



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, August 19, 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	
Joanne A. Schultz	Town of Amherst	Deputy Town Clerk	Present	
James Quinn	Town of Amherst	Assistant Planner	Present	
Gary Palumbo	Town of Amherst	Associate Planner	Present	
Sebastine Odiata	Town of Amherst	Senior Deputy Attorney	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, June 17, 2025

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 30749)

54 Bennington Road - Area Variance

The petitioner's egress window wells will be 2.19 feet from the south property line, whereas, the zoning ordinance requires 2.50 feet minimum.

08/19/2025

Eric Randall 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 # 30738)

141 Hamilton Drive - Area Variance

The petitioners' proposed fence will be 3 feet 6 inches in height within the required front yard of 30 feet, whereas the zoning ordinance limits fences to 3 feet maximum in height within the required the front yard.

08/19/2025

The Petitioner, Benjamin Baia, 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 # 30767)

2280 Wehrle Drive - Area Variance

The petitioner's town home building will be 22.6 feet from the east property line, whereas, the zoning ordinance requires 40 feet minimum.

08/19/2025

Architect Steve Sutton 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 # 30765)

280 Getzville Road - Area Variance

The petitioner's two-story addition will be 3 feet from the south property line, whereas, the zoning ordinance requires 5 feet minimum.

08/19/2025

Architect Steve Sutton spoke and answered questions from the Board.

Kim Downing and Joe Schretzman, 272 Getzville Rd, and John Gulick, 288 Getzville Rd, spoke in opposition.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

5. ZBA Item (ID # 30762)

1725 Campbell Boulevard - Area Variance

The petitioner's proposed shed will create an additional 480 s.f. of building area, whereas, the zoning ordinance limits any additional accessory buildings to 90 s.f.

08/19/2025

Steve Sutton of Sutton Architecture 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:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen

6. ZBA Item (ID # 30755)

National Grid Pole No. 503 (515 Park Club Lane) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the Park Club Lane right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody 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:	Ellen Parker, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED:	Erik A. Goergen

SEQR Determination

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

7. ZBA Item (ID # 30754)

National Grid Pole No. 459 (85 Woodlee Road) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the Park Club Lane right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody 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:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED:	Erik A. Goergen

SEQR Determination

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

8. ZBA Item (ID # 30753)

National Grid Pole No. 375 (353 Park Club Lane) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the Park Club Lane right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody 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: Ronald Shubert, Member
AYES: Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED: Erik A. Goergen

SEQR Determination

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

9. ZBA Item (ID # 30751)

National Grid Pole No. 203 (203 N. Linden Street) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the N. Linden Street right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody 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: Ronald Shubert, Member
AYES: Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED: Erik A. Goergen

SEQR Determination

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

10. ZBA Item (ID # 30750)

National Grid Pole No. 223 (225 S. Union Road) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the S. Union Road right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody 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:	Ronald Shubert, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED:	Erik A. Goergen

SEQR Determination

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

11. ZBA Item (ID # 30752)

National Grid Pole No. 277 (277 Kings Highway) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the Kings Highway right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody 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:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker
RECUSED:	Erik A. Goergen

SEQR Determination

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

12. ZBA Item (ID # 30756)

National Grid Pole No. 4665 (4625 Harlem Road) - Special Use Permit - Small Cell Antenna

The petitioner is seeking to co-locate a small cell antenna on a replacement utility pole within the Harlem Road right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Zoning Board of Appeals, for such installations.

08/19/2025

Attorney Jared Lusk from Nixon Peabody spoke and answered questions from the Board.

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

RESULT:	ADJOURNED [4 TO 0]	Next: 9/16/2025 6:30 PM
MOVER:	Ellen Parker, Member	
SECONDER:	Kelly J. Philips, Member	
AYES:	Brian Bray, Ronald Shubert, Kelly J. Philips, Ellen Parker	
RECUSED:	Erik A. Goergen	

13. ZBA Item (ID # 30745)

32, 44, 52, 68, 76, 84, 92 & 102 River Oak Lane - Area Variance

The petitioner's proposed single family homes for the properties at 32, 44, 52, 68, 76, 84, 92 & 102 River Oak Lane will have rear yard setbacks of 20 feet, whereas the zoning ordinance requires a minimum of 30 feet.

