

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park April 15, 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:

OTHERS PRESENT: John Wittmann, Code Enforcement Officer
John C. Bailey, Deputy Town Attorney
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 February and March 2025 ZBA meetings. The Minutes were **UNANIMOUSLY** approved with corrections sent to the secretary and Board members ahead of 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. ZBA File#13-25, Andrew Devine, 10 Edgewater Drive, Zone R-1, SBL# 185.05-1-27, (Sub lot 35 Map Cover 2528). Requests an Area Variance for a 13 foot side setback to construct a 13.75 foot wide 2 story addition to the side of the garage. *Side setback in an R-1 Zone is 15 feet, §144 Attachment 15, Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: No one was present for this case.

The Chair made a MOTION, seconded by Mr. Mateer to ADJOURN the review.

THE VOTE ON THE MOTION BEING:

METZ	AYE
LENNARTZ	AYE
MATEER	AYE
BOWERS	AYE
RODO	AYE

The Motion being **UNANIMOUS**, the Motion to **ADJOURN** is **PASSED**.

2. ZBA File# 14-25, Gail Arthurs, 117 Vistula Avenue, Zone R-3, SBL# 151.16-2-32, (Sub Lots 616 & 617). Requests an Area Variance for a 7.5 foot setback between a patio addition and existing detached garage. *No accessory structure shall be located closer than 10 feet to any primary structure, §144-24A(1)(c).*

APPEARANCE: *Gail Arthurs - Owner*

The Applicant explained that she wished to add a covered patio, and that a 7.5 foot setback to the garage would create more depth under the roof.

There was a discussion about fireproofing required. Deputy Town Attorney, John Bailey, stated that this discussion was outside the authority of the Board and directed the Applicant to approach the Building Department with these questions.

Mr. Mateer established that the porch would not be enclosed and that to enclose the patio, the Applicant would have needed different material for the base, which was more expensive, so there was no plan to enclose in the future.

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 no communications had been received.

BOARD DISCUSSION:

Mr. Lennartz made a **MOTION**, seconded by Mr. Metz, 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 not self-created.

THE VOTE ON THE MOTION BEING:

METZ	AYE
LENNARTZ	AYE
MATEER	NO
BOWERS	AYE
RODO	AYE

The Motion being **FOUR (4) in favor** and **ONE (1) opposed**, the Motion to **GRANT** the Variance is **PASSED**.

3. ZBA File# 15-25, Jack Kuebler, 3892 Southwestern Boulevard. (V/L), Zone DR-2, SBL# 161.09-4-25, (part of Farm Lot 40 Town 9 Range 7). Requests a Use Variance to display storage sheds for sale. *Exterior display not permitted in a DR-2 Zone, §144 Attachment 14A Schedule of Use Controls.* Will require Planning Board approval.

Mr. Williams recused himself.

APPEARANCE: *Jack Kuebler – Homedog LLC.*

Mr. Kuebler explained that he has had sheds here as part of an “outside display” for 8 to 10 years, however the zoning had recently changed, and so he now requires a Variance to continue operating as normal.

Mr. Metz established that unsold sheds are removed each year with only one shed remaining as an office.

Mr. Lennartz established that the number of sheds would be the same as in previous years.

The Chair inquired about any complaints. The Applicant stated that he had recently received a text about lights, and he will address that. There have been no complaints through the building department.

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

Name inaudible

This member of the public is a neighbor and stated that she is in favor of the shed, however there used to be a fence, and now that is gone, some people wander on to their property.

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 was none other than the Planning Board's approval of the outside display.

Mr. Kuebler stated that he had a temporary fence, however there were shrubberies that would make it difficult for anyone wondering back towards that property. The member of the public stated that people walk around the shrubberies.

The Chair explained that the fence was outside the purview of this board.

BOARD DISCUSSION:

Mr. Mateer feels that it is not the fault of the Applicant that the zoning changed.

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, to **APPROVE** the USE Variance **FOR ONE YEAR** based on the following:

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. Strict application of the regulations will deprive the applicant of a reasonable return on the property, and the lack of return is substantial as demonstrated by competent financial evidence.
3. The hardship is unique, and does not apply to a substantial portion of the district or neighborhood.
4. The variance will not alter the essential character of the neighborhood.
5. The alleged hardship was not 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 **APPROVE** the Variance **FOR ONE YEAR** is **PASSED**.

4. ZBA File# 16-25, John Iafallo, 6114 Bunting Road, Zone A-1, SBL# 184.00-5-10.3, (Farm Lot 27 Town 9 Range 7). Requests an Area Variance to put up a 12 foot x 14 foot shed in the rear yard and the total of all accessory structures will exceed the primary structure by 932 square feet. *A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such "accessory use" dominate, in area, extent or purpose, the principal lawful use or building, except that vehicle parking areas may be larger than building area, §144-5 Accessory Use terms defined.*

APPEARANCE: John Iafallo – Owner

Mr. Iafallo explained that he wanted to add a shed to the property for his girlfriend to use as a "she shed".

The Chair established that the Applicant had spoken to neighbors who had no issue with the proposal, and that no electricity was planned, and the applicant planned to use solar lighting.

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.

The Chair then asked if the Secretary had received any communications either for, or against, granting the Variance. The Secretary stated no communication was received.

BOARD DISCUSSION:

Ms. Bowers made a **MOTION**, seconded by Mr. Mateer to **APPROVE** the request for an 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 **APPROVE** the Variance is **PASSED**.

5. ZBA File# 17-25, Todd & Amy Miklas, 6234 New Taylor Rd., Zone R-2, SBL# 161.16-2-10, (Sub Lot 3 Map Cover 1793). Requests an Area Variance for a 35 foot front setback to the front covered patio. *Front yard setback in an R-2 Zone is 40 feet, Schedule Height, Lot, Yard, and Bulk Regulations, §144 Attachment 14.*

APPEARANCE: Todd & Amy Miklas – Owners

The Chair recused herself from this review.

The Applicants stated that they are adding two additions, one towards the front and one towards the rear. They are hoping to update the property and add a "front door presence" on New Taylor, similar to other nearby homes.

Ms. Bowers stated that she feels this is an improvement to the area.

Mr. Metz established that the front porch would be covered.

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 communication had been received.

BOARD DISCUSSION:

Ms. Bowers made a **MOTION**, seconded by Mr. Metz to **APPROVE** the Area Variance for a, 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	abstained

The Motion being **FOUR (4) in favor and ONE (1) abstention**, 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 7:31 P.M.

DATED: 05/01/2025

REVIEWED: 05/20/2025

APPROVED: 05/20/2025

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals