



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, September 16, 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	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Greg Dionne	Town of Amherst	Clerk	Present	
Sebastine Odiata		Senior Deputy Attorney	Present	
Vianne Uthman	Town of Amherst	ZBA Secretary	Present	

II. APPROVAL OF MINUTES

1. Tuesday, August 19, 2025

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 30900)

2395 North Forest Road - Area Variance

The petitioner's proposed electrical vehicle chargers will create a parking stall depth of 17.5 feet, whereas, the zoning ordinance requires 19 feet minimum.

09/16/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

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

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

2. ZBA Item (ID # 30756)

National Grid Pole No. 4665 (Between 4655 & 4669 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.

09/16/2025

Attorney Laura Smith of Nixon Peabody LLP, spoke and answered questions from the Board.

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

HISTORY:

08/19/25
Next: 09/16/25

Zoning Board of Appeals

ADJOURNED

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

3. ZBA Item (ID # 30863)

4845 Millersport Highway - Special Use Permit Wireless Cellular Communications Facility

The petitioner desires to establish an 180 foot tall wireless telecommunications facility on Town owned land and obtain waivers for its construction, whereas, a special use permit is required to establish such facility from the Zoning Board of Appeals and to obtain any necessary relief for its location and/or construction.

09/16/2025

Attorney Dan Krzykowski of Barclay Damon spoke and answered questions from the Board.

There were no speakers from the public. The petition was adjourned the next hearing.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 10/15/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

4. ZBA Item (ID # 30864)

1042 North Forest Road - Special Use Permit Wireless Cellular Communications Facility

The petitioner desires to establish an 180 foot tall wireless telecommunications facility on Town owned land and obtain waivers for its construction, whereas, a special use permit is required to establish such facility from the Zoning Board of Appeals and to obtain any necessary relief for its location and/or construction.

09/16/2025

Attorney Dan Krzykowski of Barclay Damon spoke and answered questions from the Board.

There were no speakers from the public. The petition was adjourned the next hearing.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 10/15/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

5. ZBA Item (ID # 30859)

40 Ayer Road - Area Variance

The petitioner's proposed accessory garage will be 2,112 s.f. in building area whereas, the zoning ordinance limits the building area for accessory structures to an additional 491 s.f., and whereas, the proposed garage will have a roof height of 23.5 feet with a decorative cupola at 27.5 feet tall, whereas, the zoning ordinance limits accessory buildings to 20 feet in height.

09/16/2025

The Petitioner spoke and answered questions from the Board.

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

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

6. ZBA Item (ID # 30861)

35 Troy Del Way- Special Use Permit ADU

The petitioner desires to establish an attached accessory dwelling unit as a participant in the Town's ADU Pilot Program, whereas, the Zoning Ordinance requires the Zoning Board of Appeals to grant a special use permit to establish such accessory use.

09/16/2025

Attorney Dan Krzykowski of Barclay Damon spoke and answered questions from the Board.

Amy Graves Monroe, 45 Troy Del Way, Spoke and asked for information

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

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

7. ZBA Item (ID # 30858)

97 Halston Parkway - Area Variance

The petitioner's accessory structure will be 1.5 feet from the east property line, whereas, the zoning ordinance requires 3 feet minimum.

09/16/2025

Architect James Bammel from Bammel Architects, spoke and answered questions from the Board.

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

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

8. 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.

09/16/2025

Petitioner corresponded with the Board in writing prior to the meeting.

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

HISTORY:

08/19/25 **Zoning Board of Appeals**
Next: 09/16/25

ADJOURNED

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

9. 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.

09/16/2025

The petitioner was not present to answer questions from the Board.

There were no speakers from the public. Therefore, the hearing was adjourned until the October meeting.

HISTORY:

08/19/25 **Zoning Board of Appeals**
Next: 09/16/25

ADJOURNED

RESULT:	ADJOURNED [4 TO 1]	Next: 10/15/2025 6:30 PM
MOVER:	Erik A. Goergen, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Brian Bray, Ronald Shubert, Ellen Parker, Erik A. Goergen	
NAYS:	Kelly J. Philips	

10. 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.

HISTORY:

08/19/25 **Zoning Board of Appeals**
Next: 09/16/25

ADJOURNED

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

11. ZBA Item (ID # 29397)

438 Callodine Avenue- Area Variance

The petitioner's recently constructed fence is 4 feet in height within the required front yard, whereas, the zoning ordinance, does not permit fencing to exceed 3 feet in height within the required front yard.

10/16/2024

Petitioner Emdad Hossain spoke and answered questions from the Board.

Michael Colella 420 Callodine, Paul Campbell 426 Callodine, Lauri Howard 430 Callodine, spoke in opposition.

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

06/17/2025

Petitioner spoke and answered questions from the Board.

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

HISTORY:

09/17/24	Zoning Board of Appeals	ADJOURNED
Next: 10/16/24		
10/16/24	Zoning Board of Appeals	ADJOURNED
Next: 06/17/25		
06/17/25	Zoning Board of Appeals	ADJOURNED
Next: 09/16/25		

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

12. 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.

09/16/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

David Hall, 47 Linwood, Annette Schnapp, 31 Linwood, Derek Pruitt, 59 Linwood, spoke in opposition.

There were no further speakers from the public, therefore the hearing was adjourned until the next meeting.

HISTORY:**08/19/25****Zoning Board of Appeals****ADJOURNED****Next: 09/16/25**

RESULT:	ADJOURNED [UNANIMOUS]	Next: 10/15/2025 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Erik A. Goergen, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

13. 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.

Attorney Sean Hopkins spoke and answered questions from the Board.

09/16/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

David Hall, 47 Linwood, Annette Schnapp, 31 Linwood, Derek Pruitt, 59 Linwood, spoke in opposition.

There were no further speakers from the public, therefore the hearing was adjourned until the next meeting.

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.

HISTORY:**08/19/25****Zoning Board of Appeals****ADJOURNED****Next: 09/16/25**

RESULT:	ADJOURNED [UNANIMOUS]	Next: 10/15/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	

14. 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.

09/16/2025

Attorney Sean Hopkins spoke and answered questions from the Board.

Carissa Chinana and Julian Chinana, 1700 Maple Rd, spoke in opposition.

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

HISTORY:**08/19/25****Zoning Board of Appeals****ADJOURNED****Next: 09/16/25**

RESULT:	APPROVED [4 TO 1]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Brian Bray, Kelly J. Philips, Ellen Parker, Erik A. Goergen
NAYS:	Ronald Shubert

15. 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.

09/16/2025

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

Kevin Cullinan, 80 Smith Road, spoke in opposition.

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

HISTORY:**08/19/25****Zoning Board of Appeals****ADJOURNED****Next: 09/16/25**

RESULT:	APPROVED W/ CONDITIONS [3 TO 2]
MOVER:	Ronald Shubert, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Brian Bray, Ronald Shubert, Erik A. Goergen
NAYS:	Kelly J. Philips, Ellen Parker

SEQR Determination

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

16. 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.

09/16/2025

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

Kevin Cullinan, 80 Smith Road, spoke in opposition.

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

HISTORY:**08/19/25****Zoning Board of Appeals****ADJOURNED****Next: 09/16/25**

RESULT:	APPROVED W/ CONDITIONS [3 TO 2]
MOVER:	Ronald Shubert, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Brian Bray, Ronald Shubert, Erik A. Goergen
NAYS:	Kelly J. Philips, Ellen Parker

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Vice Chair Shubert moved to adjourn, seconded by Member Goergen and unanimously approved 5-0. The Zoning Board of Appeals meeting of September 16, 2025 was adjourned at 8:30PM



Zoning Board of Appeals

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

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 30900

ZBA ITEM (ID # 30900)

APPROVED

2395 North Forest Road - Area Variance

WHEREAS, **North Forest Apts. Assoc. LLC** has made application for an Area Variance(s), under

SECTION: 7-1-9

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

2395 North Forest Road within a NCD-GC/ND Zoning District

The petitioner's proposed electrical vehicle chargers will create a **parking stall** depth of **17.5 feet**, whereas, the zoning ordinance requires **19 feet** minimum, AND

WHEREAS, a public hearing was held on **September 16, 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
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Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 30756

ZBA ITEM (ID # 30756)

APPROVED

National Grid Pole No. 4665 (Between 4655 & 4669 Harlem 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 4665 (between 4655 & 4669 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 **September 16, 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
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Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 30863

ZBA ITEM (ID # 30863)

ADJOURNED

4845 Millersport Highway - Special Use Permit Wireless Cellular Communications Facility

DRAFT RESOLUTION

WHEREAS, **Upstate Tower Co., LLC** has made application for a Special Use Permit, with the permission of the land owner, the Town of Amherst under

- 1. SECTION: 6-7-3A (use)**
- 2. SECTION: 6-7-3(G)(8) (waiver request)(location of all bldgs. on plan)**
- 3. SECTION: 6-7-6A (waiver request) (height)**
- 4. SECTION: 6-7-7D (waiver request)(Lattice Type)**
- 5. SECTION: 6-7-10 (waiver request)(setback)**

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

4845 Millersport Highway within a CF Zoning District

The petitioner desires to establish **180 foot tall wireless telecommunications facility** on Town owned land and obtain waivers for its construction, whereas, a special use permit is required to establish such facility from the Zoning Board of Appeals and to obtain any necessary relief for its location and/or construction, AND

WHEREAS, a public hearing was held on **September 16, 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 6-7-2;**
-) **will be compatible with the existing uses adjacent to and near the property;**
-) **will be in harmony with the general purpose of the Zoning Ordinance;**
-) **will not tend to depreciate the value of adjacent property;**
-) **will not create a hazard to health, safety or the general welfare;**
-) **will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and**
-) **will not otherwise be detrimental to the public convenience and welfare, AND**

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

- 1.
- 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 with conditions, and the requested relief for the subject address and the .

RESULT:	ADJOURNED [UNANIMOUS]	Next: 10/15/2025 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
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Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 30864

ZBA ITEM (ID # 30864)

ADJOURNED

1042 North Forest Road - Special Use Permit Wireless Cellular Communications Facility

DRAFT RESOLUTION

WHEREAS, **Upstate Tower Co., LLC** has made application for a Special Use Permit, with the permission of the land owner, the Town of Amherst under

- 1. SECTION: 6-7-3A (use)**
- 2. SECTION: 6-7-3(G)(8) (waiver request)(location of all bldgs. on plan)**
- 3. SECTION: 6-7-6A (waiver request) (height)**
- 4. SECTION: 6-7-7D (waiver request)(Lattice Type)**
- 5. SECTION: 6-7-8E) (waiver request) (fence restricted zone)**
- 6. SECTION: 6-7-10 (waiver request)(setback)**

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

1042 North Forest Road within a CF Zoning District

The petitioner desires to establish **180 foot tall wireless telecommunications facility** on Town owned land and obtain waivers for its construction, whereas, a special use permit is required to establish such facility from the Zoning Board of Appeals and to obtain any necessary relief for its location and/or construction, AND

WHEREAS, a public hearing was held on **September 16, 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 6-7-2;**
-) **will be compatible with the existing uses adjacent to and near the property;**
-) **will be in harmony with the general purpose of the Zoning Ordinance;**
-) **will not tend to depreciate the value of adjacent property;**
-) **will not create a hazard to health, safety or the general welfare;**
-) **will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and**
-) **will not otherwise be detrimental to the public convenience and welfare, AND**

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

- 1.
- 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 with conditions, and the requested relief for the subject address and the .

RESULT:	ADJOURNED [UNANIMOUS]	Next: 10/15/2025 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Philips, Parker, Goergen	



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

3.5

DOC ID: 30859

ZBA ITEM (ID # 30859)

APPROVED

40 Ayer Road - Area Variance

WHEREAS, **Daniel Nealen** has made application for an Area Variance(s), under

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

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

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

40 Ayer Road within a R-3 Zoning District

The petitioner's proposed accessory garage will be **2,112 s.f.** in building area whereas, the zoning ordinance limits the building area for accessory structures to an additional **491 s.f.**, and whereas, the proposed garage will have a **roof height** of **23.5 feet** with a decorative **cupola** at **27.5 feet** tall, whereas, the zoning ordinance limits accessory buildings to **20 feet** in height, AND

WHEREAS, a public hearing was held on **September 16, 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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 30861

ZBA ITEM (ID # 30861)

APPROVED

35 Troy Del Way- Special Use Permit ADU

WHEREAS, **35 Troy Del Way, LLC/Angelo Tomasello** 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 :

35 Troy Dell Way within a R-3 Zoning District

The petitioner desires to establish an attached accessory dwelling unit as a participant in the Town's ADU Pilot Program, whereas, the Zoning Ordinance requires the Zoning Board of Appeals to grant a special use permit to establish such accessory use, AND

WHEREAS, a public hearing was held on **September 16, 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, 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:	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: 09/16/25 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.7

DOC ID: 30858

ZBA ITEM (ID # 30858)

