



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Wednesday, October 16, 2024

6:30 PM

Amherst Municipal Building

I. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
Brian Bray	Town of Amherst	Member	Present	
Ronald Shubert	Town of Amherst	Member	Present	
Kelly J. Philips	Town of Amherst	Member	Present	
Ellen Parker	Town of Amherst	Member	Present	
Erik A. Goergen	Town of Amherst	Member	Absent	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
James Quinn	Town of Amherst	Assistant Planner	Present	
Samuel A. Alba	Town of Amherst	Interim Town Attorney	Late	7:10 PM
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, September 17, 2024

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 29512)

2350 Sweet Home Road - Area Variance

The petitioner's proposed high impact screening is inconsistent with the requirements of the zoning ordinance.

10/16/2024

Attny Sean Hopkins spoke and answered questions from the Board.

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

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

2. ZBA Item (ID # 29505)

6812,6814, & 6832 Main Street - Area Variance

The petitioner's proposed building will be 5 feet from the west property line, whereas, the zoning board of appeals previously permitted a 10 foot setback, and whereas, the proposed ground sign will be 8 feet from the south property line, whereas, the zoning ordinance requires 15 feet.

10/16/2024

Attny Sean Hopkins spoke and answered questions from the Board.

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

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

3. ZBA Item (ID # 29510)

6842-6846 Main Street - Area Variance

The petitioner's proposed ground sign will be 6 feet from the east property line and 11.4 feet from the west property lines, whereas, the zoning ordinance requires 25 feet.

10/16/2024

Attny Sean Hopkins spoke and answered questions from the Board.

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

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

4. ZBA Item (ID # 29514)

4795 Sheridan Drive - Area Variance

The petitioner's proposed building number (1) will be 39.41 feet from the east property line, whereas, the zoning ordinance requires 48.87 feet.

10/16/2024

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

There were no speakers from the public, therefore Chairman Bray moved to hold the hearing open and adjourn the matter to the 11/19/2024 meeting.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 11/19/2024 6:30 PM
MOVER:	Brian Bray, Member	
SECONDER:	Kelly J. Philips, Member	
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker	
ABSENT:	Erik A. Goergen	

5. ZBA Item (ID # 29503)

66 Burbank Drive- Area Variance

The petitioner's single story addition will be a minimum of 4 feet from the west property line, whereas, the zoning ordinance requires 30 feet minimum, and whereas the proposed carport will be a minimum of 3 feet from the south property line, whereas, the zoning ordinance requires 5 feet minimum, and whereas, a proposed shed will be 0 feet the south property line, whereas, 3 feet is required, and whereas the total building coverage will be 4,988 s.f., whereas, 4,564 s.f. is permitted.

10/16/2024

Petitioner, Joycelyn Gordon, spoke and answered questions from the Board.

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

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

6. ZBA Item (ID # 29509)

111 N. Maplemere Road - Area Variance

The petitioner's total site signage will be 1,702.4 s.f in area, whereas, the zoning ordinance limits total signage to 220.7 s.f., and whereas, the height of the proposed ground signs are 9 feet from grade, whereas the zoning ordinance limits the height to 8 feet, and whereas, the proposed directory signs are 21.9 s.f. in area, whereas, the zoning ordinance limits the signs to 16 s.f. in area.

10/16/2024

Atty Jessica Boechel spoke and answered questions from the Board.

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

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

7. ZBA Item (ID # 29511)

1501-1551 Niagara Falls Boulevard - Area Variance

The petitioner's proposed interactive teller machine (ITM) will be 11.8 feet from the south property line, whereas, the zoning ordinance requires 50 feet minimum.

10/16/2024

Mathew Oates spoke on behalf of 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 [3 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Brian Bray, Kelly J. Philips, Ellen Parker
ABSENT:	Erik A. Goergen
RECUSED:	Ronald Shubert

8. ZBA Item (ID # 29519)

4099 Tonawanda Creek Road - Area Variance

The petitioner's proposed garage will create a total building area of 2,891 s.f. for all accessory buildings, whereas, the zoning ordinance permits a maximum building area of 1,667 s.f. for accessory structures including attached garages.

10/16/2024

Petitioner Kyle Hovak spoke and answered questions from the Board.

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

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

9. ZBA Item (ID # 29508)

1265 Smith Road - Special Use Permit Wireless Cellular Communications Facility

The petitioner desires to establish an 115 foot tall wireless telecommunications facility on Town owned land and obtain waivers for its construction, whereas, a special use permit is required to establish such facility from the Zoning Board of Appeals and to obtain any

necessary relief for its location and/or construction.

10/16/2024

Atty Jared Lusk spoke and answered questions from the Board.

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

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

SEQR Determination

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

10. ZBA Item (ID # 29507)

128 Casey Road - Special Use Permit

The petitioner desires to establish a personal service (Licensed Esthetician) from her dwelling, whereas, a special use permit is required for a type 2 home occupation when customers will be obtaining services from a dwelling.

10/16/2024

Petitioner Jenna Granto spoke and answered questions from the Board.

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

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

SEQR Determination

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

11. ZBA Item (ID # 29397)

438 Callodine Avenue- Area Variance

The petitioner's recently constructed fence is 4 feet in height within the required front yard, whereas, the zoning ordinance, does not permit fencing to exceed 3 feet in height within the required front yard.

10/16/2024

Petitioner Emdad Hossain spoke and answered questions from the Board.

Michael Colella 420 Callodine, Paul Campbell 426 Callodine, Lauri Howard 430 Callodine, spoke in opposition.

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

HISTORY:**09/17/24****Zoning Board of Appeals****ADJOURNED****Next: 10/16/24**

RESULT:	ADJOURNED [UNANIMOUS]	Next: 1/14/2025 6:30 PM
MOVER:	Brian Bray, Member	
SECONDER:	Kelly J. Philips, Member	
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker	
ABSENT:	Erik A. Goergen	

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Member Philips moved to adjourn, seconded by Member Shubert and unanimously approved 4-0. The Zoning Board of Appeals meeting of October 16, 2024 was adjourned at 7:51 PM.



Zoning Board of Appeals

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

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 29512

ZBA ITEM (ID # 29512)

APPROVED

2350 Sweet Home Road - Area Variance

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

SECTION: 7-2-4B

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

2350 Sweet Home Road within a MFR-5 & OB Zoning District

The petitioner's proposed **high impact screening** is inconsistent with the requirements of the zoning ordinance AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is not substantial, 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, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 29505

ZBA ITEM (ID # 29505)

APPROVED

6812,6814, & 6832 Main Street - Area Variance

WHEREAS, **6812 Main Street, LLC** has made application for an Area Variance(s),
under

1. SECTION: 4-4-2B (bldg. setback)

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

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

6812, 6814 & 6832 Main Street within a GB-Zoning District

The petitioner's proposed **mixed-use building** will be **5 feet** from the west property line, whereas, the Zoning Board of Appeals previously permitted a **10 foot** setback, and whereas, the proposed **ground sign** will be **8 feet** from the south property line, whereas, the zoning ordinance requires 15 feet minimum, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) 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 variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

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



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 29510

ZBA ITEM (ID # 29510)

APPROVED

6842-6846 Main Street - Area Variance

WHEREAS, **6842 Main Street, LLC** has made application for an Area Variance(s), under

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

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

6842-6846 Main Street within a DC-5 Zoning District

The petitioner's proposed **ground sign** will be **6 feet** from the **east** property line and **11.4 feet** from the **west** property lines, whereas, the zoning ordinance requires **25 feet** minimum, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is not substantial, 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:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 29514

ZBA ITEM (ID # 29514)

ADJOURNED

4795 Sheridan Drive - Area Variance

DRAFT RESOLUTION

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

SECTION: 3-15-5A(4)

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

4795 Sheridan Drive within a MFR-5 Zoning District

The petitioner's proposed **building number (1)** will be **39.41 feet** from the east property line, whereas, the zoning ordinance requires **48.87 feet**, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

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

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

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

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

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

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 11/19/2024 6:30 PM

MOVER: Brian Bray, Member

SECONDER: Kelly J. Philips, Member

AYES: Bray, Shubert, Philips, Parker

ABSENT: Goergen



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 29503

ZBA ITEM (ID # 29503)

APPROVED

66 Burbank Drive- Area Variance

WHEREAS, **Charlie & Joycelyn Gordon** have made application for an Area Variance(s), under

- 1. SECTION: 3-6-2B(rear setback)**
- 2. SECTION: 3-6-2B (side setback)**
- 3. SECTION: 3-6-2B (lot coverage)**
- 4. SECTION: 3-6-3B 9 (shed setback)**

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

66 Burbank Drive within a R-3 Zoning District

The petitioner's **single story addition** will be a minimum of **4 feet** from the **west** property line, whereas, the zoning ordinance requires **30 feet** minimum, and whereas the proposed **carport** will be a minimum of **3 feet** from the **south** property line, whereas, the zoning ordinance requires **5 feet** minimum, and whereas, a proposed **shed** will be **0 feet** the **south** property line, whereas, **3 feet** is required, and whereas the total **building coverage** will be **4,988 s.f.**, whereas, **4,564 s.f.** is permitted, AND

WHEREAS, a public hearing was held on **October 16 ,2024** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials,

conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) 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 variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

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



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Town Clerk

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 29509

ZBA ITEM (ID # 29509)

APPROVED

111 N. Maplemere Road - Area Variance

WHEREAS, **Amherst 111, APL RKC, LLC** has made application for an Area Variance(s), under

1. SECTION: 7-8-8A (sign area)

2. SECTION: 7-8-4B1(c) (sign height)

3. SECTION: 7-8-4C1(b) (directory sign)

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

111 N. Maplemere Road Main Street within an OB-Zoning District

The petitioner's total **site signage** will be **1,702.4 s.f** in area, whereas, the zoning ordinance limits total signage to **220.7 s.f.**, and whereas, the **height** of the proposed **ground signs** are **9 feet** from grade, whereas the zoning ordinance limits the height to **8 feet**, and whereas, the proposed **directory signs** are **21.9 s.f.** in area, whereas, the zoning ordinance limits the signs to **16 s.f.** in area, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) 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 variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker
ABSENT:	Goergen



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Francina J. Spoth
Town Clerk

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

3.7

DOC ID: 29511

ZBA ITEM (ID # 29511)

APPROVED

1501-1551 Niagara Falls Boulevard - Area Variance

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

1. SECTION: 4-7-2B

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

1501-1551 Niagara Falls Boulevard within a SC-Zoning District

The petitioner's proposed **interactive teller machine (ITM)** will be **11.8 feet** from the **south** property line, whereas, the zoning ordinance requires **50 feet** minimum, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is not substantial, 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 [3 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Philips, Parker
ABSENT:	Goergen
RECUSED:	Shubert



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 29519

ZBA ITEM (ID # 29519)

APPROVED

4099 Tonawanda Creek Road - Area Variance

WHEREAS, **Kyle & Melissa Hovak** have made application for an Area Variance(s),
under

SECTION: 6-8-1B

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

4099 Tonawanda Creek Road within a SA Zoning District

The petitioner's proposed garage will create a total building area of 2,891 s.f. for all accessory buildings, whereas, the zoning ordinance permits a maximum building area of 1,667 s.f. for accessory structures including attached garages, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

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

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

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

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

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

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



Zoning Board of Appeals

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

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 29508

ZBA ITEM (ID # 29508)

APPROVED W/ CONDITIONS

1265 Smith Road - Special Use Permit Wireless Cellular Communications Facility

WHEREAS, **Bell Atlantic Mobile Systems, LLC, d/b/a Verizon** has made application for a Special Use Permit, with the permission of the land owner, the Town of Amherst under

- 1. SECTION: 6-7-3A (use)**
- 2. SECTION: 6-7-6A (height)**
- 3. SECTION: 6-7-10 (setback to residential)**
- 4. SECTION: 6-7-8 (fence distance)**

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

1265 Smith Road within a MFR-5 Zoning District

The petitioner desires to establish 115 foot tall **wireless telecommunications facility** on Town owned land and obtain waivers for its construction, whereas, a special use permit is required to establish such facility from the Zoning Board of Appeals and to obtain any necessary relief for its location and/or construction, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

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

-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **meets the criteria as specified in section 6-7-2;**
-) **will be compatible with the existing uses adjacent to and near the**

- property;**
-) **will be in harmony with the general purpose of the Zoning Ordinance;**
 -) **will not tend to depreciate the value of adjacent property;**
 -) **will not create a hazard to health, safety or the general welfare;**
 -) **will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and**
 -) **will not otherwise be detrimental to the public convenience and welfare, AND**

WHEREAS, this Board believes it is necessary to impose the following conditions on its approval of the special use permit as permitted by section 8-6-7 of the Zoning Ordinance to minimize adverse impacts upon other property in the neighborhood; AND

1. Lease agreement to be approved by the Town Board after review and approval by the Town Law Department.
2. Placement of additional trees/landscaping deemed necessary by the Town's Landscape Architect after construction of the access driveway to screen adjacent residential uses.

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 with conditions, and the requested relief for the subject address and the .

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



Zoning Board of Appeals

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

Meeting: 10/16/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 29507

ZBA ITEM (ID # 29507)

APPROVED W/ CONDITIONS

128 Casey Road - Special Use Permit

WHEREAS, **Jenna Granto** has made application for a Special Use Permit, under

SECTION: 6-8-6B(2)

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

128 Casey Road within a R-3 Zoning District

The petitioner desires to provide **personal services (licensed esthetician)** from her dwelling which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

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

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

WHEREAS, this Board believes it is necessary to impose the following conditions on its approval of the special use permit as permitted by section 8-6-7 of the Zoning Ordinance

to minimize adverse impacts upon other property in the neighborhood; AND

1. Hours of operation shall be between 9AM-2PM
2. Only one client at a time shall be provided services

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



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Francina J. Spoth
Town Clerk

Meeting: 10/16/24 06:30 PM
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Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 29397

ZBA ITEM (ID # 29397)

ADJOURNED

438 Callodine Avenue- Area Variance

DRAFT RESOLUTION

WHEREAS, **Emdad Hossain** has 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 :

438 Callodine Avenue within a R-4 Zoning District

The petitioner's recently constructed fence is 4 feet in height within the required front yard, whereas, the zoning ordinance, does not permit fencing to exceed 3 feet in height within the required front yard, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

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

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

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

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

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

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

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

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 1/14/2025 6:30 PM

MOVER: Brian Bray, Member

SECONDER: Kelly J. Philips, Member

AYES: Bray, Shubert, Philips, Parker

ABSENT: Goergen