

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the March 15, 2022, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Lauren Kaczor, Chairwoman
Robert Lennartz
Dwight Mateer
Robert Metz
Kim Bowers

EXCUSED: Michael Williams, Alternate

OTHERS PRESENT: John C. Bailey, Deputy Town Attorney
David Holland, Code Enforcement Officer
John Wittmann, Code Enforcement Officer
Anna Worang-Zizzi, Recording Secretary

The Chair called the meeting to order at 7:00 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 Chair 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.

APPROVAL OF MINUTES:

The Meeting Minutes for February 2022 were approved UNANIMOUSLY with a correction of the date.

The Chair stated that Site Inspections of all cases presented tonight were made by:

KACZOR, AYE/ LENNARTZ, AYE/ MATEER, AYE/METZ, AYE/ BOWERS, AYE

Mr. Metz made a MOTION, seconded by Mr. Mateer to change order of the agenda, which was approved UNANIMOUSLY.

NEW BUSINESS

1. ZBA File #03-22, Linda Aures and Richard Field, 7555 & 7575 Ellicott Road, Zoned R-1 (SBL# 185.04-2-1.1 & 185.04-2-1.2) Requests an Area Variance to reconfigure these parcels resulting in an accessory structure located within the front yard of 7575 Ellicott Road. No accessory structure shall be located within the front yard §144-24A(1)(b).

APPEARANCE: Linda Aures and Richard Field - Owners

Ms. Aures explained the project. She would like to sell a portion of her land to Mr. Field, including an existing garage which would then be in the front of Mr. Field's house. There would be no change in frontage.

Mr. Mateer inquired if the petitioner had consulted with neighbors. Ms. Aures explained that nothing will physically change with the properties and the closest neighbor is several hundred feet away.

The Chair inquired if a business would operate out of this garage. The petitioner answered negatively.

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 were received.

BOARD DISCUSSION:

Mr. Lennartz feels this item is straight forward, as it's just moving lot lines. The Board was in agreement.

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, to **GRANT** the Area Variance request based on the following:

1. There will not be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.
2. The benefit sought cannot be achieved in another way, other than the granting of the Variance.
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 self-created but that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

KACZOR	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE

THE MOTION BEING UNANIMOUS, THE MOTION TO GRANT THE VARIANCE IS PASSED.

2. ZBA File #02-22, Nate and Laura Hartke, 161 Breezewood Drive, Zoned R-2 (Sub Lot 246, Map Cover 3284; SBL# 184.08-3-28). Requests an Area Variance to construct an addition with a 12 foot rear setback. Minimum rear setback for this R-2 lot is 30 feet §144-22F.

APPEARANCE: Nate and Laura Hartke - Owners

Mr. Hartke explained the project. He explained their desire to have his mother in-law live with them after the death of his father in-law. He explained details of the proposed addition. Mr. Hartke explained that the neighbor directly behind them originally supported the project, but now it feels it's too big. Mr. Hartke stated their home with the proposed addition would still be smaller than other homes in neighborhood. Anecdotally, he had heard second hand that there are concerns they will be running a mission from this addition, which is incorrect.

Mr. Mateer inquired if the petitioner was set on design, or if there might be room to compromise. Mr. Hartke stated they are willing to compromise.

Mr. Metz inquired about the details on the Plan regarding the kitchen. Mr. Hartke clarified the design and commented that they have not yet consulted an architect, as they wanted to get a Variance first.

Mr. Lennartz had concerns about size of the project. He inquired about a compromise, particularly with the second floor. Mr. Hartke stated they were willing to compromise, and that the addition on the second floor was more to maintain the look of the home outside, whereas the first floor was necessary space.

Ms. Bowers asked if the 3rd garage was necessary. She feels the addition is too large, however, she would be willing to compromise.

Mr. Mateer explained the "rear lot line" is defined by Town Code as the most distant lot line from the "front lot line". In this case, even though the line is considered the "rear lot line" it's on the side of the house, due to the shape of the lot.

Chairwoman Kaczor would like to see some changes to the Plan. Town Code is a 30ft setback, and the petitioner is asking for 12ft. She feels that is a substantial ask.

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

*Mr. Marty Munson
158 Breezewood Drive
Orchard Park, NY 14127*

Mr. Munson feels the project would fit in with the neighborhood. Driving past, it would look fine. The Variance is needed because the lot lines are unusual. He spoke about taking care of his own aging mother. He stated that if any neighbors of his needed to make changes to their homes to care for an aging or disabled relative, he would support that.

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

*Mr. and Mrs. Suchak
42 Aarowood Lane
Orchard Park, NY 14127*

Mr. Suchak distributed and read a letter explaining his concerns. He feels houses in this neighborhood are single family homes and feels this addition is too large. He presented pictures of the neighborhood and a map showing the addition in relation to his house. The new addition is 12 ft. from their sunroom.

Ms. Catherine Moore
45 Arrowood Lane
Orchard Park, NY 14127

Ms. Moore feels that when people moved in they wanted space. She is concerned approval of this project will lead to more people requesting a Variance. She feels there are other options.

Mr. Mark Mruk
33 Arrowood Lane
Orchard Park, NY 14127

Mr. Mruk stated that the petitioners are great neighbors. However, when people in this neighborhood built their houses, they built under the impression they would have open space.

Mr. Denis Klimko
162 Breezewood Drive
Orchard Park, NY 14127

Mr. Klimko read a letter. He feels the Variance is excessive, and is concerned about the effect this project will have on drainage. He stated the applicants were aware of the lot lines when they purchased their home.

Mr. Douglas Steger
46 Arrowood Lane
Orchard Park, NY 14127

Mr. Steger has concerns about drainage and feels this project would make it worse.

Mr. Howy Holmes
4684 Freeman Road
Orchard Park, NY 14127

Mr. Holmes spoke about the importance of Zoning. He doesn't want a precedent to be set. He feels this project will change the character of the neighborhood.

The Chair then asked if the Secretary had received any communications either for, or against, granting the Variance. The Secretary stated that communications received had been distributed to the Board.

BOARD DISCUSSION:

Mr. Lennatz would be willing to compromise with a reduction. He would like the petitioner to resubmit.

Ms. Bowers was in agreement.

Mr. Metz would prefer to table this item.

Mr. Mateer and the Chair were in agreement.

Ms. Hartke addressed her neighbors and offered to meet with them to discuss their concerns. She stated that it was hurtful that they did not come to her and her husband before this meeting with their concerns. She stated she and her husband would have been open to hearing concerns and compromising.

Ms. Kaczor made a **MOTION**, seconded by Ms. Bowers, to **TABLE** this item.

THE VOTE ON THE MOTION BEING:

KACZOR	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE

THE VOTE BEING UNANIMOUS, THIS ITEM IS TABLED

There being no further business to be presented to the Board at this time, Chairwoman Kaczor adjourned the meeting at 7:43 P.M.

DATED: 3/22/2022

REVIEWED: 4/20/22

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor, Chairwoman
Zoning Board of Appeals