APPROVED

97 Halston Parkway - Area Variance

WHEREAS, **Mike Dlugosz** has made application for an Area Variance(s), under

SECTION: 3-5-3B

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

97 Halston Parkway within a R-2 Zoning District

The petitioner's **accessory structure** will be **1.5 feet** from the **east** property line, whereas, the zoning ordinance requires **3 feet** minimum, AND

WHEREAS, a public hearing was held on **September 16, 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: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.8

DOC ID: 30742

ZBA ITEM (ID # 30742)

APPROVED

2016 Dodge Rd - Area Variance

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 **September 16, 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:	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: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

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 **September 16, 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 [4 TO 1]	Next: 10/15/2025 6:30 PM
MOVER:	Erik A. Goergen, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Bray, Shubert, Parker, Goergen	
NAYS:	Philips	



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 30765

ZBA ITEM (ID # 30765)

DENIED

280 Getzville Road - Area Variance

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 :

280 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 **September 16, 2025 and 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 substantial, that it will have an adverse impact on the physical or environmental conditions of the neighborhood and that it will create undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted does not outweigh 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 alleged difficulty was self-created and that the petitioner has not sought other alternatives available to him/her rather than pursue an area variance; 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 DENY an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	DENIED [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: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 29397 A

ZBA ITEM (ID # 29397)

DENIED

438 Callodine Avenue- Area Variance

WHEREAS, **Emdad Hossain** has made application for an Area Variance(s), under

SECTION: 7-5-3

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

438 Callodine Avenue within a R-4 Zoning District

The petitioner's recently constructed fence is **4.5 feet** in height within the required front yard, whereas, the zoning ordinance, does not permit fencing to exceed **3 feet** in height within the required front yard, AND

WHEREAS, a public hearing was held on **October 16, 2024** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) is substantial, that it will have an adverse impact on the physical or environmental conditions of the neighborhood and that it will create undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted does not outweigh 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 hardship was self-created and that other

alternatives are available to the petitioner; 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 DENY an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	DENIED [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: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.12

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 **September 16, 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: 10/15/2025 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: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.13

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 **September 16, 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: 10/15/2025 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: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Greg Dionne**
Co-Sponsored by:

3.14

DOC ID: 30740

ZBA ITEM (ID # 30740)

APPROVED

1692 Maple Rd - Area Variance

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 **3.26 feet** from the **west** property line whereas the zoning ordinance requires **35 feet**, AND

WHEREAS, a public hearing was held on **September 16, 2025** after proper notice,
AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

-) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
-) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
-) **whether the requested area variance is substantial,**
-) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
-) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variances are not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable

change in the character of the neighborhood; AND

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

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

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

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

RESULT:	APPROVED [4 TO 1]
MOVER:	Kelly J. Philips, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Philips, Parker, Goergen
NAYS:	Shubert



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 30764

ZBA ITEM (ID # 30764)

APPROVED W/ CONDITIONS

60 Smith Road - Open Development Area

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 **September 16, 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 subject to the following conditions as recommended by the Town Fire Inspector:

1. That the proposed dwelling be equipped with a residential fire suppression system.
2. That a private yard hydrant be installed, unless a state variance is obtained from the NYS Board of Review waiving its requirement.

RESULT:	APPROVED W/ CONDITIONS [3 TO 2]
MOVER:	Ronald Shubert, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Shubert, Goergen
NAYS:	Philips, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 09/16/25 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.16

DOC ID: 30763

ZBA ITEM (ID # 30763)

APPROVED W/ CONDITIONS

60 Smith Road - Area Variance

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 **September 16, 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 subject to the following conditions:

1. The petitioner utilize and improve the existing driveway along the west side of the existing parcel to access the proposed rear parcel as shown on the attached exhibit; and that such driveway provide unobstructed access through the existing parcel via a perpetual access easement to be reviewed and approved by the Town Law Department.
2. The petitioner provide a drainage/grading plan to be reviewed and approved by the Town Engineering Services Department as part of his/her building permit application.
3. That the petitioner screen the proposed turnaround on the rear parcel with trees or hedges to minimize any light nuisance the adjacent neighbors.

RESULT:	APPROVED W/ CONDITIONS [3 TO 2]
MOVER:	Ronald Shubert, Member
SECONDER:	Erik A. Goergen, Member
AYES:	Bray, Shubert, Goergen
NAYS:	Philips, Parker