



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, June 21, 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	
Ellen Parker	Town of Amherst	Member	Present	
Vianne Uthman	Town of Amherst	Deputy Town Clerk	Present	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Present	
Gary Palumbo	Town of Amherst	Associate Planner	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	

II. APPROVAL OF MINUTES

1. Tuesday, May 17, 2022

RESULT: HELD

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 25949)

966 Dodge Road - Special Use Permit - Raising Chickens

The petitioner desires to raise chickens as an accessory use to his/her dwelling, whereas, the zoning ordinance requires a special use permit to be issued by the Zoning Board of Appeals.

6/21/2022

Zach Kashovaroff spoke and answered questions from the Board.

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

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

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RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

2. ZBA Item (ID # 25950)

400 Hendricks Blvd. - Temporary Use Permit (Renewal) - Work Shop & Storage

The petitioner desires to renew a temporary use permit to utilize a detached garage for a workshop and storage on a temporary basis whereas, the Zoning Ordinance does not permit such use within the GB-General Business zoning district.

6/21/2022

The petitioner did not appear, therefore Chairwoman Nichols moved to adjourn.

08/16/2022

Petitioner Mark Witul spoke and answered questions from the Board.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/16/2022 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

3. ZBA Item (ID # 25951)

174 North Ellicott Creek Road - Temporary Use Permit (Renewal)

The petitioner desires to continue to utilize a dwelling for an administrative office, whereas, the zoning ordinance does not permit such uses within the SA-Suburban Agriculture zoning district.

6/21/2022

Attorney Jeff Palumbo spoke and answered questions from the Board.

Larry Prince, 210 N Ellicott Creek Road, had concerns

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

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Ronald Shubert, Member
SECONDER: Brian Bray, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

4. ZBA Item (ID # 25952)

171 Darwin Drive - Area Variance - A/C Setback

The petitioner's air conditioning condenser will be 1.2 feet from the north property line, whereas, the zoning ordinance requires a minimum setback of 3 feet.

6/21/2022

Timmon Favaro spoke and answered questions from the Board.

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

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Brian Bray, Member
SECONDER: Kelly J. Philips, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

5. ZBA Item (ID # 25954)

264 Sundridge Drive - Fence Height

The petitioner's fence is 4 feet in height within the required front yard, whereas, the zoning ordinance limits the height to 3 feet maximum.

6/21/2022

The petitioner was not able to appear in front of the Board.

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

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

6. ZBA Item (ID # 25953)

315 Troy Del Way - Area Variance - Fence Height

The petitioner's fence is a minimum of 4.5 feet from the south property line, whereas, the zoning ordinance requires 30 feet minimum.

6/21/2022

Erin Ewell, Esq. spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairwoman Nichols moved to

close the hearing.

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

7. ZBA Item (ID # 25955)

181 Presidio Place - Area Variance - Shed Setback

The petitioner's shed will be 20 feet from the north property line whereas, the zoning ordinance requires thirty feet.

6/21/2022

Matthew & Rebecca LaRoach spoke and answered questions from the Board.

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

8. ZBA Item (ID # 25997)

1317 Eggert Road - Area Variance - Signage

The petitioner is proposing an LED message center sign that is 66 square feet in area and which is located 290 feet from a residential zoning district, whereas, the zoning ordinance prohibits an LED message center sign in the TNB overlay district, and when such signage is permitted elsewhere in the Town, LED message center signs are limited to 50 square feet in area and must be a minimum of 500 feet from a residential zoning district, and whereas the petitioner's sign is 6.5 feet in height, whereas, the zoning ordinance limits the height to 5 feet, and whereas, the sign will be 3 feet from the road right of way, whereas, the zoning ordinance requires 15 feet minimum.

6/21/2022

Paul Strada and Dawn Cahill spoke and answered questions from the Board.

Tom Segalla, 25 Westfield, Ginna Kelly, 40 Westfield, and Jennifer Rivier, 4000 Main St, Spoke in opposition

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

RESULT:	DENIED [4 TO 1]
MOVER:	Brian Bray, Member
SECONDER:	Ellen Parker, Member
AYES:	Ann M. Nichols, Ronald Shubert, Brian Bray, Ellen Parker
NAYS:	Kelly J. Philips

9. ZBA Item (ID # 25805)

4007 Main Street - Area Variance - Signage

The petitioner is proposing an LED message center sign that is 96 square feet in area and which is located 68 feet from a residential zoning district, whereas, the zoning ordinance prohibits an LED message center sign in the TNB overlay district, and when such signage is permitted elsewhere in the Town, LED message center signs are limited to 50 square feet in area and must be a minimum of 500 feet from a residential zoning district.

05/17/2022

Scott Fierle, 124 Mont Blue, Pastor Steve Biegner, 4007 Main St, Paddy Rowell and Ryan Mis of Flexlume, spoke and answered questions from the Board.

GINNA KELLY, 40 Westfield, David & Julie Ponkow, 10 Ivyhurst, Jennifer Rivier, 4000 Main St., spoke in opposition.

There were no further speakers from the public, therefore Chairwoman Nichols moved to adjourn the hearing.

HISTORY:

05/17/22
Next: 06/21/22

Zoning Board of Appeals

ADJOURNED

RESULT:	DENIED [4 TO 1]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Ann M. Nichols, Ronald Shubert, Brian Bray, Ellen Parker
NAYS:	Kelly J. Philips

10. ZBA Item (ID # 25957)

4911 Harlem Road - Area Variance - Fence Height

The petitioner's proposed 6 foot high fence will be zero feet from the south property line and 20 feet from the west property line, whereas, the zoning ordinance requires a minimum setback of 30 feet from the west property line and 20 feet from the south property line.

6/21/2022

Virawat Thavisin spoke and answered questions from the Board.

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

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

11. 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.

6/21/2022

Jeremy Bates spoke and answered questions from the Board.

Jerry Petrotto, 687 North Forest RD, spoke in opposition.

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

HISTORY:

12/21/21 Zoning Board of Appeals
Next: 06/21/22

ADJOURNED

RESULT:	APPROVED [4 TO 0]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Ann M. Nichols, Ronald Shubert, Kelly J. Philips, Brian Bray
ABSTAIN:	Ellen Parker

12. ZBA Item (ID # 25996)

1964 Kensington Avenue - Area Variance - Lot Width

The petitioners proposed place of worship will provide 29 off-street parking spaces, whereas, the zoning ordinance requires 41 parking spaces, and whereas, the petitioner's existing parcel is 0.32 acres in area and 103.8 feet in lot width, whereas, the zoning ordinance requires a minimum lot area of 1 acre and 200 feet of lot width.

6/21/2022

Architect Anthony James and petitioner spoke and answered questions from the Board.

Tom & Shelly Schratz, 1952 Kensington Ave, spoke in opposition.

There were no further speakers from the public, therefore Chairwoman Nichols moved to adjourn the hearing.

08/16/2022

Architect Anthony James and petitioner spoke and answered questions from the Board.

Tom & Shelly Schratz, 1952 Kensington Ave, spoke in opposition.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/16/2022 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Brian Bray, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

13. ZBA Item (ID # 25958)

281 Meyer Road - Area Variance - VUA Setback

The petitioner's parking area expansion will be a minimum of 6.23 feet from the east property line, whereas, the zoning ordinance requires 10 feet minimum.

6/21/2022

Robert Blood of Lauer-Manguso & Associates spoke and answered questions from the Board.

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

RESULT:	APPROVED [4 TO 1]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Ann M. Nichols, Ronald Shubert, Kelly J. Philips, Ellen Parker
NAYS:	Brian Bray

14. ZBA Item (ID # 25959)

1395 Niagara Fall Boulevard - Area Variance - Structure Setback

The petitioner's grease interceptor structure is 99.3 feet from the centerline of Niagara Falls Boulevard, whereas, the zoning ordinance requires a minimum of 115 feet.

6/21/2022

Robert Blood of Lauer-Manguso & Associates spoke and answered questions from the Board.

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

15. ZBA Item (ID # 25960)

1501-1551 Niagara Falls Boulevard - Area Variance - Signage

The petitioner's freestanding sign will be 10.3 feet from the west property line, whereas, the zoning ordinance requires a minimum setback of 15 feet and, whereas such sign will be 640 s.f. in area, whereas, the ZBA previously issued an area variance to permit the sign to be 473 s.f maximum.

6/21/2022

James Boglioli, Esq., spoke and answered questions from the Board.

There were no speakers from the public, therefore Chairwoman Nichols moved to close the hearing. Member Shubert recused himself.

RESULT:	APPROVED [4 TO 0]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray, Ellen Parker
RECUSED:	Ronald Shubert

16. ZBA Item (ID # 25985)

4300 Millerpsort Highway - Area Variance - Setbacks

The petitioner's proposed town home buildings will be 15 feet from the road right of ways and his patio home buildings will be 25 feet from the edge of private roadways, whereas, the zoning ordinance permits a maximum setback of 6 feet, and whereas, town home building "A" will be 92.1 feet from the Smith Road right of way and town home building "B" will be 85.4 feet from said right of way, whereas, the zoning ordinance permits a maximum setback of 6 feet, and whereas, two utility structures will be 14 feet from a local road right of way, 15 feet from a private alley and 8.3 feet from a local road right of way, whereas, the zoning ordinance permits a maximum setback of 6 feet.

6/21/2022

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

Joe Rozbicki, 225 Smith Road, asked questions and had concerns.

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

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

17. ZBA Item (ID # 25987)

3210 Millersport Highway - Use Variance

The petitioner desires to expand a non-conforming use (veterinary hospital), whereas, the zoning ordinance does not permit the expansion of non-conforming uses.

6/21/2022

Adjourned at the request of the petitioner.

08/16/2022

Attorney Sean Hopkins spoke and answered questions from the Board.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/16/2022 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ann M. Nichols, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

18. ZBA Item (ID # 25986)

3210 Millersport Highway - Area Variance - Building Setback

The petitioner's building addition will be 104 feet from the centerline of Millersport Highway, whereas, the zoning ordinance requires a minimum setback of 115 feet.

06/21/2022

Adjourned at the request of the Petitioner.

08/16/2022

Attorney Sean Hopkins spoke and answered questions from the Board.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/16/2022 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ann M. Nichols, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

19. ZBA Item (ID # 25988)

1135 & 1145 Millersport Highway - Area Variance - VUA Setback

The petitioner's vehicle use area will be 15.4 feet from the east property line, whereas, the zoning ordinance requires 25 feet minimum.

6/21/2022

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

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

20. ZBA Item (ID # 25993)

3275 & 3325 Millersport Highway - Area Variances

The petitioner's proposed buildings number 1, 2 and 3 will be 10 feet from the north property line and 65 feet from the centerline of North French Road, whereas, the zoning ordinance requires 70 feet and 90 feet respectively from each line, and whereas, buildings number 1, 2, 3, 4 and 5 will have building wall offsets of 4.67 feet, whereas, the zoning ordinance requires building wall offsets of 10 feet minimum when such building walls exceed 132 feet in length, and the length of buildings number 1, 2, 3 and 5 will be 180 feet long, and building number 4 will be 240 long, whereas, the zoning ordinance limits such buildings to a length of 176 feet, and whereas, building number 3 will be 4.83 feet from a western property line, whereas, the zoning ordinance requires 49.8 feet, and whereas, a high impact vegetative landscape buffer will not be provided along the North French Road or Millersport Highway Road frontages as required by the zoning ordinance, and whereas, the petitioner is not providing a 36 inch tall wall, earthen berm, or fence along the vehicle use area along the North French Road frontage as required by the zoning ordinance, and whereas, the petitioner's proposed identification sign will be 48 s.f. in area, whereas, the zoning ordinance permits a maximum of 20 s.f.

6/21/2022

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

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

21. ZBA Item (ID # 25995)

6868,6886,6888 & 6900 Transit Road - Area Variances

The petitioners' vehicle use area will be 1.15 feet along the north property line whereas the zoning ordinance requires 5 feet minimum, and whereas, the refuse enclosure will be 1.15 feet from the north property line, whereas, the zoning ordinance requires 5 feet, and whereas, a low impact landscape screen is not provided along the north property as required by the zoning ordinance, and whereas, the parallel parking spaces along the east

and west sides of the building do not terminate with curbed landscaped islands as required by the zoning ordinance.

6/21/2022

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

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Chairwoman Nichols moved to adjourn, seconded by Ms. Philips and unanimously approved 5-0. The Zoning Board of Appeals meeting of June 21, 2022 was adjourned at 10:10PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 25949

ZBA ITEM (ID # 25949)

APPROVED

966 Dodge Road - Special Use Permit - Raising Chickens

RESOLUTION

WHEREAS, **Zach Kashovaroff** has made application for a Special Use Permit, under

SECTION: 6-8-9

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

966 Dodge Road within a R-3 Zoning District

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

WHEREAS, a public hearing was held on **June 21, 2022** 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 8-6-7 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:	Kelly J. Philips, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25950

ZBA ITEM (ID # 25950)

ADJOURNED

400 Hendricks Blvd. - Temporary Use Permit (Renewal) - Work Shop & Storage

WHEREAS, **Mark Witul** has made application for a Temporary Use Permit, under

SECTION: 4-4-2A

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

400 Hendricks Blvd. Within a GB Zoning District

The petitioner desires to utilize a detached garage for a **work shop with storage** on a temporary basis which requires the issuance of a temporary use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **August 16, 2022** after proper notice, AND

WHEREAS, this Board previously issued Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the subject temporary use permit request, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-8-6 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:

-) **is of a temporary nature and does not involve the erection or enlargement of any permanent structure;**
-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **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 Temporary Use Permit for a period of two (2) years the subject address.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/16/2022 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Ronald Shubert, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 25951

ZBA ITEM (ID # 25951)

APPROVED

174 North Ellicott Creek Road - Temporary Use Permit (Renewal)

WHEREAS, **Mal-Bon, LLC** has made application for a Temporary Use Permit, under

SECTION: 3-3-2A

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

174 North Ellicott Creek Road within an SA Zoning District

The petitioner desires to continue using a **residential dwelling as an administrative office on a temporary basis** which requires the issuance of a temporary use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **June 21, 2022** after proper notice, AND

WHEREAS, this Board previously issued Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the subject temporary use permit request, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following criteria detailed in section 8-8-6 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:

-) **is of a temporary nature and does not involve the erection or enlargement of any permanent structure;**
-) **will be generally consistent with the policies of the Comprehensive Plan;**
-) **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 Temporary Use Permit for a period of ____24__ months for the subject address.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 25952

ZBA ITEM (ID # 25952)

APPROVED

171 Darwin Drive - Area Variance - A/C Setback

WHEREAS, **Timmon Favaro** has made application for an Area Variance, under

SECTION: 2-5-2A(1)(e)

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

171 Darwin Drive Road within a R-3 Zoning District

The petitioner's proposed **air conditioning condenser** will be **1.2** feet from the **north** property line whereas, the zoning ordinance requires a minimum of **3** feet, AND

WHEREAS, a public hearing was held on **June 21, 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:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 25954

ZBA ITEM (ID # 25954)

APPROVED

264 Sundridge Drive - Fence Height

WHEREAS, **Anthony Massop** has made application for an Area Variance(s), under

1.) SECTION: 7-5-3

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

264 Sundridge Drive within a R-3 Zoning District

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

WHEREAS, a public hearing was held on **June 21, 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:	Ronald Shubert, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 25953

ZBA ITEM (ID # 25953)

APPROVED

315 Troy Del Way - Area Variance - Fence Height

WHEREAS, **Evan Smith & Dana Cleason** have made application for an Area Variance(s), under

1.) SECTION: 7-5-3

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

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

315 Troy Del Way within a R-3 Zoning District

The petitioner's solid fence is a minimum of **4.5** feet from the **south** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a public hearing was held on **June 21, 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:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.7

DOC ID: 25955

ZBA ITEM (ID # 25955)

APPROVED

181 Presidio Place - Area Variance - Shed Setback

WHEREAS, **Matthew & Rebecca LaRoach** have made application for an Area Variance, under

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

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

181 Presidio Place within a R-3 Zoning District

The petitioner's proposed **shed** will be **20 feet** from the **north** property line whereas, the zoning ordinance requires a minimum of **30 feet**, AND

WHEREAS, a public hearing was held on **June 21, 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:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 25997 A

ZBA ITEM (ID # 25997)

DENIED

1317 Eggert Road - Area Variance - Signage

WHEREAS, **NAS Sign Company/St Benedicts RC Church** has made application for Area Variances, under

- 1.) SECTION: 5-7-7B (prohibited sign type)**
- 2.) SECTION: 5-7-7C (sign dimensions)**
- 3.) SECTION: 7-8-4B(2)(b)(distance to residential district)**
- 4.) SECTION: 7-8-4B(1)(e) (setback to ROW)**

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

1317 Eggert Road within a CF-TNB-1 Zoning District

The petitioner is proposing an **LED message center sign** whereas, the zoning ordinance prohibits such signage type in a TNB overlay zoning district, and whereas, the petitioner's proposed sign will be ~~66~~ **64** square feet in area and **6'-5"** tall, whereas, the zoning ordinance limits ground signs to be a maximum of **50** square feet in area and **5** feet in height, and whereas, the proposed sign will be **290** feet from a residential district whereas, the zoning ordinance requires a minimum of **500 feet**, and whereas the sign will be ~~3~~ **12** feet from the road right of way, whereas the zoning ordinance requires **15** feet minimum, AND

WHEREAS, a public hearing was held on **June 21, 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 the following:

1. The request for variances are substantial, particularly with respect to variance request number one which prohibits LED message center signs within the Traditional Neighborhood Business zoning overlay district, and

2. That allowing such signage type may have an adverse impact on the physical or environmental conditions of the neighborhood by introducing a sign type which may distract motor vehicle operators along a portion of Main Street, a New York State major arterial roadway, which in the vicinity of the subject property has a curvilinear road geometry and has a history of vehicular accidents, and

3. By permitting such signage type where it is expressly not permitted, would create any undesirable change in the character of the neighborhood which is recognized by the community as having desirable aesthetic and historic assets, including nearby sites listed on the National Register of Historic Places, and

4. The subject property is identified by the Town to be a historic resource eligible for local landmark status, and whereas, this Board obtained an opinion from the Town's Historic Preservation Commission which does not believe that LED message center signs are appropriate for historic properties and such opinion is also supported by this board, and

5. The petitioner may erect a different sign type sign which does not incorporate an LED message display, therefore the alleged difficulty is self-created, and

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

WHEREAS, this Board believes that the denial of the variance is necessary and adequate, preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, variances 2, 3 & 4 are withdrawn as requested by the petitioner, 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 DENY an area variance from the above-mentioned section of the Zoning Ordinance of the Town of Amherst.

RESULT:	DENIED [4 TO 1]
MOVER:	Brian Bray, Member
SECONDER:	Ellen Parker, Member
AYES:	Nichols, Shubert, Bray, Parker
NAYS:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.9

DOC ID: 25805 A

ZBA ITEM (ID # 25805)

DENIED

4007 Main Street - Area Variance - Signage

DRAFT RESOLUTION

WHEREAS, **Flexlume Sign Company/St Paul's Lutheran Church** has made application for a Area Variances, under

- 1.) SECTION: 5-7-7B (prohibited sign type)**
- 2.) SECTION: 5-7-7C (sign dimensions)**
- 3.) SECTION: 7-8-4B(2)(b) (distance to residential district)**

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

4007 Main Street within a CF-TNB-1 Zoning District

The petitioner is proposing an **LED message center sign** whereas, the zoning ordinance prohibits such signage type in a TNB overlay zoning district, and whereas, the petitioner's proposed sign will be **96** square feet in area and **6'-1"** tall, whereas, the zoning ordinance limits ground signs to be a maximum of **50** square feet in area and **5** feet in height, and whereas, the proposed sign will be **68** feet from a residential district whereas, the zoning ordinance requires a minimum of **500 feet**, AND

WHEREAS, a public hearing was held on **May 17, 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 the

following:

1. The request for variances are substantial, particularly with respect to variance request number one which prohibits LED message center signs within the Traditional Neighborhood Business zoning overlay district, and

2. That allowing such signage type may have an adverse impact on the physical or environmental conditions of the neighborhood by introducing a sign type which may distract motor vehicle operators along a portion of Main Street, a New York State major arterial roadway, which in the vicinity of the subject property has a curvilinear road geometry and a history of vehicular accidents, and

3. By permitting such signage type in a zoning district where it is expressly not permitted, would create an undesirable change in the character of the neighborhood which is recognized by the community as having desirable aesthetic and historic assets, including nearby sites listed on the National Register of Historic Places, and

4. The subject property is identified by the Town to be a historic resource eligible for local landmark status, and whereas, this Board obtained an opinion from the Town's Historic Preservation Commission which does not believe that LED message center signs are appropriate for historic properties, which such opinion is also supported by this board, and

5. The petitioner may erect a different sign type sign which does not incorporate an LED message display, therefore the alleged difficulty is self-created, and

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

WHEREAS, this Board believes that the denial of the variances is necessary and adequate, 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 DENY an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

RESULT:	DENIED [4 TO 1]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Bray, Parker
NAYS:	Philips



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.10

DOC ID: 25957

ZBA ITEM (ID # 25957)

APPROVED

4911 Harlem Road - Area Variance - Fence Height

WHEREAS, **Tiftor LLC / Virawat Thavisin** has made application for an Area Variance(s), under

1.) SECTION: 7-5-3

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

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

4911 Harlem Road within a R-4 Zoning District

The petitioner's proposed **6 foot high fence** will be **(zero)** feet from the **south** property line and **20 feet** from the west property line, whereas, the zoning ordinance requires a minimum of setback of **20 feet and 30 feet** respectively, AND

WHEREAS, a public hearing was held on **June 21, 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 APPROVE an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

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



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25116

ZBA ITEM 2021-106

APPROVED

695 North Forest Road - Area Variances - Building Setbacks

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 public hearing was held on **June 21, 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 [4 TO 0]
MOVER:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray
ABSTAIN:	Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25996

ZBA ITEM (ID # 25996)

ADJOURNED

1964 Kensington Avenue - Area Variance - Lot Width

WHEREAS, **MUNA Center of Amherst** has made application for an Area Variance(s), under

1.) SECTION: 6-3-3 (lot area and width)

2.) SECTION: 7-1-6A (parking quantity)

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

1964 Kensington Avenue within a GB-TNB 1Zoning District

The petitioners proposed place of worship will provide **29 off-street parking spaces**, whereas, the zoning ordinance requires **41 parking spaces**, and whereas, the petitioner's existing parcel is **0.32 acres** in area and **103.8** feet in lot width, whereas, the zoning ordinance requires a minimum lot area of **1 acre** and **200** feet of lot width, AND

WHEREAS, a public hearing was held on **August 16, 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: **ADJOURNED [UNANIMOUS]**

Next: 8/16/2022 6:30 PM

MOVER: Ann M. Nichols, Member

SECONDER: Brian Bray, Member

AYES: Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25958

ZBA ITEM (ID # 25958)

APPROVED

281 Meyer Road - Area Variance - VUA Setback

WHEREAS, **281 Meyer Road, LLC** has made application for an Area Variance(s),
under

SECTION: 5A-4-7D

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

281 Meyer Road within a CTR-5 Zoning District

The petitioner's proposed **parking area expansion** will be **6.23** feet from the **east** property line whereas, the zoning ordinance requires a minimum of **10** feet, AND

WHEREAS, a public hearing was held on **June 21, 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 [4 TO 1]
MOVER:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Nichols, Shubert, Philips, Parker
NAYS:	Bray



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.14

DOC ID: 25959

ZBA ITEM (ID # 25959)

APPROVED

1395 Niagara Fall Boulevard - Area Variance - Structure Setback

WHEREAS, **David Alessandra** has made application for an Area Variance(s), under

SECTION: 2-5-3

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

1395 Niagara Falls Boulevard within a GB Zoning District

The petitioner's proposed **grease interceptor** will be **99.3** feet from the centerline of Niagara Falls Boulevard whereas, the zoning ordinance requires a minimum of **115** feet, AND

WHEREAS, a public hearing was held on **June 21, 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:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.15

DOC ID: 25960

ZBA ITEM (ID # 25960)

APPROVED

1501-1551 Niagara Falls Boulevard - Area Variance - Signage

WHEREAS, **1551 NFB, LLC** has made application for an Area Variance(s), under

SECTION: 7-8-4B(3)(F)

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

1501-1551 Niagara Falls Boulevard within a DC-3 Zoning District

The petitioner's proposed **freestanding sign** will be **10.3** feet from the **west** property line whereas, the zoning ordinance requires a minimum of **15** feet, and whereas, the proposed sign will be **640 s.f.** in area whereas, a previously approved area variance permitted a maximum of **473 s.f.** in sign area.

WHEREAS, a public hearing was held on **June 21, 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 [4 TO 0]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Philips, Bray, Parker
RECUSED:	Shubert



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25985

ZBA ITEM (ID # 25985)

APPROVED

4300 Millerpsort Highway - Area Variance - Setbacks

WHEREAS, **Cimato and Sons** has made application for an Area Variance(s), under

- 1.) SECTION: 5-6-2B (building setbacks)**
- 2.) SECTION: 2-5-2A(5)(b) (building setbacks to Smith Road)**
- 3.) SECTION: 5-6-3B (utility structure setbacks)**

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

4300 Millersport Highway within a TND Zoning District

The petitioner's proposed **town home buildings** will be **15** feet from the road right of ways and his **patio home buildings** will be **25** feet from the edge of private roadways, whereas, the zoning ordinance permits a **maximum setback of 6 feet**, and whereas, town home building "A" will be **92.1** feet from the **Smith Road** right of way and town home building "B" will be **85.4** feet from said right of way, whereas, the zoning ordinance permits a **maximum setback of 6 feet**, and whereas, **two utility structures** will be **14** feet from a local road right of way, **15** feet from a private alley and **8.3** feet from a local road right of way, whereas, the zoning ordinance permits a **maximum setback of 6 feet**, AND

WHEREAS, a public hearing was held on **June 21, 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 the 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, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25987

ZBA ITEM (ID # 25987)

ADJOURNED

3210 Millersport Highway - Use Variance

WHEREAS, **CM & RM Properties, LLC** has made application for a Use Variance(s), under

SECTION: 9-2

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

3210 Millersport Highway Road within a R-3 Zoning District

The petitioner desires to expand a non-conforming use (**veterinary hospital**) which is not permitted in the **R-3** zoning district, AND

WHEREAS, a public hearing was held on **August 16, 2022** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and whether or not the applicant has showed that the applicable zoning regulations have caused unnecessary hardship, AND

WHEREAS, pursuant to §267-b(2)(b) of the NY Town Law the applicant must prove unnecessary hardship by demonstrating to the Zoning Board of Appeals that for each and every permitted use within the above stated zoning district wherein the applicant's property is located he/she:

-) cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
-) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
-) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
-) that the alleged hardship has not been 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 applicant has proven unnecessary hardship, AND

WHEREAS, this Board supports its decision based on the aforementioned criteria pursuant to section 26-b(2)(b) of NY Town Law in that the applicant did show that:

-) he/she cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
-) that the alleged hardship relating to the property in question is unique, and

- does not apply to a substantial portion of the district or neighborhood;
-) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
-) that the alleged hardship has not been self created; AND

WHEREAS, This Board believes that the requested use variance should be approved based on the above showing; 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 use variance to permit an expansion of a lawful non-conforming veterinary clinic by 866 s.f. in building area on the subject property.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/16/2022 6:30 PM
MOVER:	Kelly J. Philips, Member	
SECONDER:	Ann M. Nichols, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.18

DOC ID: 25986

ZBA ITEM (ID # 25986)

ADJOURNED

3210 Millersport Highway - Area Variance - Building Setback

WHEREAS, **CM & RM Properties LLC** has made application for an Area Variance(s), under

SECTION: 2-5-3

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

3210 Millersport Highway within a R-3 Zoning District

The petitioner's proposed **building addition** will be **104** feet from the centerline of Millersport Highway whereas, the zoning ordinance requires a minimum of **115** feet, AND

WHEREAS, a public hearing was held on **August 16, 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: **ADJOURNED [UNANIMOUS]**

Next: 8/16/2022 6:30 PM

MOVER: Kelly J. Philips, Member

SECONDER: Ann M. Nichols, Member

AYES: Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25988

ZBA ITEM (ID # 25988)

APPROVED

1135 & 1145 Millersport Highway - Area Variance - VUA Setback

WHEREAS, **Northtown Properties** has made application for an Area Variance(s),
under

SECTION: 6-4-12A(7)(c)

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

1135 & 1145 Millersport Highway within a GB & MS Zoning District

The petitioner's proposed **vehicle use area** expansion will be **15.4** feet from the **east** property line whereas, the zoning ordinance requires a minimum of **25** feet, AND

WHEREAS, a public hearing was held on **June 21, 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:	Ronald Shubert, Member
SECONDER:	Brian Bray, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.20

DOC ID: 25993

ZBA ITEM (ID # 25993)

APPROVED

3275 & 3325 Millersport Highway - Area Variances

WHEREAS, **Levin Inc./The Green Organization** has made application for an Area Variance(s), under

- 1.) SECTION: 3-15-5A(4) (front building setbacks)**
- 2.) SECTION: 2-5-3 (front building setbacks to centerlines)**
- 3.) SECTION: 3-15-5B (building wall offsets)**
- 4.) SECTION: 3-15-5B (max. wall length)**
- 5.) SECTION: 3-15-5A(4) (side setback bldg. 3)**
- 6.) SECTION: 7-2-4A(1) (high impact screening)**
- 7.) SECTION: 7-2-4A(2) (VUA 36 inch fence)**
- 8.) SECTION: 7-4-4B(4)(f) (signage)**

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

3275 & 3325 Millersport Highway within a MRF-5 Zoning District

The petitioner's proposed buildings number 1, 2 and 3 will be **10** feet from the **north property line** and **65** feet from the **centerline of North French Road**, whereas, the zoning ordinance requires **70** feet and **90** feet respectively from each line, and whereas, buildings number 1, 2, 3, 4 and 5 will have building **wall offsets** of **4.67** feet, whereas, the zoning ordinance requires building wall offsets of **10** feet minimum when such building walls exceed 132 feet in length, and the length of buildings number 1, 2, 3 and 5 will be **180** feet long, and building number 4 will be **240** long, whereas, the zoning ordinance limits such buildings to a length of **176** feet, and whereas, building number 3 will be **4.83** feet from a **western property line**, whereas, the zoning ordinance requires **49.8** feet, and whereas, a **high impact landscape buffer** will not be provided along the North French Road or Millersport Highway Road frontages as required by the zoning ordinance, and whereas, the petitioner is not providing a 36 inch tall wall, earthen berm, or fence along the vehicle use area on the North French Road frontage as required by the zoning ordinance, and whereas, the petitioner's proposed identification sign will be 48 s.f. in area, whereas, the zoning ordinance permits a maximum of **20** s.f. , AND

WHEREAS, a public hearing was held on **June 21, 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:	Kelly J. Philips, Member
SECONDER:	Ellen Parker, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 06/21/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 25995

ZBA ITEM (ID # 25995)

APPROVED

6868,6886,6888 & 6900 Transit Road - Area Variances

WHEREAS, **SLW of Amherst LLC/Basil Family Companies** have made application for an Area Variance(s), under

- 1.) SECTION: 4-4-2B (vua setback)**
- 2.) SECTION: 7-2-4D (refuse encl.)**
- 3.) SECTION: 7-2-4B(3)(b) (low impact screening)**
- 4.) SECTION: 7-2-3A(3)(c) (landscape islands)**

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

6868, 6886, 6888 & 6900 Transit Road within a GB Zoning District

The petitioners' **vehicle use area** will be **1.15** feet from the north property line whereas the zoning ordinance requires **5** feet minimum, and whereas, the **refuse enclosure** will be **1.15** feet from the **north property line**, whereas, the zoning ordinance requires **5** feet, and whereas, a **low impact landscape screen** is not provided along the **north property line** as required by the zoning ordinance, and whereas, the **parallel parking spaces** along the east and west sides of the building do not terminate with curbed landscaped islands as required by the zoning ordinance, AND

WHEREAS, a public hearing was held on **June 21, 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:	Brian Bray, Member
SECONDER:	Ronald Shubert, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker