



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, February 18, 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	Absent	
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, January 14, 2025

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 30028)

136 Harbridge Manor - Area Variance

The petitioner's backup generator will be 3.32 feet from the west property line, whereas, the zoning ordinance requires a minimum of 5 feet.

02/18/2025

Anita Covell of Zenner & Ritter, spoke on behalf of the Petitioner, and answered questions from the Board.

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

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

2. ZBA Item (ID # 30030)

129 Bernhardt Drive - Area Variance

The petitioner's air conditioner unit will be 7 inches from the south property line, whereas, the zoning ordinance requires a minimum of 3 feet.

02/18/2025

Petitioner, Lori Catalano, spoke and answered questions from the Board.

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

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

3. ZBA Item (ID # 30012)

4025 Main Street - Area Variance

The petitioner's building addition will be 20'-3" from the rear property line, whereas, the zoning ordinance requires a minimum of 30 feet.

02/18/2025

Architect David Fleming, spoke on behalf of the petitioners, and answered questions from the Board.

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

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

4. ZBA Item (ID # 30010)

4901 N. French Road - Area Variance

The petitioner's lot is 15.93 feet in width along N. French Road, whereas, the zoning ordinance requires a minimum of 60 feet in width.

02/18/2025

Frank Chinnici, 810 Main St, spoke on behalf of the Petitioner, and answered questions from the Board.

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

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

5. ZBA Item (ID # 30034)

4220 Sheridan Drive - Area Variance

The petitioner's reconstructed convenience store/fueling station will be 86.25 feet from the centerline of Sheridan Drive, whereas the zoning ordinance requires 115 feet minimum, and whereas, the proposed backflow prevention device will be 2.5 feet from the west property line, whereas, the zoning ordinance requires a minimum of 10 feet.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 3/18/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Ellen Parker, Member	
AYES:	Brian Bray, Ronald Shubert, Ellen Parker, Erik A. Goergen	
ABSENT:	Kelly J. Philips	

6. ZBA Item (ID # 30036)

3315-3333 Millersport Highway - Area Variance

The petitioner's rear yard setback (south) of Building No. 3 from the internal property boundary is 12.66 feet, whereas, the zoning ordinance requires 49.8 feet, and whereas the side yard setback (north) of Building No. 4 from the internal property boundary is 10 feet whereas, the zoning ordinance requires 37.35 feet, and the rear yard setback (east) of Building No. 4 from the internal property boundary is 15.19 feet whereas, the zoning ordinance requires 49.8 feet, and whereas, the vehicle use areas for the phase 1 and phase 2 parcels will be zero feet from the internal property line, whereas, the zoning ordinance requires 5 feet minimum, and whereas, medium impact landscaping will not be provided between the phase 1 and phase 2 internal property line as required.

02/18/2025

Atty Sean Hopkins spoke on behalf of the Petitioner, and answered questions from the Board.

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

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

7. ZBA Item (ID # 30033)

42-50 Dodge Road - ODA Request

The petitioner's proposed town homes located on proposed development parcels 3 and 4 are on land which does not have public road frontage, whereas such parcels must receive open development area approval pursuant to NYS Town Law Section 280-a for permits to be issued for the construction of such town homes, without public road frontage.

02/18/2025

Atty Sean Hopkins spoke on behalf of the Petitioner, and answered questions from the Board.

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

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

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.

02/18/2025

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

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

There were no speakers from the public, therefore Member Shubert moved to close the hearing, seconded by Member Goergen with a 4-0 decision, and Member Shubert moved to Adjourn the meeting seconded by Member Parker with a 4-0 decision.

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 Next: 11/19/24	Zoning Board of Appeals	ADJOURNED
11/19/24 Next: 01/14/25	Zoning Board of Appeals	ADJOURNED
01/14/25 Next: 02/18/25	Zoning Board of Appeals	ADJOURNED

ATTACHMENTS:

- LWRP Consistency _draft resolution 4795 Sheridan Drive_11_19_2024 (DOC)

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

9. 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.

HISTORY:

01/14/25 Next: 02/18/25	Zoning Board of Appeals	ADJOURNED
-----------------------------------	--------------------------------	------------------

RESULT:	ADJOURNED [UNANIMOUS]	Next: 3/18/2025 6:30 PM
SECONDER:	Ronald Shubert, Erik A. Goergen	
AYES:	Brian Bray, Ronald Shubert, Ellen Parker, Erik A. Goergen	
ABSENT:	Kelly J. Philips	

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Member Parker moved to adjourn, seconded by Member Goergen and unanimously approved 4-0. The Zoning Board of Appeals meeting of February 18, 2025 was adjourned at 7:23PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 30028

ZBA ITEM (ID # 30028)

APPROVED

136 Harbridge Manor - Area Variance

WHEREAS, **James Biltekoff** made application for an Area Variance(s), under

SECTION: 3-10-3B

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

136 Harbridge Manor within a MFR-4A Zoning District

The petitioner's backup generator will be **3.32 feet** from the west property line, whereas, the zoning ordinance requires a minimum of **5 feet**, AND

WHEREAS, a public hearing was held on **February 18, 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, Parker, Goergen
ABSENT:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 30030

ZBA ITEM (ID # 30030)

APPROVED

129 Bernhardt Drive - Area Variance

WHEREAS, **Lori Catalano** made application for an Area Variance(s), under

SECTION: 2-5-2A(1)(e)

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

129 Bernhardt Drive within a R-3 Zoning District

The petitioner's air conditioner condenser unit will be **7 inches** from the south property line, whereas, the zoning ordinance requires a minimum of **3 feet**, AND

WHEREAS, a public hearing was held on **February 18, 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:	Ellen Parker, Member
AYES:	Bray, Shubert, Parker, Goergen
ABSENT:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 30012

ZBA ITEM (ID # 30012)

APPROVED

4025 Main Street - Area Variance

WHEREAS, **Darryl and Eric Heusinger** made application for an Area Variance(s),
under

SECTION: 3-6-2B

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

4025 Main Street within a R-3 Zoning District

The petitioner's building addition will be **20'-3"** from the rear property line, whereas,
the zoning ordinance requires a minimum of **30 feet**, AND

WHEREAS, a public hearing was held on **February 18, 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:	Ronald Shubert, Member
AYES:	Bray, Shubert, Parker, Goergen
ABSENT:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 30010

ZBA ITEM (ID # 30010)

APPROVED

4901 N. French Road - Area Variance

WHEREAS, **MCD Downtown, LLC** has made application for an Area Variance(s),
under

SECTION: 3-10-2B(1)

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

4901 N. French Road within a MFR-5 Zoning District

The petitioner's lot is **15.93 feet** in width along N. French Road, whereas, the zoning ordinance requires a minimum of **60 feet** in width, AND

WHEREAS, a public hearing was held on **February 18, 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:	Ellen Parker, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Parker, Goergen
ABSENT:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 30034

ZBA ITEM (ID # 30034)

ADJOURNED

4220 Sheridan Drive - Area Variance

DRAFT RESOLUTION

WHEREAS, **Hawley Development** made application for an Area Variance(s), under

1. SECTION: 2-5-2A(4)- (backflow device)

2. SECTION: 2-5-3 (front setback)

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

4220 Sheridan Drive within a MS Zoning District

The petitioner's reconstructed **convenience store/fueling station** will be **86.25 feet** from the centerline of Sheridan Drive, whereas the zoning ordinance requires **115 feet** minimum, and whereas, the proposed **backflow prevention device** will be **2.5 feet** from the west property line, whereas, the zoning ordinance requires a minimum of **10 feet**, AND

WHEREAS, a public hearing was held on **February 18, 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: **ADJOURNED [UNANIMOUS]**
MOVER: Ronald Shubert, Member
SECONDER: Ellen Parker, Member
AYES: Bray, Shubert, Parker, Goergen
ABSENT: Philips

Next: 3/18/2025 6:30 PM



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 30036

ZBA ITEM (ID # 30036)

APPROVED

3315-3333 Millersport Highway - Area Variance

WHEREAS, **The Green's Luxury Apartments, LLC** made application for an Area Variance(s), under

1. SECTION: 3-15-5A(4)- (rear bldg. setbacks)

2. SECTION: 3-15-5A(4) (side setbacks)

3. SECTION: 3-15-6 (VUA setbacks)

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

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

3315-3333 Millersport Highway - within a MFR-5 and R-3 Zoning District

The petitioner's rear yard setback (south) of Building No. 3 from the internal property boundary is 12.66 feet, whereas, the zoning ordinance requires 49.8 feet, and whereas the side yard setback (north) of Building No. 4 from the internal property boundary is 10 feet whereas, the zoning ordinance requires 37.35 feet, and the rear yard setback (east) of Building No. 4 from the internal property boundary is 15.19 feet whereas, the zoning ordinance requires 49.8 feet, and whereas, the vehicle use areas for the phase 1 and phase 2 parcels will be zero feet from the internal property line, whereas, the zoning ordinance requires 5 feet minimum, and whereas, medium impact landscaping will not be provided between the phase 1 and phase 2 internal property line as required, AND

WHEREAS, a public hearing was held on **February 18, 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:	Ellen Parker, Member
AYES:	Bray, Shubert, Parker, Goergen
ABSENT:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.7

DOC ID: 30033

ZBA ITEM (ID # 30033)

APPROVED

42-50 Dodge Road - ODA Request

WHEREAS, **Sawyers Landing LLC** has made application for an Open Development Area, under

Section: 280-a(3)

of the New York State Town Law for the property owned by him/her at :

40-50 Dodge Road within a NCD-ND Zoning District

The petitioner desires to construct **townhomes** on two separate development parcels which do not have public road frontage, whereas, Chapter 204 of the Amherst Town Code (Subdivision of Land), Section 3-5-3 requires all building lots to abut a public dedicated street or have or private drive or have access to such street or drive via a public alley, AND

WHEREAS, a public hearing was held on **February 18, 2025** after proper notice, AND

WHEREAS, pursuant to section 280-a(3) of New York State Town Law an applicant may appeal to the Zoning Board of Appeals for an area variance for relief from the requirements for building lots to be on public dedicated street, 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 Open Development Area approval for the subject property.

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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 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 **February 18, 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]
MOVER:	Ronald Shubert, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Shubert, Parker, Goergen
ABSENT:	Philips



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 **February 18, 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)



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 02/18/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.9

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 (drive though service)

2. SECTION: 4-8-4A (order speaker)

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 **February 18, 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]
SECONDER:	Ronald Shubert, Erik A. Goergen
AYES:	Bray, Shubert, Parker, Goergen
ABSENT:	Philips

Next: 3/18/2025 6:30 PM