

# APPROVED MINUTES

ZBA Mtg. #7

Regular Mtg. #7

August 16, 2016

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**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the August, 2016 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

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

EXCUSED: Robert Metz/ Len Berkowitz, Deputy Town Attorney

OTHERS PRESENT: 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.

A motion was made to **APPROVE** the July 19, 2016 meeting minutes as presented.

**MINUTES UNANIMOUSLY APPROVED AS PRESENTED.**

The Chairman stated that due to the absence of Mr. Metz, the Alternate member, Mrs. Bernard, will be a full voting member.

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

LENNARTZ, AYE/LIBERTI, AYE/ KACZOR, AYE / MATEER, AYE/BERNARD, AYE

## NEW BUSINESS

1. ZBA File #24-16, Ellicott Development, 4297 Abbott Road, Zoned B-2 (Part of Farm Lot 39, Township 9, Range 7; SBL#172.05-1-1.1). Requests an extension of a Variance to allow a 4-ft. high fence within the front yard and side street yard. Maximum Height of a fence in a front yard or side street yard is 3-ft., Section 144-22A (1). Note: September 2014 ZBA File #21-14, stipulated that this case be revisited after March 2016. Tabled by Board at July 2016 meeting due to no representation.

APPEARANCE: Mr. William Paladino, Ellicott Development

Mr. Paladino distributed a color photo of the site to the members for their review. He stated that he knows of no issues or problems with the fencing and that he is seeking a renewal of the Area Variance.

The members established that there have been no issues with the placement of the fence or the site and that the fence will remain as it is.

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

PROPONENT

*Mr. Corey Brauch  
4343 Abbott Road  
Orchard park, New York 14127*

Mr. Brauch stated that he supports the renewal of the extension of the Area Variance.

*Mr. Andrew Gernold  
V/L, east side of S. Abbott Road  
Orchard Park, New York 14127*

Mr. Gernold stated that he supports the request for the Area Variance.

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: There were no issues raised and it is felt the variance should be renewed for two-years.

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

1. There will be no undesirable change in the character of the neighborhood, and or detriment to nearby properties created.
2. The benefit sought cannot be achieved 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 the district.
5. The difficulty is self-created, but that does not preclude the granting of the variance.

**The Variance is granted with the following Stipulation:**

1. This Variance is granted for a period of two years.

**THE MOTION BEING:**

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

**THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED WITH A STIPULATION.**

2. ZBA File #18-16, Jeff Drozdowski, 3544 Southwestern Boulevard, Zoned I-1 (Part of Farm Lot 22, Township 10, Range 7; SBL#161.07-7-3). Requests a Variance to install a non-conforming pedestal sign at this site. Sign area shall not exceed 40-S.F. per side, Section 144-38 C (2). Pedestal shall not exceed 8" in horizontal dimension Section 144-5, terms defined.

APPEARANCE: Mr. Drozdowski, Property Owner  
 Mr. Phillip Snyder, Representing Enterprise Rent a Car  
 Mr. Jerry Noritz, Graffiti Graphics

The Applicants explained that there are two separate businesses located on the site, with one of the business located at the back of the property. Both businesses need their presence known to passing motorists, as they are destination-based, and not an "impulse stop" business. The Applicants stated that they feel it is important that a larger sign be allowed to help customers find them, allowing safe access of the driveway on this fast-paced roadway. They told the Board that nearby businesses have signs of this size, or larger.

The Board verified that the vinyl sign will be internally lit and shut-off by 11:00 PM each night. Further discussion of the sign's size established that a compromise could be reached with the size of the sign. It was agreed that the sign be reduced to 12-1/2-ft. x 5-ft., and have a black metal pole cover. It was further established that the property is 150-ft. wide x 60-ft deep on the far side.

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. Lennartz made a **MOTION**, seconded by Ms. Bernard, to **GRANT** the Area Variance with a **STIPULATION** based on the following reasons:

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

This Variance is granted with the following **STIPULATION**:

1. The sign is to be reduced to 12-1/2-ft. x 5-ft.

**THE MOTION BEING:**

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

**THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED WITH A STIPULATION.**

3. ZBA File #19-16, Paul Cramer, Vacant Land South Freeman Road (R.O.W., Map Cover 2378; SBL#185.06-1). Requests a Variance to install a non-conforming subdivision identification sign. Subdivision identification signs shall not exceed 16-s.f. in area, Section 144-37C.

APPEARANCE: Mr. Paul Crammer, representing Independence Heights Subdivision

Mr. Crammer explained to the Board that the original sign erected in 1983 has deteriorated and that he would like to erect a new sign. He noted that the current sign is 12-ft. x 2-ft. in size. As this is a large parcel, the proposed non-illuminated sign is 8-ft. x 3-ft. In addition, the sign will be located 60-ft. back from the roadway. He told the members that a smaller sign will look put-of-place. Sign schematics were shown to the board and reviewed. Mr. Crammer stated that the Town Board supports this request.

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. Lennartz asked for clarification of the Area Variance request.

Mr. Mateer made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the Area Variance for a 24 ft.- square foot sign for the following reasons:

1. There will be no undesirable change in the character of the neighborhood, and or detriment to nearby properties created.
2. The benefit sought cannot be achieved 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 the district.
5. The difficulty is not self-created.

**THE MOTION BEING:**

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

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

Meeting adjourned at 7:30 P.M.

DATED: 9/14/16  
REVIEWED: 9/20/16

Rosemary M. Messina, Secretary  
Zoning Board of Appeals

Joseph Liberti, Chairman