



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, December 20, 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	
Daniel J. Ulatowski	Town of Amherst	Assistant Planning Director/ZEO	Present	
Gary Palumbo	Town of Amherst	Associate Planner	Present	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Present	

II. APPROVAL OF MINUTES

1. Tuesday, November 15, 2022

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 26690)

150 Northledge Drive - Area Variance

The petitioner's fence is 0 feet from the south property line, whereas, the zoning ordinance requires 10 feet minimum.

12/20/2022

Russ Burton Spoke and answered questions from the Board. Mr. Burton Agreed to move his fence 9 feet from the property line and requested adequate time to relocate the fence. The members discussed and agreed to allow the fence to be a minimum of 8 feet from the

property line to allow for an additional foot of relief. Members agreed to allow 6 months for the petitioner to correct the fence.

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

11/15/2022

Russ Burton spoke and answered questions from the Board.

Mary Beimler, 170 Northledge, had concerns.

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

HISTORY:**11/15/22****Zoning Board of Appeals****ADJOURNED****Next: 12/20/22**

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

2. ZBA Item (ID # 26701)

1155 Smith Road - Area Variance

The petitioner's proposed pole barn will create an additional ~~1,088~~ 2,228 s.f. of building area for a total of ~~2,272~~ 3,472 s.f. for all accessory buildings whereas, the zoning ordinance permits a maximum of 75% of the principal dwelling or in this case a total of 1,184 s.f

12/20/2022

Petitioner spoke and answered questions from the Board.

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

11/15/2022

Petitioner was not present.

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

HISTORY:**11/15/22****Zoning Board of Appeals****ADJOURNED****Next: 12/20/22**

RESULT:	APPROVED [3 TO 2]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Ronald Shubert, Kelly J. Philips, Ellen Parker
NAYS:	Ann M. Nichols, Brian Bray

3. ZBA Item (ID # 26673)

166 Klein Road - ODA

The petitioner is seeking the approval of an open development area to allow for the construction of single family homes without frontage on a public roadway pursuant to the provisions of NYS Town Law 280-a(3)

11/15/2022

Attorney Sean Hopkins spoke and answered questions from the Board.

Christine Kozial and Jack Kozial, 59 Kingswaye, Adam Nethero, 29 Kingswaye, Paul Pasco, 6 Kingsway, Stephen Jacobson, 47 Kingswaye, Regina Derrico, 78 Chestnut Hill, spoke in opposition.

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

HISTORY:

11/15/22
Next: 12/20/22

Zoning Board of Appeals

ADJOURNED

ATTACHMENTS:

- SUB-2021-01PP signed neg dec 102022 (PDF)

RESULT:	ADJOURNED [UNANIMOUS]	Next: 1/24/2023 6:30 PM
MOVER:	Ronald Shubert, Member	
SECONDER:	Ann M. Nichols, Member	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

4. ZBA Item (ID # 26826)

National Grid Utility Pole 17-1 - North of 475 Carmen Rd. Special Use Permit - Small Cell

The petitioner desires to place a small cell antenna on a replacement utility pole, whereas, the zoning ordinance requires the issuance of a special use permit when such installations are less than 100 feet from the property line of a residential use.

12/20/2022

Attorney Jared Lusk 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: Ann M. Nichols, Member
SECONDER: Kelly J. Philips, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

SEQR Determination

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

5. ZBA Item (ID # 26815)

National Grid Utility Pole 3981 - South of 4030 Ridge Lea Rd. Special Use Permit - Small Cell

The petitioner desires to place a small cell antenna on a replacement utility pole, whereas, the zoning ordinance requires the issuance of a special use permit when such installations are less than 100 feet from the property line of a residential use.

12/20/2022

Attorney Jared Lusk 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: Ann M. Nichols, Member
SECONDER: Brian Bray, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

SEQR Determination

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

6. ZBA Item (ID # 26825)

National Grid Utility Pole 125 - West of 135 Meyer Rd. Special Use Permit - Small Cell

The petitioner desires to place a small cell antenna on a replacement utility pole, whereas, the zoning ordinance requires the issuance of a special use permit when such installations are less than 100 feet from the property line of a residential use.

12/20/2022

Attorney Jared Lusk 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: Ann M. Nichols, Member
SECONDER: Brian Bray, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

SEQR Determination

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

7. ZBA Item (ID # 26866)

6600 Main Street- Area Variance

The petitioner's air conditioning condensers are 27 +/- feet from the north property line, whereas, the zoning ordinance requires 30 feet minimum.

12/20/2022

Bernard Kolber 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

8. ZBA Item (ID # 26869)

50 Crosspoint Parkway- Area Variance

The petitioner's proposed core street will be 339.87 feet from the North French Road right of way, whereas, the zoning ordinance permits a maximum distance of 200 feet, and whereas, the petitioners' required core street will terminate 80 feet from the west property line, whereas, the zoning law requires it to be constructed to the property line, and whereas, the required core street will have travel lanes that are 13 feet in width, whereas, the zoning ordinance limits the width to 10 feet, and whereas, the petitioner's ground floor elevation will be zero feet from grade, whereas, the zoning ordinance requires the ground floor to be a minimum of 2 feet above grade, and whereas, the petitioner's pedestrian access entrances will exceed a spacing of 75 feet whereas, the zoning ordinance limits the spacing to 75 feet maximum.

12/20/2022

Kevin Kirk 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: Ann M. Nichols, Member
SECONDER: Kelly J. Philips, Member
AYES: Nichols, Shubert, Philips, Bray, Parker

SEQR Determination

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

Core Street Distance

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

Core Street Length

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

Travel Lane Width

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

Ground Floor Height

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

Entrance Spacing

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

18 Richfield Road - Area Variance

The petitioner desires to divide an existing 100 foot wide developed single family dwelling lot into two 50 foot wide lots, whereas, the zoning ordinance requires a minimum lot width of 65 feet for each lot.

12/20/2022

Attorney Sean Hopkins spoke and answered questions from the Board.

Robert Copolla, 417 Mt Vernon Rd, spoke and answered questions from the Board

Daniel Whitcomb, 35 Richfield Road, spoke in opposition.

Mohammed Shahbaz Khan, 28 Richfield Road, asked for more information.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 1/24/2023 6:30 PM
MOVER:	Ann M. Nichols, 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, Chair Woman Nichols moved to adjourn, seconded by Member Philips and unanimously approved 5-0. The Zoning Board of Appeals meeting of December 20, 2022 was adjourned at 8:09 PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 26690 A

ZBA ITEM (ID # 26690)

APPROVED W/ CONDITIONS

150 Northledge Drive - Area Variance

WHEREAS, **Russell Burton** has made application for an Area Variance(s), under

SECTION: 2-5-2A(5)(b)(3)

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

150 Northledge Drive within a R-3 Zoning District

The petitioner's **6 foot high fence** will be **8** feet from the **south** property line whereas, the zoning ordinance requires a minimum of **10** feet, AND

WHEREAS, a public hearing was held on **December 20 ,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, with the following condition:

1. The fence shall be relocated within 6 months so that it is 8 feet from the south property line.

RESULT:	APPROVED W/ CONDITIONS [UNANIMOUS]
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: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 26701 A

ZBA ITEM (ID # 26701)

APPROVED

1155 Smith Road - Area Variance

WHEREAS, **Candace and Kevin Martin** have made application for an Area Variance(s), under

SECTION: 6-8-1B

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

1155 Smith Road within a SA Zoning District

The petitioner's proposed 40'x60' pole barn will create an additional 2,288 s.f. of building area for a total of **3,472 s.f.** for all accessory buildings whereas, the zoning ordinance permits a maximum of 75% of the principal dwelling or in this case a maximum total of **1,184 s.f.**, AND

WHEREAS, a public hearing was held on **December 20, 2022** after proper notice, AND

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

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

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

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

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

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

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

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

RESULT:	APPROVED [3 TO 2]
MOVER:	Ronald Shubert, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Shubert, Philips, Parker
NAYS:	Nichols, Bray



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 26673

ZBA ITEM (ID # 26673)

ADJOURNED

166 Klein Road - ODA

DRAFT RESOLUTION

WHEREAS, **Mohammad Qasaymeh/Regency Builders, LLC** has made application for an Open Development Area, under

Section: 280-a(3)

of the New York State Town Law for the property owned by him/her at:

166 Klein Road within a R-3 Zoning District

The petitioner desires to construct **single family homes** on a private road whereas, Chapter 204 of the Amherst Town Code (Subdivision of Land), Section 3-5-3 requires all building lots to abut a public dedicated street or private drive or have access to such street or drive via a public alley, AND

WHEREAS, a public hearing was held on **December 20, 2022** after proper notice, AND

WHEREAS, pursuant to section 280-a(3) of New York State Town Law an applicant may appeal to the Zoning Board of Appeals for an area variance for relief from the requirements for building lots to be on public dedicated street, AND

WHEREAS, on October 20, 2022 a determination of environmental significance pursuant to the State Environmental Quality Review Act (SEQRA) consisting of a negative declaration was issued by the Amherst Planning Board for the proposed realty subdivision, AND

WHEREAS, this Board has reviewed Part 1 of the Full Environmental Assessment Form made part of the Zoning Board of Appeals submittal and reviewed the determination of environmental significance made by the Planning Board, AND

WHEREAS, this Board concurs with the Planning Board's determination of significance as such hereby issues a negative declaration pursuant to SEQRA based on its determination that the residential subdivision will not result in any potentially significant adverse environmental impacts, AND

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

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

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

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

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

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

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

Next: 1/24/2023 6:30 PM



Town of Amherst Planning Department

Erie County, New York



3.3.a

Brian J. Kulpa
Supervisor

Daniel C. Howard,
Planning Director

Daniel J. Ulatowski,
Assistant Planning Director

**SEQR
Negative Declaration**

'22 OCT 28 AM 9:01

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Planning Board

Project: SUB-2021-01PP

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date: October 20, 2022

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action: Site Plan Review

SEQR Status: Type 1 Action

Description of Action: A proposed 19-Lot subdivision for 18 single family homes in the R-3 zoning district, consisting of a 28-foot-wide private drive that terminates in a hammer-head turn around. Stormwater and bio-retention areas are located at the northern most end of the parcel, at the terminus of the private drive. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 166 Klein Road, Amherst, Erie County

Petitioner: Regency Builders, LLC

Attachment: SUB-2021-01PP signed neg dec 102022 (26673 : 166 Klein Road - ODA)

'22 OCT 28 AM 9:0'

REASONS SUPPORTING THIS DETERMINATION

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) and a complete subdivision application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action will not have a significant impact on the environment, as follows:

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Department on October 7, 2022 reviewed the Grading, Drainage and Utility Plans submitted on October 3, 2022, Engineer's Report submitted on August 22, 2022, Erosion Control Plan submitted on October 3, 2022 and Geotechnical Report prepared by Barron & Associates, P.C. The Building Department has reviewed the application documents, along with the Geotechnical Report submitted on August 22, 2022, and in their review of September 26, 2022 did not identify any concerns. The Stormwater Pollution Prevention Plan (SWPPP) submitted on August 22, 2022 was also reviewed. Based on its review of these documents, the Stormwater Management Officer has determined that the project has or will have met all applicable requirements and has no objection to its approval.
2. The project will result in the removal or destruction of large quantities of vegetation or fauna, however using the NYSDEC Environmental Resource Mapper there are no significant adverse impacts to fish or wildlife species, habitats or other unique natural resources that can be identified. Currently the majority of the parcel is covered in dense vegetation as shown on the Existing Conditions & Demolition Plan submitted on October 4, 2022. The Planning Department reviewed a Preliminary Plat Plan submitted on October 4, 2022 and determined that the Preliminary Plat Plan has or will have met all Zoning Ordinance and Town requirements for lot coverage on a single-family lot.
3. The Planning Department and Zoning Enforcement Officer have reviewed the application documents, preliminary plat and subdivision plans submitted on August 22, 2022, and determined in their review of September 26, 2022 that the subject project has or will have met all Zoning Ordinance regulations.
4. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Future Land Use Map (Figure 6) of the Bicentennial Comprehensive Plan illustrates the subject area as appropriate for single-family residential land use therefore the proposed subdivision is consistent with the adopted land use policy.
5. The project is not within an area identified by the State as potentially containing significant cultural or archeological resources, nor will it impair the character or quality of important historical resources.

Attachment: SUB-2021-01PP signed neg dec 102022 (26673 : 166 Klein Road - ODA)

'22 OCT 28 AM 9:07

6. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is located in the Residential (R-3) zoning district; neighboring uses are Single family residential to the east, west and south zoned R-3, and the Great Baehre Conservation Area to the north zoned Recreation Conservation (RC); therefore, the project is consistent with surrounding land use.
7. The proposed subject development will include a proposed 19-Lot subdivision for 18 single family homes in the R-3 zoning district, consisting of a 28-foot-wide private drive that terminates in a hammer-head turn around. Stormwater and bio-retention areas are located at the northern most end of the parcel, at the terminus of the private drive, which will not cause a major change in the use of either the quantity or type of energy.
8. The project will not create any hazard to human health. The Fire Chief's Association on October 14, 2022, has reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.
9. The project will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The addition of 19 lots to be occupied by 18 single family homes will be consistent with the scale of surrounding land uses.
10. The function of the proposed addition of 19 lots to be occupied by 18 single family homes will increase the number of people using the site over its previous level of use, however the increase will not contribute to any adverse environmental impacts.
11. Review by the Town Traffic/Safety Board dated October 5, 2022 indicates that significant negative traffic impacts are not expected to result from the proposed project. Review of the Traffic Impact Study (TIS) prepared by SRF Associates, submitted to the Planning Department on October 13, 2021 and reviewed by Town Traffic/Safety Board indicates that significant negative traffic impacts are not expected to result from the proposed project.
12. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Highway on September 13, 2022, Assessor on August 31, 2022, Plumbing Division on October 6, 2022, and Right-of-Way Agent on August 31, 2022. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.
13. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to cause significant negative environmental impacts.

Attachment: SUB-2021-01PP signed neg dec 102022 (26673 : 166 Klein Road - ODA)

Negative Declaration SUB-2021-01PP

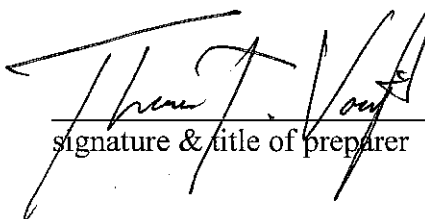
October 20, 2022

Page 4

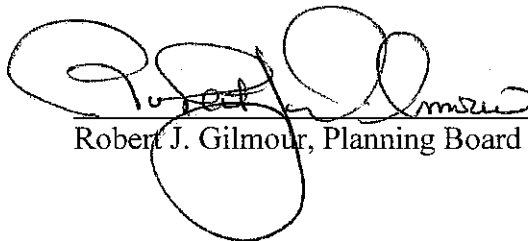
Planning Board Approval

'22 OCT 28 AM 9:0'

Moved by: Chmiel; Seconded by: Raffaele; Ayes: 5; Noes: 1 (Penberthy); Absent: 1 (Gill)

 Assistant Planner
signature & title of preparer

10/26/2022
Date


Robert J. Gilmour, Planning Board Chair

10-28-2022
Date

TV/ac

X:\Current_Planning\Files\Subdivisions\SUB-2021\SUB-2021-01_(166_Klein_Rd)_2021\SUB-2021-01PP_(166_Klein_Rd)_2022\SUB-2021-01_PP_neg dec_102022.docx

cc: Commissioner of Building
Town Engineer
Highway Superintendent
Fire Chiefs Council
ECDEP
NYSDEC

Regency Builders LLC, 4899 Meyer Rd., Pendleton, NY 14120

Ken Zollitsch, Greenman-Pedersen Inc., 4950 Genesee Street, Suite 100, Buffalo, NY 14225

Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main St., Suite 343, Williamsville, NY 14221

Attachment: SUB-2021-01PP signed neg dec 102022 (26673 : 166 Klein Road - ODA)



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 26826 A

ZBA ITEM (ID # 26826)

APPROVED

National Grid Utility Pole 17-1 - North of 475 Carmen Rd. Special Use Permit - Small Cell

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

1. SECTION: 6-11-5A

2. SECTION: 6-11-5B(2)

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

National Grid Utility Pole Number 17-1 (north of 475 Carmen Rd.) within a MFR-5 Zoning District

The petitioner desires to establish a **Small Cell Antenna** which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **December 20, 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 6-11-5;**
-) **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, this Board believes it is necessary to impose the following conditions on its approval of the special use permit as permitted by section 8-6-7 of the Zoning Ordinance to minimize adverse impacts upon other property in the neighborhood; AND

- 1.
- 2.

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.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Ann M. Nichols, 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: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 26815

ZBA ITEM (ID # 26815)

APPROVED

National Grid Utility Pole 3981 - South of 4030 Ridge Lea Rd. Special Use Permit - Small Cell

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

1. SECTION: 6-11-5A

2. SECTION: 6-11-5B(2)

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

National Grid Utility Pole Number 3981(south of 4030 Ridge Lea Rd.) within a CTR-5 Zoning District

The petitioner desires to establish a **Small Cell Antenna** which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **December 20, 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 6-11-5;**
-) **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, this Board believes it is necessary to impose the following conditions on its approval of the special use permit as permitted by section 8-6-7 of the Zoning Ordinance to minimize adverse impacts upon other property in the neighborhood; AND

- 1.
- 2.

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.

RESULT:	APPROVED [UNANIMOUS]
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: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 26825

ZBA ITEM (ID # 26825)

APPROVED

National Grid Utility Pole 125 - West of 135 Meyer Rd. Special Use Permit - Small Cell

WHEREAS, **Bell Atlantic Mobile Systems, LLC** has made application for a Special Use Permit, under

1. SECTION: 6-11-5A

2. SECTION: 6-11-5B(2)

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

National Grid Utility Pole Number 125 (west of 135 Meyer Rd.) within a CTR-5 Zoning District

The petitioner desires to establish a **Small Cell Antenna** which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **December 20, 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 6-11-5;**
-) **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, this Board believes it is necessary to impose the following conditions on its approval of the special use permit as permitted by section 8-6-7 of the Zoning Ordinance to minimize adverse impacts upon other property in the neighborhood; AND

- 1.
- 2.

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.

RESULT:	APPROVED [UNANIMOUS]
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: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 26866

ZBA ITEM (ID # 26866)

APPROVED

6600 Main Street- Area Variance

WHEREAS, **6600 Main Street, LLC** has made application for an Area Variance(s), under

SECTION: 4-2-2B

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

6600 Road within a OB Zoning District

The petitioner's accessory A/C units are **27+/-** feet from the **north** property line whereas, the zoning ordinance requires a minimum of **30** feet, AND

WHEREAS, a public hearing was held on **December 20, 2020** 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: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.8

DOC ID: 26869

ZBA ITEM (ID # 26869)

APPROVED

50 Crosspoint Parkway- Area Variance

WHEREAS, **Uniland Partnership of Delaware, LLC** has made application for an Area Variance(s), under

- 1. SECTION: 5A-3-5B (core street distance)**
- 2. SECTION: 5A-7-13B (core street length)**
- 3. SECTION: 5A-6-3G (travel lane width)**
- 4. SECTION: 5A-4-5 (ground floor height)**
- 5. SECTION: 5A-4-7J (entrance spacing)**

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

50 Crosspoint Parkway within a DC-5 Zoning District

The petitioner's proposed core street will be **339.87 feet** from the North French Road right of way, whereas, the zoning ordinance permits a maximum distance of **200 feet**, and whereas, the petitioners' required core street will terminate **80 feet** from the **west property line**, whereas, the zoning law requires it to be constructed to the property line, and whereas, the required core street will have **travel lanes** that are **13 feet** in width, whereas, the zoning ordinance limits the width to **10 feet**, and whereas, the petitioner's **ground floor** elevation will be **zero feet** from grade, whereas, the zoning ordinance requires the ground floor to be a minimum of **2 feet** above grade, and whereas, the petitioner's pedestrian access **entrances** will exceed a spacing of **75 feet** whereas, the zoning ordinance limits the spacing to 75 feet maximum.

WHEREAS, a public hearing was held on **December 20, 2020** 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 the area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

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



Zoning Board of Appeals

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

Meeting: 12/20/22 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.9

DOC ID: 26871

ZBA ITEM (ID # 26871)

ADJOURNED

18 Richfield Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **Albert Randaccio Builders, Inc / Robert J. Coppola** has 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 :

18 Richfield Road within a R-3 Zoning District

The petitioner's proposed **parcel split** will be create two parcels with minimum lot widths of 50 feet, whereas, the zoning ordinance requires each lot to have a minimum lot width of 65 feet, AND

WHEREAS, a public hearing was held on **December 20, 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 create an undesirable change in the character of the neighborhood; AND

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

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

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

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

RESULT: **ADJOURNED [UNANIMOUS]**

Next: 1/24/2023 6:30 PM

MOVER: Ann M. Nichols, Member

SECONDER: Ronald Shubert, Member

AYES: Nichols, Shubert, Philips, Bray, Parker