that while the alleged difficulty can be viewed as being self-created since the Applicant has knowledge of the MFR-5 zoning of the Project Site, the overall balancing test and the other four statutory criteria provides ample justification for the granting of the requested area variances.

IV. Conclusion:

The Applicant requests that the Zoning Board of Appeals grant the relief being sought in connection with the proposed multifamily project. The granting of the requested area variances is justified since the benefits that will be received by Applicant if the requested area variances are granted clearly outweighs any resulting detriments per the statutorily mandated balancing test and five criteria.

**Exhibit 3 – Reduced-Size Copy of the
Updated Site Plan and Updated Site
Plan with Contours as Prepared by
Carmina Wood Design**

All rights reserved. Reuse of these documents without the expressed written permission of CARMINA WOOD DESIGN is prohibited. WARNING: It is a violation of article 145 of the New York State Education Law to any person, unless acting under the direction of a registered architect, licensed engineer or land surveyor, to alter this drawing, if altered such that R.A., P.E. or L.S. shall affix his or her seal, signature, the date, the notation "Altered By" and a specific description of the alteration.



N Site Plan
SCALE: 1"=30'

Site Data				
SITE AREA = 2.06 AC				
ZONED: MFR-5				
PROPOSED USE: TWO MULTI-FAMILY BUILDINGS				
SETBACKS (BLDG)	REQUIRED	PROPOSED		
FRONT (BLDG #2)	50.0 FT	50.0 FT		
FRONT (BLDG #3)	50.0 FT	50.0 FT		
SIDE (BLDG LONG WALL / BLDG SHORT WALL) - BLDG #1	65.16 FT / 48.87 FT	48.87 MIN. (SHORT)		
SIDE (BLDG LONG WALL / BLDG SHORT WALL) - BLDG #2	55.16 FT / 41.37 FT	24.66 MIN. (LONG)		
SIDE (GARAGE)	5 FT	24.0		
REAR (BLDG LONG WALL / BLDG SHORT WALL)	65.16 FT / 48.87 FT	> 66.0 (LONG)		
SETBACKS (PARKING)				
FRONT (FROM R.O.W.)	20.0 FT	.20.0		
REAR (P.L.)	5.0 FT	> 5.0		
MAIN BLDG WALL:	15.0 FT	N/A		
END BLDG WALL:	10.0 FT	N/A		
MIN. BUILDING SEPARATION:	45.12 FT	55.74		
MAX. BUILDING COVERAGE:	40% (0.81 AC)	< 40%		
MAX. BUILDING HEIGHT:	35 FT	30.0		
MAX. DENSITY:	20 UNITS	22 UNITS*		
PARKING (P#19)	44	34 SURFACE + 14 GARAGE		
GREENSPACE				
OVERALL:	X AC (X%)	1.35 AC (66.6%)		
INTERIOR:	5%	> 5%		

* VARIANCE REQUIRED

NOTE: PROPOSED BUILDING MEAN HT (BLDG #1) = 33.58 FT (AVG. OF FRONT FACADE & REAR FACADE)
PROPOSED BUILDING MEAN HT (BLDG #2) = 27.58 FT
PROPOSED BUILDING MEAN HT (GARAGE) = 10.3 FT

PARKING CALCULATION:

"MULTI-FAMILY"
2 SPACES PER UNIT
22 UNITS X 2 = 44 SPACES REQ'D (P#19)

BUILDING DENSITY (ALLOWABLE):

100 SF PER 500 SF DENSITY REQUIREMENTS
1 BEDROOM = 2,100 SF OF SITE
2 BEDROOM = 4,200 SF OF SITE
3 BEDROOM = 6,300 SF OF SITE

BUILDING DENSITY (PROPOSED):

100 SF PER 500 SF DENSITY REQUIREMENTS
1 BEDROOM = 2,100 SF OF SITE
2 BEDROOM = 4,200 SF OF SITE
3 BEDROOM = 6,300 SF OF SITE

QTY OF 0 - 1 BEDROOM UNITS = 0 SF
QTY OF 20 - 2 BEDROOM UNITS = 87,100 SF
QTY OF 0 - 3 BEDROOM UNITS = 87,100 SF
= 87,100 SF
= 2.12 ACRES

QTY OF 8 - 1 BEDROOM UNITS = 20,040 SF
QTY OF 12 - 2 BEDROOM UNITS = 52,222 SF
QTY OF 2 - 3 BEDROOM UNITS = 12,838 SF
= 85,100 SF
= 2.12 ACRES

Proposed Multi-Family
4795 Sheridan Drive
Amherst, NY

REVISIONS:	No.	Description	Date
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PRELIMINARY
NOT FOR CONSTRUCTION

DRAWING NAME:
Site Plan
Concept

Date: 6/14/24
Drawn By: P. Sheehy
Scale: As Noted

DRAWING NO.

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS.
CARMINA WOOD DESIGN ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.



Project No: 24-4xxx

C-100

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Date: 6/14/24
Drawn By: P. Sheehy
Scale: As Noted

DRAWING NO.

C-100

Project No: 24-4xxx

DRAWING NAME:
Site Plan
w/ Contours

PRELIMINARY
NOT FOR CONSTRUCTION

REVISIONS:	No.	Description	Date

Proposed Multi-Family

4795 Sheridan Drive
Amherst, NY

CARMINA WOOD
DESIGN

487 Main Street, Suite 500
Buffalo, New York 14203

Phone: (336) 937-9009
111 Bain Street, Suite 322
Greensboro, North Carolina 27406

N Site Plan
SCALE: 1"=30'

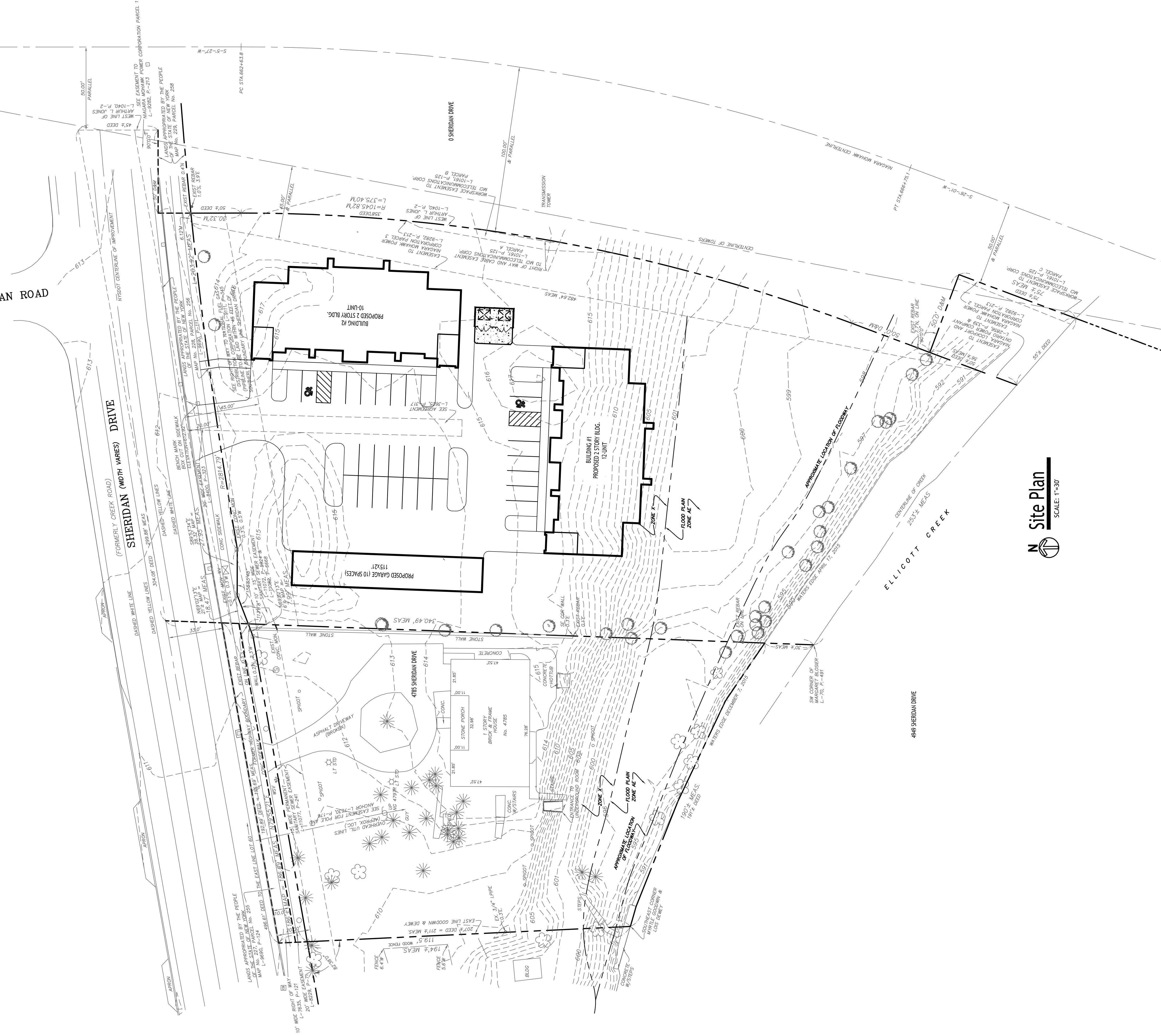


Exhibit 4 – Reduced-Size Copy of Survey of Project Site

NOTES:
1. THE FOLLOWING INFORMATION IS BASED ON THE RECORD DRAWING OF THE PROPERTY AND THE FIELD SURVEY.
2. THE PROPERTY IS LOCATED IN THE TOWN OF AMHERST, ERIE COUNTY, NEW YORK.
3. THE PROPERTY IS LOCATED IN THE TOWN OF AMHERST, ERIE COUNTY, NEW YORK.
4. THE PROPERTY IS LOCATED IN THE TOWN OF AMHERST, ERIE COUNTY, NEW YORK.

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BOUNDARY & TOPOGRAPHIC SURVEY
BEING PART OF LOT 60, TOWNSHIP 12, RANGE 7
TOWN OF AMHERST, ERIE COUNTY, NEW YORK

DATE: APRIL 17, 2024
JOB NO. 2294
SCALE: 1" = 30'

DATE: APRIL 17, 2024
JOB NO. 2294
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