



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, January 14, 2025

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	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Greg Dionne	Town of Amherst	Clerk	Present	
Samuel A. Alba	Town of Amherst	Interim Town Attorney	Present	

II. APPROVAL OF MINUTES

1. Tuesday, November 19, 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 # 29886)

1715 Niagara Falls Blvd - Area Variance

The petitioner's ground sign will create a total of 402.46 s.f. of signage, whereas, 370.64 s.f. is permitted, and whereas, the ground sign will be 11.6 feet from the property line, whereas, a minimum of 25 feet is required.

01/14/2025

James Boglioli, Esq., spoke and answered questions from the Board.

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

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

2. ZBA Item (ID # 29890)

182 Lafayette Blvd - Special Use Permit - Accessory Dwelling Unit

The petitioner desires to construct an attached accessory dwelling unit as a participant in the Town's "Accessory Dwelling Unit Pilot Program" whereas, the zoning ordinance requires the Zoning Board of Appeals to grant a special use permit for such use.

01/14/2025

Petitioner, Tim Kukulka, 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:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen

3. ZBA Item (ID # 29891)

305 Mt. Vernon Rd - Special Use Permit - Accessory Dwelling Unit

The petitioner desires to construct an attached accessory dwelling unit as a participant in the Town's "Accessory Dwelling Unit Pilot Program" whereas, the zoning ordinance requires the Zoning Board of Appeals to grant a special use permit for such use.

01/14/2025

Petitioner, Kelly Navarro 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 # 29893)

64 Schoelles Rd - Area Variance

The petitioner's 30x40 foot accessory garage will create a total of 2,152 s.f of building area for all accessory structures, including the attached garage, whereas, the zoning ordinance limits all accessory structures to 75% of the principal dwelling, or in this case 1,125 s.f.

01/14/2025

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:	Erik A. Goergen, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen

5. ZBA Item (ID # 29877)

2920 Niagara Falls Blvd - Area Variance

The petitioner's proposed pole sign will be 190± feet from an existing ground sign to the north, whereas the zoning ordinance requires a 250 foot distance separation between the pole sign and the ground sign.

01/14/2025

Paul Wilcox spoke and answered questions from the Board.

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

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

6. ZBA Item (ID # 29881)

3999 Maple Rd - Area Variance

The petitioner's proposed building will have a maximum height of 19 feet 8 inches, and be a single story structure, whereas the zoning ordinance requires a minimum of 2 functional stories and a 30 foot height.

01/14/2025

Julia Chen and John Iski 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

7. ZBA Item (ID # 29887)

2577 Millersport Hwy - Area Variance

The petitioner desires to establish an accessory drive through to an existing restaurant, whereas, the zoning ordinance does not permit restaurants with drive through service windows within the NB-Neighborhood Business zoning district, and whereas, the proposed

drive through order board /speaker will be 20 feet ± from a residential district boundary, whereas, a minimum 100 foot setback is required.

01/14/2025

Jeffery Palumbo, Esq., spoke and answered questions from the Board.

Melissa Semidey Finley, 33 Collins Ct, Anthony Palumbo, 39 Collins Ct, spoke in opposition.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 2/18/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

8. 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.

01/14/2025

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

Attny Cole. M Knoer, spoke on behalf of Marc DiGiore

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

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		
11/19/24	Zoning Board of Appeals	ADJOURNED
Next: 01/14/25		

ATTACHMENTS:

- LWRP Consistency _draft resolution 4795 Sheridan Drive_11_19_2024 (DOC)

RESULT:	ADJOURNED [UNANIMOUS]	Next: 2/18/2025 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 Goergen moved to adjourn, seconded by Member Shubert and unanimously approved 5-0. The Zoning Board of Appeals meeting of January 14, 2025 was adjourned at 7:47 PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.1

DOC ID: 29886

ZBA ITEM (ID # 29886)

APPROVED

1715 Niagara Falls Blvd - Area Variance

WHEREAS, **95 NYRPT, LLC** has made application for Area Variances, under

1. SECTION: 7-8-8A

2. SECTION: 7-8-4B1(e)

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

1715 Niagara Falls Blvd within a CTR-5 Zoning District

The petitioner's **ground sign** will create a total of **402.46 s.f.** of signage, whereas, **370.64 s.f.** is permitted, and whereas, the ground sign will be **11.6 feet** from the property line, whereas, a minimum of **25 feet** is required, AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 variances 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:	APPROVED [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Philips, Parker, Goergen
RECUSED:	Shubert



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.2

DOC ID: 29890

ZBA ITEM (ID # 29890)

APPROVED

182 Lafayette Blvd - Special Use Permit - Accessory Dwelling Unit

WHEREAS, **Timothy J Kukulka** made application for a Special Use Permit, under

SECTION: 6-8-2

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

182 Lafayette Blvd within an R-3 Zoning District

The petitioner desires to construct an **attached accessory dwelling unit** as a participant in the Town's "Accessory Dwelling Unit Pilot Program" whereas, the zoning ordinance requires the Zoning Board of Appeals to grant a **special use permit** for such use, AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 6-8-2;**
-) **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, 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 [UNANIMOUS]
MOVER:	Ellen Parker, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.3

DOC ID: 29891

ZBA ITEM (ID # 29891)

APPROVED

305 Mt. Vernon Rd - Special Use Permit - Accessory Dwelling Unit

WHEREAS, **Kelly Navarro** has made application for a Special Use Permit, under

SECTION: 6-8-2

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

305 Mt. Vernon Rd within an R-3 Zoning District

The petitioner desires to construct an **attached accessory dwelling unit** as a participant in the Town's "Accessory Dwelling Unit Pilot Program" whereas, the zoning ordinance requires the Zoning Board of Appeals to grant a **special use permit** for such use., AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 6-8-2;**
-) **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, 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 [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.4

DOC ID: 29893

ZBA ITEM (ID # 29893)

APPROVED

64 Schoelles Rd - Area Variance

WHEREAS, **James Blankenburg and Joanna Bower** have made application for an Area Variance, under

SECTION: 6-8-1B

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

64 Schoelles Rd within an SA Zoning District

The petitioner's 30x40 foot **accessory garage** will create a total of **2,152 s.f** of building area for all accessory structures, including the attached garage, whereas, the zoning ordinance limits all accessory structures to 75% of the principal dwelling, or in this case **1,125 s.f.**, AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 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:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.5

DOC ID: 29877 A

ZBA ITEM (ID # 29877)

APPROVED W/ CONDITIONS

2920 Niagara Falls Blvd - Area Variance

WHEREAS, **Harper and Rohan Realty** has made application for an Area Variance(s), under

SECTION: 7-8-4B1(b)

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

2920 Niagara Falls Blvd within a GB Zoning District

The petitioner's **proposed pole sign** will be **190± feet** from an existing ground sign to the north, whereas the zoning ordinance requires a **250 foot** distance separation between the pole sign and the ground sign, AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 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 with the condition that the address is posted on the sign.

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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.6

DOC ID: 29881

ZBA ITEM (ID # 29881)

APPROVED

3999 Maple Rd - Area Variance

WHEREAS, **Lawrence Dautch** has made application for an Area Variance, under

SECTION: 5A-3-6C(B)

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

3999 Maple Rd within a CTR-2.5 Zoning District

The petitioner's **proposed building** will have a maximum height of **19 feet 8 inches**, and be a single story structure, whereas the zoning ordinance requires a minimum of 2 functional stories and a **30 foot** height, AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.7

DOC ID: 29887

ZBA ITEM (ID # 29887)

ADJOURNED

2577 Millersport Hwy - Area Variance

DRAFT RESOLUTION

WHEREAS, **Anthony J Scioli III** has made application for Area Variances, under

1. SECTION: 4-3-2A

2. SECTION: 4-8-4A

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

2577 Millersport Hwy within an NB Zoning District

The petitioner desires to establish an accessory **drive through** to an existing restaurant, whereas, the zoning ordinance **does not permit restaurants with drive through** service windows within the NB-Neighborhood Business zoning district, and whereas, the proposed drive through **order board /speaker** will be **20 feet ±** from a residential district boundary, whereas, a minimum **100 foot** setback is required, AND

WHEREAS, a public hearing was held on **January 14, 2025** 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 variances are not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable

change in the character of the neighborhood; AND

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

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

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

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

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 2/18/2025 6:30 PM

MOVER: Ronald Shubert, Member

SECONDER: Erik A. Goergen, Member

AYES: Bray, Shubert, Philips, Parker, Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

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 **January 14, 2025** 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: 2/18/2025 6:30 PM

MOVER: Kelly J. Philips, Member

SECONDER: Ronald Shubert, Member

AYES: Bray, Shubert, Philips, Parker, Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 01/14/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8.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 **January 14, 2025** 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)