

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the September 20, 2022, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Lauren Kaczor, Chairwoman
Robert Lennartz
Dwight Mateer
Robert Metz

EXCUSED: Kim Bowers
Michael Williams, Alternate

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

APPROVAL OF MINUTES:

The Meeting Minutes for August 2022 were approved unanimously.

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

KACZOR, AYE/ LENNARTZ, AYE/ MATEER, AYE/ METZ, AYE

The Chair explained the special instructions that would be used at this meeting as follows:

At tonight's Zoning Board of Appeals meeting we do not have full Board representation. In these circumstances I need to point out that it will require (3) votes to approve any motion that is presented. If a vote results in a two/two tie, the motion will be defeated. As a result we offer petitioners the following three options:

1. We can vote on the petition and the petitioner must accept the Board's decision.
2. We can hear the case and postpone the vote until the next meeting of the Board when a full Board is present. The absent member of the Board will review the testimony and all appropriate documents prior to the meeting.
3. The petitioner can postpone making his presentation until the next meeting of this body.

NEW BUSINESS

1. ZBA File #22-22, Lisa Ryszka, 18 Autumn Lane, Zoned R-2, SBL# 184.06-1-62, (Sub Lot 62, Map Cover 3707). Requests two Area Variances to construct a utility shed. The first Variance is for the shed to be located with a 30 foot front setback. *Front yard setback in R-2 Zone is minimum 50 feet. §144 Attachment 15, Bulk*

Regulations, Supplement 86. The second Variance is to locate the shed between the principle structure and the street. No accessory structure shall be located within the front yard or required side yard. §144-24 A(1)(b).

APPEARANCE: Ms. Lisa Ryszka – Owner

The applicant explained the project. She noted that she faced hardships being located on a corner lot. She stated she was unaware of the limitations of a corner lot when she purchased the property. She noted that the slope of the yard also limited how she was able to use the yard. She also stated she needs wheelchair access for a relative which is located in the backyard and therefore limits space.

Mr. Mateer inquired if the applicant had spoken to any neighbors. The applicant stated that it did not occur to her to speak with neighbors.

Mr. Metz inquired what the applicant would use the shed for, and also about the applicant's potential future plans for a pool. The applicant stated she would use the shed for a riding lawnmower, snow blower, and gardening equipment etc. Currently she stores the snow blower in the garage and does not have a riding lawnmower due to space limitations. The applicant noted that one bay of the garage would be used for a van which accommodates wheelchairs, making that space unusable for other storage. The applicant stated any future pool would be located directly behind house and wouldn't require a Variance. She stated she is willing to compromise on the shed's placement.

Mr. Lennartz noted that some neighbors have sheds in the backyard and inquired if the applicant could put the shed in the backyard as well. The applicant stated that there was a slope in the backyard and she was concerned about drainage and also her father being able to access it.

The Chair inquired if the applicant was planning to put electricity in shed, and also if the applicant had considered putting the shed on the other side of the house and requesting a Variance for proximity to the side lot line. The applicant stated that she wants to put electricity in the shed but would be willing to compromise on that point. She stated she feels it is more aesthetically pleasing to place the shed on the side of the yard as proposed. The shed company also indicated the proposed site was a good placement. The Chair established with the applicant that she is unsure if the backyard has drainage issues.

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.

*Mr. Bill Glass
19 Aspen Lane
Orchard Park, NY 14127*

Mr. Glass stated he is opposed to placing the shed in the proposed location. He feels it would be better placed on the other side of the house. He is concerned it would have a negative impact on the neighborhood and is also concerned about housing values.

*Ms. Judy Glass
19 Aspen Lane
Orchard Park, NY 14127*

Ms. Glass stated that many neighbors she spoke to are opposed, and she feels the shed would have a negative effect on the neighborhood.

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. Mateer stated that while this lot was more of a hardship than other corner lots which typically come before the Board, he feels it would be an undesirable change to the neighborhood.

Mr. Metz and Mr. Lennartz were in agreement.

Mr. Lennartz made a **MOTION**, seconded by Mr. Metz, to **DENY** 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 an 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 substantial.
5. There will be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
6. The difficulty is self-created.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
MATEER	AYE
METZ	AYE
KACZOR	AYE

The Motion being **UNANIMOUS** in favor, the Motion to **DENY** the Variance is **PASSED**.

2. ZBA File #23-22, Buffalo Best Catering, 3071 Abbott Road, Zoned B-2, SBL# 151.12-5-1, (part of Farm Lot 488, Township 10, Range 7). Requests an Area Variance to re-continue the use of the existing, non-conforming pedestal sign. *Notwithstanding any other provisions of this chapter, any automobile wrecking yard and any billboard, advertising structure or nonconforming sign in existence in any district on the date of the original enactment of the ordinance from which this chapter is derived shall, at the expiration of one year from such date, become a prohibited and unlawful use and shall be discontinued. §144-58.*

APPEARANCE: Ms. Kim Hammerl - Owner
Mr. Seth Weis - Representative

The applicant explained they moved into this location in June 2022. They want to use the existing sign and feel it's a betterment.

Mr. Lennartz established there would be no structural changes. The applicant is only planning on changing out plastic panels.

Mr. Metz inquired about the planned signage on building and the applicants' plan for the portable sign currently at the site. The applicant has a permit for the signage on the building and is planning to get rid of the temporary sign.

The Chair confirmed with the applicant there would be no structural changes to the sign and no flashing lights would be used.

The 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 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 that no communications had been received.

BOARD DISCUSSION:

Mr. Metz was in favor of the project

Mr. Lennartz was in agreement.

Mr. Metz made a **MOTION**, seconded by Mr. Mateer, 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 not be an undesirable change in the character of the neighborhood, or a detriment to nearby properties created.
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 not be an 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:

LENNARTZ

AYE

MATEER	AYE
METZ	AYE
KACZOR	AYE

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

There being no further business to be presented to the Board at this time, Chairwoman Kaczor adjourned the meeting at 7:28 P.M.

DATED: 9/22/2022

REVIEWED: 10/18/2022

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor, Chairwoman
Zoning Board of Appeals