

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park May 16, 2023, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Robert Lennartz
Kim Bowers
Robert Metz
Dwight Mateer
Michael Williams, Alternate

EXCUSED: Lauren Kaczor Rodo, Chairwoman

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

Ms. Bowers explained that in the absence of Chairwoman Rodo, she would be acting as Chair and Alternate Member Mr. Williams would be a voting member for tonight's meeting.

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. Per Section 144-63 (E) (1) All public notices have been filed. 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 minutes for March 2023 were approved unanimously.

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

BOWERS, AYE/ LENNARTZ, AYE / METZ, AYE / WILLIAMS, AYE / MATEER, AYE

NEW BUISINESS

1. ZBA File# 06-23, Towne Hyundi, 3525 Southwestern Blvd., Zoned B-2, SBL# 161.07-7-7.1, (part of Farm Lot 22, Township 9, Range 7). Requests an Area Variance to replace the existing 10 foot high monument sign with a 12 foot high monument sign, with a 93 square foot area and 18 square foot text area. *A free-standing sign with a solid supporting base, not exceeding 30 square feet in area or five feet in height. Where sign surface and base are the same dimension, the text of the sign shall not exceed 20 square feet, §144-5 Monument Sign Terms Defined.* This case was tabled at the March 21, 2023 ZBA meeting.

APPEARANCE: Michael Yost – Architectural Graphics

Mr. Yost explained that the Board had previously expressed concern about the height of the sign. He stated that they are now proposing the shortest sign made by Hyundai which is 12 feet 3 inches tall. He stated the new sign would be located "very close" to the location of the old sign.

Mr. Mateer established with the Applicant that the previously proposed sign was 120 square feet in area and 21 square feet of text. The currently proposed sign is 93 square feet in area and 18 square feet of text. The width is the same (7 foot, 9 inches).

The Acting Chair stated that she liked the shorter sign, and although she preferred a "cutout" design, she found this sign to be acceptable.

Mr. Williams established with the Applicant and Code Enforcement Officer, John Wittmann that the text area would not require a 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.

(Twice) NO RESPONSE

The Chair then asked if the Secretary had received any communications either for, or against, granting the Variance. The Secretary stated there had not.

BOARD DISCUSSION:

The Board was in favor of this project.

Mr. Lennartz made a **MOTION**, seconded by Mr. Williams, to **GRANT** the Area Variance 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 not be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created, however that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

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

2. ZBA File# 10-23 (old ZBA File # 23-21), Brian & Joelle Druzvik, 5420 Lake Avenue, Zoned R-3, SBL# 152.13-2-1 (part of Farm Lot 449, Township 10, Range 7). Requests an Area Variance to continue to house their goats on the property. *Any parcel of land containing at least five acres which is used for gain in the raising of agricultural products, livestock, poultry or dairy products, §144-5 Farm Terms defined.* This is a review of a Variance granted on 8/17/2021.

APPEARANCE: *Brian and Joelle Druzvik – Owners*

The Acting Chair inquired if the Building Department had received any complaints. Code Enforcement Officer, John Wittmann stated they had not.

The Applicants explained how they housed their goats. They stated that their neighbors enjoy the goats. They have had no issues with the goats. The Applicant explained that they requested the original Variance in order to use the goats therapeutically for their children.

Mr. Mateer inquired about the size of the goats. The Applicant explained that one is around 90 lbs. and the other is around 50 lbs.

Mr. Metz inquired if the Applicant planned to get any more goats, and if the goats attracted any wild life such as foxes. The Applicant stated they were only approved for two, and they had had no issues with wildlife.

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

*Alice Clarkson
7942 Hayes Hollow Road
Colden, NY 14033*

Ms. Clarkson explained that she is the owner of the farm where the goats came from, and she feels the goats have had a positive effect on this family.

*Lauren Sawyer
5408 Lake Avenue
Orchard Park, NY 14127*

Ms. Sawyer explained that she is directly next door to the Applicants and has no issue with the goats.

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 there had not.

BOARD DISCUSSION:

The Board feels that the Variance is working out well.

Mr. Mateer inquired how long the Applicants would like the goats for. The Applicant responded for the foreseeable future.

The Board conferred with Deputy Town Attorney, John Bailey about procedural issues for granting the Variance.

Mr. Williams made a **MOTION**, seconded by, Mr. Metz to **GRANT** the Area Variance 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 not be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created, however that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

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

1. ZBA File# 09-23, Joseph Hayden, 7022 Gartman Road, Zoned A-1, SBL# 198.00-1-30.112 (previously part of SBL# 198.00-1-30.1), (Part of Farm Lot 2, Township 9, Range 7). Requests an Area Variance to construct a 10 foot x 14 foot shed, 20 feet from the side lot line. *Minimum side yard setback in an A-1 zone is 30 feet, §144 Attachment 15 Schedule of Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: *Joseph Hayden – Owner*

Mr. Hayden noted that the Map on the back of the Agenda had outdated lot lines (as was noted on said map). He offered to clarify the location of his lot, which the Board did not feel they needed. He explained they are requesting the Variance due to constraints of the lot, namely a creek and a swale. He feels the chosen location will impact the neighbors less than other potential sites due to screening.

Mr. Williams confirmed the size of the proposed shed and inquired if the shed would match the house. The Applicant responded that they would use the same siding for the shed as the house.

Mr. Lennartz inquired about what would be stored in the shed, and if a business would operate out of the shed. The Applicant responded that he would use the shed for his lawn mower, garden equipment etc. and no business would operate out of the shed.

Mr. Mateer inquired about the possibility of moving the shed closer to the house. The Applicant explained that he could not due to the uneven terrain.

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.

(Twice) NO RESPONSE

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

BOARD DISCUSSION:

The Board Members were in favor of this project.

Mr. Mateer made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the Area Variance 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 not be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created, however that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE

BOWERS AYE
WILLIAMS AYE

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

2. ZBA File# 11-23, Dan & Michelle Bardwell, 6042 Emerson Drive, Zoned R-3, SBL# 161.20-6-50, (Sub Lot 55, Map Cover 2363). Requests an Area Variance to construct an 8 foot x 10 foot shed, 4 feet from the side lot line and 5.75 feet from the rear lot line. *Minimum side and rear setbacks in an R-3 zone is 10 feet each, § 144 Attachment 14:1 Schedule of Height, Lot, Yard, and Bulk Regulations*. The Applicant has a legal nonconforming lot which allows an 8 foot minimum side set back as per code §144-20 A(2).

APPEARANCE: *Dan and Michelle Bardwell – Owners*

The Applicant explained that they have a small yard and want to make use of it. The Applicant stated that they brought a letter from their rear neighbor in favor of the Variance, and had spoken to the neighbor next to them, who had no objections.

Mr. Mateer inquired as to what would be stored in the shed. The Applicant responded that yard and gardening equipment would be stored.

Mr. Lennartz established that no business would be run out of the shed.

Mr. Williams established that the finishes of the shed would complement the house. The Applicant described the finishes.

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.

(Twice) NO RESPONSE

The Chair then asked if the Secretary had received any communications either for, or against, granting the Variance. The Secretary stated there had not.

BOARD DISCUSSION:

The Members had no issues with this project.

Mr. Metz made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the Area Variance 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 Variances.

- 4. The request is not substantial.
- 5. There will not be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
- 6. The difficulty is self-created, however that does not preclude the granting of the Variances.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

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

There being no further business to be presented to the Board at this time, Acting Chairwoman Bowers adjourned the meeting at 7:34 P.M.

DATED: 6/12/2023
REVIEWED: 6/20/2023

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals