



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, October 19, 2021

6:00 PM

Amherst Municipal Building

I. 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 Cherian	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	Assistant Planning Director/ZEO	Remote	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Remote	
Jacqueline Berger	Town of Amherst	Councilmember	Remote	

II. APPROVAL OF MINUTES

1. Tuesday, September 21, 2021

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

2. Monday, September 27, 2021

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

III. HEARINGS ON APPEALS

1. ZBA Item 2021-77

693 Edgewater Drive - Area Variance Fence Within Exterior Side Yard

The petitioner's proposed 6 foot high fence will be approximately 3 feet from the west property line, whereas, the zoning ordinance requires a 30 foot setback for fencing over three feet in height.

10/19/2021

Diana & Samuel Fritz spoke and answered questions from the Board.

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

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

2. ZBA Item 2021-89

8 Hoviland Court - Area Variance - Fence and Shed Within Exterior Side Yard

The petitioner's proposed shed will be 5 feet from the north property line, whereas, the zoning ordinance requires 30 feet minimum, and whereas, the proposed 6 foot high fence extension will be 2 feet +/- from the north property line, whereas, a minimum of 30 feet is required.

10/19/2021

Randall & Carrie Rich Spoke and answered questions from the Board.

Mr. Radens moved to adjourn the hearing to the November 16 meeting, seconded by Ms. Nichols and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 11/16/2021 6:00 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	

3. ZBA Item 2021-88

2660 Millersport Highway- Area Variance Vehicle Use Area Setback and Curbing

The petitioner desires to extend his vehicle use area to within zero feet of the north property line, whereas, the zoning ordinance requires a minimum setback of 10 feet, and whereas, the petitioner desires to eliminate curbing around the terminal landscaping islands, whereas, the zoning ordinance requires all landscape islands to be provided with six inch high concrete curbing.

10/19/2021

The petitioner spoke and answered questions from the Board.

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

RESULT: **SPLIT VOTE [UNANIMOUS]**
MOVER: John Radens, Chairman
SECONDER: Ronald Shubert, Member
AYES: Radens, Nichols, Cherian, Shubert, Philips

Area Variance - Vehicle Use Area

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

Area Variance - Curbing

RESULT: **DEFEATED [UNANIMOUS]**
MOVER: John Radens, Chairman
SECONDER: Ronald Shubert, Member
AYES: Radens, Nichols, Cherian, Shubert, Philips

4. ZBA Item 2021-91

12 Scamridge Curve - Area Variance Pool/Pool Deck and Fence

The petitioner's existing pool with deck is (0) zero feet from the north and west property lines, whereas the zoning ordinance requires a minimum setback of 3 feet from the west property line and 20 feet from the north property line, and whereas, the existing 6 foot high fence is (0) zero feet from the north property line, whereas, the zoning ordinance requires a 20 foot setback.

10/19/2021

Edwin & Cecile Morris appeared and answered questions from the Board.

Charles Battaglia, 17 Scamridge Curve, and Greg Chambers, 7 Scamridge Curve, spoke in support. Patricia Moran, 22 Scamridge Curve, spoke in opposition.

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

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

5. ZBA Item 2021-94

104 Parkledge Drive- Area Variance Building Setback

The petitioner's front building addition will be 31.5 feet from the east property line, whereas, the zoning ordinance requires a minimum setback of 35.3 feet.

10/19/2021

Robert & Marian Stein spoke and answered questions from the Board.

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Kelly J. Philips, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips

6. ZBA Item 2021-71

3171 Sheridan Drive - Area Variance Functional Second Story

The petitioner's building addition will not have a second functional story as required by the zoning ordinance for the Center 5 Mixed-Use zoning district.

10/19/2021

Chris Rood from Vocon spoke and answered questions from the Board.

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

RESULT:	APPROVED [4 TO 0]
MOVER:	John Radens, Chairman
SECONDER:	Kelly J. Philips, Member
AYES:	John Radens, Ann M. Nichols, Nina Cherian, Kelly J. Philips
RECUSED:	Ronald Shubert

SEQR Determination - Functional Second Story

RESULT:	ADOPTED [4 TO 0]
MOVER:	John Radens, Chairman
SECONDER:	Nina Cherian, Member
AYES:	John Radens, Ann M. Nichols, Nina Cherian, Kelly J. Philips
RECUSED:	Ronald Shubert

7. ZBA Item 2021-76

234, 240 & 242 South Cayuga Road - Open Area Development

The petitioner's parcel division will create an individual lot for an existing dwelling, which will not abut a public road, whereas all dwelling lots must have frontage on a public road.

10/19/2021

Attorney Jeffrey Palumbo spoke and answered questions from the Board.

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

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

SEQR Determination - Open Area Development

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

8. ZBA Item 2021-93

250 Sundridge Drive- Area Variance Height of Fence in Front Yard

The petitioner's 4 foot high fence is within the required front yard, whereas, the zoning ordinance limits such fencing to 3 feet maximum within the required front yard.

10/19/2021

Sean Martin spoke and answered questions from the Board.

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

RESULT: **APPROVED [UNANIMOUS]**
MOVER: John Radens, Chairman
SECONDER: Kelly J. Philips, Member
AYES: Radens, Nichols, Cherian, Shubert, Philips

9. ZBA Item 2021-79

21 Forest Stream Drive-Area Variance Height of an Accessory Structure

The petitioner's garage will be 22 feet in height, whereas the zoning ordinance limits accessory structures to a maximum height of 20 feet.

10/19/2021

Attorney Sean Hopkins spoke and answered questions from the Board.

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

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

10. ZBA Item 2021-80

199 Park Club Lane- Area Variance Signage

The petitioner's signage will exceed the maximum allowable for the site. The petitioner is seeking 834 square feet of signage, whereas the zoning ordinance permits a maximum of 537.5 square feet of signage.

10/19/2021

Sean Hopkins, Esq. spoke and answered questions from the Board.

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

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

11. ZBA Item 2021-82**145 Dan Troy Drive- Area Variance Building Setback, Exterior Side Yard**

The petitioner's proposed detached garage will be 1 foot from the south property line, whereas the zoning ordinance requires a minimum setback of 30 feet.

10/19/2021

Attorney Sean Hopkins spoke and answered questions from the Board.

Carol Russ, 139 Meadowview, Sarah Emel, 231 Presidio, Kurt Saccone & Elizabeth Dobosiewicz, 94 Meadowview, spoke in opposition.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 11/16/2021 6:00 PM
MOVER:	Nina Cherian, Member	
SECONDER:	John Radens, Chairman	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	

12. ZBA Item 2021-78**360 Washington Highway - Area Variance Building Setback**

The petitioner desires to enclose his existing porch, whereas, such porch modification will cause the porch to be 23.25 feet from the west property line, whereas, the zoning ordinance requires a 30 foot setback.

10/19/2021

Jason Menegaux spoke and answered questions from the Board.

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

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

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Ms. Cherian moved to adjourn, seconded by Ms. Nichols and unanimously approved 5-0. The Zoning Board of Appeals meeting of October 19, 2021 was adjourned at 9:05 PM.



Zoning Board of Appeals

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

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 24871

ZBA ITEM 2021-77

APPROVED

693 Edgewater Drive - Area Variance Fence Within Exterior Side Yard

WHEREAS, **Samuel & Diana Fritz** have made application for an Area Variance(s),
under

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

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

693 Edgewater Drive within a R-3 Zoning District

The petitioner's proposed **6 foot high fence** will be **3 feet +/-** feet from the **west** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **October 19, 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:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

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

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 24872

ZBA ITEM 2021-89

ADJOURNED

8 Hoviland Court - Area Variance - Fence and Shed Within Exterior Side Yard

DRAFT RESOLUTION

WHEREAS, **Randall & Carrie Rich** have made application for an Area Variance(s), under

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

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

8 Hoviland Court within a R-3 Zoning District

The petitioner's proposed **accessory shed** will be **5 feet +/-** from the **north**, property line and whereas, the proposed **6 foot high fence extension** will be **2 feet +/-** from the north property line, whereas, the zoning ordinance requires a minimum of **30 feet** for both, AND

WHEREAS, a remote public hearing was held on **October 19, 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: 11/16/2021 6:00 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	



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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 24873 B

ZBA ITEM 2021-88

SPLIT VOTE

2660 Millersport Highway- Area Variance Vehicle Use Area Setback and Curbing

WHEREAS, **Dmitri Tsabai/2660 Holding, LLC** have made application for an Area Variance(s), under

1. SECTION: 4-5-2B (VUA setback)

2. SECTION: 7-2-3A(3)(k) (curbing)

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

2660 Millersport Highway within a CS Zoning District

The petitioner desires to extend his vehicle use area to within zero feet of the north property line, whereas, the zoning ordinance requires a minimum setback of 10 feet, and whereas, the petitioner desires to eliminate curbing around the terminal landscaping islands, whereas, the zoning ordinance requires all landscape islands to be provided with six inch high concrete curbing, AND

WHEREAS, a remote public hearing was held on **October 19, 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 variance number one 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, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that variance number two is substantial, that it will have an adverse impact on the physical or environmental conditions of the neighborhood and that it will create an undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if variance number two is granted does not outweigh the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, 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 **section 4-5-2B(VUA setback)** of the Zoning Ordinance of the Town of Amherst, subject to :

1. a minimum setback of 5 feet being maintained along the north property line, and

BE IT, FURTHER RESOLVED that the **second variance (curbing)** is hereby **DENIED**.

RESULT:	SPLIT VOTE [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 24880 A

ZBA ITEM 2021-91

APPROVED

12 Scamridge Curve - Area Variance Pool/Pool Deck and Fence

WHEREAS, **Edwin & Cecile Morris** have made application for an Area Variance(s), under

1.) SECTION: 2-5-2A(2)(5) (north property line)

2.) SECTION: 3-6-3B (pool deck, west property line)

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

12 Scamridge Curve within a R-3 Zoning District

The petitioner's proposed **pool/pool deck and 6 foot high fence** is **(0) feet** from the **north** property line, whereas, the zoning ordinance requires **(20) feet** and whereas, the **pool deck is (0) feet +/-** from the **west** property line, whereas, the zoning ordinance requires a minimum of **3** feet, AND

WHEREAS, a remote public hearing was held on **October 19, 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 subject to:

1. The proposed replacement fence shall not encroach the Town road right of way.

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



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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 24887

ZBA ITEM 2021-94

APPROVED

104 Parkledge Drive- Area Variance Building Setback

WHEREAS, **Robert & Marian Stein** have made application for an Area Variance(s), under

1.) SECTION: 2-5-2A(3)(a)

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

104 Parkledge Drive within a R-3 Zoning District

The petitioner's proposed **front building addition** will be **31.5 feet** from the **east** property line, whereas, the zoning ordinance requires a minimum setback of **35.3 feet**, AND

WHEREAS, a remote public hearing was held on **October 19, 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:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Kelly J. Philips, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 24888 A

ZBA ITEM 2021-71

APPROVED

3171 Sheridan Drive - Area Variance Functional Second Story

WHEREAS, **Chris Rood/Key Bank National Association** have made application for an Area Variance(s), under

SECTION: 5A-7-8A(4)

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

3171 Sheridan Drive within a CTR-5 Zoning District

The petitioner's proposed **building addition** will not have a **second functional story**, whereas, the zoning ordinance requires all new buildings and additions to have a second functional story within the Center mixed-use zoning districts, AND

WHEREAS, a remote public hearing was held on **October 19, 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 previously issued a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for this request, 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:	APPROVED [4 TO 0]
MOVER:	John Radens, Chairman
SECONDER:	Kelly J. Philips, Member
AYES:	Radens, Nichols, Cherian, Philips
RECUSED:	Shubert



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.7

DOC ID: 24889 B

ZBA ITEM 2021-76

APPROVED

234, 240 & 242 South Cayuga Road - Open Area Development

WHEREAS, **Roeland H. Polet** has made application for an Open Development Area, under

Section: 280-a(3)

of the New York State Town Law for the property owned by him/her at :

234, 240 & 242 South Cayuga Road within a R-3 Zoning District

The petitioner desires to divide and merge his/her parcels so that each existing dwelling has its own lot, and whereas, one of the parcels will not abut a public road, whereas, Chapter 204 of the Amherst Town Code (Subdivision of Land), Section 3-5-3 requires all building lots to abut a public dedicated street or have a private drive or have access to such street or drive via a public alley, AND

WHEREAS, a remote public hearing was held on **October 19, 2021** after proper notice, AND

WHEREAS, pursuant to section 280-a(3) of New York State Town Law an applicant may appeal to the Zoning Board of Appeals for an area variance for relief from the requirements for building lots to be on public dedicated street, AND

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

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

WHEREAS, this Board previously issued a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for this request, 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:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.8

DOC ID: 24881

ZBA ITEM 2021-93

APPROVED

250 Sundridge Drive- Area Variance Height of Fence in Front Yard

WHEREAS, **Sean R. Martin** has made application for an Area Variance, under

SECTION: 3-10-2B(1)

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

250 Sundridge Drive within a MFR-5 Zoning District

The petitioner's proposed **4 foot high fence** will be **0 feet** from the **east** property line whereas, the zoning ordinance requires a minimum of **25 feet**, AND

WHEREAS, a remote public hearing was held on **October 19, 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:	Kelly J. Philips, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.9

DOC ID: 24882

ZBA ITEM 2021-79

APPROVED

21 Forest Stream Drive-Area Variance Height of an Accessory Structure

WHEREAS, **Sean Hopkins** has made application for an Area Variance, under

SECTION: 3-6-3B

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

21 Forest Stream Drive within a R-3 Zoning District

The petitioner's proposed **detached garage** will be **22** feet in height whereas, the zoning ordinance permits a maximum of height of **20** feet, AND

WHEREAS, a remote public hearing was held on **October 19, 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:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.10

DOC ID: 24883

ZBA ITEM 2021-80

APPROVED

199 Park Club Lane- Area Variance Signage

WHEREAS, **Ciminelli Real Estate Corporation** has made application for an Area Variance, under

SECTION: 7-8-8A

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

199 Park Club Lane within a OB Zoning District

The petitioner's proposed **total sign area** will be **834 square feet** whereas, the zoning ordinance permits a maximum of **537.5 square feet**, AND

WHEREAS, a virtual public hearing was held on **October 19, 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:	Ronald Shubert, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.11

DOC ID: 24884

ZBA ITEM 2021-82

ADJOURNED

145 Dan Troy Drive- Area Variance Building Setback, Exterior Side Yard

DRAFT RESOLUTION

WHEREAS, **Anthony Castronova** has made application for an Area Variance, under

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

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

145 Dan Troy Drive within a R-3 Zoning District

The petitioner's proposed **detached garage** will be **1** foot from the **south** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **October 19, 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: 11/16/2021 6:00 PM
MOVER:	Nina Cherian, Member	
SECONDER:	John Radens, Chairman	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 10/19/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.12

DOC ID: 24891

ZBA ITEM 2021-78

APPROVED

360 Washington Highway - Area Variance Building Setback

WHEREAS, **Jason Menegaux** has made application for an Area Variance(s), under

SECTION: 3-6-2B

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

360 Washington Highway within a R-3 Zoning District

The petitioner's proposed **porch enclosure** will be **23.25** feet from the **west** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **October 19, 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:	APPROVED [UNANIMOUS]
MOVER:	John Radens, Chairman
SECONDER:	Ann M. Nichols, Member
AYES:	Radens, Nichols, Cherian, Shubert, Philips