

**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the June 16, 2015 meeting held in the Municipal Center Basement Public Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Joseph Liberti Chairman/Robert Metz/Roland Pigeon/Robert Lennartz  
Lauren Kaczor, Alternate

**APPROVED  
MINUTES**

EXCUSED: Dwight Mateer

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 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 Chair stated that due to the absence of Mr. Mateer, the Alternate Ms. Kaczor would be voting this evening.

APPROVAL OF THE MINUTES OF THE MAY 2015 REGULAR MEETING:

Mr. Pigeon made a **MOTION**, seconded by Ms. Kaczor, to **ACCEPT** the minutes of the May 19, 2015 meeting.

THE **VOTE** BEING UNANIMOUS, THE **MOTION** IS HEREBY **PASSED**.

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

LIBERTI, AYE/LENNARTZ, AYE/METZ, AYE/PIGEON, AYE/KACZOR, AYE

**NEW BUSINESS:**

1. ZBA File #10-15, Charles Paolini, 6606 Chestnut Ridge Road, Zoned A-1 (Part of Farm Lot 9, Township 9, Range 7; SBL# 197.00-3-22). Requests an Area Variance to construct a Pole Barn which will create a dominating Accessory Use Area. Accessory Use Area shall not dominate Principal Use Area, Section 144-5, terms defined.

**APPEARANCE:** Mr. Paolini, Petitioner/Property Owner

Mr. Paolini stated that he would like to construct a 680-sq.ft. Pole Barn and located it near an existing garage. He noted that he spoke to his neighbors and has signed statements of support for the variance from 6622 Chestnut Ridge Road and 6614 Chestnut Ridge Road. The Pole Barn will be used for storage and a small workshop area.

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.

Mr. Lennartz verified that there would not be a business located here.

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

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties created.
2. The benefit sought, cannot be achieved in another way.
3. The request is not substantial.
4. There will not be an adverse effect 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 MOTION BEING:**

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE

**THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.**

2. ZBA File #13-15, Walter J. Paluch, 7118 Michael Road, Zoned R-3 (Part of Farm Lot 408, Township 10, Range 7; SBL# 153.10-2-17). Requests an Area Variance to construct a Pole Barn which will create a dominating Accessory Use Area. Accessory Use Area shall not dominate Principal Use Area, Section 144-5, terms defined.

APPEARANCE: Mr. Paluch, Petitioner, Property Owner

Mr. Paluch stated that he would like to construct a Pole Barn for personal storage and automobiles.

Mr. Pigeon verified that there would be no business located here.

Ms. Kaczor established that a driveway to the building will be put in.

Mr. Liberti asked if the neighbors were contacted. Mr. Paluch noted that his neighbors had no objections to the variance request.

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.

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

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties created.
2. The benefit sought, can be achieved in another way.
3. The request is not substantial.
4. There will not be an adverse effect 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.

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE

**THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.**

3. ZBA File #14-15, Kevin Bieler, 3596 N. Buffalo Road, Zoned B-3 (Part of Farm Lot 14, Township 10, Range 7; SBL# 161.08-2-26). Requests an Area Variance to construct a covered porch with a 46 ft. – 10 inch front setback. Minimum front setback for this B-3 lot is 50 ft., Section 144-9B, Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Kevin Bieler, Petitioner, Property Owner

Mr. Bieler stated that he would like to construct a covered porch area to connect to a residential home he owns that is adjacent to his business “Bieler Janitorial Services”. This will enable Mr. Bieler to locate his office here and provide a covered access to it. He also noted that it will add curb appeal.

The Board members reviewed the presented plan and had no further questions for Mr. Bieler.

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.

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

- 1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties created.
- 2. The benefit sought, cannot be achieved in another way.
- 3. The request is not substantial.
- 4. There will not be an adverse effect 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 MOTION BEING:**

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE

**THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.**

- 4. ZBA File #15-15, Robert Conley, 77 Bridle Path, Zoned R-1, (Sub Lot 37, Map Cover 2373; SBL# 173.09-5-17). Requests an Area Variance to construct an attached deck with a 24 ft. rear setback. Minimum rear setback for this R-1 Lot is 30 ft., Section 144-22(F).

APPEARANCE: Mr. Robert Conley, Petitioner/Property Owner

Mr. Conley stated that he would like to construct a 10-ft x 16-ft. attached wooden deck at the rear of his home. He does not feel it will create a problem to the neighborhood.

The Board members reviewed the photos Mr. Conley presented. It was established that the outline shown in the photos is the footprint of the deck area.

Ms. Kaczor established that the deck will be 6-ft. off of the ground.

Mr. Liberti established that Mr. Conley spoke to his neighbors and there were no objections to the variance request.

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.

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

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties created.
2. The benefit sought, can be achieved in another way.
3. The request is not substantial.
4. There will not be an 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 MOTION BEING:**

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE

**THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.**

5. ZBA File #16-15, Jeannette Beszczynski, 7765 Jewett Holmwood Road, Zoned R-1, (Sub Lot 6, Map Cover 1895; SBL# 174.13-1-1). Requests an Area Variance to erect a 5 ft. high fence within the front yard. Maximum height of a fence in a front yard is 3 ft., Section 144-22A (1).

APPEARANCE: Ms. Jeannette Beszczynski/Petitioner/Property Owner

Ms. Beszczynski stated that she replaced a deteriorating 3ft. fence, with a 5-ft. fence, not realizing she had created a nonconforming fence in her front yard. The fence has been erected for one-year, prior to Ms. Beszczynski being notified about the Town Code violation. She was unaware of the noncompliance issue and is seeking a variance to erect the 5-ft. fence, and keep her privacy from Jewett-Holmwood Road.

The member's reviewed the photo of the fence. It was established that its location was such that there is nothing behind it, and there have been no problems with the neighbor's regarding the fence.

Mr. Lennartz established that the Beszczynski's erected the fence themselves.

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.

Mr. Lennartz stated that he has no problem with the fence. It is existing, and the location is not a detriment to the neighborhood.

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

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties created.
2. The benefit sought, can be achieved in another way.
3. The request is not substantial.
4. There will not be an 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 MOTION BEING:**

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE

**THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.**

6. ZBA File #17-15, Robert Grimm, 360 Sunset Terrace, Zoned B-3, (Part of Farm Lot 16, Township 9, Range 7; SBL# 162.13-2-3). Requests an Area Variance to erect a 6 ft. high fence within the front yard. Maximum height of a fence in a front yard is 3 ft., Section 144-22A (1).

APPEARANCE: Robert Grimm, Petitioner/Property Owner

Mr. Grimm stated that the severe winter weather diminished a buffer that was present between his property and an adjacent plaza property. The front of the plaza is located along South Buffalo Road and the rear is located on the west side of Mr. Grimm's property. He described the need for the buffer and told the Board that he will clean-up the area. He met with the Plaza Owner and discussed his intentions to erect a 6-ft. high fence to replace the buffer. The owner had no objections to his request for the variance to erect the fence. Mr. Grimm, also, told the Board that he would like to make the fence different heights, so it will not interfere with a motorist's site view along Sunset Terrace.

Mr. Pigeon established that the fence will extend to the R.O.W. and not to the pavement. Code Enforcement Officer David Holland discussed and explained the request to the Board further.

Mr. Grimm stated that the first ten-feet of the fence height will be less than 6-ft. The members discussed the slope of the property and the fact the fence will not be perceived as 6-ft. high.

Ms. Kaczor discussed having the fence height transition, appearing "subtle" while sloping downward.

Mr. Pigeon discussed the flow of traffic and his concerns for drivers backing out of the plaza driveway.

Mr. Metz reviewed the property survey and discussed where to locate the fence to insure it does not block anything except the back of the plaza. Mr. Grimm's residence is 9ft. off the roadway.

Chairman Liberti discussed creating the transition in height with the fence, from three feet to 6-feet.

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.

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

1. There will be no undesirable change in the character of the neighborhood or a detriment to nearby properties created.
2. The benefit sought, can be achieved in another way.
3. The request is not substantial.
4. There will not be an adverse effect 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.

This variance is granted with the following Stipulation:

1. The first 12-ft. located at the R.O.W. line is not to exceed 3-ft. in height; the next 6-ft. is the transitional area of fence from 3-ft to the 6-ft. height, and beyond that the fence is six-ft. in height.

**THE MOTION BEING:**

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED WITH A STIPULATION.

- 7. ZBA File #18-15, David & Barb Waples, 6646 Cole Road Zoned A-1 (Part of Farm Lot 57, Township 9, Range 7; SBL# 198.00-5-8.1). Requests an Area Variance to construct a barn and riding arena addition within 100 ft. of a property line. No building shall be used to house horses within 100 ft. of any property line. Section 144-32A (1), a private stable shall not contain more than 4 horses, Section 144-5, terms defined.

APPEARANCE: Mr. & Mrs. David Waples, Petitioner/Property Owner

Mr. & Mrs. Waples stated that they would like to enlarge their existing barn and construct an enclosed equestrian arena and three additional horse stalls. Details of the addition were explained to the members and Mr. Waples told the members that the site is for their personal use only and that no horse shows will take place here. Mrs. Waples stated that she would like to have all six of their horses kept at their residence. Mr. Waples stated that the neighbors were spoken to, and he submitted a petition signed by 24-neighbors supporting the variance request. This document will be placed in the permanent file.

Mr. Pigeon established that no variance is needed to install lighting on the building.

Ms. Kaczor established that Mrs. Waples is not looking to increase the number of their horses beyond the six they have currently.

There was no one present in the audience.

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.

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

- 1. There will be no undesirable changes in the character of the neighborhood or a detriment to nearby properties created.
- 2. The benefit sought, can be achieved in another way.
- 3. The request is not substantial.
- 4. There will not be an adverse effect 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. There are to be no more than six (6) horses housed in the barn.

**THE MOTION BEING:**

LENNARTZ	AYE
LIBERTI	AYE
KACZOR	AYE
METZ	AYE
PIGEON	AYE



**THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.**

There being no further business to be presented to the Board at this time Chairman Liberti adjourned the meeting at 7:47 P.M.

DATED: 6/22/15  
REVIEWED: 6/23/15

Rosemary Messina, Secretary  
Zoning Board of Appeals

Joseph Liberti, Chairman