



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, December 21, 2021

6:00 PM

Amherst Municipal Building

I. ZOOM INFORMATION

Join Zoom Meeting

<https://us02web.zoom.us/j/89670428042?pwd=VIVDanVMaIBMTGIBL3g2UjVaRFRGZz09>

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: 896 7042 8042

Passcode: 525618

II. 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 Cherian	Town of Amherst	Member	Present	
Ronald Shubert	Town of Amherst	Member	Present	
Kelly J. Philips	Town of Amherst	Member	Present	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Present	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

III. APPROVAL OF MINUTES

1. Tuesday, November 16, 2021

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

IV. HEARINGS ON APPEALS

1. ZBA Item 2021-87

120 Sunburst Circle - Special Use Permit - Raising Chickens

The petitioner desires to raise chickens as an accessory use to her single family dwelling, whereas, the zoning ordinance requires a Special Use Permit from the Zoning Board of Appeals.

12/21/2021

Adrian Raul spoke and answered questions from the Board.

Randall Odza, 128 Sunburst, John Camp, 136 Sunburst, Kathleen Hoffman, 80 Sunburst, and Patricia Stewart, 52 Hidden Pines, spoke in opposition.

There were no further speakers from the public, therefore Ms. Philips 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

SEQR Determination - Raising Chickens

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

2. ZBA Item 2021-102

177 Hedstrom Drive - Area Variance - Building Setback

The petitioner's proposed addition to his/her dwelling will be 3 three feet from the north property line, whereas, the zoning ordinance requires a minimum 5 feet.

12/21/2021

The Petitioner spoke 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 with 5-0.

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

3. ZBA Item 2021-108

9 Stamford Road - Area Variance - Building Setback

The petitioner's sun room addition will be 13.3 feet from the rear property line, whereas the zoning ordinance requires 30 feet minimum.

12/21/2021

Mr. Mulichak, 5970 Margaret, spoke on behalf of the petitioner 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 5-0.

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

4. ZBA Item 2021-101

47 Tristan Lane - Area Variance - Building Setback

The petitioner's addition will be 36 ± feet from the west property line, whereas the zoning ordinance requires a minimum of 42.5 feet.

12/21/2021

Christopher Schunk spoke and answered questions from the Board.

Ms. Cherian moved to adjourn, seconded by Chairman Radens and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 1/25/2022 6:00 PM
MOVER:	Nina Cherian, Member	
SECONDER:	John Radens, Chairman	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	

5. ZBA Item 2021-106

695 North Forest Road - Area Variances - Building Setbacks

The petitioner's proposed dwelling will be 19.01 feet from the west property line, whereas, the zoning ordinance requires 30 feet minimum, and whereas, the proposed dwelling will be 68.90 feet from the center line of Sheridan Drive, whereas, the zoning ordinance requires 115 feet minimum.

12/21/2021

Jeremy Bates spoke and answered questions from the Board.

Jerry Petrotto of 687 North Forest Road spoke in opposition to proposed setback distance along North Forest Road.

Chairman Radens moved to adjourn to let the Traffic Safety Board review the application, seconded by Ms. Nichols and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 2/22/2022 6:00 PM
MOVER:	John Radens, Chairman	
SECONDER:	Ann M. Nichols, Member	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	

6. ZBA Item 2021-105

995 Dodge Road - Area Variances - Building Setback, Wall Materials, Parking Dimensions and Landscaping

The petitioner's proposed parking stalls will be 18 feet in length, whereas the zoning ordinance requires a minimum of 19 feet in length, and whereas, the petitioner's proposed building addition will not have 3 feet of foundation plantings on the eastern side of the building, whereas the zoning ordinance requires foundation plantings adjacent to the vehicle use areas, and whereas, the petitioner's building exterior will be made of metal paneling, whereas the zoning ordinance requires that the exterior of the building addition be constructed of the same material as the existing building.

12/21/2021

Attorney Corey Arbauch spoke and answered questions from the board.

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

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

Area Variance - Parking Stalls

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

Aria Variance - Landscaping

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

SEQR Determination

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

7. ZBA Item 2021-97

1385 Campbell Boulevard - Area Variance - Accessory Structure

The petitioner's proposed 2,060 s.f. accessory garage exceeds the maximum allowable building area for all accessory buildings by 1,777 s.f., whereas, the zoning ordinance limits all accessory structures to 75 percent of the principal dwelling building area.

12/21/2021

Albert Bluemle Spoke and answered questions from the Board.

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

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

8. ZBA Item 2021-103

2365 Dodge Road - Area Variance - Accessory Structure

The petitioner's proposed 960 s.f. accessory garage will create a total of 2,568 s.f. of building area for all of his accessory structures, whereas, the zoning ordinance limits such total to 75% of the principal dwelling area, or in this case, a maximum of 1,636 square feet.

12/21/2021

Tom Chairamonte spoke and answered question from the board.

Anita Maryniak, 2360 Dodge Rd, spoke in favor, and Beverly Cuvillo, 2405 Dodge, spoke in opposition.

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

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

9. ZBA Item 2021-107

315 Campbell Road - Area Variance - Building Setback

The petitioner is seeking relief from a condition that was placed on a previously approved

variance on April 19, 2018. The petitioner's garage was constructed 76 feet from the east property line, whereas, the Zoning Board of Appeals granted a minimum setback of 77 feet from the east property line.

12/21/2021

David Burke spoke and answered question from the Board.

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

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

10. ZBA Item 2021-104

3100 Niagara Falls Boulevard - Area Variance - Signage

The petitioner's wall sign will be placed on the exterior of a glazed surface, whereas the zoning ordinance does not permit signage to be placed over a glazed surface, and whereas, the petitioner's total sign face area will be 1,342.77 square feet in area, whereas the zoning ordinance limits the total sign face area for this property to 1,095.24 square feet in area.

12/21/2021

Attorney James Boglioli spoke and answered question 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 4-0. Member Shubert recused himself.

RESULT:	APPROVED [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

V. 2022 ZBA Calendar**VI. 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 December 21, 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: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Gary Palumbo**
Co-Sponsored by:

4.1

DOC ID: 25109

ZBA ITEM 2021-87

APPROVED

120 Sunburst Circle - Special Use Permit - Raising Chickens

WHEREAS, **Adrienne Rawl** has made application for a Special Use Permit, under

SECTION: 6-8-9B

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

120 Sunburst Circle within a R-3 Zoning District

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

WHEREAS, a remote public hearing was held on **December 21, 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 the subject address for the period of two(2) years.

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
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Francina J. Spoth
Town Clerk

Meeting: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25113

ZBA ITEM 2021-102

APPROVED

177 Hedstrom Drive - Area Variance - Building Setback

WHEREAS, **Gregory & Brittany Semrau** has made application for an Area Variance, under

SECTION: 3-6-2A

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

177 Hedstrom Road within a R-3 Zoning District

The petitioner's proposed **addition** will be **3 feet** from the **north** property line whereas, the zoning ordinance requires a minimum of **5 feet**, AND

WHEREAS, a remote public hearing was held on **December 21, 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
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Francina J. Spoth
Town Clerk

Meeting: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Gary Palumbo**
Co-Sponsored by:

DOC ID: 25108

ZBA ITEM 2021-108

APPROVED

9 Stamford Road - Area Variance - Building Setback

WHEREAS, **Mary Lou Shafer** has 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 :

9 Stamford Road within a R-3 Zoning District

The petitioner's proposed **sun room** will be **13.3** feet from the **rear (east)** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a remote public hearing was held on **December 21, 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: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.4

DOC ID: 25083

ZBA ITEM 2021-101

ADJOURNED

47 Tristan Lane - Area Variance - Building Setback

DRAFT RESOLUTION

WHEREAS, **Christopher Schunk** has made application for an Area Variance, under

SECTION: 2-5-2(3)

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

47 Tristan Lane within a R-3 Zoning District

The petitioner's proposed **garage addition** will be **36 ±** feet from the **west** property line whereas, the zoning ordinance requires a minimum of **42.5** feet, AND

WHEREAS, a remote public hearing was held on **December 21, 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: 1/25/2022 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: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.5

DOC ID: 25116

ZBA ITEM 2021-106

ADJOURNED

695 North Forest Road - Area Variances - Building Setbacks

DRAFT RESOLUTION

WHEREAS, **Jeremy Bates** with the permission of the land owner, WNY Property Partners, LLC has made application for an Area Variance(s), under

1. SECTION: 3-6-2B (front setback)

2. SECTION: 2-5-3 (exterior side setback)

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

695 North Forest Road within a R-3 Zoning District

The petitioner's proposed **single family dwelling** will be **19.01** feet from the **west** property line feet, whereas, the zoning ordinance requires **30** feet minimum, and whereas, the dwelling will be **68.90** feet from the **center line of Sheridan Drive**, whereas, the zoning ordinance requires a minimum of **115** feet, AND

WHEREAS, a remote public hearing was held on **December 21, 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: 2/22/2022 6:00 PM
MOVER:	John Radens, Chairman	
SECONDER:	Ann M. Nichols, Member	
AYES:	Radens, Nichols, Cherian, Shubert, Philips	



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Francina J. Spoth
Town Clerk

Meeting: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

DOC ID: 25088 A

ZBA ITEM 2021-105

SPLIT VOTE

995 Dodge Road - Area Variances - Building Setback, Wall Materials, Parking Dimensions and Landscaping

WHEREAS, **TheWELL Buffalo** has made application for an Area Variances, under

- 1.) SECTION: 7-1-9A(1) (parking stalls)**
- 2.) SECTION: 7-2-3A(2) (landscape adjacent to building)**
- 3.) SECTION: 5-5-4C (exterior wall material)**

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

995 Dodge Road within a CF & R-3 Zoning District

The petitioner's proposed **parking stalls** will be **18** feet in length whereas, the zoning ordinance requires a minimum of **19** feet in length, and whereas, the petitioner's proposed **building addition** will have 0 feet of foundation plantings on the **east** elevation whereas, the zoning ordinance requires a minimum of **3** feet, and whereas, the petitioner's proposed building addition will have a **metal paneling exterior**, whereas, the zoning ordinance requires an exterior wall material which matches the existing building, AND

WHEREAS, a remote public hearing was held on **December 21, 2021** after proper notice, AND

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

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

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variances are not substantial, that it will not have an adverse impact on the physical or

environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

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

WHEREAS, this Board believes that the 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 for item number 1 and 2, and adjourns its decision on item number three to permit the Town of Amherst Planning Board to conduct its Public Hearing on the site plan and weigh in on the building design.

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: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25114

ZBA ITEM 2021-97

APPROVED

1385 Campbell Boulevard - Area Variance - Accessory Structure

WHEREAS, **Albert & Shirley Bluemle** 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 :

1385 Campbell Blvd within a SA Zoning District

The petitioner's proposed **2,060 s.f. accessory garage** will exceed the maximum allowable building area for all accessory structures, by **1,777 s.f.**, whereas, the zoning ordinance limits all accessory garages to a maximum of 75% of the principal dwelling building area, AND

WHEREAS, a remote public hearing was held on **December 21, 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
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Meeting: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

DOC ID: 25086

ZBA ITEM 2021-103

APPROVED

2365 Dodge Road - Area Variance - Accessory Structure

WHEREAS, **Thomas Chiaramonte** has made application for an Area Variance, under

SECTION: 6-8-1B

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

2365 Dodge Road within a SA Zoning District

The petitioner's proposed **960 s.f. accessory garage** will create a total of **2,568 s.f.** of building area for all of his accessory structures, whereas, the zoning ordinance limits such total to 75 % of the principal dwelling area, or in this case, a maximum of **1,636** square feet, AND

WHEREAS, a remote public hearing was held on **December 21, 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, Ronald Shubert
SECONDER:	Kelly J. Philips, 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: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.9

DOC ID: 25082

ZBA ITEM 2021-107

APPROVED

315 Campbell Road - Area Variance - Building Setback

WHEREAS, **315 Campbell LLC** has made application for an Area Variance, under

SECTION: 2-5-4B(3)(a)

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

315 Campbell Boulevard within a NB Zoning District

The petitioner's proposed **garage** is **76** feet from the **east** property line whereas, the Zoning Board of Appeals in their resolution dated April 19, 2018 required a minimum of **77** feet, AND

WHEREAS, a remote public hearing was held on **December 21, 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:	Nina Cherian, 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: 12/21/21 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.10

DOC ID: 25087

ZBA ITEM 2021-104

APPROVED

3100 Niagara Falls Boulevard - Area Variance - Signage

WHEREAS, **Delta Sonic Car Wash Systems, Inc.** has made application for an Area Variance, under

1.) SECTION: 7-8-4A(5)(a) (sign on glass)

2.) SECTION: 7-8-8A (sign area)

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

3100 Niagara Falls Boulevard within a MS Zoning District

The petitioner's proposed **wall sign** will be **placed over a glazed area** whereas, the zoning ordinance prohibits wall signs from being placed on a glazed surface, and, whereas, the petitioner's proposed total sign face area will be **1,342.77 s.f.** in area, whereas, the zoning ordinance limits the total sign face area to **1,095.24 s.f.** in area, AND

WHEREAS, a remote public hearing was held on **December 21, 2021** after proper notice, AND

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

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

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

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or

community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the 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:	Nina Cherian, Member
AYES:	Radens, Nichols, Cherian, Philips
RECUSED:	Shubert