



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, May 18, 2021

6:00 PM

Amherst Municipal Building

I. PUBLIC PARTICIPATION

In accordance with the Governor's Executive Order 202.1 and for public health and safety concerns related to COVID-19, the Zoning Board of Appeals meeting on May 18, 2021, will not be meeting in-person and will be held via the Zoom videoconference application. The public will have an opportunity to view and participate in the meeting live. At a later date, a meeting transcript will be available. The Public may view and participate via video or audio call shown below.

A. Zoom Meeting Login: Visual/Display Online

<https://us02web.zoom.us/j/84502470429?pwd=SzAwOTdlWXlJNGEwR2J2ZHNjNmxiUT09>

Audio/Call-In Instructions: Note to callers your phone number will display to the public, to conceal your number enter *67 before you enter the phone number below.

1-646-558-8656

Meeting ID: 845 0247 0429

Passcode: 089365

II. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
John Radens	Town of Amherst	Chairman	Remote	
Ann M. Nichols	Town of Amherst	Member	Late	6:35 PM
Nina Potycz	Town of Amherst	Member	Remote	
Ronald Shubert	Town of Amherst	Member	Remote	
Kelly J. Philips	Town of Amherst	Member	Remote	
Timothy Koller	Town of Amherst	Deputy Town Clerk	Present	
Daniel J. Ulatowski	Town of Amherst	Principal Planner	Present	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	
Ann Demopolous	Town of Amherst	Deputy Town Attorney	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

III. APPROVAL OF MINUTES

1. Tuesday, April 20, 2021

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Kelly J. Philips, Member
AYES:	John Radens, Nina Potycz, Ronald Shubert, Kelly J. Philips
ABSENT:	Ann M. Nichols

IV. HEARINGS ON APPEALS

1. ZBA Item 2021-29

6565 Main Street- Area Variances - Building & VUA Setbacks/ Parking Quantity/
Landscaping/ Decorative Wall Height

The petitioner's proposed office building will be 80' from the centerline of Main St., whereas, section 2-5-3 requires 115' and, whereas the building will be 9.73 feet from the west property line, whereas, section 4-4-2B requires 15', and whereas, the vehicle use area will be 8.92' from the south property line, whereas, section 4-2-2B requires 25', and whereas the subject use is providing 19 off-street parking spaces, whereas, section 7-1-6A requires 20 spaces, and whereas, a portion of the east wall of the building will not provide an adjacent 3' wide landscaped area as required by section 7-2-3A(2), and, whereas, a decorative wall segment will be 4 feet in height, whereas, section 2-5-1 limits the height to 2 feet.

Proposed Setback: 80' (Main St.)
Required Setback: 115'
Short of Required: 35' or 30%

Proposed Setback: 9.73' (west)
Required Setback: 15'
Short of Required: 5.27' or 35%

Proposed VUA Setback: 8.92'
Required Setback: 25'
Short of Required: 16.1' or 64%

Proposed Parking Spaces: 19
Required Parking Spaces: 20
Short of Required: 1 or 5%

Proposed Height: 4' (decorative wall)
Allowed Height: 2'
Over Allowed: 2' or 50%

5/18/2021

Timothy Kupinski of Kideney Architects appeared and answered questions from the Board.

There were no speakers from the public, therefore Ms. Potycz moved to close the hearing, seconded by Ms. Philips and unanimously approved 4-0.

ATTACHMENTS:

- 6565Main_SSD (JPG)

RESULT: **APPROVED [UNANIMOUS]**
MOVER: John Radens, Chairman
SECONDER: Ronald Shubert, Member
AYES: John Radens, Nina Potycz, Ronald Shubert, Kelly J. Philips
ABSENT: Ann M. Nichols

SEQR Determination

SEQR Determination of Non Significance for Parking Quantity

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: John Radens, Chairman
SECONDER: Nina Potycz, Member
AYES: John Radens, Nina Potycz, Ronald Shubert, Kelly J. Philips
ABSENT: Ann M. Nichols

2. ZBA Item 2021-32

4205 Tonawanda Creek Road - Area Variance - Detached Garage

The petitioner's garage will be 900 S.F. in area, whereas, the zoning law limits accessory structures to 75% of the principal building, in this case 668 S.F.

