

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the January 16, 2018 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Kim Bowers, Chairwoman/Robert Lennartz/Robert Metz/ Dwight Mateer/
Lauren Kaczor/Barbara Bernard, Alternate

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

The members recited the Pledge of Allegiance and the Chairwoman 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 Chairwoman 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 the November 21, 2017 meeting were unanimously **APPROVED**.

The Chairwoman stated that site inspections of all cases presented tonight were made by:
BOWERS, AYE/LENNARTZ, AYE/KACZOR, AYE/MATEER, AYE/METZ, AYE/BERNARD, AYE

1. ZBA File #01-18, Stephen Ottley, 9 Sandpiper Court, Zoned R-1 (Sub Lot #31, Map Cover 3207: SBL#173.12-2-20). Requests an Area Variance to construct a detached garage with a 12-ft. side setback and within 8-ft. of the dwelling. Minimum, side setback for this R-1 Lot is 15-ft., Section 144-9B, Supplemental Schedule of Height, Lot, Yard & Bulk Regulations. No Accessory Structure shall be located closer than 10-ft. to any primary structure, Section 144-24 A (1) (C).

This case was removed from tonight's agenda by the Applicant.

2. ZBA File #02-18, Sean Overton, 6652 Milestrip Road, Zoned R-2/R-3 (Part of Farm Lot 16, Township 10, Range 7; SBL#153.17-1-11.12). Requests a Variance to house chickens on this parcel. Chickens shall not be housed except on a farm nor within 100-ft. of any property line of such farm, Section 144-32 A (1). A Farm parcel must contain at least 5-acres, Section 144-5B, terms defined.

APPEARANCE: Mr. & Mrs. Sean Overton, Property Owners and Applicants

Mr. Overton told the members he has three adjacent properties totaling to 7.233+/-acres where he has been raising chickens in a coop for eggs and enjoyment. He did not know he was violating a Town Ordinance regarding "housing chickens" until the Building Inspector contacted him. He would like to keep his chickens.

Ms. Kaczor established that the Overton's have no roosters, just hens.

Mr. Mateer discussed the submitted survey and the boundary lines of the Overtons' three properties. It was confirmed that the chicken coop is 100-ft. from the property lines shown on the survey.

Mr. Lennartz established that the birds are contained, and do not roam without supervision on the property into neighbor's yards.

Mr. Metz established with the Overton's that there will be no more than ten (10) chickens on the property.

Mr. Overton submitted two letters of support from his neighbors; Amy Patterson, 6668 Milestrip Road and Peter Germmati, 6640 Milestrip Road indicating that they support the variance request to allow the chickens. In addition, Brian and Lori Krantz, of 6645 Milestrip Road, mailed a letter supporting the request.

The Chairwoman established that the chickens stay at their home and do not travel to their neighbor's properties. The three parcels owned is vacant land.

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

(Twice) NO RESPONSE.

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

(Twice) NO RESPONSE.

The Chairwoman then asked if the Secretary had received any communications either for, or against, granting the variance. The Secretary stated no further communications other than the one received in the file were received.

BOARD DISCUSSION:

There is to be no rooster and no more than 10 chickens on the property.

Mr. Lennartz, made a **MOTION**, seconded by Mr. Mateer, to **GRANT** the Area Variance with the following **STIPULATIONS**:

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

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

1. There is to be a prohibition of having a rooster on the property.
2. The maximum number of birds housed on the property is not to exceed ten (10) birds at any one time.

THE MOTION BEING:

BOWERS	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	NAY

THE MOTION BEING FOUR (4) IN FAVOR, AND ONE (1) AGAINST, THE MOTION IS PASSED.

Meeting adjourned at 7:17 P.M.

DATED: 1/26/18
 REVIEWED: 1/29/18

Zoning Board of Appeals
 Rosemary Messina, Secretary

Kim Bowers, Chairwoman