



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, May 13, 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	ZBA Secretary	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Greg Dionne	Town of Amherst	Clerk	Present	
Sebastine Odiata	Town of Amherst	Senior Deputy Attorney	Present	

II. APPROVAL OF MINUTES

Tuesday, April 15, 2025

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 30424)

745 Tonawanda Creek Road - Area Variance

The petitioner's proposed 1,500 s.f. detached garage will create a total building area for all accessory structures of 2,004 s.f., whereas, the zoning ordinance permits a maximum building area of 1,136 s.f., and whereas, the detached garage will be 23' +/- tall, whereas, the zoning ordinance limits the height to 20 feet maximum.

05/13/2025

Petitioner, Mark Lohouse, 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

2. ZBA Item (ID # 30420)

11010 Transit Road - Area Variance

The petitioner's proposed 1,200 s.f. detached garage will create a total building area for all accessory structures, of 2,245 s.f., whereas, the zoning ordinance permits a maximum building area of 1,784 s.f.

05/13/2025

Petitioner, Pat Battista, 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 # 30422)

80 Smith Road - Area Variance

The petitioners' proposed residential addition will be approximately 18 feet from the west property line, whereas, the zoning ordinance requires 30 feet minimum.

05/13/2025

Petitioner, Kevin Cullinan, spoke and answered questions from the Board.

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

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

4. ZBA Item (ID # 30319)

4100 Sheridan Drive - Temporary Use Permit

The petitioner desires to utilize approximately 25 off-street parking spaces for an existing hotel on a temporary basis to accommodate his/her surplus parking needs for his/her used automobile dealership at 4131 Sheridan Drive.

05/13/2025

Lauren Adornetto Esq., representing Basil Resale, spoke and answered questions from the Board.

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

HISTORY:

04/15/25

Zoning Board of Appeals

ADJOURNED

Next: 05/13/25

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

5. ZBA Item (ID # 30423)

1265 Niagara Falls Boulevard - Temporary Use Permit

The petitioner desires to display and sell accessory storage buildings (sheds) on the exterior of the subject premises within an existing parking area as a principal use, whereas a temporary use permit must be issued by the Zoning Board for such temporary activity.

05/13/2025

Attorney C.J. Englert spoke on behalf of the Petitioner, 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

6. ZBA Item (ID # 30302)

1099 North Forest Road - Special Use Permit Type 2 Home Occupation

The petitioner desires to utilize a portion of his dwelling for a sales showroom to permit customers /clients visit his residence to inspect food product samples which product is being wholesaled of premises whereas, the zoning ordinance requires the zoning board of appeals to issue a special use permit for such accessory use when the activity requires outside visitors, clients or deliveries.

05/13/2025

Arun Joseph, spoke on behalf of the Petitioner, and answered questions from the Board.

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

HISTORY:

04/15/25

Zoning Board of Appeals

ADJOURNED

Next: 05/13/25

RESULT:	APPROVED W/ CONDITIONS [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Erik A. Goergen, 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 Goergen and unanimously approved 5-0. The Zoning Board of Appeals meeting of May 13, 2025 was adjourned at 6:47PM



Zoning Board of Appeals

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

Meeting: 05/13/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 30424

ZBA ITEM (ID # 30424)

APPROVED

745 Tonawanda Creek Road - Area Variance

WHEREAS, **Mark Lohouse** has made application for an Area Variance(s), under

1. SECTION: 6-8-1B (bldg. area)

2. SECTION: 3-6-3B (bldg. height)

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

745 Tonawanda Creek Road a R-3 Zoning District

The petitioner's proposed 1,500 s.f. detached garage will create a total building area for all accessory structures of 2,004 s.f., whereas, the zoning ordinance permits a maximum building area of 1,136 s.f., and whereas, the detached garage will be 23'+/- tall, whereas, the zoning ordinance limits the height to 20 feet maximum.

WHEREAS, a public hearing was held on **May 13, 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) 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 [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen



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Town Clerk

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

3.2

DOC ID: 30420

ZBA ITEM (ID # 30420)

APPROVED

11010 Transit Road - Area Variance

WHEREAS, **Patsy Battista & Colleen Pollick** have made application for an Area Variance(s), under

SECTION: 6-8-1B

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

11010 Transit Road within a SA Zoning District

The petitioner's proposed 1,200 s.f. detached garage will create a total building area for all accessory structures, of 2,245 s.f., whereas, the zoning ordinance permits a maximum building area of 1,784 s.f., AND

WHEREAS, a public hearing was held on **May 13, 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, 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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Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 30422

ZBA ITEM (ID # 30422)

APPROVED

80 Smith Road - Area Variance

WHEREAS, **Kevin Cullinan & Gabrielle Sullivan** have made application for an Area Variance(s), under

SECTION: 2-5-4B(3)(a)

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

80 Smith Road within a SA Zoning District

The petitioner's proposed **residential addition** will be **18** feet from the **west** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a public hearing was held on **May 13, 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, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

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

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



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Meeting: 05/13/25 06:30 PM
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Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 30319

ZBA ITEM (ID # 30319)

APPROVED

4100 Sheridan Drive - Temporary Use Permit

WHEREAS, **Sheridan Hotel, LLC** has made application for a Temporary Use Permit, under

SECTION: 4-4-2A

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

4100 Sheridan Drive within a GB Zoning District

The petitioner desires to utilize approximately 25 off-street parking spaces for an existing hotel on a temporary basis to accommodate his/her surplus parking needs for his/her used automobile dealership at 4131 Sheridan Drive, AND

WHEREAS, a public hearing was held on **May 13, 2025** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-8-6 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:

-) **is of a temporary nature and does not involve the erection or enlargement of any permanent structure;**
-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **meets the criteria as specified in section 7-1-1;**
-) **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 Temporary Use Permit for the subject address.

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



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Town Clerk

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

3.5

DOC ID: 30423

ZBA ITEM (ID # 30423)

APPROVED

1265 Niagara Falls Boulevard - Temporary Use Permit

WHEREAS, **Sturdi-Built Sheds/Jemal's Boulevard, LLC** has made application for a Temporary Use Permit, under

SECTION: 5A-8-2

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

1265 Niagara Falls Boulevard within a CTR-5 Zoning District

The petitioner desires to display and sell accessory storage buildings (sheds) on the exterior of premises within an existing parking area, as a principal use, whereas a temporary use permit must be issued by the Zoning Board for such temporary activity, AND

WHEREAS, a public hearing was held on **May 13, 2025** after proper notice, AND

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

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-8-6 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:

-) **is of a temporary nature and does not involve the erection or enlargement of any permanent structure;**
-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **generally meets the criteria as specified in section 7-4-2A;**
-) **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 Temporary 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

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Francina J. Spoth
Town Clerk

Meeting: 05/13/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 30302

ZBA ITEM (ID # 30302)

APPROVED W/ CONDITIONS

1099 North Forest Road - Special Use Permit Type 2 Home Occupation

WHEREAS, **Sridharan Mariayhasan** has made application for a Special Use Permit, under

SECTION: 6-8-6B(2)

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

1099 North Forest Road within a R-3 Zoning District

The petitioner desires to utilize a portion of his dwelling for a sales showroom to permit customers /clients visit his residence to inspect food product samples which product is being wholesaled off premises, whereas, the zoning ordinance requires the zoning board of appeals to issue a special use permit for such accessory residential use when the activity requires outside visitors, clients or deliveries, AND

WHEREAS, a public hearing was held on **May 13, 2025** after proper notice, 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 6-8-6;**
-) **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.No signage on the property

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/With Condition(s) a Special Use Permit for the subject address.

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