

**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the Orchard Park March 19, 2024, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Lauren Kaczor Rodo, Chairwoman  
Robert Metz  
Robert Lennartz  
Kim Bowers  
Michael Williams, Alternate

EXCUSED: Dwight Mateer

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. Per Section 144-63 (E) (1) All public notices have been filed. 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 Chair stated that in the absence of Mr. Mateer, Mr. Williams would be a voting member tonight.

#### **APPROVAL OF MINUTES:**

The Minutes for February 2024 were approved unanimously.

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

**METZ, AYE / LENNARTZ, AYE / BOWERS, AYE / RODO, AYE / WILLAMS, AYE**

#### **NEW BUSINESS**

1. ZBA File# 5-24, Graham & Allison Gardner, 5909 Seufert Road, Zoned A-1, SBL# 197.00-4-2.2, (Part of Lot 25 & 17, Township 9, Range 7). Request an Area Variance to remove the existing barn and construct a 40 foot by 72 foot pole barn in the rear yard to exceed the footprint of the primary structure by 1,305 square feet. ACCESSORY USE - *A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such "accessory use" dominate, in area, extent or purpose, the principal lawful use or building, except that vehicle parking areas may be larger than building area, §144-B Terms defined.*

APPEARANCE: *Graham and Allison Gardner – Owners*

The Applicants explained they have no garage near the house, the existing barn is too small and deteriorated, and they require extra storage for his hobbies and to restore a car with his father. He noted that he had 11 signatures in favor of the project from neighbors.

Mr. Williams inquired about the size of the existing barn, if a business would operate out of the barn, and about the Applicant's willingness to compromise on the size of the barn. The Applicant stated that the existing barn is 15 feet by 30 feet, no business would operate out of the barn, and he is somewhat willing to compromise.

Ms. Bowers would like to see a compromise on size.

Mr. Lennartz inquired as to a potential compromise. The Applicant suggested 42 feet by 60 feet.

Mr. Metz expressed concerns about the size.

Ms. Bowers established that the existing barn is 1,575 square feet.

The Chair expressed concern about the size.

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

*Name and address inaudible.*

This member of the public stated he is a neighbor and had no issue with the project.

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 communications had been received and distributed to the Board previously.

BOARD DISCUSSION:

The Chair stated she was not in favor due to the size of the proposed barn.

Ms. Bowers established that there would be three garage bays.

Mr. Metz suggested a 40 foot by 45 foot barn as a compromise. The Applicant stated the smallest he would be willing to go was 42 foot by 60 foot.

Ms. Bowers made a **MOTION**, seconded by Mr. Lennartz, to **DENY** the Area Variance 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	NO
METZ	AYE
WILLIAMS	AYE
BOWERS	AYE
RODO	AYE

The Motion being **FOUR (4)** in favor and **ONE (1)** opposed, the Motion to **DENY** the Variance is **PASSED**.

- 2. ZBA File# 6-24, Michael Radder, 6138 South Abbott Road, Zoned A-1, SBL# 196.02-3-3, (Part of Lot 35, Township 9, Range 7). Requests an Area Variance to construct a 1,560 square foot addition onto his existing pole barn. Total accessory structures to exceed primary structure by 1,185 square feet. *ACCESSORY USE - A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such "accessory use" dominate, in area, extent or purpose, the principal lawful use or building, except that vehicle parking areas may be larger than building area. §144-B Terms defined.*

APPEARANCE: *Michael Radder – Owner*

Mr. Radder explained that he wanted to put an addition onto his existing barn.

Mr. Metz inquired about any mitigation for drainage. The Applicant feels that, as he is surrounded by what used to be farm land, his barn will have no significant impact on drainage. The Applicant noted that he has no neighbors. Mr. Metz also established that no business would operate out of this barn, the Applicant would utilize it for storage of vehicles, a boat, trailers etc., and the 40 foot by 70foot footprint would include a carport.

Mr. Lennartz inquired about a potential compromise on the size of the building. The Applicant did not feel that he could compromise on the size.

Ms. Bowers inquired about the number of bays. The Applicant explained that the two existing bays would remain but be extended toward the rear of the structure.

Mr. Williams confirmed various dimensions.

The Chair stated that she is struggling with the size. The Applicant noted that he has no neighbors who will see the barn, he is surrounded by farmland, and he owns three acres of property.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of the 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 communications had been received and distributed previously.

BOARD DISCUSSION:

Mr. Lennartz is in favor as there are no immediate neighbors. He feels drainage will not be an issue.

Ms. Bowers noted that this applicant has more land than the previous case.

Mr. Williams is opposed.

Mr. Metz noted that there are no neighbors directly impacted in this case.

Mr. Lennartz made a **MOTION**, seconded by Mr. Metz, to **APPROVE** the Area Variance 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 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, however that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
METZ	AYE
RODO	NO
BOWERS	AYE
WILLIAMS	NO

The Motion being **THREE (3)** in favor and **TWO (2)** opposed, the Motion to **GRANT** the Variance is **PASSED**.

There being no further business to be presented to the Board at this time, the Chair adjourned the meeting at 7:31 P.M.

DATED: 4/8/24

REVIEWED: 4/16/24

Respectfully submitted,  
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman  
Zoning Board of Appeals