08/19/2025

Ken Zollitsch of GPI Engineering 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

14. ZBA Item (ID # 30746)

1260 Smith Road - Area Variance

The petitioner's attached garage will be 20 feet from the rear property line whereas, the zoning ordinance requires 30 feet minimum.

Petitioner was absent so Chairman Bray Adjourned the hearing.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

15. ZBA Item (ID # 30740)

1692 Maple Rd - Area Variance

The petitioner's proposed medical building will have a building setback along Youngs Road of 5 feet whereas the zoning ordinance requires 35 feet, and whereas the side yard building setback along the east property line will be 15 feet whereas the zoning ordinance requires 30 feet, and whereas the exterior mechanical equipment will be 18 feet from the east property line whereas the zoning ordinance requires 30 feet.

08/19/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

Julian Chinana, 1700 Maple Rd, spoke in opposition.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

16. ZBA Item (ID # 30739)

1760 Maple Rd - Area Variance

The petitioner's proposed mixed use building will have a transparency of 19.71% for the ground floor commercial, whereas the zoning ordinance requires 60% transparency, and whereas the upper floor residential will have a transparency of 14.10% whereas the zoning ordinance requires 20% transparency.

08/19/2025

Attorney Sean Hopkins 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

17. ZBA Item (ID # 30742)

2016 Dodge Rd - Area Variance

The petitioner's proposed accessory garage will create a total building area of 1,536 square feet for all accessory buildings including the attached garage, whereas the zoning ordinance limits accessory buildings to a maximum of 1,119 square feet.

Petitioner was absent so Chairman Bray Adjourned the hearing.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

18. ZBA Item (ID # 30761)

28 Pierpont Avenue - Special Use Permit

The petitioner desires to establish 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.

08/19/2025

Petitioner Leslie Granville 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:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker, Goergen

19. ZBA Item (ID # 30763)

60 Smith Road - Area Variance

The petitioner desires to create a second building lot which will have a lot width of 138 feet and without frontage on a public street, whereas, the zoning ordinance requires a minimum lot width of 200 feet and frontage on public street.

08/19/2025

David Metzger of Metzger Engineering and the Petitioner spoke and answered questions from the Board.

Kevin Cullinan, 80 Smith Rd, spoke in opposition

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

20. ZBA Item (ID # 30764)

60 Smith Road - Open Development Area

The petitioner is seeking open development area approval to create a building lot for a single family dwelling without frontage on a public roadway.

08/19/2025

David Metzger of Metzger Engineering and the Petitioner spoke and answered questions from the Board.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

21. ZBA Item (ID # 30744)

37 Linwood Ave - Area Variance

The petitioner is proposing a parcel split which would reduce the lot area to 6,665 square feet, whereas the zoning ordinance requires a minimum lot area of 8,450 square feet.

08/19/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

David Hall, 47 Linwood, Annette Schnapp, 31 Linwood, Mary Ruggiero, 65 Linwood, spoke in opposition.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Ellen Parker, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

22. ZBA Item (ID # 30743)

43 Linwood Ave - Area Variance

The petitioner is proposing a parcel split which would reduce the lot area of the existing 10,060 square foot lot to 6,667 square feet, whereas the zoning ordinance requires a minimum lot area of 11,700 square feet.

08/19/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

David Hall, 47 Linwood, Annette Schnapp, 31 Linwood, Mary Ruggiero, 65 Linwood, spoke in opposition.

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

RESULT: ADJOURNED [UNANIMOUS]**Next: 9/16/2025 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 Philips and unanimously approved 5-0. The Zoning Board of Appeals meeting of August 19, 2025 was adjourned at 8:50PM



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 30749

ZBA ITEM (ID # 30749)

APPROVED

54 Bennington Road - Area Variance

WHEREAS, **Jessica Randall** has made application for an Area Variance(s), under

SECTION: 2-5-2A(1)(c)(ii)

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

54 Bennington Road within a R-3 Zoning District

The petitioner's egress **window wells** will be **2.19** feet from the south property line, whereas, the zoning ordinance requires **2.50** feet minimum, AND

WHEREAS, a public hearing was held on **August 19, 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:	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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.2

DOC ID: 30738

ZBA ITEM (ID # 30738)

APPROVED

141 Hamilton Drive - Area Variance

WHEREAS, **Benjamin Baia** has made application for an Area Variance, under

SECTION: 7-5-3

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

141 Hamilton Drive within an R-4 Zoning District

The petitioners' proposed **fence** will be **3 feet 6 inches** in height within the required front yard of 30 feet, whereas the zoning ordinance limits fences to **3 feet** maximum in height within the required the front yard, AND

WHEREAS, a public hearing was held on **August 19, 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 30767

ZBA ITEM (ID # 30767)

APPROVED

2280 Wehrle Drive - Area Variance

WHEREAS, **Michael Keller** has made application for an Area Variance(s), under

SECTION: 3-10-2B(3)

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

2280 Wehrle Drive within a MFR4A Zoning District

The petitioner's town home building will be **22.6 feet** from the **east** property line, whereas, the zoning ordinance requires **40 feet** minimum, AND

WHEREAS, a public hearing was held on **August 19, 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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 30765

ZBA ITEM (ID # 30765)

ADJOURNED

280 Getzville Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **Nader D. Nader** has 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 :

XX280 Getzville Road within a R-3 Zoning District

The petitioner's **two story addition** will be **3 feet** from the south property line, whereas, the zoning ordinance requires **5 feet** minimum, AND

WHEREAS, a public hearing was held on **August 19, 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:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 30762

ZBA ITEM (ID # 30762)

APPROVED

1725 Campbell Boulevard - Area Variance

WHEREAS, **Gary L. & Debra A. Berger** has 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 :

1725 Campbell Road within a SA Zoning District

The petitioner's proposed **shed** will be create an additional **480 s.f.** of building area whereas, the zoning ordinance limits additional accessory buildings to **90 s.f.**, AND

WHEREAS, a public hearing was held on **August 19, 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:	Erik A. Goergen, Member
SECONDER:	Ellen Parker, 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 30755

ZBA ITEM (ID # 30755)

APPROVED

National Grid Pole No. 503 (515 Park Club Lane) - Special Use Permit - Small Cell Antenna

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 503 (515 Park Club Lane) within a R-3 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the Park Club Lane right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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 [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 30754

ZBA ITEM (ID # 30754)

APPROVED

National Grid Pole No. 459 (85 Woodlee Road) - Special Use Permit - Small Cell Antenna

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 459 (85 Woodlee Road) within a R-3 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the Park Club Lane right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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 [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 30753

ZBA ITEM (ID # 30753)

APPROVED

National Grid Pole No. 375 (353 Park Club Lane) - Special Use Permit - Small Cell Antenna

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 375 (353 Park Club lane) within a R-3 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the Park Club Lane right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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 [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 30751

ZBA ITEM (ID # 30751)

APPROVED

National Grid Pole No. 203 (203 N. Linden Street) - Special Use Permit - Small Cell Antenna

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 203 (203 N. Linden Street) within a R-3 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the N. Linden Street right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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 [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 30750

ZBA ITEM (ID # 30750)

APPROVED

National Grid Pole No. 223 (225 S. Union Road) - Special Use Permit - Small Cell Antenna

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 223 (225 S. Union Road) within a MFR-5 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the S. Union Road right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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 [4 TO 0]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.11

DOC ID: 30752

ZBA ITEM (ID # 30752)

APPROVED

National Grid Pole No. 277 (277 Kings Highway) - Special Use Permit - Small Cell Antenna

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 277 (277 Kings Highway) within a R-4 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the Kings Highway right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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 [4 TO 0]
MOVER:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Bray, Shubert, Philips, Parker
RECUSED:	Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.12

DOC ID: 30756

ZBA ITEM (ID # 30756)

ADJOURNED

National Grid Pole No. 4665 (4625 Harlem Road) - Special Use Permit - Small Cell Antenna

DRAFT RESOLUTION

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

SECTION: 6-11-5A

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

National Grid Pole Number 4665 (4625 Harlem Road) within a R-3 Zoning District

The petitioner desires to co-locate a **small cell antenna** on a replacement utility pole within the Harlem Road right of way which is within a residential zoning district, whereas the zoning ordinance requires the issuance of a special use permit by the Amherst Zoning Board of Appeals when such installations fall within a residential zoning district, AND

WHEREAS, a public hearing was held on **August 19, 2025** after proper notice, AND

WHEREAS, this Board previously issued a 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 6-11-11E;**
-) **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: ADJOURNED [4 TO 0]

Next: 9/16/2025 6:30 PM

MOVER: Ellen Parker, Member

SECONDER: Kelly J. Philips, Member

AYES: Bray, Shubert, Philips, Parker

RECUSED: Goergen



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.13

DOC ID: 30745

ZBA ITEM (ID # 30745)

APPROVED

32, 44, 52, 68, 76, 84, 92 & 102 River Oak Lane - Area Variance

WHEREAS, **Natale New, LLC** has made application for Area Variances, under

SECTION: 3-6-2.B

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

32, 44, 52, 68, 76, 84, 92 & 102 River Oak Lane within R-3 Zoning Districts

The petitioner's proposed **single family homes** for the properties at 32, 44, 52, 68, 76, 84, 92 & 102 River Oak Lane will have **rear yard setbacks** of **20 feet**, whereas the zoning ordinance requires a minimum of **30 feet**, AND

WHEREAS, a public hearing was held on **August 19, 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 [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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.14

DOC ID: 30746

ZBA ITEM (ID # 30746)

ADJOURNED

1260 Smith Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **Jonathan Hoy** has made application for an Area Variance(s), under

SECTION: 2-5-4B(3)

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

1260 Smith Road within a SA Zoning District

The petitioner's proposed **attached garage** will be **20** feet from the **rear** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a public hearing was held on **August 19, 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:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.15

DOC ID: 30740

ZBA ITEM (ID # 30740)

ADJOURNED

1692 Maple Rd - Area Variance

DRAFT RESOLUTION

WHEREAS, **Ontrac Systems LLC** has made application for Area Variances, under

SECTION: 4-8-2

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

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

1692 Maple Rd within an OB Zoning District

The petitioner's proposed medical building will have a building setback along **Youngs Road** of **5 feet** whereas the zoning ordinance requires **35 feet**, and whereas the side yard building setback along the **east** property line will be **15 feet** whereas the zoning ordinance requires **30 feet**, and whereas the exterior mechanical equipment will be **18 feet** from the **east** property line whereas the zoning ordinance requires **30 feet**, AND

WHEREAS, a public hearing was held on **August 19, 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: 9/16/2025 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.16

DOC ID: 30739

ZBA ITEM (ID # 30739)

APPROVED

1760 Maple Rd - Area Variance

WHEREAS, **1760 Maple Road LLC** has made application for Area Variances, under

SECTION: 5A-4-9F

SECTION: 5A-4-9G

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

1760 Maple Rd within a DC-5 Zoning District

The petitioner's proposed mixed use building will have a **transparency** of **19.71%** for the **ground floor commercial** whereas the zoning ordinance requires **60%** transparency, and whereas the **upper floor residential** will have a transparency of **14.10%** whereas the zoning ordinance requires **20%** transparency, AND

WHEREAS, a public hearing was held on **August 19, 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 [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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.17

DOC ID: 30742

ZBA ITEM (ID # 30742)

ADJOURNED

2016 Dodge Rd - Area Variance

DRAFT RESOLUTION

WHEREAS, **Kevin Michael** has made application for an Area Variance, under

SECTION: 6-8-1.B

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

2016 Dodge Rd within an R-3 Zoning District

The petitioner's proposed **accessory garage** will create a total building area of **1,536 square feet** for all accessory buildings including the attached garage, whereas the zoning ordinance limits accessory buildings to a maximum of **1,119 square feet**, AND

WHEREAS, a public hearing was held on **August 19, 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]**

Next: 9/16/2025 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.18

DOC ID: 30761

ZBA ITEM (ID # 30761)

APPROVED

28 Pierpont Avenue - Special Use Permit

WHEREAS, **Leslie Granville** 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 :

28 Pierpont Avenue within a R-3 Zoning District

The petitioner desires to establish 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 **August 19, 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 6-8-2;**
-) **will be compatible with the existing uses adjacent to and near the property;**
-) **will be in harmony with the general purpose of the Zoning Ordinance;**
-) **will not tend to depreciate the value of adjacent property;**
-) **will not create a hazard to health, safety or the general welfare;**
-) **will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and**
-) **will not otherwise be detrimental to the public convenience and welfare, AND**

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

1.

2.

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:	Ellen Parker, 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.19

DOC ID: 30763

ZBA ITEM (ID # 30763)

ADJOURNED

60 Smith Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **Kevin & Holly Wyse** has made application for an Area Variance(s),
under

SECTION: 3-3-2B

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

60 Smith Road within a SA Zoning District

The petitioner desires to create a second building lot which will have a **lot width** of **138 feet** and without frontage on a public street, whereas, the zoning ordinance requires a minimum lot width of **200 feet** and frontage on public street, AND

WHEREAS, a public hearing was held on **August 19, 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:	ADJOURNED [UNANIMOUS]	Next: 9/16/2025 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.20

DOC ID: 30764

ZBA ITEM (ID # 30764)

ADJOURNED

60 Smith Road - Open Development Area

DRAFT RESOLUTION

WHEREAS, **Kevin and Holly Wyse** have 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 :

60 Smith Road within a SA Zoning District

The petitioner desires to construct a **single family dwelling** on a parcel not abutting a public, road 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 **August 19, 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 area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 9/16/2025 6:30 PM

MOVER: Kelly J. Philips, 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.21

DOC ID: 30744

ZBA ITEM (ID # 30744)

ADJOURNED

37 Linwood Ave - Area Variance

DRAFT RESOLUTION

WHEREAS, **5000 Group LLC** has made application for an Area Variance, under

SECTION: 3-9-2.B(1)

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

37 Linwood Ave within an R-4 Zoning District

The petitioner is proposing a parcel split which would reduce the **lot area** to **6,665 square feet**, whereas the zoning ordinance requires a minimum lot area of **8,450 square feet**, AND

WHEREAS, a public hearing was held on **August 19, 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]**

Next: 9/16/2025 6:30 PM

MOVER: Ronald Shubert, Member

SECONDER: Ellen Parker, 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: 08/19/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.22

DOC ID: 30743

ZBA ITEM (ID # 30743)

ADJOURNED

43 Linwood Ave - Area Variance

DRAFT RESOLUTION

WHEREAS, **5000 Group LLC** has made application for an Area Variance, under

SECTION: 3-9-2.B(2)

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

43 Linwood Ave within an R-4 Zoning District

The petitioner is proposing a parcel split which would reduce the **lot area** of the existing 10,060 square foot lot to **6,667 square feet**, whereas the zoning ordinance requires a minimum lot area of **11,700 square feet**, AND

WHEREAS, a public hearing was held on **August 19, 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]**

Next: 9/16/2025 6:30 PM

MOVER: Kelly J. Philips, Member

SECONDER: Ronald Shubert, Member

AYES: Bray, Shubert, Philips, Parker, Goergen