



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, March 22, 2022

6:30 PM

Amherst Municipal Building

I. CALL TO ORDER

Attendee Name	Organization	Title	Status	Arrived
Ann M. Nichols	Town of Amherst	Member	Present	
Ronald Shubert	Town of Amherst	Member	Present	
Kelly J. Philips	Town of Amherst	Member	Present	
Brian Bray	Town of Amherst	Member	Present	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Present	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Gary Palumbo	Town of Amherst	Associate Planner	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	

II. APPROVAL OF MINUTES

1. Tuesday, February 22, 2022

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

III. HEARINGS ON APPEALS

1. ZBA Item 2022-15

6930 Transit Road - Area Variance - Signage

The petitioner's proposed LED reader board sign will be 85+/- feet from a residential zoning district, whereas, the zoning ordinance requires a minimum of 500 feet.

3/22/2022

Chris McCaffrey spoke and answered questions from the Board.

There were no speakers from the public, therefore Ms. Nichols moved to close the hearing.

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

2. ZBA Item 2022-16

5117 Sheridan Drive - Area Variance - Signage

The petitioner's proposed LED reader board sign will be 65+/- feet from a residential zoning district, whereas, the zoning ordinance requires a minimum of 500 feet, and whereas, the proposed reader board sign will exceed the allowable total sign area for the premises and the allowable area of the pole sign by 49.5 s.f.

3/22/2022

Chris McCaffrey spoke and answered questions from the Board.

There were no speakers from the public, therefore Ms. Nichols moved to close the hearing.

RESULT:	APPROVED W/ CONDITIONS [3 TO 1]
MOVER:	Ronald Shubert, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Ann M. Nichols, Ronald Shubert, Kelly J. Philips
NAYS:	Brian Bray

3. ZBA Item 2022-17

39 Hallmark Court - Area Variance - Building Setback

The petitioners' proposed rear building addition will be a minimum of 15 feet from the rear property line, whereas, the zoning ordinance requires 30 feet minimum.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 4/19/2022 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Ann M. Nichols, Ronald Shubert, Kelly J. Philips, Brian Bray	

4. ZBA Item 2022-18

2280 Dodge Road - Area Variance - Building Setback

The petitioners' proposed patio shelter roof will be a 1 foot from the west property line, whereas, the zoning ordinance requires 3 feet minimum and whereas, the roof structure will be 0 feet from the dwelling, whereas, the zoning law requires 5 feet minimum.

3/22/2022

John Banaszak, 3474 East River Road, and the petitioner spoke and answered questions from the board.

There were no speakers from the public, therefore Ms. Nichols moved to close the hearing.

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

5. ZBA Item 2022-19

1501-1555 Niagara Falls Blvd - Area Variances

The petitioner's proposed drive aisle will be 597.3 feet from the ROW, whereas the zoning ordinance permits a maximum distance of 200 feet, and whereas, the petitioner's proposed street type will be a local half street, whereas, the zoning ordinance requires a half core street, and whereas, the proposed frontage type will be a local frontage, whereas the zoning ordinance requires an incremental core frontage, and whereas, the proposed outdoor amenity space will be 1.9%, whereas the zoning ordinance requires a minimum of 5% of the total site, and whereas, the proposed ground story transparency will be 25.9% on the north elevation, whereas the zoning ordinance requires a minimum of 30%, and whereas, the blank wall length will be a maximum of 87 feet, whereas, the zoning ordinance permits 30 feet maximum, and whereas, the store entrance spacing will be a maximum of 85.2 feet, whereas the zoning ordinance permits a maximum of 75 feet, and whereas, the travel lane width will be 16.1 feet, whereas, the zoning ordinance permits a maximum width of 10 feet and, whereas, a gutter pan will not be provided along the local road, whereas the zoning ordinance requires a minimum gutter pan width of 12 inches, and whereas, the required turning lane will be 15 feet in width, whereas zoning ordinance permits a maximum width of 12 feet.

3/22/2022

Attorney James Boglioli Spoke and answered questions from the Board.

There were no speakers from the public, therefore Ms. Nichols moved to close the hearing.

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

6. ZBA Item 2022-9

3800 Sheridan Drive - Area Variance - Landscaping Adjacent to Buildings

The petitioner is providing (0) zero feet of landscaping along the eastern and western edges of his proposed building, whereas, the zoning ordinance requires a minimum of three feet of landscaping.

2/22/2022

Attorney Sean Hopkins asked the Board to adjourn this item to the next meeting.

3/22/2022

Attorney Sean Hopkins spoke and answered questions from the Board. Mr. Hopkins

withdrew his request for relief along the west building wall.

There were no speakers from the public, therefore Ms. Nichols moved to close the hearing.

HISTORY:

02/22/22

Zoning Board of Appeals

ADJOURNED

Next: 03/22/22

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Brian Bray, Member

SECONDER: Ann M. Nichols, Member

AYES: Ann M. Nichols, Ronald Shubert, Kelly J. Philips, Brian Bray

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Ms. Philips moved to adjourn, seconded by Mr. Shubert and unanimously approved 4-0. The Zoning Board of Appeals meeting of March 22, 2022 was adjourned at 7:15 PM.



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 03/22/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25552

ZBA ITEM 2022-15

APPROVED W/ CONDITIONS

6930 Transit Road - Area Variance - Signage

WHEREAS, **John Basil** has made application for an Area Variance(s), under

SECTION: 7-8-4B(2)

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

6930 Transit Road within a GB Zoning District

The petitioner's proposed **LED reader board sign** will be **85+/-** feet from the line whereas, the zoning ordinance requires a minimum of **500** feet, AND

WHEREAS, a public hearing was held on **March 22, 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 given the uniqueness of the existing developed site in relation to the zoning district line, 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 with the condition that the sign will be turned off when the facility is closed.

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



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Francina J. Spoth
Town Clerk

Meeting: 03/22/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25553

ZBA ITEM 2022-16

APPROVED W/ CONDITIONS

5117 Sheridan Drive - Area Variance - Signage

WHEREAS, **Iskalo Development** has made application for an Area Variance(s), under

1. SECTION: 7-8-4B(2) (Distance to R Dist.)

2. SECTION: 7-8-8A (Total signage)

3. SECTION: 7-8-8B (Pole sign area)

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

5117 Sheridan Drive within a GB Zoning District

The petitioner's proposed **LED reader board sign** will be **65+/-** feet from a residential zoning district line whereas, the zoning ordinance requires a minimum of **500** feet, and, whereas, the proposed sign will increase the total signage for the premises and the pole sign by 49.5 s.f., AND

WHEREAS, a public hearing was held on **March 22, 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 substantial, however, 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 with the condition that the sign will be turned off when the facility is closed.

RESULT:	APPROVED W/ CONDITIONS [3 TO 1]
MOVER:	Ronald Shubert, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Nichols, Shubert, Philips
NAYS:	Bray



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Town Clerk

Meeting: 03/22/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 25554

ZBA ITEM 2022-17

ADJOURNED

39 Hallmark Court - Area Variance - Building Setback

DRAFT RESOLUTION

WHEREAS, **Patrick Cappa & Kathy Zdrojewski Cappa** have made application for an Area Variance(s), under

SECTION: 3-6-2B

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

39 Hallmark Court within a R-3 Zoning District

The petitioner's proposed **rear building addition** will be **15** feet from the **rear** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a public hearing was held on **March 22, 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: **ADJOURNED [UNANIMOUS]**

Next: 4/19/2022 6:30 PM

MOVER: Ann M. Nichols, Member

SECONDER: Ronald Shubert, Member

AYES: Nichols, Shubert, Philips, Bray



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Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25555

ZBA ITEM 2022-18

APPROVED

2280 Dodge Road - Area Variance - Building Setback

WHEREAS, **Rudolf & and Elizabeth Schaefer** have made application for an Area Variance(s), under

SECTION: 3-6-2B (side yard)

SECTION: 3-6-2B (building separation)

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

2280 Dodge Road within a R-3 Zoning District

The petitioner's proposed **patio shelter roof** will be **1** foot from the **west** property line and **0** feet from the dwelling, whereas, the zoning ordinance requires a minimum of **3** feet to the property line and **5** feet from the dwelling, AND

WHEREAS, a public hearing was held on **March 22, 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 [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray



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Town Clerk

Meeting: 03/22/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 25556

ZBA ITEM 2022-19

APPROVED

1501-1555 Niagara Falls Blvd - Area Variances

WHEREAS, **Benderson Development Company, LLC** has made application for an Area Variance(s), under

- 1. SECTION: 5A-3-4A(B) (drive aisle distance)**
- 2. SECTION: 5A-3-4A(C) (street type)**
- 3. SECTION: 5A-3-4A(D) (frontage type)**
- 4. SECTION: 5A-3-4A(B) (amenity space)**
- 5. SECTION: 5A-4-7(G) (wall transparency)**
- 6. SECTION: 5A-3-4-7(I) (blank wall length)**
- 7. SECTION: 5A-3-4-7(K) (door spacing)**
- 8. SECTION: 5A-6-4(E) (travel lane width)**
- 9. SECTION: 5A-6-4-(C) (gutter pan)**
- 10. SECTION: 5A-6-4(E) (turn lane)**

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

1501-1555 Niagara Falls Boulevard Road within a DC-3 Zoning District

The petitioner's proposed drive aisle will be 597.3 feet from the ROW, whereas the zoning ordinance permits a maximum distance of 200 feet, and whereas, the petitioner's proposed street type will be a local half street, whereas the zoning ordinance requires a half core street, and whereas, the proposed frontage type will be a local frontage, whereas the zoning ordinance requires an incremental core frontage, and whereas, the proposed outdoor amenity space will be 1.9%, whereas the zoning ordinance requires a minimum of 5% of the total site, and whereas, the proposed ground story transparency will be 25.9% on the north elevation, whereas the zoning ordinance requires a minimum of 30%, and whereas, the blank wall length will be a maximum of 87 feet, whereas the zoning ordinance permits 30 feet maximum, and whereas, the store entrance spacing will be a maximum of 85.2 feet, whereas the zoning ordinance permits a maximum of 75 feet, and whereas, the travel lane width will be 16.1 feet, whereas the zoning ordinance permits a maximum width of 10 feet

and, whereas, a gutter pan will not be provided along the road, whereas the zoning ordinance requires a minimum gutter pan width of 12 inches, and whereas, the required turn lane will be 15 feet in width, whereas zoning ordinance permits a maximum width of 12 feet.

WHEREAS, a public hearing was held on **March 22, 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 [3 TO 0]
MOVER:	Ann M. Nichols, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Philips, Bray
RECUSED:	Shubert



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 03/22/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.6

DOC ID: 25411

ZBA ITEM 2022-9

APPROVED

3800 Sheridan Drive - Area Variance - Landscaping Adjacent to Buildings

WHEREAS, **Northtown Automotive Companies** has made application for an Area Variance, under

SECTION: 7-2-3A(2)

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

3800 Sheridan Drive within a MS Zoning District

The petitioner's proposed east building wall edges will have **zero (0)** feet of adjacent landscaping whereas, the zoning ordinance requires a minimum of **3** feet, AND

WHEREAS, a public hearing was held on **March 22, 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 section of the Zoning Ordinance of the Town of Amherst.

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