

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park February 18, 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

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.

APPROVAL OF MINUTES:

A **MOTION** was duly made by Ms. Bowers and seconded by Mr. Lennartz, to dispense with the reading of, and **APPROVE** the Minutes for the December 17, 2024 ZBA meeting. The Minutes were **UNANIMOUSLY** approved.

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.

Secretary read the Affidavit of Publication and Posting of the Legal Notice for this meeting.

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. File #01-25, Timothy Shanahan, 16 Wentworth Drive, Zone R-3, SBL# 161.15-2-21 (Sub Lot, Map Cover 3472) Requests 2 Area Variances for 2 separate sheds. The First Area Variance is to have an 8 foot x 10 foot shed in the side yard, 2 feet from the side lot line. The second Area Variance is to have a 12 foot x 8 foot shed in the rear yard 5 feet from the side lot line. *Minimum side yard setback in a R-3 Zone is 15 feet, §144-15 Attachment Height, Lot, Yard and Bulk Regulations.*

APPEARANCE: *Tim Shanahan – Owner*

The Applicant explained that he put in two sheds and then realized he needed permits for them. One in the rear is for his lawn tractor and he plans to pull that forward and angle it due to the easement. The other is for pool equipment and he wants it to be near the pool.

He has a letter of support from the neighbor on the side, the neighbor at the rear said they would provide a letter of support if needed, and there is no neighbor on the other side yet.

Mr. Mateer inquired as to why the Applicant chose 2 feet for the distance on the side lot line, as opposed to a further distance and if the easement was diagonal along the back yard. The Applicant showed an image and stated that between the grass and the walkway that was the only space available on the side and that the easement was not diagonal in the back.

Mr. Metz confirmed that the Applicant intended to move the rear shed and inquired if he could move it 10 feet from the property line on the side. The Applicant stated he could do that.

The Chair discussed orientation and location of the rear shed.

Ms. Bowers inquired if, on the first variance, the Applicant could not bring the shed in further from the lot line. Applicant stated that if it is moved in further, the door would hit the patio.

Mr. Williams inquired if the first shed could be moved back towards the pool. Applicant stated no.

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. Metz suggested moving the second shed 10 feet from the property line.

Ms. Bowers stated there was an issue with the side being 2 feet, but with the fence there she can accept it.

Mr. Williams stated he can accept 5 feet but 2 feet was too close.

Mr. Mateer stated the second shed should move to 10 feet, but the 2 foot variance was hidden by the fence and moving closer to house was of no benefit.

Ms. Bowers made a **MOTION**, seconded by Mr. Lennartz, to **APPROVE** the **First** 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	NAY

The Motion being **FOUR (4) FOR and ONE (1) AGAINST**, the Motion to **GRANT** the Variance is **PASSED**.

Mr. Metz made a **MOTION**, seconded by Mr. Mateer, to **APPROVE** the **Second** Area Variance with the Below **STIPULATION** 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 VOTE ON THE MOTION BEING:

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

1. That the shed will be located a minimum of 10 feet from the lot line.

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

2. ZBA File# 02-25, James Atkinson, 7971 Behm Road, Zoned A-1, SBL# 198.00-4-12.2, (Farm Lot 65, Township 9 Range 7), Requests an Area Variance to construct a 26 foot x 24 foot pole barn, 26 feet from the side lot line. *Minimum side setback in an A-1 Zone is 30 feet, §144-15 Attachment Height, Lot, Yard and Bulk Regulations.*

APPEARANCE: *Jaclyn & Jack Atkinson*

Applicants stated that the first names on the item were incorrect. They were representing their father and father-in-law. (After further investigation, the Planning Department determined that the property owner is Jack and Jaclyn Atkinson, and James Atkinson was helping them by completing the Application for them.)

Applicant is seeking to build a pole barn with a 4 foot variance. The reason is for future expansion. Neighbor is father-in-law.

Mr. Lennartz inquired if they intended to use the barn to run a business. Applicant stated it was for storage of cars, lawn mower, etc.

Mr. Metz inquired as to if they had discussed this with their neighbors. Applicant stated that her father-in-law was her only neighbor, so yes.

Mr. Mateer asked if the request for the variance involved trying to keep the pole barn 10 feet from the house. The Applicant said it was.

The Chair asked if there were plans to connect the structures. The applicant said eventually, yes.

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

Neighbor (Name Inaudible) said that the SBL # may have been updated. Mr. Bailey indicated that this was ok and Mr. Wittman indicated he would check into this.

