



Zoning Board of Appeals

Regular Meeting

Minutes

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

Francina J. Spoth
Town Clerk

Tuesday, April 18, 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	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	
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, March 14, 2023

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

III. HEARINGS ON APPEALS

1. ZBA Item (ID # 27349)

6728 Main Street - Area Variance

The applicant's proposed LED message center sign will be 165 feet from a residential zoning district boundary, whereas, the zoning ordinance requires a minimum setback of 500 feet.

04/18/2023

Petitioner, Jennifer Lipinoga, 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:	Ann M. Nichols, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

2. ZBA Item (ID # 27356)

3980 Sheridan Drive - Area Variance

The petitioner's proposed replacement wall signs will add an additional ~~116.45~~ 410.49 s.f. of sign area, creating ~~803.75~~ 1047.79 s.f. of total signage for the subject property, whereas, the Zoning Board of Appeals previously granted an area variance allowing for a maximum of 637.3 s.f. of sign area.

04/18/2023

Petitioner, Randy DiNatale, 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 0]
MOVER:	Brian Bray, Member
SECONDER:	Ann M. Nichols, Member
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray, Ellen Parker
ABSTAIN:	Ronald Shubert

3. ZBA Item (ID # 27359)

705 Renaissance Drive - Area Variance

The petitioner's proposed 80.5 s.f. wall sign is not a permitted sign type within a residential zoning district.

04/18/2023

Petitioner 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 0]
MOVER:	Ellen Parker, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray, Ellen Parker
ABSTAIN:	Ronald Shubert

4. ZBA Item (ID # 27360)

41 Meadowview Lane - Area Variance

The petitioner's 1,200 s.f. garage will create 1,683 s.f. of total accessory building area, whereas, the zoning ordinance permits a maximum of 1,254 s.f. of building area.

04/18/2023

Atty Laura Colca spoke and answered questions from the Board.

Nancy Serr, 8 Auden Court, and Jake Gruber, 40 Meadowview, spoke in opposition.

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

RESULT:	ADJOURNED [4 TO 0]	Next: 5/16/2023 6:30 PM
MOVER:	Ann M. Nichols, Member	
SECONDER:	Brian Bray, Member	
AYES:	Ann M. Nichols, Kelly J. Philips, Brian Bray, Ellen Parker	
RECUSED:	Ronald Shubert	

5. ZBA Item (ID # 27362)**220 Schoelles Road - Area Variance**

The petitioner's ~~1,200~~ 1,500 s.f. garage will create ~~1,683~~ 2562 s.f. of total accessory building area, whereas, the zoning ordinance permits a maximum of ~~1,254~~ 1574 s.f. of building area.

04/18/2023

Petitioner Brian Minervini 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

6. ZBA Item (ID # 27363)**187 Boxelder Lane - Area Variance**

The petitioner desires to establish a 6 foot high fence 7 feet from the north property line, whereas, the zoning ordinance requires 10 feet minimum, and whereas, the petitioner's proposed shed will be 12 feet from the north property line, whereas, the zoning ordinance requires 25 feet minimum.

04/18/2023

Petitioner, Andrea Clark, 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:	Brian Bray, Member
SECONDER:	Kelly J. Philips, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker

7. ZBA Item (ID # 27364)

555 Casey Road - Area Variance

The petitioner's proposed accessory garage will be 1,064 s.f. in area, whereas, the zoning ordinance permits a maximum of 792 s.f. for all accessory structures.

04/18/2023

Petitioner spoke and answered questions from the Board.

Glen Spoth, 551 Casey Road, spoke to the Board regarding other issues at this property.

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 5/16/2023 6:30 PM
MOVER:	Ann M. Nichols, Brian Bray	
SECONDER:	Ronald Shubert, Kelly J. Philips	
AYES:	Nichols, Shubert, Philips, Bray, Parker	

8. ZBA Item (ID # 27377)

181 Brenon Road- Area Variance Accessory Structure Area

The petitioner's proposed accessory garage will create a total of 1749.7 sqft of accessory structures, whereas, the Zoning Ordinance permits a maximum of 75% of the principal dwelling or in this case 1,242 s.f. maximum

04/18/2023

Paul Burgio 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:	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 Member Bray and unanimously approved 5-0. The Zoning Board of Appeals meeting of April 18, 2023 was adjourned at 7:33 PM.



Zoning Board of Appeals

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

Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 27349

ZBA ITEM (ID # 27349)

APPROVED

6728 Main Street - Area Variance

WHEREAS, **Jennifer R. Lipinoga/Dolores Kastan** have made application for an Area Variance(s), under

SECTION: 7-8-3B(2)

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

6728 Main Street within a GB Zoning District

The petitioner's proposed **LED message center sign** will be **165** feet from a residential zoning district line whereas, the zoning ordinance requires a minimum of **500** feet, AND

WHEREAS, a public hearing was held on **April 18, 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.

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
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Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.2

DOC ID: 27356 A

ZBA ITEM (ID # 27356)

APPROVED

3980 Sheridan Drive - Area Variance

RESOLUTION

WHEREAS, **Sheridan Equity Partners, LLC** have made application for an Area Variance(s), under

SECTION: 7-8-8A

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

3980 Sheridan Drive within a CTR-8 Zoning District

The petitioner's proposed replacement wall signs will add an additional ~~116.45~~ 410.49 s.f. of sign area, creating ~~803.75~~ **1047.79 s.f.** of **total signage** for the subject property, whereas, the Zoning Board of Appeals previously granted an area variance allowing for a maximum of **637.3 s.f** of sign area, AND

WHEREAS, a public hearing was held on **April 18, 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.

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



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.3

DOC ID: 27359

ZBA ITEM (ID # 27359)

APPROVED

705 Renaissance Drive - Area Variance

WHEREAS, **Episcopal Church Home & Affiliates Life Care Community, Inc.** has made application for an Area Variance(s), under

SECTION: 7-8-7

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

705 Renaissance Drive within a MFR-7 Zoning District

The petitioner's proposed wall sign is not a permitted sign and, whereas, signage within residential zoning districts is limited to an address sign, a home occupation sign and a subdivision identification sign, or in the case of a public or civic use within a residential zoning district, total signage may not exceed 32 s.f. in area including any wall signage or ground signage, and whereas, the petitioner desires to erect a wall sign that is **80.5 s.f.** in area on a building addition which is part of its residential care community facility, AND

WHEREAS, a public hearing was held on **April 18, 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.

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



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.4

DOC ID: 27360

ZBA ITEM (ID # 27360)

ADJOURNED

41 Meadowview Lane - Area Variance

DRAFT RESOLUTION

WHEREAS, **Limo Olivieri** has 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 :

41 Meadowview Lane within a R-3 Zoning District

The petitioner's proposed **1,200 s.f. garage** will be will create **1,683 s.f.** of total accessory building area, whereas, the zoning ordinance permits a **maximum of 1,254 s.f.** of building area, AND

WHEREAS, a public hearing was held on **April 18, 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.

RESULT: **ADJOURNED [4 TO 0]**

Next: 5/16/2023 6:30 PM

MOVER: Ann M. Nichols, Member

SECONDER: Brian Bray, Member

AYES: Nichols, Philips, Bray, Parker

RECUSED: Shubert



Zoning Board of Appeals

5583 Main Street
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Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.5

DOC ID: 27362

ZBA ITEM (ID # 27362)

APPROVED

220 Schoelles Road - Area Variance

WHEREAS, **Brian & Kristin Minervini** has 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 :

220 Schoelles Road within a SA Zoning District

The petitioner's proposed **1,500 s.f. garage** will be will create **2,562 s.f.** of total accessory building area, whereas, the zoning ordinance permits a **maximum of 1,574 s.f.** of building area, AND

WHEREAS, a public hearing was held on **April 18, 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.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brian Bray, 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: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.6

DOC ID: 27363

ZBA ITEM (ID # 27363)

APPROVED W/ CONDITIONS

187 Boxelder Lane - Area Variance

WHEREAS, **Andrea & Thomas Clark** have made application for an Area Variance(s), under

1.) SECTION: 2-5-2A(5)(b)(3) (fence)

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

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

187 Boxelder Lane within a MFR-5 Zoning District

The petitioner desires to establish a 6 foot high **fence 7 feet** from the **north** property line, whereas, the zoning ordinance requires **10 feet minimum**, and whereas, the petitioner's proposed **shed** will be **12 feet** from the **north** property line, whereas, the zoning ordinance requires **25 feet minimum**, AND

WHEREAS, a public hearing was held on **April 18, 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 Boards decision to hereby GRANT the area variances from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst is subject to license agreements from the Amherst Town Attorneys Office for both the fence and shed.

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



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

3.7

DOC ID: 27364

ZBA ITEM (ID # 27364)

ADJOURNED

555 Casey Road - Area Variance

DRAFT RESOLUTION

WHEREAS, **William Wallace** has 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 :

555 Casey Road within a SA Zoning District

The petitioner's proposed **accessory garage** will be **1,064 s.f. in area** whereas, the zoning ordinance permits a maximum of **792 s.f.** for all accessory structures feet, AND

WHEREAS, a public hearing was held on **April 18, 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) is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

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

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

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

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

RESULT:	ADJOURNED [UNANIMOUS]	Next: 5/16/2023 6:30 PM
MOVER:	Ann M. Nichols, Brian Bray	
SECONDER:	Ronald Shubert, Kelly J. Philips	
AYES:	Nichols, Shubert, Philips, Bray, Parker	



Zoning Board of Appeals

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Francina J. Spoth
Town Clerk

Meeting: 04/18/23 06:30 PM
Department: Zoning Board of Appeals
Initiated by: **Thomas J. Voigt**
Co-Sponsored by:

3.8

DOC ID: 27377

ZBA ITEM (ID # 27377)

APPROVED

181 Brenon Road- Area Variance Accessory Structure Area

WHEREAS, **Donna Fitts & Paul Burgio** have made application for an Area Variance, under

SECTION: §6-8-1B

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

181 Brenon Road within a SA Zoning District

The petitioner's proposed **accessory structures** will be **1,749.7 square feet in area cumulatively** whereas, the zoning ordinance requires a minimum of **1,242 square feet** in area in total, AND

WHEREAS, a public hearing was held on **April 18, 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 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:	Ann M. Nichols, Member
AYES:	Nichols, Shubert, Philips, Bray, Parker