



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, November 16, 2021

6:00 PM

Amherst Municipal Building

I. ZOOM INFORMATION

Join Zoom Meeting

<https://us02web.zoom.us/j/88063046304?pwd=dUVuWXJRaUxBUGc1dmFWakErODNuQT09>

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

1-646-558-8656

Meeting ID: 880 6304 6304

Passcode: 628892

II. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
John Radens	Town of Amherst	Chairman	Remote	
Ann M. Nichols	Town of Amherst	Member	Remote	
Nina Cherian	Town of Amherst	Member	Remote	
Ronald Shubert	Town of Amherst	Member	Remote	
Kelly J. Philips	Town of Amherst	Member	Remote	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Remote	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Remote	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Remote	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Remote	
Jacqueline Berger	Town of Amherst	Councilmember	Remote	

III. APPROVAL OF MINUTES

1. Tuesday, October 19, 2021

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

IV. HEARINGS ON APPEALS

1. ZBA Item 2021-99

3579 Sheridan Drive - Area Variance - Landscaping

The petitioner's parking area modification will provide a three foot wide landscaping island at the end of the parking aisle, whereas, the zoning ordinance requires eight feet minimum.

11/16/2021

Phillip Snyder appeared and answered questions from the Board.

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

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

2. ZBA Item 2021-84

1350 North French Road - Area Variance - Size of Accessory Garage

The petitioner's proposed accessory garage is 1,248 s.f. in area, whereas, the zoning ordinance limits all accessory structures to 75 percent of the principal dwelling or in this case, 805 s.f., and whereas, the existing garage combined with the proposed garage total 2,032 s.f. in area, and being 1,277 s.f. over the maximum area allowed.

11/16/2021

Bret Llewellyn 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. Cherian and unanimously approved 5-0.

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

3. ZBA Item 2021-85

230 Springville Avenue - Area Variance - Driveway Width

The petitioner's proposed driveway expansion creates an area that is 63% of the front yard,

whereas, the zoning ordinance permits a maximum of 50 % of the front yard to be occupied by driveways.

11/16/2021

Yuying Gong appeared and answered questions from the Board.

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

RESULT:	APPROVED [4 TO 1]
MOVER:	Ronald Shubert, Member
SECONDER:	Nina Cherian, Member
AYES:	Ann M. Nichols, Nina Cherian, Ronald Shubert, Kelly J. Philips
NAYS:	John Radens

4. ZBA Item 2021-83

60 Hyledge Drive - Area Variance - Setback Widow Wells

The petitioner's proposed egress window wells are less than 30 feet from the front property line, whereas, the zoning ordinance only permits such yard encroachments within the interior side yard.

11/16/2021

Daniel Gaile 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. Cherian and unanimously approved 5-0.

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

5. ZBA Item 2021-95

5395 Sheridan Drive- Area Variance - Building Setback

The petitioner's proposed loading dock and electrical transformer will be a minimum of 36 feet from the southerly property line, whereas, the zoning ordinance requires 50 feet minimum.

11/16/2021

Timothy Scheg from APB Engineering 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 5-0.

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

6. ZBA Item 2021-100

60 John Glenn Drive- Area Variance - Landscaping

The petitioner's proposed building addition will not provide a required 3 foot wide landscaping area along the north, east and south building walls, and, whereas, the expanded parking area will not provide terminal landscape islands along the north and south building wall, and whereas, the southerly parking area will be zero feet from the south property line, whereas, a minimum 10 foot setback is required, and whereas, such vehicle use area must provide a medium impact screen.

11/16/2021

Dan Brown from APEX appeared and answered questions from the Board.

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

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

7. ZBA Item (ID # 25021)

938-956 & 960-982 Maple Road - Area Variance - Signage

The petitioner's proposed ground sign will be 12 '+/- from the road right of way, whereas, the zoning ordinance requires 15 feet minimum, and whereas, the petitioner's pole sign (converted flag pole) is approximately 50+/- feet from his existing ground sign, whereas, the zoning ordinance requires 250 feet minimum, and whereas, the pole sign (converted flag pole) does not have skirting around the pole support, whereas, zoning ordinance requires the pole sign support to have skirting equal to 30 percent of sign face width.

11/16/2021

Davis Tiburzi appeared and answered questions from the Board.

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

Area Variance - Setback to R.O.W

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

Area Variance - Distance to Pole Sign

RESULT:	APPROVED [3 TO 1]
MOVER:	Ronald Shubert, Member
SECONDER:	Nina Cherian, Member
AYES:	Nina Cherian, Ronald Shubert, Kelly J. Philips
NAYS:	John Radens
ABSENT:	Ann M. Nichols

Area Variance - Skirting

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

8. 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.

11/16/2021

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

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

HISTORY:

10/19/21 Zoning Board of Appeals
Next: 11/16/21

ADJOURNED

RESULT:	APPROVED W/ CONDITIONS [3 TO 1]
MOVER:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	John Radens, Nina Cherian, Ronald Shubert
NAYS:	Kelly J. Philips
ABSENT:	Ann M. Nichols

9. ZBA Item 2021-98

233 Lehn Springs Drive - Area Variance - Fence Height

A portion of the petitioner's fence is 4 +/- feet in height within the required front yard, whereas, the zoning ordinance limits fencing to 3 feet maximum within the required front yard.

11/16/2021

Robyn Trippi appeared and answered questions from the Board.

Marcia Pfohl, 239 S Lehn Springs Dr, Kate Wannemacher, 247 S Lehn Springs, and Robert Coyle, 225 Lehn Springs, spoke in opposition.

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

RESULT:	APPROVED [3 TO 2]
MOVER:	Nina Cherian, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Ann M. Nichols, Nina Cherian, Kelly J. Philips
NAYS:	John Radens, Ronald Shubert

V. 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 November 16, 2021 was adjourned at 8:15 PM.



Zoning Board of Appeals

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

Meeting: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 24991

ZBA ITEM 2021-99

APPROVED

3579 Sheridan Drive - Area Variance - Landscaping

WHEREAS, **Philip Snyder/Enterprise Rent a Car** has made application for an Area Variance(s), under

SECTION: 7-2-3A(3)(b)

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

3579 Sheridan Drive within a MS Zoning District

The petitioner's proposed **landscaping island** will be **3** feet wide whereas, the zoning ordinance requires a minimum of **8** feet, AND

WHEREAS, a remote public hearing was held on **November 16, 2021** after proper notice, AND

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

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

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

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

WHEREAS, this Board believes that the variance requested is the minimum variance

that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

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

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

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



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.2

DOC ID: 24992

ZBA ITEM 2021-84

APPROVED

1350 North French Road - Area Variance - Size of Accessory Garage

WHEREAS, **Bret Llewellyn & Dawn Brown** have made application for an Area Variance(s), under

SECTION: 6-8-1B

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

1350 North French Road within a SA Zoning District

The petitioner's proposed **accessory garage is 1,248 s.f.** in area, whereas, the zoning ordinance limits all accessory structures to 75 percent of the principal dwelling or in this case, 805 s.f., and whereas, the existing garage combined with the proposed garage total 2,032 s.f. in area, and being **1,277 s.f. over** the maximum area allowed, AND

WHEREAS, a remote public hearing was held on **November 16, 2021** after proper notice, AND

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

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

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

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted

outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

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

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

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	John Radens, Chairman
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: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25016

ZBA ITEM 2021-85

APPROVED

230 Springville Avenue - Area Variance - Driveway Width

WHEREAS, **Yuying Gong** has made application for an Area Variance(s), under

SECTION: 2-5-2A(1)(h)(iii)

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

230 Springville Avenue within a R-3 Zoning District

The petitioner's proposed driveway expansion creates an area that is **63%** of the front yard, whereas, the zoning ordinance permits a maximum of **50 %** of the front yard to be occupied by driveways, AND

WHEREAS, a remote public hearing was held on **November 16, 2021** after proper notice, AND

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

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

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

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

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

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

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

RESULT:	APPROVED [4 TO 1]
MOVER:	Ronald Shubert, Member
SECONDER:	Nina Cherian, Member
AYES:	Nichols, Cherian, Shubert, Philips
NAYS:	Radens



Zoning Board of Appeals

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

Meeting: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.4

DOC ID: 24989

ZBA ITEM 2021-83

APPROVED

60 Hyledge Drive - Area Variance - Setback Widow Wells

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

SECTION: 2-5-2A(1)

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

60 Hyledge Drive within a R-3 Zoning District

The petitioner's proposed **egress window wells** will be **20+/-** feet from the **south** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **November 16, 2021** after proper notice, AND

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

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

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

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

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

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

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	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: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.5

DOC ID: 25017

ZBA ITEM 2021-95

APPROVED

5395 Sheridan Drive- Area Variance - Building Setback

WHEREAS, **G&I IX Empire Williamsville Place, LLC** has made application for an Area Variance(s), under

SECTION: 4-7-2B

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

5395 Sheridan Drive within a SC Zoning District

The petitioner's proposed **loading dock and electrical transformer** will be a minimum of **36 feet** from the **southerly** property line, whereas, the zoning ordinance requires **50 feet** minimum, AND

WHEREAS, a remote public hearing was held on **November 16, 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



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25020

ZBA ITEM 2021-100

APPROVED

60 John Glenn Drive- Area Variance - Landscaping

WHEREAS, **Amherst Stainless Fabrication, LLC** has made application for an Area Variance(s), under

- 1. SECTION: 7-2-3A(2) (landscape adjacent to building)**
- 2. SECTION: 7-2-3A(3)(c) (terminal islands)**
- 3. SECTION: 4-9-2B (VUA setback)**
- 4. SECTION: 7-2-4B(2)(b)(medium impact screening)**

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

60 John Glenn Drive within a RD Zoning District

The petitioner's proposed building addition will not provide a required **3 foot wide landscaping area** along the **north, east and south building walls**, and, whereas, the expanded parking area will not provide **terminal landscape islands** along the north and south building wall, and whereas, the southerly **parking area** will be **(0) feet** from the **south property line**, whereas, a minimum **10 foot** setback is required, and whereas, such vehicle use area must provide **medium impact screening** along the **south property line**, whereas, the petitioner's screening does not meet all of the landscaping elements required for medium impact screening, AND

WHEREAS, a remote public hearing was held on **November 16, 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:	Nina Cherian, 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: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25021 A

ZBA ITEM (ID # 25021)

938-956 & 960-982 Maple Road - Area Variance - Signage

WHEREAS, **Boardwalk Boutiques, LLC** has made application for an Area Variance(s), under

- 1. SECTION: 7-8-4B1.(e) (setback to ROW)**
- 2. SECTION: 7-8-4B1.(b) (distance to pole sign)**
- 3. SECTION: 7-8-4B3.(e) (skirting)**

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

938-956 Maple Road within a GB Zoning District

The petitioner's proposed **ground sign** will be 12 '+/- from the road right of way, whereas, the zoning ordinance requires 15 feet minimum, and whereas, the petitioner's **pole sign (converted flag pole)** is approximately **50+/-** feet from his existing ground sign, whereas, the zoning ordinance requires **250 feet** minimum, and whereas, the pole sign (converted flag pole) does not have **skirting** around the pole support, whereas, zoning ordinance requires the pole sign support to have skirting equal to 30 percent of sign face width, AND

WHEREAS, a remote public hearing was held on **November 16, 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 identified as number 1 and 2 above from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst and DENIES variance number 3, as the petitioner has agreed to comply with the provisions of the Zoning Ordinance for skirting the pole sign.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.8

DOC ID: 24872 A

ZBA ITEM 2021-89

APPROVED W/ CONDITIONS

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

WHEREAS, **Randall & Carrie Rich** have made application for an Area Variance, 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 & November 16, 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 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 petitioner relocating his/her fence a minimum of 3 feet from the south edge of the public walk along Londonderry Lane. Said fence relocation shall be complete by May 31, 2022.

RESULT:	APPROVED W/ CONDITIONS [3 TO 1]
MOVER:	John Radens, Chairman
SECONDER:	Ronald Shubert, Member
AYES:	Radens, Cherian, Shubert
NAYS:	Philips
ABSENT:	Nichols



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 11/16/21 06:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25022

ZBA ITEM 2021-98

APPROVED

233 Lehn Springs Drive - Area Variance - Fence Height

WHEREAS, **Robyn Trippi** has made application for an Area Variance(s), under

SECTION: 7-5-3

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

233 Lehn Springs Drive within a R-3 Zoning District

A portion of the petitioner's fence is 4 +/- feet in height within the required front yard, whereas, the zoning ordinance limits fencing to 3 feet maximum within the required front yard, AND

WHEREAS, a remote public hearing was held on **November 16, 2021** after proper notice, AND

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

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

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

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

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

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

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

RESULT:	APPROVED [3 TO 2]
MOVER:	Nina Cherian, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Cherian, Philips
NAYS:	Radens, Shubert