**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the July 21, 2020 meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Lauren Kaczor, Chairwoman

Kim Bowers

Robert Lennartz

Dwight Mateer

Robert Metz

Barbara Bernard, Alternate

Timothy Gallagher, Deputy Town Attorney

OTHERS PRESENT: David Holland, Code Enforcement Officer

Rosemary Messina, Recording Secretary

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 Chairwoman stated that the meeting minutes from the June 16, 2020 meeting are not available and will be voted on at the next meeting.

The Chairwoman stated that Site Inspections of all cases presented tonight were made by:

**KACZOR, AYE/BERNARD, AYE/BOWERS, AYE/ LENNARTZ, AYE/MATEER, AYE/METZ, AYE**

**NEW BUSINESS**

1. ZBA File #12-2020, Henry Kmidowski, 6545 Chestnut Ridge Road, Zoned A-1, (Part of Farm Lot 10, Township 9, Range 7; SBL#198.00-1-47). Requests an Area Variance to construct a detached garage with a 15-ft. side setback. Minimum side setback for this A-1 Lot is 30-ft, §144-9B, Supplemental Schedule of Height, Lot, Yard & Bulk Regulations.

APPEARANCE: Mr. Kmidowski told the Board that he desires to construct a detached garage and be able to drive directly into it from the driveway. However, to do so, the proposed garage needs to be located 15-ft. from the side setback. The Town Code setback requirement in an A-1 District is 30-ft. Mr. Kmidowski stated that he will store personal items along with four (4) vehicles in the garage. He distributed photos for the members to review, noting that he would like to tidy-up his property. He also stated that the proposed garage will match the residence. Mr. Kmidowski stated that he wants the garage to look like it belongs here.

Mr. Lennartz verified the garage will be used for personal store only, and not be used for a business. He also confirmed that Mr. Kmidowski spoke with his neighbors regarding the Variance request and there were no objections voiced.

Mrs. Bernard verified that the garage will house Mr. Kmidowskis’ personal vehicles.

Ms. Bowers discussed a photo in the file with Mr. Mr. Kmidowski.

Mr. Mateer would like a compromise reached on the size of the Variance request.

Discussion of where the measurement for the 30-ft. setback is taken from, concluded, with the Chair asking Code Enforcement Officer David Holland to comment on where the setback is measured. Mr. Holland also verified that the Code Requirement is 30-ft., and not 36-ft., as noted on the submitted plan.

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 request further. .

Mr. Metz made a **MOTION**, seconded by Mr. Lennartz, to **GRANT** the Area Variance request based on the following:

1. Per Section 144-63 (E) (1) all public notices have been filed.

2. There will be no undesirable change in the character of the neighborhood, or a detriment to nearby properties created.

3. The benefit sought can be achieved in another way, other than the granting of the Variance.

4. The request is not substantial.

5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

6. The difficulty is self-created, but that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

KACZOR NAY

BOWERS AYE

LENNARTZ AYE

MATEER NAY

METZ AYE

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

2. ZBA File #13-2020, Dr. Carlos Santos, 3050 Orchard Park Road, Zoned B-2, (Part of Farm Lot 456, Township 10, Range 7; SBL#152.12-3-2.111). Requests an Area Variance to construct a 1,560-Sq.Ft. records storage building at this site, maximum size of an accessory structure in this B-2 Zone is 240-Sq.Ft., §144-24B.

APPEARANCE: Dr. Carolos Santos, Petitioner/Owner

Mr. Daryl Martin, Architect

Mr. Martin explained that this property had been a former automobile dealership that Dr. Santos converted into medical offices. Both Dr. Santos and Mr. Martin explained the need for additional space to retain medical records. In addition they would like to store their snow removal equipment (“Bobcat”) here.

The members put forth their questions and concerns to the Petitioner. At the end of the discussion the members determined that they felt the Variance request should be reduced.

Ms. Bowers feels that someday this will be a large empty building as we move into the future and have digitized records.

At the conclusion, of the discussion, the Petitioner agreed to reduce his request to 1,248-sq.ft.

Code Enforcement Officer David Holland stated that if Dr. Santos splits-off the property he could build something larger and not need a variance.

Mr. Lennartz feels the reduced request to 1,248-sq.ft. is acceptable.

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: Reducing the request is important to the members. At the same time the Petitioner can split the property and not need a Variance to construct a larger building. .

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, to **GRANT** the **REVISED** Area Variance request from 1,560-sq.ft. to **1,248-sq.ft**. to construct a “Records Building”, based on the following:

1. Per Section 144-63 (E) (1) all public notices have been filed.

2. There will be no undesirable change in the character of the neighborhood, or a detriment to nearby properties.

3. The benefit sought cannot be achieved in another way, other than the granting of the Variance.

4. The request is substantial.

5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

6. The difficulty is self-created, but that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

KACZOR AYE

BOWERS AYE

LENNARTZ AYE

MATEER NAY

METZ NAY

THE **MOTION BEING (3) THREE IN FAVOR**, AND **TWO (2) AGAINST**, THE **MOTION TO GRANT** THE **REVISED REQUEST** **IS** **PASSED**.

3. ZBA File #14-2020, Jonathon Schmid, 7425 Milestrip Road, Zoned R-1/R-2, (Part of Farm Lot 8, Township 10, Range 7; SBL#162.07-2-1). Requests a Variance to replace a second dwelling on this parcel which was destroyed by fire approximately 20-years ago. One single-family dwelling is permitted on this residential use parcel, §144-9A, Schedule of Use Controls.

APPEARANCE: Mr. Jonathon Schmid, Petitioner/Property Owner

Mr. Daryl Martin, Architect

Mr. Schmidt explained that he purchased this fire-damaged property in 1999. It was always his intention to build a single-family residence at the front where there had once been a home. Currently he lives here in a home at the rear of the property. He described the structures present on the property noting that there are three existing rentals.

Ms. Bowers established that the proposed dwelling will connect to the former pool house remaining here after the fire.

Mrs. Bernard feels Mr. Schmidt should see if there could be a tax advantage with splitting the property. Mr. Schmidt intends on keeping the property in the family, however, he will look into this.

Mr. Mateer does not support the request as he views the property becoming all rentals someday, and he feels this will change the character of the neighborhood.

Mr. Metz stated that he is impress with this property.

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 a communication was received from the Erie County Sewer & Management Department and this was provided to the Building Inspector Mr. Bremer.

A copy is in the permanent file.

Board Discussion:

Mr. Lennartz is in favor of the variance.

Ms. Bowers established that the new residence will be approximately 2,400-sq.ft. in size. She feels the new residence will be a nice compliment.

Mrs. Bernard spoke regarding the splitting of the property. She feels this should be done now.

Mr. Mateer feels the property should be split.

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, to **GRANT** the Area Variance request based on the following:

1. Per Section 144-63 (E) (1) all public notices have been filed.

2. There will be no undesirable change in the character of the neighborhood, or a detriment to nearby properties.

3. The benefit sought cannot be achieved in another way, other than the granting of the Variance.

4. The request is not substantial.

5. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

6. The difficulty is self-created, but that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

KACZOR NAY

BOWERS AYE

LENNARTZ AYE

MATEER NAY

METZ AYE

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

There being no further business to be presented to the Board at this time Chairwoman Kaczor adjourned the meeting at 8:10 P.M.

DATED: 8/17/2020 Respectively Submitted,

REVIEWED: 8/18/2020 Rosemary Messina, Secretary

Zoning Board of Appeals

Ms. Lauren Kaczor, Chairwoman

Zoning Board of Appeals