

**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the February, 2017 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Robert Lennartz, Acting Chairman/Lauren Kaczor/Dwight Mateer/  
Robert Metz/Barbara Bernard, Alternate

EXCUSED: Joseph Liberti, Chairman

OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney  
David Holland, Code Enforcement Officer  
Rosemary Messina, Secretary

The Acting Chairman called the meeting to order at 7:00 P.M., stating that if anyone appearing before the Board was related through family, financial or 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 Acting Chairman 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. 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 meeting minutes for December 2016 and January 2017 were unanimously **APPROVED**.

The Acting Chairman stated that site inspections of all cases presented tonight were made by:

**LENNARTZ, AYE/KACZOR, AYE / MATEER, AYE/METZ, AYE/BERNARD, AYE**

#### OLD BUSINESS

1. ZBA File #02-17, Jeffrey Bochiechio, Vacant Land California Road, Zoned R-4 (Part of Farm Lot 32, Township 9, Range 7; SBL#161.03-1-2). Requesting Area Variances for this proposed Multiple Dwelling project. No building shall be closer than 60-ft. to another building nor 50-ft. to the R.O.W. of an access road, Section 144-46C (4) (a). No building shall be closer than 50-ft. to any property line, Section 144-9B. Schedule of Height, Lot, Yard & Bulk Regulations. This case was tabled by the Board at their 1/17/17 meeting.

APPEARANCE: Mr. Jeffrey Bochiechio, Attorney/Applicant  
Mr. Andrew Terragnoli, Studio T3 Engineering, PLLC

Mr. Bochiechio explained the original project was approved by the Board with 26-Setback Variances. However, following the Historic Preservation (SHIPPO), and the NYS DEC reviews, the plan was down-sized. They need 22-Setback Variances granted, which is four less than before.

The members discussed their concerns as follows:

Mrs. Bernard would like 18-foot wide driveways constructed for units where the setback requirement is not in compliance. Most of the buildings located on the west side of the site will require this. The Applicants state that they will revise the plan to comply with this request.

Mr. Metz discussed a number of the units and ways to decrease the amount of the setback and the number of variances requested. Re-positioning and eliminating a building was suggested by Mr. Metz. However, the topography of the site makes it difficult to act on Mr. Metz's suggestions.

Mr. Mateer reviewed each of the "criteria" for the granting of a variance with the Applicants.

Acting Chair Lennartz established that the project will be constructed in three phases. Mr. Lennartz feels the request is substantial, however, he discussed the economic hardship the Applicants will bare if the variances are not granted. He also stated that he feels building on this site is challenging due to the topography. The project's design layout is dictated by site conditions. In addition, Town and State Regulations must be followed.

Mr. Terragnoli stated that they try to reach a "happy medium" with all involved agencies.

Mr. Metz established that it is not known if the Home Owner's Agreement will contain a clause prohibiting the owner from renting their unit.

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

OPPONET:

Mr. Phil Sorge  
4089 California Road  
Orchard Park, New York 14127

Mr. Sorge stated that he does not support the project due to increased traffic impacts.

The Acting 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.

Board discussion.

Mr. Lennartz made a **MOTION**, seconded by Ms. Kaczor, to **GRANT** the Area Variances with a **STIPULATION** for the following reasons:

1. There will be no undesirable change in the character of the neighborhood, and or detriment to nearby properties created.
2. The benefit sought cannot be achieved in another way.
3. The request is substantial.
4. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or the district.
5. The difficulty is self-created, but that does not preclude the granting of the variance.

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

1. Eighteen (18) foot minimum width driveways are to be constructed for all units having less than the minimum required setback of 50-ft.

ON THE QUESTION:

Code Enforcement Officer David Holland confirmed with Mrs. Bernard that the Stipulation will apply to all units having less than the minimum required setback.

**THE MOTION BEING:**

<b>BERNARD</b>	<b>AYE</b>
<b>KACZOR</b>	<b>AYE</b>
<b>LENNARTZ</b>	<b>AYE</b>
<b>MATEER</b>	<b>NAY</b>
<b>METZ</b>	<b>NAY</b>

**THE MOTION BEING THREE (3) IN FAVOR AND TWO (2) AGAINST, THE MOTION IS PASSED with a STIPULATION.**

Meeting adjourned at 7:43 P.M.

DATED: 03/09/17  
REVIEWED: 03/09/17

Rosemary M. Messina, Secretary  
Zoning Board of Appeals

Robert J. Lennartz, Acting Chairman