



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, July 20, 2021

6:30 PM

Amherst Municipal Building

I. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
John Radens	Town of Amherst	Chairman	Present	
Ann M. Nichols	Town of Amherst	Member	Present	
Nina Potycz	Town of Amherst	Member	Absent	
Ronald Shubert	Town of Amherst	Member	Present	
Kelly J. Philips	Town of Amherst	Member	Present	
Timothy Koller	Town of Amherst	Deputy Town Clerk	Present	
Vianne Uthman	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 Demopoulos	Town of Amherst	Deputy Town Attorney	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, June 15, 2021

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

III. HEARINGS ON APPEALS

1. ZBA Item 2021-45

191 Chasewood Lane - Area Variance - Shed Setback

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve a shed installation. The petitioner's shed will be 7 feet from the east property line, whereas the zoning ordinance requires a minimum of 30 feet.

RESULT: ADJOURNED [UNANIMOUS] **Next: 8/17/2021 6:30 PM**
MOVER: John Radens, Chairman
SECONDER: Ann M. Nichols, Member
AYES: John Radens, Ann M. Nichols, Ronald Shubert, Kelly J. Philips
ABSENT: Nina Potycz

2. ZBA Item 2021-47

64 Amsterdam Avenue - Area Variance - Electric Transformer Setback

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve a transformer location. The petitioner's transformer is 12.5 feet from the road right-of-way, whereas, section 3-15-6 of the Zoning Ordinance requires a setback of 25 feet.

07/20/2021

Brad Packard appeared and answered questions from the Board.

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

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

3. ZBA Item 2021-48**83 Seabrook Drive - Area Variance - Fence Height in Exterior Side Yard**

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve a fence installation. The petitioner's proposed 6 foot high fence will be 0 feet from the south property line, whereas, section 2-5-2A(5)(b) requires a 30 foot setback.

07/20/2021

Ryan Freeman appeared and answered question 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 4-0.

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

4. ZBA Item 2021-49**1591 Tonawanda Creek Road - Area Variance - Accessory Garage Greater Than 75% of Principal Dwelling**

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve an accessory garage. The petitioner desires to construct a 1,400 s.f. accessory garage which will create a total of 4,433 s.f. of building area for all accessory structures (including an existing 2,749 s.f. barn and a 384 s.f. accessory shed) whereas, section 6-8-1B of the zoning ordinance limits all accessory structures to a maximum of 75% of the principal dwelling or in this case 1,266 s.f. maximum.

07/20/2021

Louie Berger appeared and answered questions from the Board.

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

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

5. ZBA Item 2021-50

439 North Forest Road - Area Variance - Height of Dwelling

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve the height of a single family dwelling. The petitioner's single family dwelling will be 48' at it's highest point, whereas, section 3-6-2B limits the height to 35'.

07/20/2021

Michael Huntress appeared and answered questions from the Board.

Tony Ogorek, 503 N Forest, asked questions about the project.

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

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

6. ZBA Item 2021-40

621 Getzville Road - Area Variance - Signage

The petitioner's pole sign is 30 feet in height, whereas, the zoning ordinance permits a maximum height of 25 feet, and whereas, the pole sign will be 246.06 s.f. in area, whereas a maximum of 64 s.f. is permitted, and whereas, the petitioner desires to erect (4) ground signs, whereas, a maximum of one ground sign is permitted, and whereas, the petitioner's directory sign is 23.79 s.f. in area, whereas, a maximum of 16 s.f. is permitted, and whereas, two incidental signs will be 3.95 s.f. in area, whereas, a maximum of 2 s.f. is permitted, and whereas, the total sign area proposed for the site is 544.36 s.f. in area whereas, a maximum of 476 s.f. is permitted.

7/20/2021

Mitchell Donnelly appeared and answered questions from the Board.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/17/2021 6:30 PM
MOVER:	John Radens, Chairman	
SECONDER:	Ann M. Nichols, Member	
AYES:	John Radens, Ann M. Nichols, Ronald Shubert, Kelly J. Philips	
ABSENT:	Nina Potycz	

7. ZBA Item 2021-55

3139 Sheridan Drive - Area Variance - Signage

The petitioner desires to erect a pole sign, whereas, the zoning ordinance does not permit pole signs in the mixed-use center zoning districts, and whereas, the sign post skirting will be 14 inches wide, whereas, a minimum of 15.75 inches is required.

07/20/2021

Andrew Warne appeared and answered questions from the Board.

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

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

8. ZBA Item 2021-46

216 North Union Road - Special Use Permit - Raising Chickens

The petitioner desires to raise chickens as an accessory use to his dwelling, whereas, the Zoning Ordinance requires the Zoning Board to issue a special use permit.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/17/2021 6:30 PM
MOVER:	John Radens, Chairman	
SECONDER:	Ann M. Nichols, Member	
AYES:	John Radens, Ann M. Nichols, Ronald Shubert, Kelly J. Philips	
ABSENT:	Nina Potycz	

9. ZBA Item 2021-44

292 Ivyhurst Road North - Special Use Permit - Raising Chickens

The petitioner desires to continue raising chickens as an accessory use to her dwelling, whereas, the Zoning Ordinance requires the Zoning Board to issue a special use permit.

07/20/2021

Kimberly Fedkiw appeared and answered questions from the Board.

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

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

10. ZBA Item 2021-51

655 New Road & 550 Smith Road

Four of the petitioner's field lights will be 70 feet in height, whereas, the zoning ordinance limits such structures to 65 feet in height, and whereas, the proposed field lighting will exceed 0.5 foot candles along a shared interior property line, whereas the zoning ordinance limits lumen levels along non residential property lines to 0.5 foot candles, and whereas the southerly athletic field and one field light will be 0 feet from an interior property line, whereas, the zoning ordinance requires 15 feet minimum.

07/20/2021

Tom Voight, Assistant Planner, appeared and answered questions from the Board.

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

ATTACHMENTS:

- 655 New Road_550 Smith Road_site plan (PDF)

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

SEQR Determination

1. SEQR Determination of Non Significance - Lighting

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

11. 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, and a portion of the fence will be in the clear vision triangle which does not permit obstructions higher than 2 feet in such area.

6/15/2021

Sheldon Park appeared and answered questions from the Board.

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

07/20/2021

The petitioner did not appear. The ZEO received information back from the Traffic Safety Coordinator regarding the request.

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

HISTORY:**06/15/21****Zoning Board of Appeals****ADJOURNED****Next: 07/20/21**

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

12. 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%

07/20/2021

Attorney Sean Hopkins 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 4-0

HISTORY:**06/15/21****Zoning Board of Appeals****ADJOURNED****Next: 07/20/21**

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

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Mr. Radens moved to adjourn, seconded by Ms. Philips and unanimously approved 4-0. The Zoning Board of Appeals meeting of July 20, 2021 was adjourned at 7:52 PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.1

DOC ID: 23458

ZBA ITEM 2021-45

ADJOURNED

191 Chasewood Lane - Area Variance - Shed Setback

DRAFT RESOLUTION

WHEREAS, **Jeff Brunskill** has made application for an Area Variance, under

SECTION: 2-5-5

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

191 Chasewood Lane within an R-3 Zoning District

The petitioner's proposed **shed** will be **7 feet** from the **east property line** whereas, the zoning ordinance requires a minimum of **30 feet**, AND

WHEREAS, a public hearing was held on **July 20, 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:	ADJOURNED [UNANIMOUS]	Next: 8/17/2021 6:30 PM
MOVER:	John Radens, Chairman	
SECONDER:	Ann M. Nichols, Member	
AYES:	Radens, Nichols, Shubert, Philips	
ABSENT:	Potycz	



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

DOC ID: 23465

ZBA ITEM 2021-47

APPROVED

64 Amsterdam Avenue - Area Variance - Electric Transformer Setback

WHEREAS, **Attica Housing Development Fund Company, Inc.** has made application for an Area Variance, under

SECTION: 3-15-6

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

64 Amsterdam Avenue within a MFR-7 Zoning District

The petitioner's proposed **transformer** will be **12.5** feet from the right-of-way whereas, the zoning ordinance requires a minimum of **25** feet, AND

WHEREAS, a public hearing was held on **July 20, 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:	Ronald Shubert, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Shubert, Philips
ABSENT:	Potycz



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

DOC ID: 23468

ZBA ITEM 2021-48

APPROVED

83 Seabrook Drive - Area Variance - Fence Height in Exterior Side Yard

WHEREAS, **Ryan and Denise Freeman** 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 :

83 Seabrook Drive within a R-3 Zoning District

The petitioner's proposed 6-foot high **fence** will be **0** feet from the south property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a public hearing was held on **July 20, 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:	Ronald Shubert, Member
SECONDER:	John Radens, Chairman
AYES:	Radens, Nichols, Shubert, Philips
ABSENT:	Potycz



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 23470

ZBA ITEM 2021-49

APPROVED

1591 Tonawanda Creek Road - Area Variance - Accessory Garage Greater Than 75% of Principal Dwelling

WHEREAS, **Sharon and Louie Berger** have 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/her at :

1591 Tonawanda Creek Road within a SA Zoning District

The petitioner's proposed **accessory garage** will be **4,433** square feet in area from whereas, the zoning ordinance requires a maximum of 1,266 square feet, AND

WHEREAS, a public hearing was held on July 20, 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:	Ronald Shubert, Member
SECONDER:	John Radens, Chairman
AYES:	Radens, Nichols, Shubert, Philips
ABSENT:	Potycz



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.5

DOC ID: 23478

ZBA ITEM 2021-50

APPROVED

439 North Forest Road - Area Variance - Height of Dwelling

WHEREAS, **Michael and Haley Huntress** 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 :

439 North Forest Road within a R-3 Zoning District

The petitioner's proposed **single family home** will be **48** feet in height whereas, the zoning ordinance requires a maximum of 35 feet, AND

WHEREAS, a public hearing was held on **July 20, 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:	Kelly J. Philips, Member
AYES:	Radens, Nichols, Shubert, Philips
ABSENT:	Potycz



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 23508

ZBA ITEM 2021-40

ADJOURNED

621 Getzville Road - Area Variance - Signage

DRAFT RESOLUTION

WHEREAS, **Northtown Properties** has made application for an Area Variance(s), under

- 1. SECTION: 7-8-4B(3)(b) (height)**
- 2. SECTION: 7-8-8B (pole sign area)**
- 3. SECTION: 7-8-4B1(a) (ground signs)**
- 4. SECTION: 7-8-4C1(b) (directory sign)**
- 5. SECTION: 7-8-3B6(a) (incidental signs)**
- 6. SECTION: 7-8-8A (total sign area)**

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

621 Getzville Road within a GB Zoning District

The petitioner's **pole sign** is **30 feet in height**, whereas, the zoning ordinance permits a maximum height of **25 feet**, and whereas, the pole sign will be **246.06 s.f.** in area, whereas a maximum of **64 s.f.** is permitted, and whereas, the petitioner desires to erect **(4) ground signs**, whereas, a maximum of **one ground sign** is permitted, and whereas, the petitioner's **directory sign** is **23.79 s.f.** in area, whereas, a maximum of **16 s.f.** is permitted, and whereas, **two incidental signs** will be **3.95 s.f.** in area, whereas, a maximum of **2 s.f.** is permitted, and whereas, the **total sign area** proposed for the site is **544.36 s.f.** in area whereas, a maximum of **476 s.f.** is permitted, AND

WHEREAS, a public hearing was held on **July 20, 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]**
MOVER: John Radens, Chairman
SECONDER: Ann M. Nichols, Member
AYES: Radens, Nichols, Shubert, Philips
ABSENT: Potycz

Next: 8/17/2021 6:30 PM



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23482

ZBA ITEM 2021-55

DENIED

3139 Sheridan Drive - Area Variance - Signage

WHEREAS, **Northtown Property Owner, LLC** has made application for an Area Variance, under

1. SECTION: 7-8-7 (pole sign)

2. SECTION: 7-8-7B3(e)(skirting)

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

3139 Sheridan Drive within a CTR-5 Zoning District

The petitioner's desires to erect a **pole sign** whereas, the zoning ordinance does not permit pole signs within the Center 5 mixed use zoning district, and whereas, the sign post skirting must be 15% of the sign width, or in this case **15.75 inches**, whereas, the proposed post skirting is **14 inches**, AND

WHEREAS, a public hearing was held on **July 20, 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 is not substantial, that it will have an adverse impact on the physical or environmental conditions of the neighborhood and that it will create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance was granted will 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 petitioner has alternatives available to him, including constructing a ground sign which will allow the town to further its aesthetic goals of improving and protecting 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 DENY area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 23481

ZBA ITEM 2021-46

ADJOURNED

216 North Union Road - Special Use Permit - Raising Chickens

DRAFT RESOLUTION

WHEREAS, **Marcelino Miranda** has made application for a Special Use Permit, under

SECTION: 6-8-9

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

216 North Union Road within a R-3 Zoning District

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

WHEREAS, a public hearing was held on **July 20, 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]	Next: 8/17/2021 6:30 PM
MOVER:	John Radens, Chairman	
SECONDER:	Ann M. Nichols, Member	
AYES:	Radens, Nichols, Shubert, Philips	
ABSENT:	Potycz	



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 23479

ZBA ITEM 2021-44

APPROVED

292 Ivyhurst Road North - Special Use Permit - Raising Chickens

WHEREAS, **Kimberly F. Fedkiw** has made application for a Special Use Permit, under

SECTION: 6-8-9

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

292 Ivyhurst Road North within a R-3 Zoning District

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

WHEREAS, a public hearing was held on **July 20, 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, Shubert, Philips
ABSENT:	Potycz



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 23476

ZBA ITEM 2021-51

APPROVED

655 New Road & 550 Smith Road

WHEREAS, **Jurek Post American Legion and the Town of Amherst** have made application for an Area Variances, under

1. SECTIONS: 5-5-2B & 5-9-2B (light height)

2. SECTION: 5-5-2B & 5-9-2B (field and light setback)

3. SECTION: 7-3-4D (lumen levels)

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

665 New Road and 550 Smith Road within a CF & RC Zoning District

Four **(4)** of the petitioner's **field lights** will be **70 feet** in height, whereas, the zoning ordinance limits such structures **to 65 feet** in height, and whereas, the proposed field lighting will **exceed 0.5 foot** candles along a shared interior property line, whereas the zoning ordinance limits lumen levels along non-residential property lines to 0.5 foot candles, and whereas the southerly **athletic field and one field light** will be **0 feet** from an interior property line, whereas, the zoning ordinance requires **15 feet** minimum, AND

WHEREAS, a public hearing was held on **July 20, 2021** after proper notice, AND

WHEREAS, the attached determination of environmental significance was made pursuant to SEQRA, 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:	Ann M. Nichols, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Radens, Nichols, Shubert, Philips
ABSENT:	Potycz

North Amherst Recreation Center
4415 Millersport Highway
East Amherst, NY 14051

wendel

237 Main Street, Suite 500
Buffalo, NY 14203
wendelcompanies.com
p:716.688.0766 f:716.625.6825

Wendel WD Architecture, Engineering, Surveying and
Landscape Architecture, P.C.

PROGRESS
PRINT
06-29-2021
NOT FOR CONSTRUCTION

NOTE:
THIS DOCUMENT, AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS
AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF
WENDEL WD ARCHITECTURE, ENGINEERING, SURVEYING AND LANDSCAPE
ARCHITECTURE, P.C. AND IS NOT TO BE USED IN WHOLE OR IN PART, FOR
ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF WENDEL.
UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY DRAWING, DESIGN
SPECIFICATION, PLAN OR REPORT IS A VIOLATION OF SECTION 7209,
§ 800.16(b)(3) OF THE NEW YORK STATE EDUCATION LAW.

[illegible]

NO.	REVISIONS	DATE
-----	-----------	------

DNG. TITUL

REVISIONS

DATE _____

0 1" 2"

GENERIC SCALE BAR

DATE JUNE 2, 2021

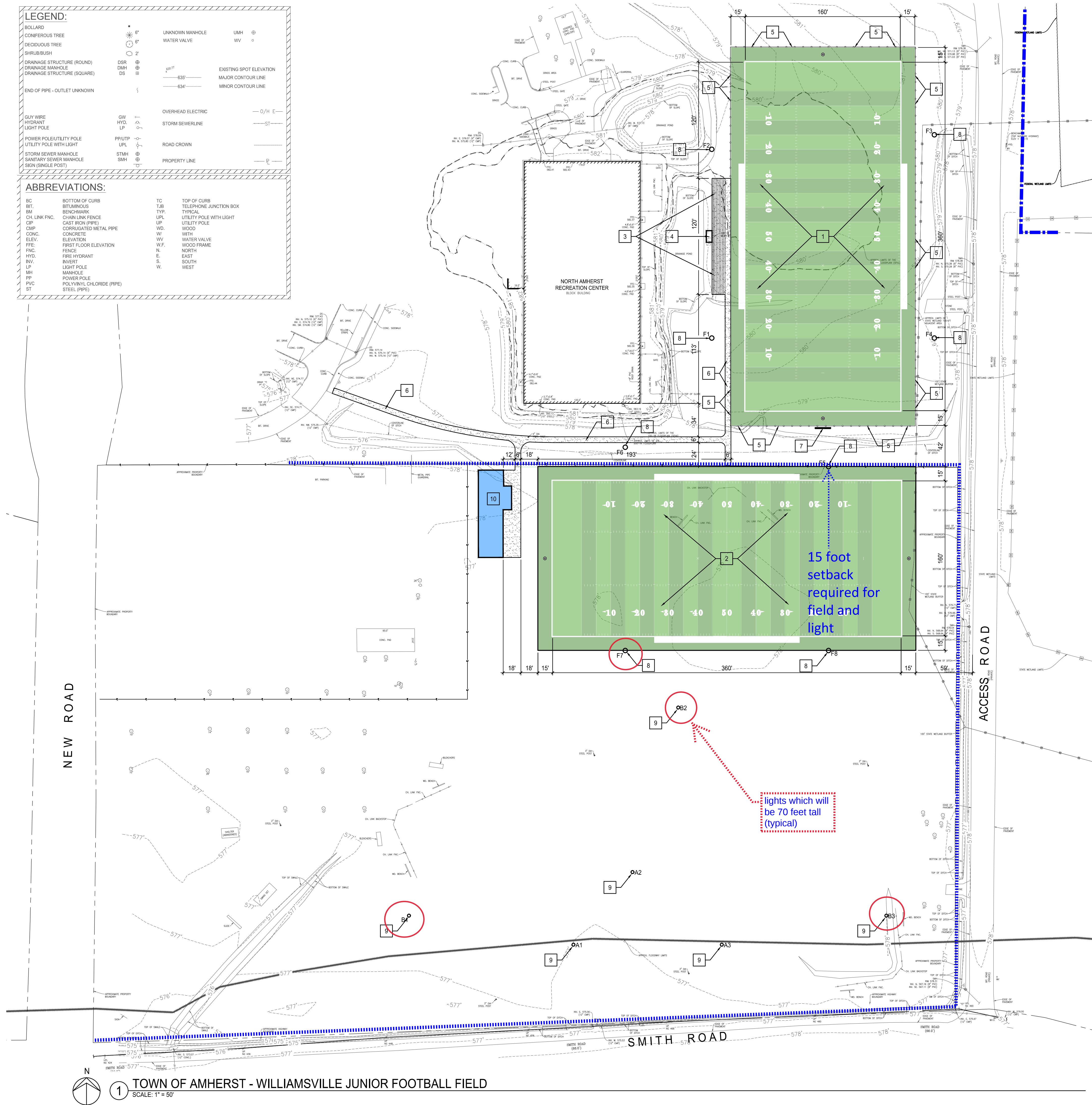
SCALE AS NOTED

DWN. MJK/DLK

PROJ. No. 26134

DWG, No.

C200





Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23349

ZBA ITEM 2021-35

APPROVED W/ CONDITIONS

4 Fawn Meadows Court - Area Variance Fence Height

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

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

2. SECTION: 2-5-1 (clear vision triangle)

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 a portion of the fence will be in the clear vision triangle, whereas, the zoning ordinance does not permit obstructions higher than 2 feet in such area, AND

WHEREAS, a public hearing was held on **July 20, 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 area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst with the following condition:

1. The petitioner remove any branches to a minimum height of 8 feet from the ground for any trees within the clear vision triangle affecting his/her property.

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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 07/20/21 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 23359

ZBA ITEM 2021-42

APPROVED W/ CONDITIONS

4059 Main Street - Area Variance Fence Height

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 a minimum of **2.6 feet** from the **west** property line whereas, the zoning ordinance requires **20 feet**, AND

WHEREAS, a public hearing was held on **July 20, 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 with the following condition:

1. The petitioner shall remove that portion of the fence and any bushes within the clear vision triangle within 45 days.

RESULT:	APPROVED W/ CONDITIONS [UNANIMOUS]
MOVER:	Ann M. Nichols, Member
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Shubert, Philips
ABSENT:	Potycz