

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

MEMBERS PRESENT: Joseph Liberti, Chairman/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, 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 meeting minutes for the August 15, 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/MATEER, AYE/METZ, AYE/BERNARD, AYE

1. ZBA File #21-17, David Kondol, V/L Draudt Road, Zoned R-2/A-1, (Part of Farm Lot 28, Township 9, Range 7; SBL#184.00-2-34.1). Requests an Area Variance to allow a future single-family dwelling on this non-conforming lot, Section 144-9B, Schedule of Height, Lot, Yard and Bulk Regulations.

APPEARANCE: Mr. David Kondol, Petitioner/Property Owner

Mr. Kondol told the Board that he purchased this 116.65-ft. wide x 319.60-ft. long lot in 1989 with the intention of building on it someday. Since that time, he decided to sell it as a "buildable" lot, however, the regulation states that a building lot must be 120-ft. wide. He was not able to purchase additional footage and is asking for a variance of 3.35-ft.

Mr. Mateer established that Mr. Kondol contacted his adjacent property owners and they support the variance request. At the rear of his property there is vacant land, and he feels the variance sought will not create an impact if it is granted.

Mrs. Bernard asked Mr. Kondol how he unknowingly bought a nonconforming lot. He explained that he was young when he bought this lot, and that as time went by he purchased a home in Orchard Park and established a family. Recently, he decided to sell the lot, and that is when he found out it was not compliant with the Town Regulation.

Mr. Liberti established that a ranch home maybe constructed on this lot.

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.

Board discussion:

Include stipulation

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

1. There will not be an undesirable change to the character of the neighborhood and a detriment to nearby properties.
2. The benefit can be sought in another way.
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 STIPULATION:

1. The Pre-1989 Regulations are to be followed.

THE MOTION BEING:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

THE MOTION BEING FIVE (5) IN FAVOR, THE MOTION IS PASSED WITH A STIPULATION.

2. ZBA File #22-17, Mike D. O'Connor, 30 Nehercrest Lane, Zoned R-1 (Part of Farm Lot 64, Township 9, Range 7; SBL#162.15-1-5). Requests an Area Variance to construct a detached garage within the front yard. No accessory structure shall be located within the front yard, Section 144-24A(1)(b).

APPEARANCE: Mr. Michael R. O'Connor, representing his son, the Petitioner

Mr. O'Conner stated that his son would like to tear down his dilapidated garage and construct a new one. The new garage will be larger than the existing one, and will allow him to store his vehicles, lawnmowers, and tractors inside.

Mrs. Bernard established that the new garage will be placed where the existing garage currently is. It will be larger and extend over to an existing shed. Mr. O'Connor told the Board that the metal shed has been removed and that the wooden shed remains. This shed may be removed in the future. The doors on the garage will face the driveway, but not the long driveway.

Mr. Metz established that the new garage will not be used for business purposes. Items that remain outside will be stored in the new garage.

Mr. Lennartz reviewed the color photos and asked for further clarification of the submittal. Mr. O'Connor stated it shows the layout and the color scheme chosen. The neighbors were contact by Mr. O'Connor and they have no objections.

Mr. Mateer asked why the garage could not be placed behind the residence, as the shed could be torn down, and no variance would be needed. Mr. O'Connor stated that the driveway would have to be continued behind the house and they do not want to disturb their backyard view with a driveway.

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

PROPONENT:

*Jerry Myers
31 Kathryn Drive
Orchard Park, New York 14127*

Mr. Myers told the members he 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:

Mr. Metz asked for clarification of the location of the remaining shed on the survey.

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

1. There will not be an undesirable change to the character of the neighborhood and a detriment to nearby properties.
2. The benefit can be sought in another way.
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.

THE MOTION BEING:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

THE MOTION BEING FIVE (5) IN FAVOR, THE MOTION IS PASSED.

Meeting adjourned at 7:28 P.M.

DATED: 10/05/17
REVIEWED: 10/17/17

Rosemary M. Messina, Secretary
Zoning Board of Appeals