

**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the June 21, 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  
Michael Williams, Alternate

EXCUSED: Kim Bowers

OTHERS PRESENT: John C. Bailey, Deputy Town Attorney  
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 May 2022 were approved unanimously.

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

**KACZOR, AYE/ LENNARTZ, AYE/ MATEER, AYE/METZ, AYE / WILLIAMS, AYE**

**OLD BUSINESS**

1. ZBA File #09-22, Brownstone Homes, 6069 Newton Road, Zoned A-1, (SBL# 184.00-4-13.11, part of Farm Lot # 19, Township 9, Range 7). Requests an Area Variance to install a 6ft. high gate and fence in the front yard, 68ft. from the front of lot. Wall, hedge or fence not over three feet high in any front yard or side street yard, provided that such wall, hedge or fence does not obstruct or obscure visibility of or for pedestrians or vehicles approaching or leaving the premises on which the said wall, hedge or fence is erected §144-22A(1) Yard Regulations. The review of this item was tabled at the May ZBA meeting pending receipt of additional information from the Applicant.

APPEARANCE: Bob Briceland – Brownstone Homes

Mr. Williams established that most of the fence would be 4 feet tall (with taller pillars), but the applicant wanted the option to go taller in some section. It was also established that the fencing material would be see through, with stone pillars.

Mr. Lennartz established dimensions of various sections of the fence and masonry pillars, which ranged from 4 to 6 ft.

Mr. Metz asked for further clarification of the heights and placements of the fence and gate. The applicant explained those details.

Mr. Mateer inquired why the applicant began building before they received the Variance. The applicant stated that they didn't know they needed a Variance. Mr. Mateer inquired if it was feasible to move the gate farther back. The applicant indicated it wasn't feasible.

The Chair asked the applicant to explain details on the drawings.

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. Eirene Choroser  
6195 Newton Road  
Orchard Park, NY 14127*

Ms. Choroser stated she wasn't against project in theory. She had concerns that the project began already. She spoke about another project on Newton Road. She had concerns about obstructing the view of the street, and also didn't feel the project fit the neighborhood.

(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 felt there would be no obstruction. He noted this project had nothing to do with other projects on Newton Road.

Mr. Metz would like the height of the proposed fence be reduced to 4 ft.

Mr. Mateer feels the proposal is excessive and a 3ft fence would suit same purpose. He feels approving it would set a bad precedent.

Mr. Williams would like to see it moved back farther.

Mr. Lennartz inquired if the Board would look favorably on 4 feet high as a compromise. He doesn't think the setback is a problem. He agreed they should not have begun building without a Variance.

The Chair received confirmation from John C. Bailey, Deputy Town Attorney, that although they are voting on a Variance for height, setback could be addressed as a stipulation.

Mr. Mateer was opposed to compromise and stated his opposition to granting a Variance.

Mr. Williams stated he could compromise on a 4 foot fence with taller pillars.

Mr. Metz was in agreement with that compromise.

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

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. There will not be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.
3. The benefit sought cannot be achieved in another way, other than the granting of the Variance.
4. The request is not substantial.
5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. 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 fence outside of the pillars is not to exceed 4 feet in height.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	NO
METZ	AYE
WILLIAMS	AYE
KACZOR	AYE

The Motion being four (4) in favor and one (1) against, the Motion to **GRANT** the Variance is **PASSED** with a **STIPULATION**.

### **NEW BUSINESS**

1. ZBA File #13-22, Woodridge Park Association, Hastings Drive, Zoned R-3, SBL# 153.14-1-1, (Farm Lot 469 Map Cover 2500). Requests an Area Variance to install a 18 square foot Dwelling Group Complex Sign within a masonry frame totaling approximately 60 square feet. Dwelling Group Identification. One sign not exceeding 16 square feet in any area may identify a Multiple Dwelling or Dwelling Group Complex. Such sign may be illuminated by a nonflashing, shielded light directed away from adjacent streets, highways or properties. Such sign shall be parallel to the street, shall not interfere with a public highway and shall not exceed seven feet in height. When an application for a building permit is submitted to the Planning Board, such sign shall be approved by the Planning Board §144-37 B(1)

APPEARANCE: Bernadette Smith – Woodridge Park Association Representative

Ms. Smith explained that the proposed sign would improve longevity. The proposed sign would replace the wood frame with stone masonry and would be perpendicular to Baker Road. Lighting has already been installed.

Mr. Mateer established that the existing sign posts are 7feet tall, and the fence is around the same height. Mr. Mateer clarified dimensions of the masonry which would surround the sign.

Mr. Metz established that the new sign with pillars would be larger than the current sign. The applicant stated there would be no obstruction for traffic. It was established that the old sign had solar lights which did not work well and electrical for new lighting has been installed already.

Mr. Lennartz inquired if there were more detailed dimensions available. The applicant stated there were not.

Mr. Williams confirmed with John C. Bailey, Deputy Town Attorney, that the Board could ask questions about the stone masonry, but it was immaterial since the Variance only concerned the sign itself.

The Chair confirmed with John C. Bailey, Deputy Town Attorney, that this project would be seen by the Planning Board if they received a Variance for the sign, and the stone masonry could be approved or denied at that time.

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

*Mr. John Schaller*  
*31 Crabapple Court*  
*Orchard Park, NY 14127*

Mr. Schaller stated he is a resident of this development. He stated that he is not against the sign, but that many residents not aware of what the sign will look like and have not been made aware of the cost of the sign. He asked to see a picture of the proposed sign.

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. Metz sees no problem with this project.

Mr. Lennartz and Mr. Williams were in agreement.

Mr. Mateer would prefer a smaller sign, but can support this.

Mr. Metz made a **MOTION**, seconded by Mr. Lenartz, to **GRANT** the Area Variance request based on the following:

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. There will not be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.

3. The benefit sought cannot be achieved in another way, other than the granting of the Variance.
4. The request is not substantial.
5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created but that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
WILLIAMS	AYE
KACZOR	AYE

The Motion being **UNANIMOUS**, the Motion to **GRANT** the Variance is **PASSED**

2. ZBA File #12-22, Michael Korchynski & Leslie Hornung, 3829 Baker Road, Zoned R-2, SBL# 162.11-1-7, (Farm Lot 8 Township 9 Range 7). Requests an Area Variance to install a shed forward of the Primary Structure approximately 180 feet from the front lot line. No accessory structure shall be located within the front yard or required side yard §144-24A (1)(b)

APPEARANCE: Michael Korchynski and Leslie Hornung - Owners

The applicant explained that they would like a shed for additional storage, however the typography of their lot would make delivering a shed to the backyard almost impossible. He stated the neighbors have no concerns, and described the exterior look of the proposed shed.

Mr. Mateer noted the garage was quite small, and there was no feasible way to expand the garage.

The Chair inquired if they would keep the existing turnaround and if a business would be run out of the shed. The applicant stated they did intend to keep the turnaround, and the shed would only be for personal use.

The Chair then asked if there was anyone in the audience who would wish to speak on 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 were received..

BOARD DISCUSSION:

Mr. Mateer stated he is not always in favor of front yard sheds, but in this case, the shed is very far back from the road, and their existing garage would be difficult to add on to, so he feels the request is warranted.

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

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. There will not be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.
3. The benefit sought cannot be achieved in another way, other than the granting of the Variance.
4. The request is not substantial.
5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created but that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
WILLIAMS	AYE
KACZOR	AYE

The Motion being **UNANIMOUS**, the Motion to **GRANT** the Variance is **PASSED**.

3. ZBA File #14-22, James Soloman, 3742 Southwestern Blvd. Zoned I-1, SBL# 161.06-1-15, (Part of Farm Lot 29 Township 10 Range 7). Requests an Area Variance for a 30 foot front setback for Primary Structure. Minimum 50 foot front setback, §144-14 Height, Lot, Yard, and Bulk supplement

APPEARANCE: Michael Lukaszewski – Bammel Architects.

Mr. Lukaszewski stated they are planning a brewery on this site and noted the triangular shape of the lot. He stated the closer they can bring building to road the more they can optimize parking and also utilize a back yard for games and fire pits etc. They also want to maximize visibility. They also feel this layout would maximize site lines. The applicant distributed conceptual drawings.

Mr. Metz had concerns regarding safety and inquired about any study to see whether people exiting the site will be able to see. Mr. Lukaszewski stated they took site lines into account and favored the west side of the lot for the driveway to maximize site lines. He stated the building would be approximately 245ft away from the end of Railroad Bridge. He explained stated they would be working with site engineers, and that they were currently in the conceptual phase.

Mr. Mateer inquired if the applicant had considered changing the shape or size of the building so that it did not need a Variance. Mr. Lukaszewski explained they had considered several alternatives but preferred this one. It was established they would be willing to compromise by moving the building back farther, although this would mean they'd have to shorten the building.

Mr. Lennartz inquired if they had spoken to any neighbors. Mr. Lukaszewski stated one of the neighbors had expressed some interest in selling their property to the applicant, however they had decided not to. He was not aware of any conflict.

Mr. Williams established with John Wittmann, Code Enforcement Officer the building would be 30 feet back from the right of way, not from the road. He would like to see it moved back 10ft.

The Chair commended the project, and was glad the applicant was not suggesting front yard parking.

The Chair then asked if there was anyone in the audience who would wish to speak on 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 were received.

#### BOARD DISCUSSION:

Mr. Lennartz feels this project is a good use of the property, and noted it appears the neighbors are not opposed. He is in favor of rear yard parking.

Mr. Metz would like to see the building moved back.

The Chair noted that it seemed like the Board had a consensus of 40 feet back. She inquired if the applicant would prefer to Table this review so they could develop more options. It was explained to the applicant, that future Variance requests would need to be substantially different from this request. Mr. Lukaszewski would prefer a Variance with a Stipulation.

The Board noted recent code change with regards to parking.

Mr. Mateer feels this is a good project.

Chair Kaczor made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the Area Variance request based on the following with a **STIPULATION**:

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. There will not be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.
3. The benefit sought cannot be achieved in another way, other than the granting of the Variance.
4. The request is not substantial.

5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created but that does not preclude the granting of the Variance.

This Variance is **GRANTED** with a **STIPULATION**:

1. The Front Setback will be 40 feet.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
WILLIAMS	AYE
KACZOR	AYE

The Motion being **UNANIMOUS**, the Motion to **GRANT** the Variance is **PASSED**.

4. ZBA FILE #15-22, John & Jennifer Propis, 27 Hearthstone Terrace, Zoned R-1, SBL# 186.09-1-10, Sub Lot 34 Map Cover 3190. Requests an Area Variance for an in-ground pool in the required side yard. No swimming pool will be permitted in a front yard or required side yard, §144-30(6)(d). Also requests an Area Variance for a 6 foot fence in the side street yard. Wall, hedge or fence not over three feet high in any front yard or side street yard, provided that such wall, hedge or fence does not obstruct or obscure visibility of or for pedestrians or vehicles approaching or leaving the premises on which the said wall, hedge or fence is erected. §144-22 A(1) Yard regulations.

APPEARANCE: Jennifer Propis - Owner

Ms. Propis explained they have a fenced portion of their corner lot. The current fence is 3 feet high. She explained they would like to put pool in that area. Being a corner lot, the pool would be crossing over the line directly back from the corner of the house, thereby being considered in the side yard.

Mr. Lennartz noted several neighbors have submitted letters, and are concerned about view and a possible change in the conditions of the neighborhood, noting that he was not aware of other pools in the side yard. The applicant noted the pool would be far back from the road, and that the pool would mostly be in the back yard, and that many neighbors have pools.

Mr. Williams established that the applicant had requested a 6 foot fence, but would be willing to compromise on a 4 foot fence.

Mr. Mateer established that the new fence would be in the same location as the current fence. He asked clarifying questions about where the pool would be located and the applicant showed the Board on the Site Plan. It was established that about half the pool would be in the side yard. Mr. Mateer inquired if the pool could be located entirely in the back yard. The applicant stated it was not feasible due to the slope and tree preservation area.

The Chair established that there would be no change in the footprint of the fence. The Chair inquired if the applicant had spoken to neighbors. The applicant had spoken to their sole direct neighbor, who did not have a problem. The Chair noted that several neighbors had written opposed to granting the Variance.



Mr. Metz Inquired if it were possible to place the pool where the current shed is. The applicant explained that was not possible due to the slope.

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.

*Gary Doster  
39 Redbrick Road  
Orchard Park, NY 14127*

Mr. Doster stated the proposed pool was out of character with neighborhood. He is concerned about home values. He feels the applicants should have purchased a different lot which would've allowed a pool.

(Twice) NO RESPONSE

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

#### BOARD DISCUSSION:

Mr. Lennartz is opposed to this project.

Mr. Metz and Mr. Williams were in agreement.

Mr. Mateer has sympathy for the applicant but can't support the project.

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

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. There will be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.
3. The benefit sought can be achieved in another way, other than the granting of the Variance.
4. The request is substantial.
5. There will be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created.

#### THE VOTE ON THE MOTION BEING:

LENNARTZ

AYE

MATEER	AYE
METZ	AYE
WILLIAMS	AYE
KACZOR	AYE

The Motion being **UNANIMOUS**, the Motion to **DENY** the Variance is **GRANTED**.

There being no further business to be presented to the Board at this time, Acting Chairman Metz adjourned the meeting at 8:25 P.M.

DATED: 6/27/2022  
REVIEWED: 7/20/2022

Respectfully submitted,  
Anna Worang-Zizzi

Ms. Lauren Kaczor, Chairwoman  
Zoning Board of Appeals