

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the October 20, 2015 meeting held in the Municipal Center Basement Public Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Joseph Liberti, Chairman/Robert Metz/Dwight Mateer/Robert Lennartz
Lauren Kaczor, Alternate

EXCUSED: Rosemary Messina, Secretary

OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney/David Holland, Code Enforcement Officer
Danielle Ostrander, Recording Secretary

**APPROVED
MINUTES**

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.

Chairman Liberti asked for a moment of silence to remember Zoning Board member Roland Pigeon, who passed-away suddenly.

A motion was made to **APPROVE** the August 18, 2015 and September 15, 2015 meeting minutes.

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/ MATEER, AYE/KACZOR, AYE

NEW BUSINESS:

1. ZBA File #31-15, David Schuster, 5385 South Freeman Road, Zoned R-1 (Part of Farm Lot 4, Township 9, Range 7; SBL#185.10-2-1.11). Requests an Area Variance to locate a ground mounted solar system within the front yard. No accessory structure shall be located within the front yard, Section 144-24A(1)(b).

APPEARANCE: Mr. David Schuster, Applicant/Property Owner

Mr. Schuster told the Board that he would like to install ground mount solar panels in his front yard, as it is the only area with sunlight. He does not feel he has created this difficulty and he feels there will be no adverse effect or impact created to the neighborhood.

The members established that the Applicant would like to create energy that will lower his costs, and be greener power. The "ground mounted" system is a good solution for large systems with enough land.

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. 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 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:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.

2. ZBA File #32-15, Nancy & Mark Reimann, 4 Concord Drive, Zoned R-1 (Sub Lot 230, Map Cover 2283; SBL#174.17-1-51). Requests an Area Variance to construct a covered porch with a 44.57-ft. front setback. Minimum front setback for this R-1 Lot is 50-ft., Section 144-9B, Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Mrs. Nancy Reimann, Applicant/Property Owner

Mrs. Reimann told the Board that the elevation of their current porch is not safe for her children nor their playmates. Therefore, she desires to have a new porch constructed. She would like the proposed porch to be covered. She does not feel the request is substantial, and feels that the covered porch will enhance the view shed of her home. She provided the Board with a petition signed by five (5) neighbors that support her request for the variance. This document is part of the permanent record.

The members reviewed the submittal for the covered porch with Mrs. Reimann and had no further questions.

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 Ms. Kaczor, 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 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:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS HEREBY PASSED.

3. ZBA File #33-15, Boston Valley Terra Cotta, 6860 South Abbott Road, Zoned I-1 (Part of Farm Lot 25, Township 9, Range 7; SBL#197.00-1-12.11). Requests a Variance to install a monument sign which exceeds permitted height & area, Section 144-5, terms defined.

APPEARANCE: Mr. Gary Etherton, Boston Valley Terra Cotta
Mr. Chris McCaffrey, Ulrich Signs

Mr. Etherton told the Board that Boston Valley terra Cotta desires a double-sided monument sign measuring 6-feet by 16-inches. He explained that they feel the larger sign is needed due to the size of their parcel. The sign will have 10.5-inch letters reading "Boston Valley Terra Cotta". Mr. Etherton stated that emergency vehicles will be able to clearly identify their access for during the day and at night in the winter with a larger sign.

The members discussed the request at length and questioned the size of the proposed sign. Mr. Etherton stated that this size was chosen as a smaller sign would be visually lost on this property.

Mr. Mateer established that the sign will be lit. Discussion took place to have the sign turned off at midnight each day. Mr. Etherton agreed to this stipulation.

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. Metz, to **GRANT** the Area Variance with a **STIPULATION**, 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 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.

This Variance is granted with the following **STIPULATION**:

1. The sign is to be turned off at midnight each day.

THE MOTION BEING:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	NAY
METZ	AYE
KACZOR	AYE

THE VOTE BEING FOUR (4) IN FAVOR, AND ONE (1) AGAINST, THE MOTION IS HEREBY PASSED WITH A STIPULATION.

4. ZBA File #34-15, Paul & Jessica Brown, 111 Henning Drive, Zoned R-1 (Sub Lot 6, Map Cover 2085; SBL#173.06-4-33). Requests an Area Variance to construct an addition with a 38-ft. front setback. Minimum front setback for this R-1 Lot is 50-ft., Section 144-9B, Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Mr. Paul Brown, Applicant/Property Owner
Ms. Jill Wise, Otherwise Creative

Mr. Brown explained to the Board his desire to construct an addition to the front of his garage to accommodate his family. He submitted petitions signed by five neighbors supporting his request for the variance.

The Board members determined that they would like Mr. Brown to revise his layout of the addition based on their comments, and return for review.

Mr. Liberti made a **MOTION**, seconded by Mr. Metz to **TABLE** the review of this case to the November 17, 2015 meeting.

THE MOTION BEING:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

THE VOTE BEING UNANIMOUS, THE MOTION TO TABLE IS HEREBY PASSED.

5. ZBA File #35-15, William D. Barsottelli, 22 Chisholm Trail, Zoned R-2 (Sub Lot 9, Map Cover 3111; SBL#153.11-3-2). Requests an Area Variance to construct a pool house/shed a distance of 6-ft. from an in ground pool. No pool shall be located closer than 10-ft. to any building, Section 144-30c(6)(c).

APPEARANCE: Mr. Barsottelli, Applicant/Property Owner

Mr. Barsottelli told the Board that he would like to construct a pool house/shed upon an existing concrete pad on his property. He explained that if he were to pour a concrete pad, per the Town regulation, it would cause him to have to place part of the structure on both pads with structural damage occurring over time. He understands the concerns for keeping individuals off the roof of the pool house/shed and from diving into the pool. He told the Board that the structure's roof will be 10 x 12-ft. or 12 x 12-ft., and not walkable. He further stated that his neighbors are not impacted with the request as his residence is located 425-feet from the road, with a complete buffer of trees.

Mr. Metz verified the size of the pool house/shed with Mr. Barsottelli.

Mr. Mateer questioned how high and wide the pool house/shed will be.

Chairman Liberti verified that the pool house/shed would not be used for any other purpose than the storage of personal items.

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 Ms. Kaczor, 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 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:

LIBERTI	AYE
LENNARTZ	AYE
MATEER	NAY
METZ	AYE
KACZOR	AYE

THE VOTE BEING FOUR (4) IN FAVOR, AND ONE (1) AGAINST, 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 7:55 P.M.

DATED: 11/06/15
REVIEWED: 11/17/15

Rosemary M. Messina
Zoning Board of Appeals Secretary

Joseph Liberti, Chairman