



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, January 25, 2022

6:00 PM

Amherst Municipal Building

I. ZOOM INFORMATION

Join Zoom Meeting

<https://us02web.zoom.us/j/84878088669?pwd=R1hXZS9PYmVOZlFiN2VrdHBub3M5QT09>

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: 848 7808 8669

Passcode: 965230

II. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
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	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	
Gary Palumbo	Town of Amherst	Associate Planner	Present	

III. APPROVAL OF MINUTES

1. Tuesday, December 21, 2021

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

IV. HEARINGS ON APPEALS

1. ZBA Item 2022-5

200 Paradise Road - Area Variance - Lot Width

The petitioner desires to build a single family dwelling on lot which was created having only 20 feet of lot width at the building setback line, whereas, section 3-5-2B requires 80 feet minimum. The subject request is being re-heard by the Zoning Board pursuant to a consent judgment issued by the Honorable Paul B. Wojtaszek, J.P.C. on September 27, 2021 - Index No. 804146/2021.

1/25/2022

Atty Sean Hopkins spoke for the Petitioner and answered question from the Board.

Atty Elizabeth Holmes spoke for client in opposition to the project.

Albert Vexler, 198 Paradise Road, spoke in opposition.

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

RESULT:	APPROVED [3 TO 1]
AYES:	Nina Cherian, Ronald Shubert, Kelly J. Philips
NAYS:	Ann M. Nichols

2. ZBA Item 2022-2

Portion of 6842 and 6846 Main Street - Area Variance - Half Core, Local Street, and Incremental Core Frontage Requirements

The petitioner's site plan will not provide a local street for a shared access drive as required by the zoning ordinance, and whereas, the petitioner's site plan will not include the provision of a half core street as cross access as required by the zoning ordinance, and whereas, the petitioner's building will not be built to the standards of the incremental core frontage as required by the Zoning Ordinance.

1/25/2022

Atty Sean Hopkins and Paul Bliss spoke on behalf of the Petitioner and answered questions from the Board.

There were no further speakers from the public, therefore Ms. Nichols moved to close the hearing, unanimously approved 3-0. Member Philips recused herself.

RESULT:	APPROVED [3 TO 0]
MOVER:	Nina Cherian, Member
SECONDER:	Ronald Shubert, Member
AYES:	Ann M. Nichols, Nina Cherian, Ronald Shubert
RECUSED:	Kelly J. Philips

SEQR Determination

RESULT:	APPROVED [3 TO 0]
MOVER:	Ann M. Nichols, Member
SECONDER:	Nina Cherian, Member
AYES:	Ann M. Nichols, Nina Cherian, Ronald Shubert
RECUSED:	Kelly J. Philips

3. ZBA Item 2022-1

2601 Millersport Hwy - Area Variance - Landscaping

The petitioner is providing 0 feet of landscaping along the southerly wall of his/her existing repair facility building and that portion of the east wall which does not have door openings whereas, the zoning ordinance requires a minimum of 3 feet of landscaping along building walls that abut automotive use areas.

1/25/2022

Atty Sean Hopkins spoke for the Petitioner and answered question from the Board.

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

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

4. ZBA Item 2022-3

1087 Smith Road - Area Variance - Front Building Setback

The petitioner's building addition will be a minimum of 36 feet from the east property line, whereas, the zoning ordinance requires 50 feet minimum.

1/25/2022

Petitioner was present but did not speak to the Board

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

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

5. 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.

1/25/2022

Christopher Schunk spoke and answered questions from the Board.

Philip Augustino, 55 Tristan Lane, spoke in favor.

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

HISTORY:

12/21/21

Zoning Board of Appeals

ADJOURNED

Next: 01/25/22

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

6. ZBA Item 2022-4

995 Dodge Road - Area Variance - Wall Material

The petitioner's building exterior will be made of corrugated metal paneling, whereas the zoning ordinance requires that the exterior of the building addition be constructed of the same material as the existing building and not of corrugated metal.

1/25/2022

Attorney Corey Auerbach spoke and answered questions from the board.

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

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

V. OTHER MATTERS

1. ZBA Item (ID # 25308)

Virtual Public Meetings

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

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 Mr. Shubert and unanimously approved 4-0. The Zoning Board of Appeals meeting of January 25, 2022 was adjourned at 8:00 PM.



Zoning Board of Appeals

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

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.1

DOC ID: 25304

ZBA ITEM 2022-5

APPROVED

200 Paradise Road - Area Variance - Lot Width

WHEREAS, **Sean Hopkins, Esquire** has made application for an Area Variance with the permission of the landowner, under

SECTION: 3-5-2B

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

200 Paradise Road within a R-2 Zoning District

The petitioner's proposed **lot width** will be **20** feet whereas, the zoning ordinance requires a minimum of **80** feet, AND

WHEREAS, a remote public hearing was held on **January 25, 2022** 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 1]
AYES:	Cherian, Shubert, Philips
NAYS:	Nichols



Zoning Board of Appeals

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

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

4.2

DOC ID: 25305

ZBA ITEM 2022-2

APPROVED

Portion of 6842 and 6846 Main Street - Area Variance - Half Core, Local Street, and Incremental Core Frontage Requirements

WHEREAS, **MEL Investors, LLC** has made application for an Area Variances, under

1. SECTION: 5A-3-5A (Local Street)

2. SECTION: 5A-3-5C (Half Core Street)

3. SECTION: 5A-4-5 (Incremental Core Frontage)

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

Portion of 6842 & 6846 Main Street within a DC-5 Zoning District

The petitioner's development will not provide a local street whereas, the zoning ordinance requires a local street for a shared access drive, and whereas, the petitioner's development will not provide a half core street whereas, the zoning ordinance requires a half core street for cross access, and whereas, the petitioner's building will not be built to the standards of an incremental core frontage whereas, the zoning ordinance requires an incremental core frontage for the Deep Corridor 5 district, AND

WHEREAS, a remote public hearing was held on **January 25, 2022** 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 [3 TO 0]
MOVER:	Nina Cherian, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Cherian, Shubert
RECUSED:	Philips



Zoning Board of Appeals

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

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25265

ZBA ITEM 2022-1

APPROVED

2601 Millersport Hwy - Area Variance - Landscaping

WHEREAS, **West Herr Acquisitions, LLC** has made application for an Area Variance(s), under

SECTION: 7-2-3A(2)

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

2601, 2619 & 2635 Millersport Highway within a GB Zoning District

The southerly and easterly wall of the petitioner's existing repair facility building and a portion of his/her building addition's southerly wall will have **0 feet of landscaping** adjacent to the wall, whereas, the Zoning Ordinance requires a minimum of **3 feet landscaping** adjacent to the building wall and a vehicle use area, AND

WHEREAS, a remote public hearing was held on **January 25, 2022** 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:	Nina Cherian, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

4.4

DOC ID: 25269

ZBA ITEM 2022-3

APPROVED

1087 Smith Road - Area Variance - Front Building Setback

WHEREAS, **Emily Wyse** has made application for an Area Variance, under

SECTION: 3-3-2B

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

1087 Smith Road within a SA Zoning District

The petitioner's proposed **building addition** will be **36** feet from the **east** property line whereas, the zoning ordinance requires a minimum of **50** feet, AND

WHEREAS, a remote public hearing was held on **January 25, 2022** after proper notice, AND

WHEREAS, on September 21, 2021 this Board previously granted area variances for the side yard setback and the maximum building height for the same building addition, AND

WHEREAS, at said previous hearing the request for the front setback was not included in the original application due to error, AND

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

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

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

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

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

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

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

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

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



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

DOC ID: 25083

ZBA ITEM 2021-101

APPROVED

47 Tristan Lane - Area Variance - Building Setback

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 and January 25, 2022** 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:	Nina Cherian, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Cherian, Shubert, Philips



Zoning Board of Appeals

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

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25266 A

ZBA ITEM 2022-4

APPROVED W/ CONDITIONS

995 Dodge Road - Area Variance - Wall Material

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

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 building addition upper walls will have **corrugated metal** paneling exterior, whereas, the zoning ordinance does not permit such material and requires an exterior wall material which matches the existing building, AND

WHEREAS, a remote public hearing was held on **December 21, 2021** and **January 25, 2022** 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, with condition that Planning Board approves, an area variance from the above section of the Zoning Ordinance of the Town of Amherst subject to:

1. The Planning Board approving the final elevation drawings and overall building design as it deems appropriate for community character.

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



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 01/25/22 06:00 PM
Department: Zoning Board of Appeals
Initiated by: **Vianne Uthman**
Co-Sponsored by:

DOC ID: 25308 A

ZBA ITEM (ID # 25308)

APPROVED

Virtual Public Meetings

WHEREAS, more than 2 million New York State residents have been affected by COVID-19 and the disease has killed more than 55,000 New Yorkers since May 2020; and

WHEREAS, it is necessary to contain the pandemic that has brought widespread economic and social destruction; and

WHEREAS, many Amherst residents have experienced financial hardship due to measures that have been taken to contain the pandemic and such measures have closed businesses and schools, resulting in income loss across the State; and

WHEREAS, even as New York State enters a phase of economic recovery, the need for continued statutory protection and other public health measures as demonstrated by rates of transmission in COVID-19 in the State is ongoing; and

WHEREAS, since early July 2021, cases have risen ten-fold and 95% of the recent positive tests in New York State were attributed to the Delta variant of the virus; and

WHEREAS, for the foregoing reasons, it is necessary to temporarily alter certain provisions of the Open Meetings Law (Article 7 of the Public Officers Law) to ensure that certain public bodies can hold their meetings in a manner that balances the public's health and safety with the public's right to observe the proceedings;

WHEREAS, the Amherst Town Board has provided authorization to any board, commission or local public party of the Town of Amherst as defined in General Construction Law §66, or committee or sub-committee of a similar body or entity of a political subdivision as defined in General Municipal Law §100, to take such action as authorized by law without permitting the public in-person access to the meetings; and

WHEREAS, said Amherst Town Board authorization is also given to hold such meetings remotely by conference or by similar service such as Zoom, provided that the public has the ability to view or listen to such proceedings and that such meetings are recorded and later transcribed if requested; and

THEREFORE, BE IT RESOLVED, that the meetings of the Zoning Board of Appeals shall be held remotely; and

BE IT FURTHER RESOLVED, that said authority shall expire and be deemed repealed when authority by the state legislature and/or New York State Governor has expired.

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