

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the March 17, 2015 meeting held in the Municipal Center Basement Public Meeting Room, S4295 South Buffalo Street.

**APPROVED
MINUTES**

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

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

The members recited the Pledge of Allegiance and 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 Chairman noted that Alternate member Ms. Kaczor will be voting this evening due to the absence of Mr. Lennartz.

Mr. Pigeon made a **MOTION**, seconded by Mr. Liberti, to **ACCEPT** the minutes of the February 17, 2015 meeting.

THE **VOTE** BEING UNANIMOUS, THE **MOTION** IS HEREBY **PASSED**.

The Chairman stated that site inspections of all cases presented tonight were made by: KACZOR, AYE; LIBERTI, AYE; MATEER, AYE; METZ, AYE; PIGEON, AYE

NEW BUSINESS

1. ZBA File #04-15, Ray Battista, V/L Ellis Road, Zoned R-3 (Part of Farm Lot 32, Township 9, Range 7; SBL#161.14-1-22). Requests an Area Variance to construct a two-family dwelling on this 80-ft. wide lot. Minimum lot width for a two-family dwelling on this R-3 Lot is 100', Section 144-9B, Schedule of Height, Lot, Yard & Bulk Regulations

APPEARANCE: Mr. Ray Battista, Applicant

Mr. Battista present and explained the plans for a two-family dwelling. He stated that the property is bordered by a duplex and a single family dwelling. He noted that the duplex will be owner occupied (by his son) and that he does not own other parcels on this street.

Code Enforcement Officer David Holland told the members that the side setbacks are compliant and that the Applicant requires a variance solely because the width of the lot is 80-ft. He further stated that at some-point-in-time the minimum requirement was 80-ft. as there are several duplexes in the area on lots of that size. Mr. Holland confirmed that the current ordinance requires a width of 100-ft. and that a single-family home would be permitted without a variance.

It was established that the Applicant did not speak to the neighbors regarding the request for the variance.

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

OPPONENT:

*Ms. Madonna Landsittel
5737 Ellis Road
Orchard Park, New York 14127*

Ms. Landsittel stated that she does not support the variance request and that she lives in the single family home adjacent to the vacant lot. She told the members that prior to purchasing her home she researched the zoning and was assured through Town Officials that a duplex would not be permitted in the lot in question. This was important to her, as she feels a duplex will devalue her home and the problems that occur with rentals (trash and noise issues) would prevail.

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.

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

1. The variance will not alter the essential character of the neighborhood.
2. The Applicant can receive a reasonable return on the property,
3. The hardship is not unique, and does not apply to a substantial portion of the district or neighborhood.
4. The alleged hardship is self-created as a single family home can be built.

THE VOTE ON THE MOTION BEING:

KACZOR	AYE
LIBERTI	AYE
MATEER	AYE
METZ	AYE
PIGEON	AYE

THE **VOTE** BEING UNANIMOUS, THE **MOTION IS HEREBY DENIED.**

There being no further business to be presented to the Board at this time Chairman Liberti adjourned the meeting at 7:17 P.M.

DATED: March 18, 2015
REVIEWED: March 18, 2015

Rosemary Messina, Secretary
Zoning Board of Appeals

Joseph Liberti, Chairman