



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, June 15, 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 June 15, 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/82907848989?pwd=dVZIOWVsdGROajlUZUxNNjZUS1FYdz09>

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: 829 0784 8989

Passcode: 908250

II. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
John Radens	Town of Amherst	Chairman	Remote	
Ann M. Nichols	Town of Amherst	Member	Remote	
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	Remote	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Remote	
Daniel J. Ulatowski	Town of Amherst	Principal Planner	Remote	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Remote	
Ann Demopolous	Town of Amherst	Deputy Town Attorney	Remote	
Jacqueline Berger	Town of Amherst	Councilmember	Remote	

III. APPROVAL OF MINUTES

1. Tuesday, May 18, 2021

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

IV. HEARINGS ON APPEALS

1. 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.

6/15/2021

Katie Swanick appeared and answered questions from the Board.

Deborah Williams, 72 Kaymar, asked questions regarding business.

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

HISTORY:

05/18/21 Zoning Board of Appeals
Next: 06/15/21

ADJOURNED

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

SEQR Determination

1. SEQR Determination of Non Significance - Type 2 Home Occupation

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

2. ZBA Item 2021-38

90 Sausalito Drive - Special Use Permit

The petitioners desires to establish an auxiliary housing unit for their son, whereas, the Zoning Board of Appeals must issue a special use permit for such accessory use.

6/15/2021

Stephen & Kathleen Elliott appeared and answered question 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 5-0.

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

SEQR Determination

1. SEQR Determination of Non Significance - Auxiliary Housing Unit

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

3. ZBA Item 2021-36

51 Oakland Road - Special Use Permit - Raising Chickens

The petitioner desires to raise chickens as an accessory use to her dwelling, whereas, the Zoning Board of Appeals must issue a special use permit for such accessory use.

6/15/2021

Elizabeth Dagostino appeared and answered question from the Board.

Deborah Kilbourn, 35 Arlington, asked questions about raising chickens.

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

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

SEQR Determination

1. SEQR Determination of Non Significance - Raising Chickens

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

4. ZBA Item 2021-37

68 Bondcroft Drive - Special Use Permit Raising Chickens

The petitioner desires to raise chickens as an accessory use to his dwelling, whereas, the Zoning Board of Appeals must issue a special use permit for such accessory use.

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

5. ZBA Item 2021-35

4 Fawn Meadows Court - Area Variance Fence Height

The petitioner desires to erect a fence higher than 3 feet in height within the exterior side yard along Hopkins Road

Required Setback: 30 ft.
Proposed Setback: 8.5 ft.
Short of Required: 21.5 ft. or 72%

6/15/2021

Sheldon Park appeared and answered questions from the Board.

RESULT: **ADJOURNED [UNANIMOUS]** **Next: 7/20/2021 6:00 PM**
MOVER: Nina Potycz, Member
SECONDER: Ronald Shubert, Member
AYES: Radens, Nichols, Potycz, Shubert, Philips

6. ZBA Item 2021-39

7590 Transit Road - Area Variance Outdoor Storage/Display & Landscaping Relief

The petitioner is seeking relief from the high and medium impact screening requirements along his westerly and northerly yards and, the petitioner desires to maintain outdoor display and limited outdoor storage in excess of the limits established by the zoning ordinance.

6/15/2021

Attorney Sean Hopkins and Rob Hausrath appeared and answered questions from the Board.

There were no speakers from the public, therefore Ms. Philips moved to close the hearing on Area Variances 1 & 2, seconded by Ms. Potycz and unanimously approved 5-0.

The Board approved the Area Variances for high impact screening and medium impact screening.

Mr. Radens moved to adjourn Area Variance 3, 4, and 5, seconded by Ms. Potycz and unanimously approved 5-0.

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

7. ZBA Item 2021-42

4059 Main Street - Area Variance Fence Height

The petitioner's 6 foot high fence is zero feet from the north and west property lines, whereas, the zoning ordinance requires a 30 foot setback and 20 foot setback respectively, for fences higher than 3 feet in height.

Required Setback (front): 30 ft
Proposed Setback: 0 ft
Short of Required: 30 ft or 100 %

Required Setback (exterior side): 20 ft
Proposed Setback: 0 ft
Short of Required Setback: 20 ft or 100%

RESULT:	ADJOURNED [UNANIMOUS]	Next: 7/20/2021 6:00 PM
MOVER:	John Radens, Chairman	
SECONDER:	Nina Potycz, Member	
AYES:	Radens, Nichols, Potycz, Shubert, Philips	

8. ZBA Item 2021-43

4220 Bailey Avenue - Area Variance Generator Location

The petitioner's emergency standby generator will be 17'-11" from the east property line, whereas, the zoning ordinance requires a 20 foot setback.

Required Setback: 20 ft.
Proposed Setback: 17'-11"
Short of Required: 2'-1" or 10%

6/15/2021

Thomas Voigt, Assistant Planner, 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 5-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Nina Potycz, 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. Potycz moved to adjourn, seconded by Ms. Philips and unanimously approved 5-0. The Zoning Board of Appeals meeting of June 15, 2021 was adjourned at 7:23 PM.



Zoning Board of Appeals

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

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23246

ZBA ITEM 2021-25

APPROVED

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

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, 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:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.2

DOC ID: 23325

ZBA ITEM 2021-38

APPROVED

90 Sausalito Drive - Special Use Permit

WHEREAS, **Stephen & Kathleen Elliott** 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:

90 Sausalito Drive within a Zoning District

The petitioners desires to establish an **auxiliary housing unit** for their adult son 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 **June 15, 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 6-8-2;**
-) **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:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.3

DOC ID: 23326

ZBA ITEM 2021-36

APPROVED

51 Oakland Road - Special Use Permit - Raising Chickens

WHEREAS, **Elizabeth Dagostino** has made 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:

51 Oakland Road within a R-3 Zoning District

The petitioner desires to **raise chickens** as an accessory use to her dwelling, whereas, a special use permit must be issued by the Amherst Zoning Board of Appeals, AND

WHEREAS, a remote public hearing was held on **June 15, 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:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.4

DOC ID: 23329

ZBA ITEM 2021-37

ADJOURNED

68 Bondcroft Drive - Special Use Permit Raising Chickens

DRAFT RESOLUTION

WHEREAS, **Aidan Campbell** has made application for a Special Use Permit, under

SECTION: 6-8-9B

of the Zoning Ordinance of the Town Amherst for the property owned by Ann & Ken Campbell at:

68 Bondcroft Drive within a R-3 Zoning District

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

WHEREAS, a remote public hearing was held on **June 15, 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, 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]
MOVER:	Ann M. Nichols, Member
SECONDER:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.5

DOC ID: 23349

ZBA ITEM 2021-35

ADJOURNED

4 Fawn Meadows Court - Area Variance Fence Height

DRAFT RESOLUTION

WHEREAS, **Sheldon Park** has made application for an Area Variance(s), under

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

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

4 Fawn Meadows Court within a R-3 Zoning District

The petitioner's proposed **4 foot high fence** will be **8.5** feet from the **east** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **June 15, 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:	ADJOURNED [UNANIMOUS]	Next: 7/20/2021 6:00 PM
MOVER:	Nina Potycz, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Radens, Nichols, Potycz, Shubert, Philips	



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.6

DOC ID: 23362

ZBA ITEM 2021-39

APPROVED

7590 Transit Road - Area Variance Outdoor Storage/Display & Landscaping Relief

WHEREAS, **7590 Transit Road, LLC** has made application for Area Variances, under

1. SECTION: 7-2-4B(1) (high impact screening)

2. SECTION: 7-2-4B(2) (medium impact screening)

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

7590 Transit Road within a GB Zoning District

The petitioner is seeking relief from the **landscaping/screening** requirements along his **westerly** and **northerly** property lines, AND

WHEREAS, a remote public hearing was held on **June 15, 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:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.7

DOC ID: 23359

ZBA ITEM 2021-42

ADJOURNED

4059 Main Street - Area Variance Fence Height

DRAFT RESOLUTION

WHEREAS, **Thomas Kreuz** has made application for an Area Variance(s), under

- 1. SECTION : 7-5-3 (front yard)**
- 2. SECTION: 2-5-2A(5)(b) (exterior side yard)**

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

4059 Main Street within a R-3 Zoning District

The petitioner's proposed **6 foot tall fence** is **(0) zero feet** from the **north** property line whereas, the zoning ordinance requires a minimum of **30 feet**, and **(0) zero feet** from the **west** property line whereas, the zoning ordinance requires **20 feet**, AND

WHEREAS, a remote public hearing was held on **June 15, 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 an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 7/20/2021 6:00 PM
MOVER:	John Radens, Chairman	
SECONDER:	Nina Potycz, Member	
AYES:	Radens, Nichols, Potycz, Shubert, Philips	



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/15/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23360

ZBA ITEM 2021-43

APPROVED

4220 Bailey Avenue - Area Variance Generator Location

WHEREAS, **The Town of Amherst Engineering Department** has made application for an Area Variance, under

SECTION: 4-4-3B

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

4220 Bailey Avenue within a GB Zoning District

The petitioner's proposed **emergency standby generator** is **(17'-11")** from the **east** property line whereas, the zoning ordinance requires a minimum of **20 feet**, AND

WHEREAS, a remote public hearing was held on **June 15, 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:	John Radens, Chairman
SECONDER:	Nina Potycz, Member
AYES:	Radens, Nichols, Potycz, Shubert, Philips