

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park May 20, 2025, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

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

OTHERS PRESENT: John C. Bailey, Deputy Town Attorney
Natalie Nawrocki, Code Enforcement Officer
John Wittmann, Code Enforcement Officer
Kristin B. Mahoney, Recording Secretary
Rose Messina, Secretary

The Chair called the meeting to order at 7:00 P.M. and led the attendees in reciting the Pledge of Allegiance. The Chair introduced the members of the Board and representatives of the Town of Orchard Park.

The Chair stated 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 the Chair and seconded by Mr. Metz, to **APPROVE** the Minutes for the February 18, 2025, March 18, 2025, and April 15, 2025 ZBA meetings, with corrections as discussed.

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 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.

The Recording 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

The Chair announced that Item #4 on today's agenda will not be heard this month but will be heard at next month's meeting.

The Chair stated the process for conducting the meeting.

OLD BUSINESS

1. File #13-25, Andrew Devine, 10 Edgewater Drive, Zoned 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: *Jim Bammel, Bammel Architects, representing Applicant*

Request is for a side yard variance on north side. Applicant's family is growing and they need additional space. Trying to add secondary family room facing toward the lake. Applicant spoke with neighbors, all provided positive feedback regarding project. Have submitted letters of support from neighbors.

Mr. Lennartz verified with Mr. Bammel that the addition would be brick.

There were no other questions.

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 additional communications either for, or against, granting the Variance, other than the letters which had already been provided to members of the Board. The Secretary stated no further communications had been received.

The Chair closed the Public Hearing.

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, 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
RODO

AYE
AYE

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

NEW BUSINESS

1. ZBA File# 18-25, Michelle Negley, 3405 N. Benzing Road, Zoned I-1, SBL# 152.18-1-4, (part of Farm Lot 27, Township 10, Range 7). Requests two (2) Variances. The first is an Area Variance to install a freestanding sign with a 32 square foot display surface. *Display surfaces shall not exceed 20-square feet, §144-38B(2).* The second is a Use Variance to operate a mercantile type business. This use is not permitted in an I-1 zone, *Attachment 144-11 and Section 144-9A Schedule of Use Controls*.

APPEARANCE: *Michelle Negley – Applicant*

The Applicant explained that she is requesting a sign bigger than Code parameters due to the location of the building, trees, and retaining ponds, and the inability to see the building. She wants to install sign closer to the easement than the previous sign so that it can be seen.

The Chair inquired of Mr. Wittmann if that location would still meet Code.

Mr. Wittmann indicated that the sign will be in the right-of-way a bit, but he's not sure how far.

Mr. Mateer asked who owns the right-of-way.

Mr. Wittmann indicated that he did not know.

Mr. Bailey stated that people should not be building in the right-of-way, asked the Applicant how far the sign would be in the right-of-way, and asked if the Applicant could move the sign back.

The Applicant stated that it would be maybe a foot into the right-of-way and that she could move it back.

Mr. Bailey observed that this would solve the first variance.

The Applicant stated she has a long term lease, runs a landscaping company, and has a very large warehouse. She is asking permission to use the warehouse to open a liquidation warehouse of "various sorts." She would open it once per week, probably on a Saturday, and once per month, to do pallet auctions for selling new, like-new, and refurbished miscellaneous items, mostly along her line of work. So the merchandise could be power tools, equipment, lawn mowers, and blowers. Pallets would be sold individually.

Mr. Metz confirmed that the sign currently out front of the business is for the current landscaping business, and that the Applicant was looking to install a new sign for the new business.

Mr. Metz asked where the new sign would be located and its expected size.

The Applicant stated near the driveway and 32 square feet.

Mr. Lennartz asked if moving the sign would eliminate the need for the variance, and if the sign would be in the right-of-way.

The Applicant stated there was not much room to move it back, and that she believes the new sign would be directly on the right-of-way.

Ms. Bowers requested clarification regarding the sign, wanting to know if the existing sign for the first business was staying, and if the second sign was for the new business.

The Applicant confirmed that the second sign would be for the second business.

Mr. Williams asked if the two signs could be combined.

The Applicant stated "yes."

The Chair pointed out that the Code for sign size is 20 square feet.

The Applicant stated she can get a new sign, combining the two signs into one.

Ms. Bowers indicated that that was acceptable to her.

Mr. Williams suggested a maximum size of five (5) feet by eight (8) feet for the new combined sign.

The Applicant stated she was agreeable with that.

Mr. Mateer pointed out that the size was double the size allowed under the Code. He also stated that the original request should have been for three (3) variances: one for two signs, one for the size of the sign, and one for the use of the property.

Mr. Bailey stated yes, and what is being proposed is one variance for the size of one sign.

Mr. Metz asked if the existing sign was being taken down.

The Chair indicated that she felt that the Board should approve a single, five (5) by eight (8) foot sign and let the Applicant decide how best to design the sign.

Mr. Mateer stated the granting of a use variance entails a demonstration by the Applicant that the zoning has caused an unnecessary hardship, as demonstrated by competent financial evidence. He asked if the Applicant submitted financial information regarding the resulting financial hardship should the use variance not be approved.

The Applicant stated that she submitted several papers and cannot remember specifically what they were. Her original business is landscaping, which is seasonal, and she needs another line of business to supplement her income and sustain her financially.

The Chair verified that there was no financial information in the file.

Mr. Mateer questioned the Applicant if she wanted to put the matter off for a month so that she was able to provide financial information. Lacking this information, he cannot support this request.

The Applicant stated that she is unable to delay this, because without the second business, her first business may fail.

Mr. Mateer requests the Applicant to approach the table and clarify with him a map of the property.

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 have been received.

The Chair closed the Public Hearing.

BOARD DISCUSSION:

Mr. Lennartz stated that he can support one sign with maximum size five (5) foot by eight (8) foot and the fact that the main business was landscaping, and therefore, seasonal in nature, was enough evidence to sustain the use variance request.

Ms. Bowers clarified with Mr. Bailey that the Board will vote on one variance and then vote on the other variance.

Mr. Metz clarified the number of employees employed by the Applicant- four (4).

Mr. Mateer stated that the Board has not been provided the design for the proposed sign, and also that he would feel more comfortable with evidence of financials for the use variance. He would want to adjourn this matter for a month to obtain those items.

Mr. Williams verified with the Applicant that there will be enough parking at the location for the expected customer flow.

The Chair stated that she would be comfortable approving in the absence of financial information, because the Board is "still leaving the door open to go back to the industrial use." She doesn't feel that having this type of business in that area will create issues.

The Chair stated that the Board would first address the use variance, and then the area variance.

The Applicant commented that if she were to do the second business at the same location, she would not be doing that until approximately September.

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

1. Per Section 143-63 (E) (1) All public notices have been filed, and the Applicant for a Use Variance must demonstrate that the zoning has caused an unnecessary hardship and must show that:
2. Strict application of the regulations will deprive the applicant of a reasonable return on the property, provided that 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	NAY
BOWERS	AYE
RODO	AYE

The Motion being **FOUR (4) IN FAVOR AND ONE (1) AGAINST**, the Motion to **GRANT** the Variance is **PASSED**.

The Chair indicated that she felt the Board should make a motion to adjourn the Area Variance to give the Applicant an opportunity to produce a rendering.

The Applicant asked for clarification that the sign she develops should be a maximum size of five (5) feet by eight (8) feet, and should she just add on to the sign she currently has or develop a new sign.

The Chair stated that that would be up to the decision of the Applicant.

Ms. Bowers pointed out, and Mr. Bailey clarified, that if the Applicant produces a conforming sign, she would not need to return to the ZBA. If she produces a sign larger than the Code allows (20 square feet), she would need to return to the ZBA for a variance.

Ms. Bowers made a **MOTION**, seconded by Mr. Mateer, to **ADJOURN** Area Variance.

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 Area Variance is **PASSED**.

2. ZBA File # 19-25, Carmela Davidson, 15 Lakewood Drive, Zoned R-3, SBL# 152.15-1-4, (Sub Lot 13, Map Cover 2174). Requests an Area Variance for a 10 foot x 10 foot shed to be two (2) feet from the rear of the primary structure. *No accessory structure shall be located closer than 10 feet to any primary structure, §144-24A(1)(c).*

APPEARANCE: *Carmela Davidson, Applicant*

The Applicant stated that the shed in question has been there for 11 years. She is a widow and her deceased husband did not know about the need for a variance, likely because the concrete foundation was there when they moved in. She stores summer furniture in the shed. It is two feet from the garage. She does not know if she can move the shed or where she would move it to.

Mr. Lennartz asked if she stored gasoline in the shed.

The Applicant stated she did not.

Mr. Williams inquired what she did store in the shed, and if there was electricity in the shed.

The Applicant stated in the winter she stores her patio furniture, clay pots and tomato stands. In the summer, it is mostly empty. There is no electricity in the shed.

Mr. Mateer asked how the Applicant learned that she needed a variance.

The Applicant stated that a neighbor was called out on his shed because he did not have a permit, so he was going after everybody else.

Mr. Mateer confirmed that the floor of the shed was concrete, and inquired if she could hire someone to move it.

The Applicant stated that this was a very hard time for her – her son died just six weeks ago.

Mr. Metz asked how far the shed was from the house.

The Applicant stated 10-20 feet from the house and two feet from the garage. The Applicant also provided correspondence from neighbors indicating they had no problem with the shed.

The Chair stated that she would put the correspondence into the file.

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 other communications either for, or against, granting the Variance. The Secretary stated no further communications had been received.

The Chair closed the Public Hearing.

Mr. Williams stated that since there was no gasoline and no electricity in the shed, he feels it is not a problem. Other Board members agreed.

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 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) IN FAVOR AND ONE (1) AGAINST**, the Motion to **GRANT** the Variance is **PASSED**.

3. ZBA File #20-25, Sebastiano Battaglia, 8 Hemlock Hill Road, Zoned R-1, SBL# 185.08-2-59, (Sub Lot 383, Map Cover 2335). Requests an Area Variance for a 5 foot side setback for an 11 foot x 7 foot shed. *Minimum side setback in a R-1 Zone is 15 feet, §144 Attachment 15 Supplemental Height, Yard, Lot and Bulk Regulations.*

APPEARANCE: *Sebastiano Battaglia, Applicant*

Applicant stated that he is limited in terms of where he can place the shed due to asphalt and concrete left by previous owners in backyard. He has spoken to his neighbors and they are all supportive of the project. It will be a shed/greenhouse. It will not be for storage; he will not store gasoline in the shed.

Mr. Mateer inquired as to which side of the shed will have the five (5) feet setback.

The Applicant indicated it would be the 11 foot side because this is the only space available. It would be very difficult to locate the shed in another area due to space constrictions.

Mr. Metz thanked the Applicant for having everything marked off and complimented the Applicant on his delightful backyard.

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 additional communications had been received.

The Chair closed the Public Hearing.

Mr. Metz made a **MOTION**, seconded by Ms. Bowers, 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**.

4. The Chair announced again that Item #4 has been removed from the Agenda.
5. ZBA File # 22-25, Orchard Park Community Church, 7451 Quaker Road, Zoned R-1, SBL# 162.19-1-10.111, (Part of Farm Lot 63, Township 9, Range 7). Requests an Area Variance to replace the existing sign with a 32 square foot freestanding sign. *There shall be no more than two display surfaces, each of which shall not exceed 20 square feet, §144-38B(2).*

APPEARANCE: *Rick Johnson, Representative for Applicant*

The Applicant stated that the Church is requesting a new sign. It is essentially the same size as the current sign, they just want it perpendicular to the road. The current sign is approximately 25 years old.

Ms. Bowers asked why they want a new sign instead of just moving the current sign.

The Applicant stated that they do not want to tear down a structure that is there.

Mr. Metz inquired if the new sign will be internally illuminated.

The Applicant stated it would be capable of internal illumination but he was not sure if the Church will use that capability.

The Chair asked if the other sign will be taken down, to which the Applicant replied "yes."

Mr. Mateer inquired if the new sign will be installed in the same location.

The Applicant indicated it would be placed 15 feet off the road as required.

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.

The Chair closed the Public Hearing.

Mr. Metz made a **MOTION**, seconded by Ms. Bowers, 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**.

6. ZBA File # 23-25, Larry Pezzanite, 7 Rolling Hills Drive, Zoned R-2, SBL# 172.15-2-24, (Sub Lot 96, Map Cover 2269). Requests two (2) Area Variances for a 3 foot side and a 6 foot rear setback to construct a 30 foot x 61 foot storage building. *Minimum side and rear setbacks in an R-2 Zone is 10', §144 Attachment 14, Schedule of Height, Lot, Yard, and Bulk Regulations.* A variance for this address was denied in December 2024.

APPEARANCE: *Larry Joe Pezzanite, Applicant*

The Chair made a **MOTION**, seconded by Ms. Bowers, to **NOT HEAR THE CASE** due to the change not being **substantial**.

Mr. Mateer stated that the previous application was for a three (3) foot side and a three (3) foot rear setback, and this application is for a three (3) foot side and a six (6) foot rear setback. This change in setback is not substantial enough to hear the case.

Mr. Williams agreed with Mr. Mateer.

THE VOTE ON THE MOTION BEING:

METZ	AYE
LENNARTZ	AYE
MATEER	AYE
BOWERS	AYE
RODO	AYE

The Motion being **UNANIMOUS**, the Motion to **NOT HEAR THE CASE due to the change not being substantial** is **PASSED**.

The Chair told the Applicant that the Board does not feel that recent change have been substantial enough.

The Applicant asked for clarification regarding what is substantial enough.

Mr. Bailey stated that the discussion was closed.

The Chair instructed the Applicant that he may contact the Building Department the next day.

7. ZBA File # 24-25, Alexander Nastevski, 45 Middlebury Road, Zoned R-1, SBL# 185.08-2-37 (Sub Lot 295, Map Cover 2335). Requests an Area Variance for a 46 foot front yard setback for a 24 foot x 10 foot deck. *Minimum front yard setback in an R-1 zone is 50 feet, §144 Attachment 14, Schedule of Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: *Alexander Nastevski, Applicant*

The Applicant stated he is seeking to tear out a brick front stoop which is deteriorating and install a wooden deck, which will be two (2) feet, four (4) inches into the setback in one corner.

Mr. Williams confirmed that the deck will be approximately two (2) feet over the setback line in a triangular shape.

Mr. Mateer confirmed by measurement that the variance was needed for only a small portion of the new deck.

Mr. Metz confirmed that a portion of the deck will have a roof over it.

The Chair inquired if the Applicant had spoken to his neighbors in regard to the issue.

The Applicant stated that he had spoken to four (4) out of five (5) of his neighbors and they did not seem to care.

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.

The Chair closed the Public Hearing.

Ms. Bowers confirmed that the setback will be 46 feet.

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**.

8. ZBA File # 25-25, Danielle Esposito, 6 Diller Drive, Zoned R-2, SBL# 162.05-1-39, (Sub Lot 36, Map Cover 2000). Requests an Area Variance for a 33 foot front yard setback for a 30 foot x 32.5 foot addition to the front of the garage. *Minimum front yard setback in an R-2 Zone is 40 feet, §144 Attachment 14, Schedule of Height, Lot, Yard, and Bulk Regulations.*

APPEARANCE: *Danielle Esposito, Applicant*

The Applicant stated she has five (5) children and needs more room. She wants to have a mudroom, more storage space and more space for a long vehicle. She wants to use the current existing garage for storage and add a new garage in front of it.

Mr. Metz confirmed that the Applicant desires to bring the new garage out toward the road, use the new garage to store vehicles and use the existing garage for storage. He questioned why the new garage needs to come that far out toward the road.

The Applicant stated it was due to the size of her vehicle.

Mr. Mateer confirmed that the addition will be a two (2) story structure and match the existing structure.

Mr. Lennartz inquired if the Applicant has spoken to any neighbors about the project.

The Applicant indicated one (1) neighbor has said it looked nice.

Ms. Bowers verified with the Applicant that it would be a two (2) car garage.

Mr. Williams verified with the Applicant that the new structure would be 30 feet deep, that the current garage would become storage space, and the new garage would be just a garage. Mr. Williams inquired if the Applicant could make the new structure smaller.

The Applicant stated that she has a Toyota Tundra, and that it would be tight with her gardening things and her snow blower.

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.

*Cindy Rapp
29 Ferndale Drive
Orchard Park, New York 14127*

Ms. Rapp stated that the Applicant has many more projects around her yard needing to be cleaned up. Nothing is completed, and it looks horrendous. There were containers outside her house for years.

*Julie Galley
10 Diller Drive
Orchard Park, New York 14127*

Ms. Galley stated there were many projects needing to be completed.

Unidentified Male

This person stated that with the home, the various concrete work, the pool, and the garage addition, this lot may be approaching the maximum lot coverage allowable. He stated that electrical inspections have not been done, as required. The home is unsightly; a temporary fence has been there for three (3) years.

The Chair clarified that this Board is only voting on the 33 foot setback variance. The electrical is not the responsibility of this Board.

Jim Dee
18 Ferndale Drive
Orchard Park, New York 14127

Mr. Dee stated he lives across the street. The current garage is already higher than the peak of the house. Setbacks and required greenspace exist for a reason and that the garage has already been expanded.

Robert Fortenbaugh
17 Ferndale Drive
Orchard Park, New York 14127

Mr. Fortenbaugh stated that he is opposed to the granting of the Variance, and with the Board members visiting the property, the condition of the property and the Applicant's track record speak for themselves.

Shawn Dee
19 Diller Drive
Orchard Park, New York 14127

Mr. Dee stated that this project takes away greenspace for frontage, and that there were many delinquent projects at this house. This will become another ongoing project years in the making.

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

NO RESPONSE

The Chair closed the Public Hearing.

The Applicant stated that there is no loss of greenspace because the area is already a paved driveway.

Mr. Mateer asked the Applicant to approach the table in order to provide clarification of the plan, and the possible reduction in size of the addition. He indicated that an addition may be built without the need for a variance if the size of the garage was reduced by seven (7) feet. He suggested adjourning a decision for a month to have the Applicant consider this.

The Applicant stated that she had many items to store and needed the space, and also would have to have the plans redrawn. She indicated that if the Board had to deny it, the Board should deny it.

Mr. Mateer inquired if there had been previous Variance requests on this property. Several Board members indicated that they did not recall there being previous Variance requests.

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

Mr. Williams indicated he felt that the new structure exceeding the setback by seven (7) feet was too much.

Mr. Lennartz and the Chair agreed with Mr. Williams.

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 Variance is **PASSED**.

There being no further business to be presented to the Board at this time, the Chair adjourned the meeting at 8:32 P.M.

DATED: 06/02/2025
REVIEWED: 06/17/2025
APPROVED: 06/17/2025

Respectfully submitted,
Kristin B. Mahoney, Recording Secretary

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals