



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, March 14, 2023

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	Absent	
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	
Thomas J. Voigt	Town of Amherst	Assistant Planner	Present	
Ann Demopoulos	Town of Amherst	Deputy Town Attorney	Present	
Jacqueline Berger	Town of Amherst	Councilmember	Present	

II. APPROVAL OF MINUTES

1. Tuesday, February 14, 2023

RESULT:	ACCEPTED [3 TO 0]
MOVER:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray
ABSTAIN:	Ellen Parker
ABSENT:	Ronald Shubert

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 27240)

275 Hopkins Rd - Special Use Permit - Auxiliary Housing Unit

The petitioner desires to establish an auxiliary housing unit within their existing single-family dwelling, whereas, the zoning ordinance requires the issuance of a special use permit

by the Zoning Board of Appeals.

03/14/2023

Petitioner, Stephanie Siuda, 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:	Ann M. Nichols, Member
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray, Ellen Parker
ABSENT:	Ronald Shubert

SEQR Determination

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

2. ZBA Item (ID # 27250)

409 Rosedale Boulevard - Area Variance

The petitioner's building addition will be 4.32 feet from the south property line, whereas, the zoning ordinance requires 5 feet minimum, and whereas, the addition will be 22 feet from the north property line, whereas the zoning ordinance requires 30 feet minimum, and whereas the addition will be 3 feet from the existing detached garage, whereas, the zoning ordinance requires 5 feet minimum.

03/14/2023

Petitioner, Gail Foster, and Architect, Gregory Proefrock, 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:	Ann M. Nichols, Member
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray, Ellen Parker
ABSENT:	Ronald Shubert

3. ZBA Item (ID # 27252)

2075 Niagara Falls Boulevard - Area Variance

The petitioner's LED message center sign will be 260 feet from a residential zoning district, whereas, the zoning ordinance requires a minimum setback of 500 feet.

03/14/2023

Randy DiNatale of Flexlume and Petitioner Roman Jewula, spoke and answered questions from the Board.

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

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

IV. ADJOURN TO THE NEXT ZONING BOARD APPEALS MEETING

There being no further business to come before the Zoning Board of Appeals, Member Bray moved to adjourn, seconded by Member Philips and unanimously approved 4-0. The Zoning Board of Appeals meeting of March 14, 2023 was adjourned at 6:58 PM.



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Town Clerk

Meeting: 03/14/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.1

DOC ID: 27240

ZBA ITEM (ID # 27240)

APPROVED

275 Hopkins Rd - Special Use Permit - Auxiliary Housing Unit

WHEREAS, **Stephanie & Sean Siuda** have made application for a Special Use Permit, under

SECTION: 6-8-2

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

275 Hopkins Road within a R-3 Zoning District

The petitioner desires to establish an **auxiliary housing unit** which requires the issuance of a special use permit by the Amherst Zoning Board of Appeals, AND

WHEREAS, a public hearing was held on **March 14, 2023** 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 6-8-2;**
-) **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 term of two years.

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



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Meeting: 03/14/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 27250

ZBA ITEM (ID # 27250)

APPROVED

409 Rosedale Boulevard - Area Variance

WHEREAS, **Gail Foster-Kingsley** has made application for an Area Variance(s),
under

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

2. SECTION: 2-5-2A(5)(b) (exterior side yard)

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

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

409 Rosedale Boulevard within a R-3 Zoning District

The petitioner's proposed **building addition** will be **4.32 feet** from the **south property line**, whereas, the zoning ordinance requires **5 feet** minimum, and whereas, the addition will be **22 feet** from the **north property line**, whereas the zoning ordinance requires **30 feet** minimum, and whereas the addition will be **3 feet** from the **existing detached garage**, whereas, the zoning ordinance requires **5 feet** minimum, AND

WHEREAS, a public hearing was held on **March 14, 2023** 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:	Brian Bray, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Nichols, Philips, Bray, Parker
ABSENT:	Shubert



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

3.3

DOC ID: 27252

ZBA ITEM (ID # 27252)

APPROVED W/ CONDITIONS

2075 Niagara Falls Boulevard - Area Variance

WHEREAS, **Randy DiNatale/ Roman Jewula Holdings, LLC** has made application for an Area Variance(s), under

SECTION: 7-8-4B2(b)

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

2075 Niagara Falls Boulevard within a Zoning District

The petitioner's proposed **LED Message Center Sign** will be **260** feet from a residential property line whereas, the zoning ordinance requires a minimum of **500** feet, AND

WHEREAS, a public hearing was held on **March 16, 2023** 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 condition that the existing ground sign be removed.

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