

**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the July 2017 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Joseph Liberti, Chairman/Robert Lennartz/Robert Metz/ Dwight Mateer/  
Barbara Bernard, Alternate

EXCUSED: Lauren Kaczor

OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney  
David Holland, Code Enforcement Officer  
Rosemary Messina, Secretary

The Chairman called the meeting to order at 7:00 P.M., stating that if anyone appearing before the Board was related through family, financial or business relationship with any member of the Board, it is incumbent upon him to make it known under State Law and the Town Code of Ethics.

The Chairman stated that all persons making an appeal before this Board would be heard in accordance with the Town Laws of the State of New York, Article 16, Sections 267, 279 and 280a, Subdivision 3, and the Town of Orchard Park Zoning Ordinance. Any person aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal, specifying the grounds of the illegality. Such petition must be presented to the court within 30-days after filing of the decision in the office of the Town Clerk.

The meeting minutes for the June 2017 meeting were unanimously **APPROVED**.

The Chairman stated that site inspections of all cases presented tonight were made by:  
**LIBERTI, AYE/LENNARTZ, AYE/MATEER, AYE/METZ, AYE/BERNARD, AYE**

1. ZBA File #17-17, Matthew & Carla Gudorf, 7868 Ellicott Road, Zoned R-1 (Part of Farm Lot 68, Township 9, Range 7; SBL#185.00-4-3.113). Requests a Variance to house chickens on this parcel. Chickens shall not be housed except on a farm nor within 100-ft. of any property line of such farm, Section 144-32A (1). A farm must contain at least 5-acres, Section 144-5B, Terms Defined.

APPEARANCE: Mr. Matthew Gudorf, Petitioner/Property Owner

Mr. Gudorf explained that he believed the zoning of his property allowed chickens. He constructed a chicken coop, purchased 5 chickens and 1 rooster, not realizing that the Town Ordinance requires 5-acres to have chickens, and that 100-ft. must exist between the property line and the chicken coop. He told the Board that he does not have the rooster any longer and would like to be able to keep the chickens.

Mr. Mateer established that Mr. Gudorf contacted his neighbors and no objections were voiced to the variance request.

Mr. Lennartz asked if Mr. Gudorf would be willing to agree to stipulations that he have "hens only", "no roosters", and "no chickens transgressing the neighborhood". Mr. Gudorf stated that he is agreeable to this. He told the Board that the chickens are not able to wander over the 7-ft. tall coop fencing.

Mr. Metz established that Mr. Gudorf is agreeable to keeping a maximum of 5-chickens. Waste removal was discussed and Mr. Gudorf told the members that this is not an issue at this time.

Mrs. Bernard established that when Mr. Gudorf lived in Texas his chickens produced approximately 35-eggs per day. He is not familiar with the northern breed of chickens, and he is unsure of the number of eggs they may produce on a daily basis. He will offer eggs to his neighbors and possibly sell eggs in the future.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of granting of the variance.

IN FAVOR:

*Mr. James Cook  
7886 Ellicott Road  
Orchard Park, New York 14127*

Mr. Cook spoke and told the members that he supports the variance request.

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the variance.

(Twice) NO RESPONSE.

The Chair then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated no communications have been received.

Board discussion:

Stipulations were discussed to add to the motion.

Mr. Lennartz made a **MOTION**, seconded by Mr. Mateer, to **GRANT** the Area Variance with **STIPULATIONS** for the following reasons:

1. There will not be an undesirable change to the character of the neighborhood and a detriment to nearby properties.
2. The benefit cannot be sought in another way.
3. The request is substantial.
4. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
5. The difficulty is self-created, but that does not preclude the granting of the variance.

**The variance is granted with the following Stipulations:**

1. There will be no roosters.
2. There are to be no more than 5 hens.
3. The chickens are not to be running around on other neighbors' property.

**THE MOTION BEING:**

<b>LIBERTI</b>	<b>AYE</b>
<b>LENNARTZ</b>	<b>AYE</b>
<b>MATEER</b>	<b>AYE</b>
<b>METZ</b>	<b>AYE</b>
<b>BERNARD</b>	<b>AYE</b>

**THE MOTION BEING FIVE (5) IN FAVOR, THE MOTION IS PASSED.**

2. ZBA File #18-17, Dana Fauth, 95 Midway Drive, Zoned R-1 (Sub Lot 51. Map Cover 2373; SBL#173.09-5-19). Requests an Area Variance to construct a tool shed with a 5-ft. side setback. Minimum side setback for this R-1 lot is 15-ft., Section 144-9B, Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Ms. Dana Fauth, Petitioner/Property Owner

Ms. Fauth explained that her property is slanted downhill and she would like to have a tool shed conveniently located to attend to her flower gardens. The location proposed is level, and the shed will not impact the adjacent property as there will be no residence constructed on this lot. The lot is used for drainage and has a culvert on it to collect run-off water.

Mr. Mateer established that lawn and gardening equipment will be stored in the shed.

Mr. Lennartz established that no business will be run from the proposed shed, and that Ms. Fauth spoke to her neighbors regarding the variance request. She reported that there were no objections to the variance request.

Chairman Liberti established that the size of the shed is 10-ft. x 10-ft. Ms. Fauth told the members that she may have an overhang installed on the tool shed.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of granting of the variance.

(Twice) NO RESPONSE

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the variance.

*Ms. Brooke Urban  
150 Bridle Path  
Orchard Park, New York 14127*

Ms. Urban did not speak against the request; however, she asked to review where the proposed shed would be located and discussed the possibility of it impacting her viewshed. Ms. Fauth stated that she would put in additional plantings to buffer the view of the shed.

Mr. Mateer noted that the structure is not that large.

Chairman Liberti stated that the shed could be placed at 15-feet from the lot line and not need a variance. He also noted that the planting of shrubbery could be put in to buffer the view of the shed.

The Chair then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated no communications have been received.

Board discussion:

Mr. \_\_\_\_\_ made a **MOTION**, seconded by Mr. \_\_\_\_\_, to \_\_\_\_\_ the Variance for the following reasons:

1. There will not be an undesirable change to the character of the neighborhood and a detriment to nearby properties.
2. The benefit cannot be sought in another way.

3. The request is not substantial.

4. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

5. The difficulty is not self-created.

**THE MOTION BEING:**

<b>LIBERTI</b>	<b>AYE</b>
<b>LENNARTZ</b>	<b>AYE</b>
<b>MATEER</b>	<b>AYE</b>
<b>METZ</b>	<b>AYE</b>
<b>BERNARD</b>	<b>AYE</b>

THE **MOTION** BEING **UNANIMOUS**, THE **VARIANCE** IS .

3. ZBA File #19-17, Mark L. Lester, 109 Oakwood Street, Zoned R-3 (Sub Lot 24, Map Cover 1541: SBL#161.17-5-6). Requests a Variance to allow a pre-existing shed to remain after demolition of the principal structure. Accessory structures are to be subordinate to principal structures on the same lot, Section 144-5, terms defined.

APPEARANCE:

The Chair then asked if there was anyone in the audience who would wish to speak in favor of granting of the variance.

(Twice) NO RESPONSE

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the variance.

(Twice) NO RESPONSE.

The Chair then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated no communications have been received.

Board discussion:

Mr.            made a **MOTION**, seconded by Mr.            , to            the Variance for the following reasons:

1. There will not be an undesirable change to the character of the neighborhood and a detriment to nearby properties.
2. The benefit cannot be sought in another way.
3. The request is not substantial.

4. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
5. The difficulty is not self-created.

**THE MOTION BEING:**

<b>LIBERTI</b>	<b>AYE</b>
<b>LENNARTZ</b>	<b>AYE</b>
<b>MATEER</b>	<b>AYE</b>
<b>METZ</b>	<b>AYE</b>
<b>BERNARD</b>	<b>AYE</b>

THE **MOTION BEING UNANIMOUS**, THE **VARIANCE IS** .

Meeting adjourned at P.M.

DATED: 7/  
REVIEWED: 7/

Rosemary M. Messina, Secretary  
Zoning Board of Appeals

Joseph Liberti, Chairman