

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park December 17, 2024, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Lauren Kaczor Rodo, Chairwoman
Robert Metz
Dwight Mateer
Robert Lennartz
Kim Bowers
Michael Williams, Alternate

EXCUSED: John C. Bailey, Deputy Town Attorney

OTHERS PRESENT: 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, 267(A), 267(B) and 267(C), Subdivision 3, and the Town of Orchard Park Zoning Ordinance. Per Section 144-63 (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:

A **MOTION** was duly made and seconded, to dispense with the reading of, and **APPROVE** the Minutes for the November 2024 ZBA meeting. The Minutes were **UNANIMOUSLY** approved.

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

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

NEW BUSINESS

1. ZBA File# 50-24, James and Kristen Vaughan, 6 Grove Road, Zoned R-2, SBL# 184.06-1-23, (Sub Lot 23, Map Cover 3707). Requests an Area Variance of 14.87% lot coverage to construct a covered patio at the back of the house. *Maximum lot coverage in an R-2 Zone is 14%, §144 Attachment 15, Schedule of Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: *James and Kristen Vaughan – Owners*

The Applicant explained that they'd like to construct a covered patio with 14.87% lot coverage.

Mr. Mateer inquired if the Applicant had spoken to any neighbors. Mr. Vaughan stated that while he had not asked directly, his neighbors received letters from the Orchard Park Planning Department and no one seemed to object.

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 no communications had been received.

BOARD DISCUSSION:

Mr. Lennartz felt the request was not substantial. The other members of the board were in agreement.

Ms. Bowers made a **MOTION**, seconded by Mr. Lennartz, to **APPROVE** 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:

METZ	AYE
LENNARTZ	AYE
MATEER	AYE
BOWERS	AYE
RODO	AYE

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

2. ZBA File# 51-24, Alliance Homes, 46 Timberlake Drive, Zoned R-1, SBL# 173.20-2-18, (Sub Lot 118, Map Cover 2266). Requests an Area Variance for a 45.6 foot front setback to construct a single family dwelling. *Minimum front setback in an R-1 Zone is 50 foot, §144 Attachment 14, Schedule of Height, Lot, Yard, and Bulk Regulations.*

Mr. Lennartz recused himself from the review of this item.

APPEARANCE: *Aaron Romanowski – Alliance Homes*

Mr. Romanowski explained that the drainage pipe on the property is located outside the easement where it should be located and they therefore are attempting to locate the house away from the pipe.

Mr. Metz stated that he had spoken to the Town Engineer, Wayne Bieler, and it was the Engineering Department's opinion that the proposed house be shifted forward and to the side to leave more room near the pipe.

The Chair inquired if the Applicant had spoken to any neighbors. The Applicant had not because they were not attempting to encroach on a neighbor at the time.

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 that a memo from the Town Engineering Department had been received and distributed to the Board members.

BOARD DISCUSSION:

The Board Members had no concerns.

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

With the following Stipulation:

- 1. Two Variances be granted, one for a east side setback of 13 feet, and one for a front setback of 44 feet per the recommendation of the Town Engineer.

THE VOTE ON THE MOTION BEING:

METZ	AYE
LENNARTZ	obstain
MATEER	AYE
BOWERS	AYE
RODO	AYE
WILLIAMS	AYE

The Motion being **FIVE (5) in favor** and **ONE (1) abstention**, the Motion to **GRANT** the Variance is **PASSED with a STIPULATION**.

- 3. ZBA File# 52-24, Larry Pezzanite, 7 Rolling Hills Drive, Zoned R-2, SBL# 172.15-2-24, (Sub Lot 96, Map Cover 2269). Requests 2 Area Variances for a 3 foot side and rear setback to construct a 30 foot x 61 foot storage building. *Minimum side and rear setbacks in an R-2 Zone is 10 feet, §144 Attachment 14, Schedule of Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: *Larry Pezzanite – Owner*

Mr. Pezzanite stated that he is requesting Variances for 3 foot side and rear setbacks for a 30 foot by 61 foot storage buildings.

Ms. Bowers inquired if there was a reason the building couldn't be constructed in a compliant way, and what he was planning to store. The Applicant stated that there was he felt the building would be less visible in the proposed location since it would be sheltered by his neighbor's trees. He stated he is planning to use the building for personal storage.

Mr. Williams inquired how tall the building would be and how tall the existing fence is. The Applicant stated that the building would be 17 feet tall and the fence is 6 feet tall.

Mr. Lennartz expressed concern about the Applicant's ability to maintain the building with a 3 foot setback. The Applicant felt 3 feet was adequate for maintenance.

Mr. Mateer inquired if the Applicant had spoken to any neighbors. The Applicant had not. Mr. Mateer expressed his opinion that this could be built in a compliant way with 10 foot setbacks. The Applicant felt it would be less in his view in the proposed location

The Chair inquired in a business would operate out of this building and if the Applicant were to have to move the location, were there any trees that would need to be removed. The Applicant stated there would not be any business and if he did not get the Variances, he wouldn't build the structure.

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.

*William Janik
18 Greenlake Drive
Orchard Park, NY 14127*

This member of the public stated his opposition to the project.

*Patricia Zarcone
6164 Armor Road
Orchard Park, NY 14127*

This neighbor stated her home is directly behind the Applicant's proposal. She feels the proposal is inconsiderate and is opposed.

*Jason Wesley
19 Rolling Hills
Orchard Park, NY 14127*

This member expressed concern that if a neighbor's tree fell on this building, that neighbor might be held responsible for the repair.

The Chair then asked if the Secretary had received any communications either for, or against, granting the Variance. The Secretary stated one (1) communications had been received and distributed to the Board Members.

BOARD DISCUSSION:

Mr. Lennartz stated his opposition to the project.

Ms. Bowers felt the Applicant had not presented a justification as to why the building could not be constructed in a compliant way.

Mr. Williams stated this project could be built without Variances.

Mr. Metz was in agreement with the other members.

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

METZ	AYE
LENNARTZ	AYE
MATEER	AYE
BOWERS	AYE
RODO	AYE

The Motion being **UNANIMOUS**, the Motion to **DENY** the Variances is **PASSED**.

- 4. ZBA File# 53-24, Kevin Evanetski, 98 Knoche Way, Zoned R-2, SBL# 153.20-2-74, (Sub Lot 74 Map Cover 3594). Requests an Area Variance for a 9.5 foot side setback for the stairs leading to his 2nd floor deck. *Minimum side setback in an R-2 Zone is 15 feet, §144 Attachment 15, Schedule of Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: Jon McCarthy- Decks Unlimited

The Applicant stated this Variance was just for the stairs.

Mr. Lennartz inquired why the Applicant constructed the stairs without a Variance. The Applicant stated that they were unaware they needed the Variance until the final inspection.

Mr. Williams inquired if the need for a Variance had not been brought to the Applicant’s attention during initial inspections. The Applicant stated that the deck had passed the frame construction inspection.

Mr. Metz established that the deck was not constructed when the house was built, that the neighbor has the same Variance, and that the Applicant had stopped construction at this point.

Mr. Mateer inquired if the Applicant had not submitted Plans to the Building Department. The Applicant stated that they had but had not received a Permit although they had been given verbal permission from the Building Department.

The Chair established that the deck was more than 10 feet to the pool.

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 had been received.

BOARD DISCUSSION:

Mr. Mateer stated he is not opposed to the Variance, however, he is not pleased that the Applicant has proceeded without a Permit.

Ms. Bowers made a **MOTION**, seconded by Mr. Lennartz to **APPROVE** the Area Variance for a 9.5 foot side setback for the stairs leading to the deck, 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.
5. The difficulty is self-created, however that does not preclude the granting of the variance.

THE VOTE ON THE MOTION BEING:

METZ	NO
MATEER	AYE
BOWERS	AYE
LENNARTZ	AYE
RODO	NO

The Motion being **THREE (3) in favor** and **TWO (2) opposed**, the Motion to **GRANT** the Variances is **PASSED**.

There being no further business to be presented to the Board at this time, the Chair adjourned the meeting at 7:33 P.M.

DATED: 12/17/2024
REVIEWED: 2/18/2025

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals