



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, November 19, 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	Present	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
Dan Howard	Town of Amherst	Planning Director	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Nora B. Robshaw	Town of Amherst	Deputy Town Attorney	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Wednesday, October 16, 2024

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 29613)

9100 Transit Road - Special Use Permit Wireless Cellular Communications Facility

The petitioner desires to establish a 139 foot tall wireless telecommunications facility 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.

11/19/2024

Attny Robert Burgdorf, on behalf of Petitioner, spoke and answered questions from the Board.

Spencer Murray, Transit Valley Country Club, spoke in favor.

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

RESULT:	APPROVED W/ CONDITIONS [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED:	Erik A. Goergen

SEQR Determination

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

2. ZBA Item (ID # 29614)

1880 Eggert Road - Area Variance

The petitioner's is seeking relief from the landscaping requirements along the north property lines and the removal of two interior landscaped islands within the easterly and southerly parking areas, whereas, the zoning ordinance requires such features.

11/19/2024

Architect Ronald Trigilio, on behalf of Eggertsville Fire Co., spoke and answered questions from the Board.

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

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

3. ZBA Item (ID # 29647)

291 Northhill Drive - Area Variance

The petitioner desires to eliminate the construction of a berm or the installation of an opaque fence/wall as part of his/her high impact screen, whereas, the zoning ordinance requires such component as part of a high impact landscaping screen.

11/19/2024

Attorney Jeffery Palumbo, representing the petitioner, spoke and answered questions from

the Board.

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

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

4. ZBA Item (ID # 29609)

20 Flint Road - Area Variance

The petitioner's proposed meter/panel board and charging pedestals will be a minimum of 9 feet from the east property line, whereas, the zoning ordinance requires 50 feet minimum.

11/19/2024

John Marcotte, representing ChargeSmart EV, spoke and answered questions from the Board.

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

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

5. 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.

11/19/2024

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

Attorney Cole M. Knoer, spoke on behalf of the neighbors in opposition.
Marc DiGiore, 4785 Sheridan, spoke in opposition.

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

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.

HISTORY:**10/16/24****Zoning Board of Appeals****ADJOURNED****Next: 11/19/24****ATTACHMENTS:**

- LWRP Consistency _draft resolution 4795 Sheridan Drive_11_19_2024 (DOC)

RESULT:	ADJOURNED [UNANIMOUS]	Next: 1/14/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Philips, Parker, 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 Georgen and unanimously approved 5-0. The Zoning Board of Appeals meeting of November 19, 2024 was adjourned at 7:08 PM.



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 11/19/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 29613

ZBA ITEM (ID # 29613)

APPROVED W/ CONDITIONS

9100 Transit 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: 6-7-6A (height)

2. SECTION: 6-7-10 (setback to residential)

3. SECTION: 6-7-8 (fence distance)

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

9100 Transit Road within a CF Zoning District

The petitioner desires to establish 139 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 **November 19, 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. Amend the landscaping plan consistent with the Town's Landscape Architect's review memorandum dated November 4, 2024 and provide supplemental plantings if necessary after a post construction inspection by the Town's Landscape Architect.
2. Applicant to use its best efforts to accommodate any future communications needs the Town may have to place Town emergency communications antennae on the tower, without rental charges, provided there is available space and available structural loading.

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.

RESULT:	APPROVED W/ CONDITIONS [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



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Francina J. Spoth
Town Clerk

Meeting: 11/19/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 29614

ZBA ITEM (ID # 29614)

APPROVED

1880 Eggert Road - Area Variance

WHEREAS, **Egbertsville Fire District** has made application for an Area Variance(s), under

1. SECTION: 7-2-4B(2) (Medium Impact Screening)

2. SECTIONS: 7-2-3A(3)(c), 7-2-3A(3)(e) & 7-2-2A(3)(k) (Landscaped Islands)

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

1880 Eggert Road within a CF Zoning District

The petitioner's is seeking relief from the landscaping requirements along the north property line and the removal of two interior landscaped islands within the easterly and southerly parking areas, AND

WHEREAS, a public hearing was held on **November 19, 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, Parker, Goergen



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Francina J. Spoth
Town Clerk

Meeting: 11/19/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 29647

ZBA ITEM (ID # 29647)

APPROVED

291 Northhill Drive - Area Variance

WHEREAS, **Marrano/Marc Equity Corporation** has made application for an Area Variance(s), under

1. SECTION: 7-2-4B(1)

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

291 Northhill Drive within a MFR-4A Zoning District

The petitioner desires to eliminate the construction of a **berm** or the **installation of an opaque fence/wall** as part of his/her high impact screen, whereas, the zoning ordinance requires such component as part of a high impact landscaping screen, AND

WHEREAS, a public hearing was held on **November 19, 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, Goergen



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Town Clerk

Meeting: 11/19/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 29609

ZBA ITEM (ID # 29609)

APPROVED

20 Flint Road - Area Variance

WHEREAS, **Nayan Patel/ ChargeSmart EV** have made application for an Area Variance(s), under

SECTION: 4-7-4B

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

20 Flint Road within a SC Zoning District

The petitioner's proposed **meter/panel board and EV charging pedestals** will be a minimum of **9 feet** from the **east** property line, whereas, the Zoning Ordinance requires a minimum of **50 feet** minimum AND

WHEREAS, a public hearing was held on **November 19, 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:	Erik A. Goergen, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen



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Town Clerk

Meeting: 11/19/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

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 **November 19, 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, on September 17, 2024 this Board acted on a previous area variance request for the subject property which was supported by a findings of fact, and

WHEREAS, after further discovery the original location of proposed building number (2) for which setback relief was granted along the north property line conflicted with a deed restriction, voiding the setback relief to such property line, thus, causing the petitioner to file this second request for an area variance for his re-configured building placement, now affecting building number (1), and

WHEREAS, this Board issues an amended SEQR determination of environmental significance 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 for proposed building number (1) and rescinds variance number 1 granted on September 17, 2024.

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 1/14/2025 6:30 PM

MOVER: Kelly J. Philips, Member

SECONDER: Ronald Shubert, Member

AYES: Bray, Shubert, Philips, Parker, Goergen



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 11/19/24 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5.a

DOC ID: 29514A

ZBA ITEM (ID # 29514A)

4795 Sheridan Drive- LWRP Consistency Determination

DRAFT RESOLUTION

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

WHEREAS, a public hearing was held on **November 19, 2024** after proper notice,
AND

WHEREAS, this Board prior to undertaking the action of approving the request for the area variance(s) must make a determination if the proposed project is consistent with the policies in Section I of the Town's Local Waterfront Revitalization Program (LWRP), pursuant Chapter 205, Part 4, Section 4-1F of the Town Code , AND

WHEREAS, the Town Planning Department has conducted a review of the proposed project for consistency with the Town's LWRP as provided for in Section 4-1B of Chapter 205 of the Town Code and found that the project is consistent with the policies of the LWRP,

NOW THEREFORE BE IT RESOLVED, that this Board finds that the proposed project and the requested relief for variances from the Zoning Ordinance is consistent with the policies of the Town's Local Waterfront Revitalization Program.

Attachment: LWRP Consistency _draft resolution 4795 Sheridan Drive 11_19_2024 (29514 : 4795 Sheridan Drive - Area Variance)