Note: After investigation by the Planning Department, it was discerned that the original SBL # was for a parent parcel and the correct SBL # is 198.00-4-12.2 and has been corrected in these minutes.

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:

Board Members had no comments and felt that this was straightforward.

Mr. Lennartz made a **MOTION**, seconded by the Chair 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**.

3. ZBA File# 03-25, (Previous File# 21-23), Ellicott Development, 4297 Abbott Road, Zoned B-2, SBL# 172.05-1-1.1, (Part of Farm Lot 39 Town 9 Range 7). Requests an extension on the previous granted Area Variances. *Expiration of variance, §144-63-D(2)(d).*

APPEARANCE: *Peter Sorgi, Attorney for Applicant*

Mr. Sorgi indicated that this is an unusual situation. He and Mr. Bailey spoke about this and agreed to adjourn this until clarification can be obtained. Mr. Bailey said he needed to research this, and look at the permit.

The Chair made a **MOTION**, seconded by Ms. Bowers to **ADJOURN** the review of this item to next month's meeting.

THE VOTE ON THE MOTION BEING:

METZ	AYE
LENNARTZ	AYE
MATEER	AYE
BOWERS	AYE
RODO	AYE

The Motion being **UNANIMOUS**, the Motion to **ADJOURN** the matter until next month is **PASSED**.

4. File #04-25, Kelly & David Denz, Stoughton Lane, Requests an Area Variance to have a 2nd permanent subdivision sign for Forest Creek Estates where Norwood and Stoughton Lanes meet East Quaker Street. Permanent subdivision identification signs. One non illuminated sign not exceeding 16 square feet in area may identify a permanent subdivision. Such signs shall not exceed seven feet in height and shall not interfere with the visibility from any driveway at its intersection with a public highway. Such signs shall be approved by the Planning Board, §144-37C. [Amended 1-2-1991]

APPEARANCE: *David Denz, Applicant*

The Applicant stated that he and his wife had a "community drive," whereby they passed out flyers to about 72 neighbors regarding getting signs to identify their subdivision. Approximately 45 residents returned the

flyers and 42 of them were for obtaining the signs. The neighborhood previously had one sign but neighbors who wanted signs and were willing to chip in money for them were both on Norwood and Stoughton, so they are asking to have a sign at the top of both streets.

BOARD DISCUSSION:

Mr. Metz inquired if the two signs will look the same. The Applicant stated they would be identical.

Mr. Mateer asked the Applicant who owns the land the sign would go on. The Applicant responded that he believed it was the Town because it was set back from the 20A.

Mr. Lennartz asked what the sign would say. The Applicant stated it would say Forest Creek Estates.

Ms. Bowers indicated she was in favor of this.

The Chair inquired as to the material for the sign. The Applicant stated it was a sort of PVC product.

Mr. Mateer asked how high the sign would be and expressed concern about two large signs in close proximity.

Mr. Wittman indicated the Planning Board needs to approve the sign design.

The Chair explained that the ZBA was reviewing the ability to have two signs and the Planning Board would be reviewing the design. She suggested adding a stipulation that the Planning Board had to be in agreement with the design.

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

Mr. Metz made a **MOTION**, seconded by Mr. Mateer, to **GRANT** the Area Variance **WITH STIPULATIONS** 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 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

This Variance is **GRANTED** with the following **STIPULATIONS**:

1. That the Planning Board is in agreement.
2. That the sign is place on Town property.

The Motion being **UNANIMOUS**, the Motion to **GRANT** the Variance is **PASSED** with **TWO (2) STIPULATIONS**.

5. ZBA File#05-25, West Herr Dodge, 3599 Southwestern Blvd., Zoned B-2, SBL# 161.07-6-3.111, (Part of Farm Lot 25, Township 9, Range 7). Requests 4 Area Variances to put up a 20 foot high, 51.21 square foot pedestal sign with a 1.8 foot wide post on the same lot with a freestanding sign. *Maximum 16 feet high, and a maximum 8 inch wide post as per Pedestal signs terms defined §144-5. Size. One pedestal sign, not exceeding 40 square feet in total surface area of any one surface or 80 square feet in area of all surfaces, §144-38C(2).* Pedestal and free-standing signs are not allowed on the same lot. *Erection of pedestal signs as set forth in this subsection shall preclude erection of a freestanding sign as set forth in Subsection B, §144-38C(3).* Previous ZBA File #30-13 for the sign to be moved, currently located at 3551 Southwestern Blvd.

APPEARANCE: *Debbie Yost, Works for sign company; representing Applicant West-Herr*

Applicant requesting variance to install an existing pylon sign reading "Chrysler Dodge Ram," moving it from where it currently resides at 3551 Southwestern Boulevard to 3599 Southwestern Boulevard. Applicant is moving the sign to a current Jeep location which is expanding to accommodate the other three brands. Jeep brand requires separate signage. Historically, the existing pylon sign was previously approved by the ZBA as to size requirement.

Mr. Lennartz inquired as to which sign was moving. Applicant stated that it was Chrysler Dodge Ram sign. That brand would be located on the east side of the building and the Jeep brand would be located on the west side of the building. They would be separate, each has its own driveway.

Jim Mulka, Director of Facilities for West Herr, stated that Jeep rebranded about three years ago and wanted separation from other brands. This was a brand guideline, they don't have a lot of say in it.

Ms. Bowers asked if there will be any additional signage going up on the Chrysler Dodge Ram building. The applicant said it's already up. She asked why they are moving the sign instead of getting a new one. The Applicant said because of the expense.

Mr. Williams inquired if the sign would be ground level, not mounded up. Applicant response inaudible.

Mr. Metz stated that the facility looks nice. The Jeep monument sign looks good. He inquired if they had given any thought to getting a new monument sign as opposed to using the relocated old sign? Applicant stated they have to follow what the brand wants them to do. The brand typically want a flag mount sign. Mr. Metz asked if the brand has a catalogue and the Applicant said no, they go with what the brand says. The sign is worth \$50,000-\$60,000 and is only a few years old. The brand wants to reuse it as opposed to it going into a landfill. Mr. Metz asked if anything is going in place of the relocated sign. The Applicant said yes, a sign reading MOPARS, which is compliant.

Mr. Mateer indicated that he is not seeing a site plan, with rights of way and setbacks. The Applicant stated it would have a 15 foot setback.

Ms. Bowers inquired if it would be possible to shorten the sign. The Applicant said no, they were not allowed to do so, and the sign was engineered with a lot of things inside of the sign.

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

BOARD DISCUSSION:

Mr. Metz is concerned about having two signs.

Ms. Bowers is concerned about "splitting" the building into two

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, 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 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	NAY
LENNARTZ	AYE
MATEER	AYE
BOWERS	AYE
RODO	NAY

The Motion being **THREE (3) FOR AND TWO (2) AGAINST**, the Motion to **GRANT** the Variance is **PASSED**.

3. File # 07-25, Regency Builders LLC, 7 Wentworth Drive, Zoned R-3, SBL# 161.15-2-45, (Lot 66, Map Cover 3472). Requests an Area Variance to construct a one story single family home with a 17.34% lot coverage. *Maximum lot coverage in a R-3 zone is 15%, §144 Attachment 15 Supplement Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: *Peter Sorgi, Attorney*
Bob Mayo, Regency Builders

The Applicant distributes building plans, etc. States they are looking for a variance for lot coverage issue. These are custom homes, not cookie cutter subdivision. The home complies with setbacks. It is a custom home on a slightly smaller lot, which creates a slight lot coverage issue. Neighbors not opposed to it, it fits in with the neighborhood. Owners wanted a three car garage.

Ms. Bowers establishes that this is a ranch home of about 2000 square feet. She feels this is a nice neighborhood, and that the garage does take over on this home.

Mr. Williams establishes that the whole footprint of the lot is approximately 18,500 square feet and the overage is 432 square feet.

Mr. Metz inquires as to discrepancy between footprint of house and living space. Difference is garages, patio, porch.

Mr. Lennartz commented on the garage discrepancy and the slightly undersized lot.

Mr. Mateer inquired of Mr. Wittman to explain the discrepancy and the process. "Foundation footprint."

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

Elliott Lasky, Partners with Bob Mayo at Regency
Proposed owner is here. They closed on the lot without realizing.

Mary Beth (inaudible), Owner
Wanted a ranch home due to aging, not many places to build a ranch.

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

BOARD DISCUSSION:

Ms. Bowers stated that she likes the diversity of housing.

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
MATEER	AYE
BOWERS	AYE
LENNARTZ	AYE
RODO	AYE

The Motion being **UNANIMOUS**, 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 8:09 P.M.

DATED: 04/04/2025
REVIEWED: 04/15/2025
APPROVED: 05/20/2025

Respectfully submitted,
Kristin B. Mahoney, Secretary

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals