

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

MEMBERS PRESENT: Joseph Liberti, Chairman/Robert Lennartz, Acting Chairman/
Lauren Kaczor/Robert Metz/Barbara Bernard, Alternate
EXCUSED: Dwight Mateer
OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney
David Holland, Code Enforcement Officer
Rosemary Messina, Secretary

The 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 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 Chairman stated that due to the absence of Mr. Mateer, the Alternate member, Mrs. Bernard, will be voting this evening.

The meeting minutes for February 2017 meeting were unanimously **APPROVED**.

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

LIBERTI, AYE/LENNARTZ, AYE/KACZOR, AYE /METZ, AYE/BERNARD, AYE

1. ZBA File #04-17, George Schichtel, 6745 Chestnut Ridge Road, Zoned A-1 (Part of Farm Lot 9, Township 9, Range 7; SBL#198.00-6-29). Requests a Use Variance to reconfigure this parcel which contains a building devoted to a Non-Conforming Use. The existing Office Building was granted a Use Variance on 8/21/1972 by the Zoning Board of Appeals.

APPEARANCE: Mr. George Schichtel, Applicant/Property Owner
Mr. Peter Metzger, potential property owner

Mr. Schichtel explained to the Board that a Variance for a Non-Conforming Use was granted in 1972 to operate his business in this A-1 Zone. The existing office building is no longer used and he would like to split his property and sell the parcel containing the office building to Peter Metzger. Mr. Metzger would like to locate his small consulting business here. Mr. Schichtel feels there would be no change to the character of the neighborhood as Mr. Metzger's business is similar to Mr. Schichtel's with limited traffic.

Mrs. Bernard established that a Perpetual Driveway Easement will be included in the deed at the time the property is sold.

Mr. Metz established that Mr. Schichtel did not speak to his neighbor across the road about the variance request, but he would be more than happy to do so if the Board asked him to. He stated that his adjacent neighbor is his son, George Schichtel, Junior.

Mr. Lennartz established that Mr. Metzger's operates is a small consulting firm that will have seven

(7) employees working here. Mr. Metzger explained that most customers will be met off-site, and that vendors' sales calls will take place here. There will be no delivery trucks at the site and no inventory storage.

Ms. Kaczor established that no changes will be made to the outside of the building.

Mr. Lennartz made a motion, seconded by Mr. Metz, that this is an Unlisted Action and that a **Negative Declaration** under SEQR be made based on the submitted short EAF.

THE VOTE ON THE **MOTION BEING UNANIMOUS, A NEGATIVE DECLARATION IS MADE UNDER SEQR.**

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

PROPONENT

*Ms. Jill Sinclair
6869 Gartman Road
Orchard Park, New York 14127*

Ms. Sinclair stated she supports the variance request.

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.

Board discussion. The members agree that Mr. Metzger's business will not change the character of the neighborhood.

Mr. Metz made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the Use Variance for the following reasons:

1. 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.
2. The hardship is unique, and does not apply to a substantial portion of the district or neighborhood.
3. The variance will not alter the essential character of the neighborhood.
4. The alleged hardship was not self-created.

THE MOTION BEING:

LIBERTI	AYE
KACZOR	AYE
LENNARTZ	AYE
BERNARD	AYE
METZ	AYE

THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.

2. ZBA File #05-17, Jill & Brian Sinclair, 6869 Gartman Road, Zoned A-1 (Part of Farm Lot 1, Township 9, Range 7; SBL#198.00-6-15). Requests a Use 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 144-32A (1). A Farm Parcel must contain at least 5-Acres, Section 144-5B Terms Defined.

APPEARANCE: Jill Sinclair, Applicant/Property Owner

Ms. Sinclair told the Board that she would like to raise up-to-four chickens (no roosters) for egg laying purposes. Her neighbors support the variance request and have expressed an interest in receiving extra eggs she may have. A petition signed by four (4) neighbors stating that they support the variance request was received and is part of the permanent record. She told the members that depending on production levels, she may also sell her eggs. She will maintain the chicken coop daily, and the chickens will not be raised to be free range birds. She told the Board that there was an existing chicken coop on the property when they purchased their home, however it fell down. Rather than putting the chicken coop back up, she feels it is important to be compliant with the Town Ordinance. She has come before the Board to ask for the variances needed and "do things the right way". She told the Board that Mr. Schichtel's property is at the rear of her home, and that the Chestnut Ridge gorge is across the road from her. She does not feel her request will change the character of the neighborhood. The coop is hidden from the road and is not impacting her nearest neighbor that supports her request for the variance.

Ms. Kaczor established that three or four chickens is desired, as this is the number that Ms. Sinclair can handle. The chickens will not be roaming free on the property. They will be kept in the chicken coop cage, all wired in and safe from predators.

Mr. Lennartz discussed the number of chickens Ms. Sinclair would like to raise. He told her that the Board needs to know a definite number that she will be comfortable with, prior to making a motion.

Mr. Metz established that Ms. Sinclair does not know how to identify the gender of a chick, however, she will purchase her chicks from a reliable source that does know this information.

Mrs. Bernard established that Ms. Sinclair does not have an issue cleaning up chicken droppings.

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 communications have been received other than the petition received in support from four (4) neighbors.

Board discussion.

Mr. Lennartz made a **MOTION**, seconded by Mr. Metz, to **GRANT** the Use Variances with **STIPULATIONS** for the following reasons:

1. 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.
2. The hardship is unique, and does not apply to a substantial portion of the district or neighborhood.

- 3. The variance will not alter the essential character of the neighborhood.
- 4. The alleged hardship is self-created.

This Variance is granted with the following Stipulations:

- 1. There are to be no more than four (4) chickens.
- 2. There are to be no Roosters.

THE MOTION BEING:

LIBERTI	AYE
KACZOR	NAY
LENNARTZ	AYE
BERNARD	AYE
METZ	AYE

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

Meeting adjourned at 8:18 P.M.

DATED: 04/07/17
REVIEWED: 04/12 /17

Rosemary M. Messina, Secretary
Zoning Board of Appeals

Joseph Liberti, Chairman