

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the January 21, 2014 meeting held in the Municipal Center Basement Public Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Joseph Liberti Chairman
Robert Lennartz
Dwight Mateer
Robert Metz
Roland Pigeon
Lauren, Kaczor, Alternate

**APPROVED
MINUTES**

OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney
David Holland, Code Enforcement Officer
Danielle Ostrander, Planning Department Assistant

EXCUSED: Rosemary Messina, Zoning Board of Appeals Secretary

The members recited the Pledge of Allegiance and the Chairman called the meeting to order at 7:03 P.M., stating that if anyone appearing before the Board was related through family, financial or a 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 Chairman stated that Mr. Holmwood is no longer a member of the Board due to health issues. He welcomed Mr. Lennartz, who was appointed by the Town Board to the position of "full member" and Ms. Kaczor, who was appointed to the "alternate member" position.

The Chairman further noted that Mr. Mateer has recused himself from voting in tonight's case and that the alternate member, Ms. Kaczor, will be voting this evening.

APPROVAL OF THE MINUTES OF THE DECEMBER 2013 REGULAR MEETING:

Mr. Pigeon made a **MOTION**, seconded by Mr. Metz to **ACCEPT** the minutes of the December 17, 2013 meeting.

THE VOTE ON THE MOTION BEING:

KACZOR	ABSTAINED
LENNARTZ	AYE
LIBERTI	AYE
MATEER	AYE
METZ	AYE
PIGEON	AYE

THE VOTE BEING FIVE (5) IN FAVOR AND ONE (1) ABSTENTION, THE MOTION IS HEREBY PASSED.

The Chairman stated that site inspections of all cases presented tonight were made by:

KACZOR	AYE
LENNARTZ	AYE
LIBERTI	AYE
MATEER	AYE
METZ	AYE
PIGEON	AYE

NEW BUSINESS:

1. ZBA File #01-14, John J. Paz, 5473 Ellicott Road, Zoned R-1 (Part of Farm Lot 4, Township 9, Range 7; SBL#185.10-3-11). Requests (3) Area Variances for a proposed carport. First, to locate structure within the front yard. No Accessory structure shall be located within the front yard. Second, to allow a 5-ft. side setback. Minimum side setback in this R-1 Zone is 15-ft. Third, to locate structure 5-ft. from the house. No accessory structure shall be located closer than 10-ft. to any primary structure. Section 144-24A & Section 144-9B, Schedule of Height, Lot, Yard & Bulk regulations.

APPEARANCE: Mr. John Paz, Applicant/Property owner

Mr. Paz explained that he had been granted a variance in 2009 and that the variance expired. He asked that the members consider the proposed modified variance request before them to locate a carport in his front yard upon an existing blacktop area.

It was established that Mr. Paz had originally been granted a variance to construct a garage within the front yard of his home. His revised request is to locate a carport within the front yard closer to the roadway.

The members discussed the proposed carport request. The fact that Mr. Paz would like to locate the carport in the front yard is not a reason to grant the variance. They do not feel there is a hardship and the members feel Mr. Paz should adhere to the Zoning Laws.

Mr. Paz stated explained what he felt were hardships that impacted him. He told the Board that the residence was built in the 1950's and that the zoning laws at that time were not in affect. He also spoke of several difficulties, such as the added expense of bush removal and utility lines that made placing the carport at the side of the home a hardship.

Mr. Metz established that Mr. Paz had spoken to his neighbors and no opposition was expressed regarding the variance request.

Ms. Kaczor established that Mr. Paz does not feel the carport will hinder a motorists' view.

The Chairman established that Mr. Paz did not want to revert to his original request where a garage was located further back from the roadway, and closer to the residence.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of granting 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. Lennartz stated that the Zoning Law does not allow an accessory structure in the front yard and he does not feel the applicant has shown a hardship.

Mr. Pigeon established with Code Enforcement Officer David Holland that the structure would be 12-ft. from the R.O.W.

Mr. Lennartz made a **MOTION**, seconded by Mr. Metz to **DENY** the Area Variance based on the following:

1. The benefit can be achieved in another way.
2. No hardship has been proven.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
MATEER	ABSTAINED
METZ	AYE
PIGEON	AYE

THE **VOTE** BEING **5 (FIVE)** IN **FAVOR**, THE **REQUEST IS DENIED**.

There being no further business to be presented to the Board at this time Chairman Liberti adjourned the meeting at 7:20 P.M.

DATED: January 23, 2014
REVIEWED: January 23, 2014

Rosemary Messina, Secretary
Zoning Board of Appeals

Joseph Liberti, Chairman