

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the April 19, 2022, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Robert Lennartz
Dwight Mateer
Robert Metz, Acting Chair
Kim Bowers
Michael Williams, Alternate

EXCUSED: Lauren Kaczor, Chairwoman

OTHERS PRESENT: John C. Bailey, Deputy Town Attorney
John Wittmann, Code Enforcement Officer
Anna Worang-Zizzi, Recording Secretary

The Acting 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 Acting 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.

APPROVAL OF MINUTES:

The Meeting Minutes for March 2022 were approved UNANIMOUSLY.

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

LENNARTZ, AYE/ MATEER, AYE/METZ, AYE/ BOWERS, AYE / WILLIAMS, AYE

Mr. Robert Metz stated that he would be acting as Chair at this meeting, and that Mr. Michael Williams will be a voting member at this meeting in the absence of the Chair, Ms. Lauren Kaczor.

NEW BUSINESS

1. ZBA File #04-22, Cullen Morgan (Lessee Agent for American Tower, Inc.), V/L South Taylor Road, Zoned I-1, (part of Farm Lot 23, Township 9, Range 7; SBL# 161.19-2-10.1). Requests a Site Plan Review for a 20 foot collocated antenna extension on an existing antenna. Any such collocated antennas which require the erection of additional tower sections shall require a Site Plan review and approval by the Town's Zoning Board of Appeals ("ZBA") and a Tower Permit §144-49A.

APPEARANCE: Mr. Bryce McCollough - Representative

Mr. McCollough explained that they would like to add an addition to the existing tower.

Mr. Lennartz inquired about details on the Site Plan. The applicant explained this would be an outside compound with no structure. There would, however, be some "support" cabinets about the size of a refrigerator.

Mr. Mateer asked Deputy Town Attorney, Mr. John Bailey if the Town had a policy requiring the applicant to be bonded to remove the tower when it becomes non-serviceable. Mr. Bailey explained that it was not required for the applicant to do that, but the Board could require that as part of the Site Plan Review.

The Acting 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 Acting 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 Acting 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 Board had no concerns with this project.

Mr. Lennartz made a **MOTION**, seconded by Ms. Bowers, to **APPROVE** the Site Plan as presented.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

The Motion being **UNANIMOUS**, the Motion to **APPROVE** the Site Plan is **PASSED**.

- 2. ZBA File #05-22, Jason Schneckenberger, Schneck’s Tree Removal, 2861 Southwestern Blvd., Zoned B-2, (part of Farm Lot 409, Township 10, Range 7; SBL# 153.06-2-4). Requests two Area Variances. First to increase an existing pedestal sign to 80 square feet in total surface area of one surface. One pedestal sign, not exceeding 40 square feet in total surface area of any one surface, shall be permitted §144-38C(2). Second to increase the height of the pedestal sign to 18 feet. The overall height of pedestal signs shall not exceed 16 feet §144-5.

APPEARANCE: Mr. Jason Schneckenberger - Owner

Mr. Schneckenberger explained that his company has expanded to include more residential contracts, and so they need more advertisement. They want to add a sign on top of another tenant’s current sign. He commented that signs are difficult to see due to the speed limit on Southwestern Blvd. He stated the sign maker will adjust the design based on what the ZBA will allow.

Mr. Lennartz inquired if the applicant needs an 80 sq. ft. sign. The applicant stated they would be willing to lower the height of the sign to 16 ft., instead of 18, thereby decreasing the square footage as well. Mr. Lennartz established that the existing sign is 40 sq. ft.

Ms. Bowers inquired if the sign would be lit. The applicant answered affirmatively, noting that the current sign is lit.

Mr. Mateer established that the existing sign is 13ft high. It was also established that there are 3 tenants in building, and the size of the existing tenant's signage would be maintained, adding the applicant's on top. The existing signage would most likely be reprinted.

The Acting Chair inquired about how the applicant would alter the plan to lower the sign. The applicant explained they would lower the height by making their own signage shorter, maintaining the size of the current tenant's signage. Code Enforcement Officer, Mr. John Williams noted that according to Town Code the lowest part of the sign can't be below 8 ft. from the ground. The dimensions of the potential lowered sign were established.

The Acting 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 Acting 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 Acting 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 that he would find a 16ft tall and 64 sq. ft. sign acceptable. The Board was in agreement.

The Acting Chair clarified the dimensions of the applicant's portion of the sign.

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

1. There will not be an 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, other than the granting of the Variance.
3. The request is 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. That the sign not exceed 16 ft. tall and 64 sq. ft. in surface area.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

The Motion being **UNANIMOUS**, the Motion to **GRANT** the Variance is **PASSED** with a **STIPULATION**.

3. ZBA File #06-22 Richard Sekora, 6 Carlton Drive, Zoned A-1, (Lot 6 Map Cover 2024, SBL# 196.02-2-18). Requests an Area Variance for an extension to the garage creating 13.1% Lot Coverage. Maximum Lot Coverage in an Agriculture Zone is 10%, §144-14 Supplemental Schedule of Height, Lot, Yard, and Bulk Regulations.

APPEARANCE: Mr. Richard Sekora - Owner

Mr. Sekora explained he would like to add an addition to his garage for hot rods.

Ms. Bowers clarified changes to the submitted Plans. The applicant explained he would like to change the side entrance to a front entrance, maintaining an 11ft. Side Set back.

Mr. Lennartz established that the requested relief is the same as what was originally submitted.

Mr. Mateer inquired about the size of the proposed garage and if it was necessary. He asked if the applicant spoke to neighbors, and if a business would operate out of the garage. The applicant explained he needs the space. He spoke to several, though not all, neighbors who were ok with the proposal. No business would operate out of the proposed garage.

Mr. Williams established that the new set back would be 11ft, which is allowed by Code.

The Acting Chair inquired if the driveway would fit within Town Code and asked about the colors of the garage. The applicant stated the driveway would fit within Town Code and they would try to match the colors as closely as possible.

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

(Twice) NO RESPONSE

The Acting 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 Acting 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 can support this project. The Board was in agreement.

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

1. There will not be an 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, 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 VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

The Motion being **UNANIMOUS**, the Motion to **GRANT** the Variance is **PASSED**.

4. ZBA File # 07-22, West-Herr-Chrysler, Jeep LLC, 3575 Southwestern Blvd., Zoned B2, (part of Farm Lot 25, Township 10 Range 7, SBL# 161.07-6-3.111). Requests an Area Variance for a Building Face Sign covering 42.6% of a face of the building. No sign shall exceed 20% of the face to which it is attached §144-38A(2).

APPEARANCE: Mr. Jim Mulka - Representative

Mr. Mulka explained they have a car wash on the corner of the building with a blank wall. They would like to install a wall graphic. The graphic would be 10 ft. x 30 ft. and non-illuminated. It would only be seen from one direction and the applicants feel like it's an improvement over a blank wall. The applicants feel they cannot reasonably decrease the size of the proposed sign.

Mr. Williams established it would not be illuminated, although there are parking lot lights already there, which would remain. Mr. Williams inquired about the materials to be used. The applicant stated they would either use a printed graphic or a paneled system.

Mr. Mateer inquired if the applicant was aware of other signs like this nearby. The applicant was not aware of any. Mr. Mateer expressed concern that if this were approved it may create a precedence of applicants requesting this type of sign. The applicant stated he feels that it's a unique situation although he cannot say for sure it would not create a precedence. The applicant commented the sign would be "unbranded" meaning that it would display "Jeep" but would not display "West Herr".

Mr. Lennartz inquired if the proposed size of the sign was necessary. The applicant stated the height was necessary to get it above the cars. He stated the sign was half the width of the building. He stated they could reduce the size somewhat if it would appease the Board. He clarified the sign would be 320 sq. ft.

Ms. Bowers verified the dimensions. She inquired about how this sign differed from a billboard which is not allowed under Town Code. The applicant stated this sign was not detached like a billboard and clarified materials to be used.

The Acting 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 Acting Chair then asked if there was anyone in the audience who would wish to speak against the granting of the Variance.

Ms. Eirene Choroser
6195 Newton Road
Orchard Park, NY 14127

Ms. Choroser stated the applicant's address is incorrect. She is against this project and doesn't feel that it's necessary.

Ms. Amy Wierer
6149 Newton Road
Orchard Park, NY 14127

Ms. Wierer feels the same as the previous speaker. She feels this section of Southwestern Blvd. is too busy and distracting already.

The Acting 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:

Ms. Bowers stated she is against this project.

Mr. Lennartz feels it excessive.

Mr. Mateer and Mr. Williams were in agreement.

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

1. There will be an 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, other than the granting of the Variance.
3. The request is substantial.
4. There will be 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 VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
BOWERS	AYE
WILLIAMS	AYE

The Motion being **UNANIMOUS**, the Motion to **DENY** the Variance is **GRANTED**.

There being no further business to be presented to the Board at this time, Acting Chairman Metz adjourned the meeting at 7:43 P.M.

DATED:

REVIEWED:

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor, Chairwoman
Zoning Board of Appeals