Proposed Area: 900 S.F.

Allowed Area: 668 S.F.

Over Allowed: 232 S.F. or 25.7%

5/18/2021

Tom Wilkinson appeared and answered questions from the Board.

There were no speakers from the public, therefore Mr. Radens moved to close the hearing, seconded by Ms. Potycz and unanimously approved 4-0.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Nina Potycz, Member
SECONDER: Ronald Shubert, Member
AYES: John Radens, Nina Potycz, Ronald Shubert, Kelly J. Philips
ABSENT: Ann M. Nichols

3. ZBA Item 2021-30

4281 Sheridan Drive - Area Variance - Parcel Division/Lot Width

The petitioner's proposed building Lot (A) will have a minimum lot width of 20 feet at the building setback line, whereas section 3-6-2B requires 65 feet minimum.

Required Lot Width: 65 feet

Proposed Lot Width: 20 feet

Short of Required: 45 feet or 69.2%

5/18/2021

Chester and Amy Grososky appeared and answered questions from the Board.

Michael and Shirley Zahm, 91 Sedgmoor Ct., and Marri Lee Debany, 4243 Sheridan Dr., spoke and asked questions about the project.

There were no further speakers from the public, therefore Mr. Radens moved to close the hearing, seconded by Ms. Potycz and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ann M. Nichols, Member
SECONDER:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

4. ZBA Item 2021-28

37 Wood Lee Road - Area Variance - Fence

The petitioner's 6 foot high replacement fence will be in the required side yard along Wood Lee, whereas, section 2-5-2A(5)(b) limits the height of the fence to 3 feet within such exterior side yard.

Required Setback: 20 feet
Proposed Setback: 0 feet
Over Allowed: 20 feet or 100%

5/18/2021

Melanie Cooper appeared and answered questions from the Board.

Kim Sweeney, 69 Wood Lee Rd., Lori Anderson, 85 Mayfair Ln. and Tara Boone, 52 Wood Lee Rd. spoke in support.

There were no further speakers from the public, therefore Mr. Radens moved to close the hearing, seconded by Ms. Potycz and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Nina Potycz, Member
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

5. ZBA Item 2021-34

72 Presidio Place - Area Variances - Fence & Shed

The petitioner's shed and fence will be within the exterior side yard setback, whereas section 2-5-2A(5)(b) prohibits any fence over 3 feet in height or any structure within the required exterior side yard.

Proposed Setback (fence): 0 feet
Required Setback: 30 feet
Over Allowed: 30 feet or 100%

Proposed Setback (shed): 0 feet
Required Setback: 30 feet
Short of Required: 30 feet or 100%

5/18/2021

Anthony Gattuso appeared and answered questions from the Board.

There were no speakers from the public, therefore Mr. Radens moved to close the hearing, seconded by Ms. Philips and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

6. ZBA Item 2021-25

59 Kaymar Drive - Special Use Permit - Type 2 Home Occupation

The petitioner desires to utilize a portion of her dwelling for a cosmetic medical practice which requires a special use permit for a Type Two Home Occupation.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 6/15/2021 6:00 PM
MOVER:	John Radens, Chairman	
SECONDER:	Nina Potycz, Member	
AYES:	Radens, Nichols, Potycz, Shubert, Philips	

7. ZBA Item 2021-27

89 Carriage Circle - Special Use Permit - Raising Chickens

The petitioner desires to raise chickens as an accessory use to her/his dwelling, which requires the issuance of a special use permit.

5/18/2021

Debbie Heller Kallus appeared and answered questions from the Board.

Renee Herman, 61 Carriage Hill E. and Pamela Demer, 53 Carriage Circle. spoke in support.

Lisa Brown, 66 Carriage Circle., David Askey, 56 Carriage Hill E., Danielle Pitirri, 65 Carriage Circle., Mike Miranda, 72 Carriage Circle., Carolyn Farrell, 84 Carriage Circle. spoke in opposition.

There were no further speakers from the public, therefore Ms. Nichols moved to close the hearing, seconded by Mr. Shubert and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

SEQR Determination

SEQR Determination of Non Significance for Raising Chickens

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

8. ZBA Item 2021-26

3985 Main Street - Area Variance - Signage

The Petitioner's desires to re-utilize an existing internally lit cabinet sign which does not meet the sign lighting standards as per section 5-7-7D of the Traditional Neighborhood Business overlay zoning district.

5/18/2021

Karla Reyes of ASI Signage Innovations appeared and answered questions from the Board.

There were no speakers from the public, therefore Ms. Philips moved to close the hearing, seconded by Ms. Nichols and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

9. ZBA Item 2021-33

6599 Main Street - Area Variance - VUA Setback

The petitioner's vehicle use area was constructed 5 feet from the west property line, whereas, the Zoning Board of Appeals previously issued an area variance to permit such vehicle use area to be 8 feet from the property line, whereas, the zoning ordinance requires 10 feet minimum.

Required Setback: 10 feet
Proposed Setback: 5 feet
Short of Required: 5 feet or 50%

5/18/2021

Ken Brown of Apex Consulting appeared and answered questions from the Board.

There were no speakers from the public, therefore Mr. Radens moved to close the hearing, seconded by Ms. Potycz and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

10. ZBA Item 2021-20

3310-3320 & 3340 Millersport Highway - Area Variances - Landscaping/VUA & Bldg. Setbacks/Illumination Levels

The petitioner desires to renew variances that have expired due to inaction. The petitioner's proposed multifamily development will not provide high impact screening along a shared interior property line with his existing apartment complex to the south, and such project will have a proposed parking area 0 feet from the shared interior property line whereas, 5 feet is required and, the parking lot lighting will exceed allowable lumen levels along such shared property line, and the petitioner's proposed apartment buildings will be a minimum of 16.57 feet from the interior property line, whereas, a 40 foot setback is required, and the proposed easterly apartment building will be 80 feet from the centerline of Millersport Hwy., whereas, the zoning ordinance requires 115 feet.

5/18/2021

Attorney Sean Hopkins appeared and answered questions from the Board.

There were no speakers from the public, therefore Ms. Nichols moved to close the hearing, seconded by Mr. Radens and unanimously approved 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips

V. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Ms. Nichols moved to adjourn, seconded by Mr. Shubert and unanimously approved 5-0. The Zoning Board of Appeals meeting of May 18, 2021 was adjourned at 8:22 PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.1

DOC ID: 23234

ZBA ITEM 2021-29

APPROVED

6565 Main Street- Area Variances - Building & VUA Setbacks/ Parking Quantity/ Landscaping/ Decorative Wall Height

WHEREAS, **Erik M. O'Neill** has made application for an Area Variances, under

- 1.) SECTION: 2-5-3 (bldg. setback north)**
- 2.) SECTION: 4-4-2B (bldg. setback west)**
- 3.) SECTION: 4-2-2B (VUA setback)**
- 4.) SECTION: 7-1-6A (parking quantity)**
- 5.) SECTION: 7-2-3A(2) (landscaping)**
- 6.) SECTION: 2-5-1 (decorative wall)**

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

6565 Main Street within a OB Zoning District

The petitioner's proposed office building will be **80** feet from the **Main Street centerline** whereas, the zoning ordinance requires a minimum of **115** feet, AND

The petitioner's proposed office building will be **9.73** feet from the **west property line** whereas, the zoning ordinance requires a minimum of **15** feet, AND

The petitioner's vehicle use area will be **8.92** feet from the **south property line** whereas, the zoning ordinance requires a minimum of **25** feet, AND

The petitioner's proposed **19** parking spaces whereas, the zoning ordinance requires a minimum of **20**, AND

The petitioner's proposed office building will have **0** feet of adjacent vehicle use landscape buffer on the **east** side of the building whereas, the zoning ordinance requires a minimum of **3** feet, AND

The petitioner's proposed decorative wall segment will be **4** feet in height whereas, the zoning ordinance permits a maximum of **2** feet, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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 variances are 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 variances requested are the minimum variances 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 area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

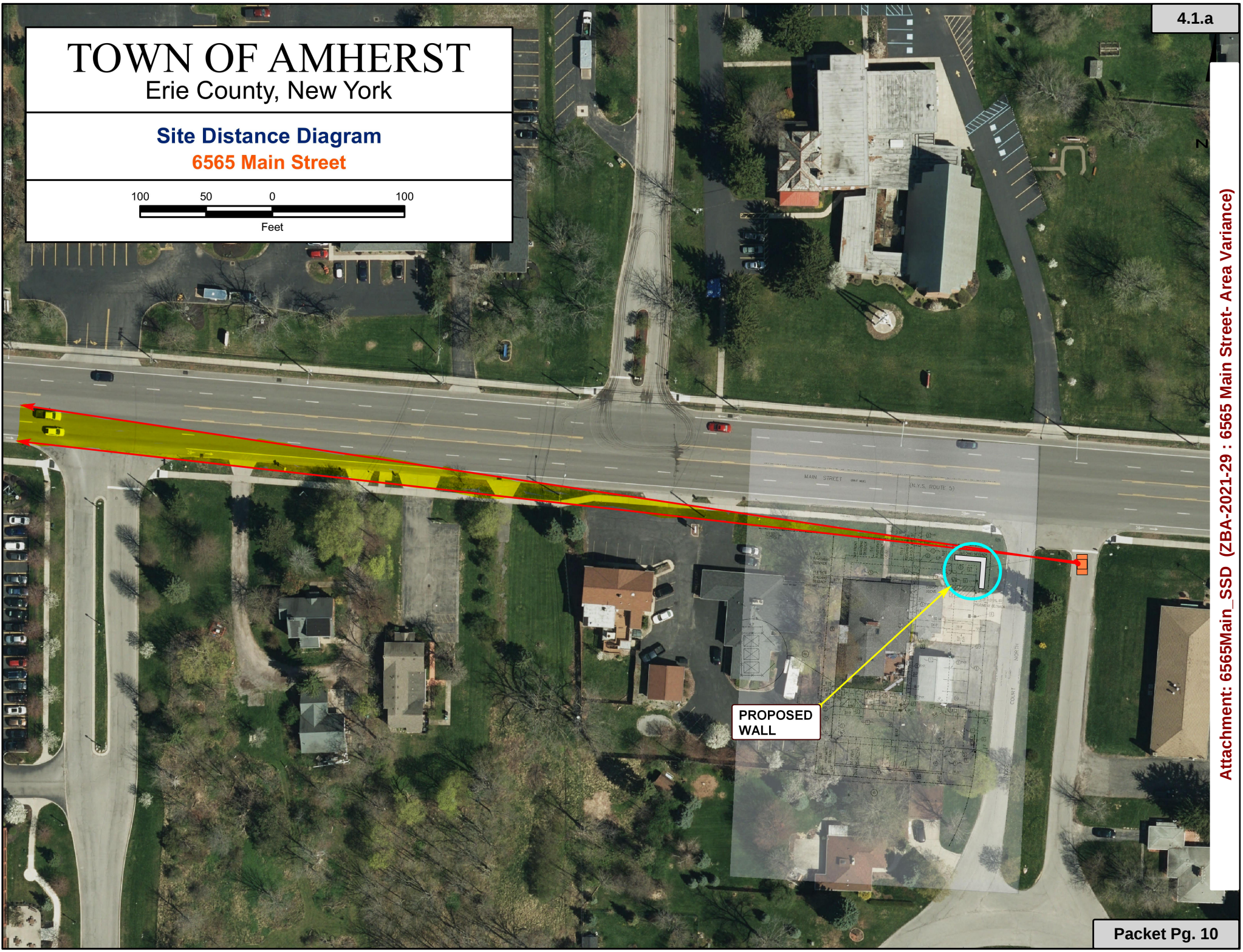
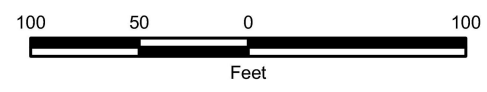
RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Potycz, Shubert, Philips
ABSENT:	Nichols

TOWN OF AMHERST

Erie County, New York

Site Distance Diagram

6565 Main Street



Attachment: 6565Main_SSD (ZBA-2021-29 : 6565 Main Street- Area Variance)



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

DOC ID: 23236

ZBA ITEM 2021-32

APPROVED

4205 Tonawanda Creek Road - Area Variance - Detached Garage

WHEREAS, **Thomas W. Wilkinson** has made application for an Area Variance, under

SECTION: 6-8-1B

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

4205 Tonawanda Creek Road within a SA Zoning District

The petitioner's proposed **detached garage** will be **900** square feet in area whereas, the zoning ordinance requires a maximum of **668** square feet in area, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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:	Nina Potycz, Member
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Potycz, Shubert, Philips
ABSENT:	Nichols



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.3

DOC ID: 23237

ZBA ITEM 2021-30

APPROVED

4281 Sheridan Drive - Area Variance - Parcel Division/Lot Width

WHEREAS, **Chester & Amy Grososky** have made application for an Area Variance, under

SECTION: 3-6-2B

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

4281 Sheridan Drive within a R-3 Zoning District

The petitioner's proposed **lot width** will be **20** feet whereas, the zoning ordinance requires a minimum of **65** feet, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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:	Ann M. Nichols, Member
SECONDER:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.4

DOC ID: 23240

ZBA ITEM 2021-28

APPROVED

37 Wood Lee Road - Area Variance - Fence

WHEREAS, **Melanie Cooper & Lori Meharian** have made application for an Area Variance, under

SECTION: 2-5-2A(5)(b)

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

37 Wood Lee Road within a R-3 Zoning District

The petitioner's proposed **replacement fence** will be **6 feet** in height within the required exterior side yard of 20 feet, whereas, the zoning ordinance limits the maximum height to **3 feet** within such required yard, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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:	Nina Potycz, Member
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.5

DOC ID: 23241

ZBA ITEM 2021-34

APPROVED

72 Presidio Place - Area Variances - Fence & Shed

WHEREAS, **Anthony Gattuso** has made application for Area Variances, under

1.) SECTION: 2-5-2A(5)(b) (fence)

2.) SECTION: 2-5-2A(5)(b) (shed)

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

72 Presidio Place within a R-3 Zoning District

The petitioner's proposed **fence** will be **6** feet in height whereas, the zoning ordinance requires a maximum of **3** feet, AND

The petitioner's proposed **shed** will be **0** feet from the north property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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 variances 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 area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.6

DOC ID: 23246

ZBA ITEM 2021-25

ADJOURNED

59 Kaymar Drive - Special Use Permit - Type 2 Home Occupation

DRAFT RESOLUTION

WHEREAS, **Katie M. Swanick** has made application for a Special Use Permit, under

SECTION: 6-8-6B(2)

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

59 Kaymar Drive within a R-3 Zoning District

The petitioner desires to utilize a portion of her home for a **cosmetic medical practice** which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** after proper notice, AND

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

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-6-6 of the Town of Amherst Zoning Ordinance, AND

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the proposed use:

-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **meets the criteria as specified in section 6-8-6;**
-) **will be compatible with the existing uses adjacent to and near the property;**
-) **will be in harmony with the general purpose of the Zoning Ordinance;**
-) **will not tend to depreciate the value of adjacent property;**
-) **will not create a hazard to health, safety or the general welfare;**
-) **will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents; and**
-) **will not otherwise be detrimental to the public convenience and welfare, AND**

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

1.

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:	ADJOURNED [UNANIMOUS]	Next: 6/15/2021 6:00 PM
MOVER:	John Radens, Chairman	
SECONDER:	Nina Potycz, Member	
AYES:	Radens, Nichols, Potycz, Shubert, Philips	



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.7

DOC ID: 23248

ZBA ITEM 2021-27

APPROVED

89 Carriage Circle - Special Use Permit - Raising Chickens

WHEREAS, **Debbie Heller-Kallus & Andre Kallus** have made an application for a Special Use Permit, under

SECTION: 6-8-9B

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

89 Carriage Circle within a R-3 Zoning District

The petitioner desires to **raise chickens** an accessory use which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** after proper notice, AND

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

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-6-6 of the Town of Amherst Zoning Ordinance, AND

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the proposed use:

-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **meets the criteria as specified in section 6-8-9B;**
-) **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 a period of two (2) years for the subject address.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23250

ZBA ITEM 2021-26

APPROVED

3985 Main Street - Area Variance - Signage

WHEREAS, **Daniel Brinkworth** has made application for an Area Variance, under

SECTION: 5-7-7B(3)

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

3985 Main Street within a TNB Overlay Zoning District

The petitioner's proposed **sign modification** will be not meet the sign lighting standards for **internally lit cabinet signs** whereas, the zoning ordinance prohibits internally lit cabinet signs unless architecturally integrated into the building facade consistent with the TNB district sign standards, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23251

ZBA ITEM 2021-33

APPROVED

6599 Main Street - Area Variance - VUA Setback

WHEREAS, **Waldemar Blaszak** has made application for an Area Variance, under

SECTION: 4-2-2B

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

6599 Main Street Road within an OB Zoning District

The petitioner's recently constructed vehicle use area (parking lot) is **5** feet from the **west** property line whereas, the zoning ordinance requires a minimum of **10** feet, AND

WHEREAS, the Zoning Board of Appeals on August 15, 2017 issued an area variance to permit the subject vehicle use area to be 8 feet from the west property line, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** 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:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 05/18/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.10

DOC ID: 23256

ZBA ITEM 2021-20

APPROVED

3310-3320 & 3340 Millersport Highway - Area Variances - Landscaping/VUA & Bldg. Setbacks/Illumination Levels

WHEREAS, **Morgan Property Management Group, LLC** has made an application for an Area Variances, under

- 1.) SECTION: 7-2-4B(1) (landscaping)**
- 2.) SECTION: 7-3-4D (illumination levels)**
- 3.) SECTION: 3-10-2B(3) (side bldg. setback)**
- 4.) SECTION: 2-5-3 (front bldg. setback)**
- 5.) SECTION: 3-15-6 (VUA setbacks)**

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

3310-3320 & 3340 Millersport Hwy. within a MFR-4A Zoning District

The petitioner's proposed 40 unit multifamily development will not provide **high impact screening** along the shared interior property line between the subject parcels, whereas, the zoning ordinance requires such screening between uses if on separate parcels, and, the proposed exterior lighting along the shared interior property line will be **4.9 foot candles**, whereas, the zoning ordinance permits a maximum of **0.2 foot candles** and, whereas, the proposed apartment buildings will be **16.57 feet** from the **shared interior property line**, whereas a minimum of **40 feet** is required, and whereas the **easterly apartment building** will be **80 feet** from the centerline of Millersport Hwy., whereas the zoning ordinance requires **115 feet minimum**, AND

WHEREAS, a remote public hearing was held on **May 18, 2021** after proper notice, AND

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

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

on the physical or environmental conditions in the neighborhood or district
) whether the alleged difficulty was self-created; AND

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) are not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

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

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

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

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT area variances 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:	Radens, Nichols, Potycz, Shubert, Philips