

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the March 19, 2019 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Kim Bowers, Chairwoman/ Lauren Kaczor/Robert Lennartz/Dwight Mateer/
Barbara Bernard, Alternate
EXCUSED: Robert Metz
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 Chair called the meeting to order at 7:00 P.M., stating that if anyone appearing before the Board was related through family, financial or a 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 Chair 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 Alternate member, Mrs. Bernard, is a voting member this evening, due to the absence of Mr. Metz.

APPROVAL OF MINUTES:

The meeting minutes for February 19, 2019, are not available this evening and will be voted on at the next meeting.

The Chairman stated that site inspections of all cases presented tonight were made by:
BOWERS, AYE/BERNARD, AYE/KACZOR, AYE/LENNARTZ, AYE/MATEER, AYE

OLD BUSINESS

1. ZBA File #33-18, Michael Mangino Jr., 5087 Big Tree Road, Zoned R-3, (Sub Lot 13, Map Cover 875; SBL# 160.20-1-17). Requests an Area Variance to construct a detached garage/storage building in the rear yard. Accessory area shall not dominate principal use area, §144-5, terms defined.
Note: This case was tabled at the 11/20/18 meeting.

APPEARANCE: Mr. Michael Mangino, Jr., Petitioner/Property Owner

Mr. Mangino explained that he purchased the Big Tree Road property with the intention of constructing his own storage facility in an effort to consolidate and reduce his expenses relative to storage fees. His son lives in the residence located here and will use the storage facility for his personal items as well. The boat, kayaks and other items that are currently kept outside will be stored in the building. He told the members that the presented plan was revised since the November 20, 2018 meeting to constructing a smaller building.

Chairwoman Bowers noted that the building is quite large. She established that Mr. Mangino spoke to his neighbors regarding the variance request, and no objections were voiced. She also established that the existing green garage and brown shed located on the property will be taken down. In addition she verified the location of a man door on the presented plan. Mr. Mangino stated that the size of the building fits his current and future needs, and that he will have the building constructed by someone in the industry.

Mr. Lennartz established that no business will be operated from this structure. Storage of tools will be located here for a business that is located elsewhere.

Ms. Kaczor confirmed that the current garage will be taken down to make the driveway wider.

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

Board Discussion: The members discussed the proposed structure’s size and the size of the residence. Mr. Mangino agreed to reduce the size of the building to 1,152-sq.ft.

Ms. Kaczor made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the variance request with a **STIPULATION** based on the following:

- 1. There will be no undesirable change in the character of the neighborhood, or a detriment to nearby properties.
- 2. The benefit sought cannot be achieved in another way, other than the granting of the variance.
- 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 building is not to exceed 1,152-Sq.Ft.

THE MOTION BEING:

BOWERS	AYE
KACZOR	AYE
LENNARTZ	AYE
MATEER	NAY
BERNARD	NAY

THE MOTION BEING THREE (3) IN FAVOR, AND TWO (2) AGAINST, THE MOTION IS PASSED.

NEW BUSINESS

1. ZBA File #03-19, Shannon Lipke, V/L at 5885 Woodlee Court, Zoned A-1, (Part of Farm Lot 17, Township 9, Range 7; SBL#197.00-5-4.12). Requests an Area Variance to allow a private stable on this 4.38-acre parcel. No building shall be used to contain horses except on a farm. A farm parcel must contain at least 5-acres. No such building shall be located within 100-ft. of any property line of such farm, §144-32A, Animal Housing.

APPEARANCE: Ms. Shannon Lipke, Petitioner/Property Owner

Ms. Lipke explained that they have a parcel with a barn located on it in Orchard Park that is just short of the required five-acres to operate a private stable. She owns an adjacent 10-acre parcel that is located in the Town of Boston. She was given permission to have a pasture here by William Ferguson, Code Enforcement Officer of the Town of Boston.

Ms. Kaczor established that the neighbors were contacted and that they have no objection to the variance request. Ms. Lipke noted that her neighbors signed a statement supporting the variance request. This is contained in the permanent file.

Mr. Mateer established that the zoning for the parcel located in the Town of Boston allows for a pasture, but not a horse stable.

Mr. Lennartz established with Code Enforcement Officer David Holland that a variance is needed for the setback from the east property line, as the ordinance requires a 100-ft. setback off of any property line. It also needs a variance for not meeting the requirement of five-acres.

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

IN FAVOR:

*Daniel P. Horan
5859 Woodlee Court
Orchard Park, New York 14127*

Mr. Horan spoke in favor of the variances.

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 were received.

Board Discussion: Mr. Lennartz stated he feels the Town property line cuts the property, creating a hardship and need for the variances.

Mr. Lennartz made a **MOTION**, seconded by Mr. Mateer, to **GRANT** the variance request based on the following:

1. There will be no undesirable change in the character of the neighborhood, or a detriment to nearby properties.
2. The benefit sought cannot be achieved in another way, other than the granting of the variance.

- 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:

BOWERS	AYE
KACZOR	AYE
LENNARTZ	AYE
MATEER	AYE
BERNARD	AYE

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

There being no further business to be presented to the Board at this time Chairwoman Bowers adjourned the meeting at 7:24 P.M.

DATED: April 10, 2019
REVIEWED: April 16, 2019

Zoning Board of Appeals
Rosemary Messina, Secretary

Kim Bowers, Chairwoman