

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the December, 2016 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

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

A motion was made to **APPROVE** the November 15, 2016 meeting minutes as presented.

MINUTES UNANIMOUSLY APPROVED.

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

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

NEW BUSINESS

1. ZBA File #46-16, SBA Towers IX, LLC, V/L Newton Road, Zoned A-1 (Part of Farm Lot 35, Township 9, Range 7; SBL#184.00-6-10). Requests Site Plan Review and Tower Permit Approval for a 124-ft. Mono-Pine Tower and Telecommunication facility as required by Chapter 144, Article VII.

APPEARANCE: Mr. Matthew Curry, Representing

Mr. Curry presented SBA Towers' plan to construct a Monopine Public Utility Telecommunications Facility at 5291 Newton Road for Verizon Wireless. He explained to the Board that Verizon would like to upgrade their network in Erie County and collocate their antennas and related equipment within a fenced/barbed-wired compound. Future collocators can be added to this tower. Property Owner, Charles Newton, will lease a 100-ft. x 100-ft. portion of his property to SBA Towers with a gravel roadway providing access to the facility.

The Board discussed details regarding the proposed monopine tower and established that;

- The inner circle on the plan indicates the required 128-ft. radius "fall zone". The larger circle represents the required 500-ft. radius setback from residences.
- Break-points in the tower are constructed to fall in sections if the tower is knocked down.
- The pole is less than 200-ft. high and not near an airport, therefore, it is not required to be lit.

- The location of the tower is based on a stand of trees located on the Newton property, and not the center of the parcel. Mr. Curry noted that they prefer to have the monopine facility blend into the area.
- Mrs. Bernard would like the access road to drain only onto this property.
- A propane tank stored here should be protected from stray bullets from hunters.
- A map indicates the range of coverage, and the visibility of the tower from the surrounding area.
- Plans indicate landscaping will be put in at the site.
- A policy exists with terms for future collocation.

Chairman Liberti established that Tim Gawlick, of 5278 Newton Road, supports the site application to have a monopine public utility telecommunications facility at 5291 Newton Road. There were no objections voiced against the proposed facility.

The Chair verified that no communications either "for", or "against", the monopine public utility telecommunications facility were received by the Secretary.

Mr. Lennartz made a **MOTION**, seconded by Ms. Kaczor, for **APPROVAL** of the presented Site Plan review for a Tower Permit on the condition that,

1. The Town Building Inspector is satisfied that collocation on the adjacent National Grid structures is not feasible.
2. Drainage on the access road be such to drain on to the property being leased,
3. Landscaping is to be put in at the front side of the tower,
4. Protection from a rifle discharge at the propane tank, be provided by planting pine trees around the perimeter of the facility.

THE VOTE ON THE MOTION BEING:

LIBERTI	AYE
LENNARTZ	AYE
KACZOR	AYE
MATEER	AYE
METZ	AYE

THE MOTION WAS UNANIMOUS PASSED

A motion was made that this is an Unlisted Action and that a **Negative Declaration** under SEQR be made based on the Approval made by the Board of the submitted Site Plan.

THE MOTION WAS UNANIMOUS PASSED

Meeting adjourned at 8:08 P.M.

DATED: 01/19/17
 REVIEWED: 01/19/17

Rosemary M. Messina, Secretary
 Zoning Board of Appeals

Joseph Liberti, Chairman

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

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

There are no meeting minutes available at this time to be voted on.

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

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

NEW BUSINESS

1. ZBA File #01-17, James Ricci, 24 Aaron Trail, Zoned R-2 (Sub Lot 7, Map Cover 3335; SBL#172.18-1-11). Requests an Area Variance to construct an addition which creates a combined side setback of 30.77-ft. Required combined side setback for this R-2 lot is 40-ft., Section 144-9B, Supplemental Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Jim Bammel, Bammel Architects
James Ricci, Applicant/Property Owner

Mr. Bammel told the Board that his client, Mr. Ricci, desires to construct an addition to his existing residence to accommodate his family's needs. He told the Board that many options were studied and they feel the submitted plan is the best choice. Mr. Bammel explained that in addition to being a corner, pie-shaped lot, the topography here creates a hardship in locating the addition to meet the side setback requirement.

Mr. Lennartz established that Mr. Ricci spoke to both of his adjacent neighbors regarding the proposed variance and they support the request.

Mr. Mateer established that the addition cannot be located at the back of the residence as a pool is located here at ground level with the basement. In addition, the topography drops 10-ft. after the pool location making it difficult to locate the addition at the rear.

Mr. Metz established that the average overall setback for this property is approximately 20-ft.

Mrs. Bernard established that the driveway will line-up with the addition and the existing small garage will be kept for storage.

Ms. Kaczor established that no business is to be run from the addition.

Mr. Liberti established that the addition will match the existing residence.

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.

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, and or detriment to nearby properties created.
2. The benefit sought cannot be achieved 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 the district.
5. The difficulty is self-created, but that does not preclude the granting of the variance.

THE MOTION BEING:

LIBERTI	AYE
KACZOR	NAY
LENNARTZ	AYE
MATEER	AYE
METZ	AYE

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

2. ZBA File #02-17, Jeffrey Bochiecho, Vacant Land California Road, Zoned R-4 (Part of Farm Lot 32, Township 9, Range 7; SBL#161.03-1-2). Requesting Area Variances for this proposed Multiple Dwelling project. No building shall be closer than 60-ft. to another building nor 50-ft. to the R.O.W. of an access road, Section 144-46C (4) (a). No building shall be closer than 50-ft. to any property line, Section 144-9B. Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Mr. Jeffrey Bochiecho, Attorney/Applicant
Mr. Andrew Terragnoli, Studio T3 Engineering, PLLC

The Chairman noted that the Board granted 27-variances in April, 2016 for this project. The Applicant has returned with a revised project, reducing the variance request to a total of 23.

Mr. Terragnoli presented a revised plan to the Board, noting that Indian artifacts were discovered during the SEQR review process which led to the elimination of developing approximately two-acres of the project site. In addition, the NYS DEC and Army Corps of Engineers wants less impact on the natural tree buffer zone area along the creek and no disturbance of the wetlands. Therefore, the project was placed closer to the roadway. As shown on the plan, the roadway into the site is revised for better traffic flow. The project is scaled back from 62-units, to a total of 54-units.

The Board members reviewed the presented revised plan and determined that they would like the Applicant to return with an overlay map indicating the revisions that were made to the plan that the Board originally granted variances for.

Mr. Liberti made a **MOTION**, seconded by Mr. Metz, to **TABLE** the review of this case pending the receipt of the requested material.

THE MOTION BEING:

LIBERTI	AYE
KACZOR	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE

THE MOTION BEING UNANIMOUS, THE REVIEW IS TABLED.

3. ZBA File #03-17, Polymer Conversions, 5732 Big Tree Road, Zoned I-1 (Part of Farm Lot 31, Township 9, Range 7; SBL#161.18-2-8.12). Requests a Variance to reduce the number of off-street parking spaces required by Section 144-29.

APPEARANCE: Mr. Gregg Schneider, Aurora Architectural
Mr. Ben Harp, Representing Polymer Conversions

Mr. Schneider distributed Site Plans to the members and explained that Polymer Conversions would like to construct additions to their two existing buildings. He further explained that based on the total square footage of the proposed expansions the Town Ordinance requires a total of 155-parking spaces. Currently, they have parking spaces that remain empty in the west parking lot. There is a possibility that a new parking lot may not be needed until after the building additions are completed and manufacturing areas are fully functional. Therefore, during their building expansion they propose to expand the west parking lot, and in Phase 2 the east parking lot. They would like a variance to reduce the parking requirement to 122-parking spaces. They would initially construct 105-parking spaces and if additional parking spaces are needed they would put them in. This would avoid eliminating trees and have parking spaces constructed that remain unused.

Mrs. Bernard discussed the location of the empty spaces.

Mr. Metz established that on Martin Luther King Day, full employment was represented in the parking lot. After the project is completed, they anticipate seven to ten new employees, bringing the total number of employees to approximately 109, working in multiple shifts.

Mr. Liberti established that workers are present in three shifts; 40%, 8 AM to 4 PM, 30%, 4 PM to 12 AM and the remaining 30%, 12 AM to 8 AM.

Ms. Kaczor established that the total number of employees would not be there at the same time, other than perhaps for a grand opening celebration.

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

PROPONENT

Mr. Lunt
5755 Big Tree Road
Orchard Park, New York 14127

Mr. Lunt spoke in favor of 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.

Ms. Kaczor 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, and or detriment to nearby properties created.
2. The benefit sought can be achieved 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 the district.
5. The difficulty is self-created, but that does not preclude the granting of the variance.

THE MOTION BEING:

LIBERTI	AYE
KACZOR	AYE
LENNARTZ	AYE
MATEER	AYE
METZ	AYE

THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.

Meeting adjourned at 7:59 P.M.

DATED: 01/27/17
REVIEWED: 02/21/17

Rosemary M. Messina, Secretary
Zoning Board of Appeals

Joseph Liberti, Chairman