

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park June 18, 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
Dwight Mateer
Kim Bowers
Michael Williams, Alternate

EXCUSED:

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, 267(A), 267(B) and 267(C), Subdivision 3, and the Town of Orchard Park Zoning Ordinance. Per Section 144-63 (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.

APPROVAL OF MINUTES:

The Minutes for MAY 2024 were approved unanimously.

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

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

NEW BUSINESS

1. ZBA File#20-24, Victor Zelenov, 40 Hillsboro Drive, Zoned R-1, SBL#185.11-2-3, (Sub Lot 3, Map Cover 2471). Requests an Area Variance to install a 7 foot fence in the rear yard. *A fence or wall may be erected in any residentially zoned district (R-1, R-2, R-3, R-4, A-1), after securing a permit: In any rear yard or interior side yard, provided that the fence, wall or hedge does not exceed six feet in height, §144-22A(1)(a).*

APPEARANCE: No Applicant was present

The Chair made a **MOTION**, seconded by Ms. Bowers, to **Adjourn** the review of this item.

THE VOTE ON THE MOTION BEING:

LENNARTZ AYE
METZ AYE

BOWERS	AYE
MATEER	AYE
RODO	AYE

The Motion being **UNANIMOUS**, the Motion to **ADJOURN** the review is **PASSED**.

- ZBA File# 21-21, 1 Highcroft Lane, Paperwork missing.
Item 2 was not reviewable.
- ZBA File# 22-24, Kristilynn Becker, 2324 Southwestern Blvd., Zoned R-3, SBL# 153.08-1-10, (Sub Lot 10, Map Cover 2030). Requests an Area Variance to install a 15 square foot freestanding sign in the front yard. *One non-illuminated sign not exceeding two square feet in area, indicating the name of the resident or identifying a permitted use, may be located on the principal building or a separate post support not closer to any street than a distance equal to 1/2 the required setback from such street and not exceeding seven feet in height. No permit shall be required for such signs, §144-37A(1).* This property was previously granted a Variance to operate a dog grooming business out of a residence on 6/20/23 (ZBA File #16-23).

APPEARANCE: *Ms. Kristilynn Becker – Owner*

The Applicant distributed images and explained that her neighbors have signs and her property is zoned residential but is near a business zone.

Mr. Mateer inquired about the height of the proposed sign, the planned location and if it would be illuminated. The Applicant wasn't certain about the height. She stated the sign would be located in the middle of her lawn and would not be illuminated.

Mr. Metz established the dimensions would be 3 feet x 5 feet. He inquired about the dimensions of nearby signs. The Applicant was unsure but feels that the neighboring church sign is much larger and the other neighbor's sign is comparable.

Mr. Lennartz established that the Applicant had stated that they would be coming back to the ZBA for a sign in the future when they were before the Board previously. They had been given the option to table the review of their case at that time and review the sign at the same time, but had chosen to proceed and apply for the sign separately.

The Chair inquired about the phone number on the sign. The Applicant stated that it would be an attachment in case it needed to be changed in the future.

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 no communications had been received.

BOARD DISCUSSION:

Mr. Metz was in favor.

Ms. Bowers 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 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, however that does not preclude the granting of the Variance.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
METZ	AYE
RODO	NO
MATEER	NO
BOWERS	AYE

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

4. ZBA File# 23-24, Devan Farrell, 4817 Bussendorfer Road, Zoned R-2, SBL# 172.03-1-3.111, (Lot 38, Township 9, Range 7). Requests an Area Variance to house chickens on this property. *No storage of manure or other odor-producing or dust-producing substance or use shall be hereafter established and no building or pen shall be used, erected or changed in use to house or contain horses or other farm animals, chickens or other fowl or a dog kennel except on a farm as herein defined nor within 100 feet of any property line of such farm or of a stream or waterway, §144-32A(1). Farm: Any parcel of land containing at least five acres which is used for gain in the raising of agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits, the storage of equipment used and the use of temporary stands for the sale of the produce of the "farm" on which located. It excludes the raising of fur-bearing animals, riding academies, public stables and dog kennels. Private stables and the breeding and training of not more than six dogs owned by the owner or tenant of the premises is allowed. §144-5 Terms defined.*

APPEARANCE: Mr. Devan Farrell and Ms. Farrell – Owners

The Applicant explained that their property is set away from the road, and you would not be able to see the chicken coop from the road. She explained they have woods to the rear of their property and although the neighbor won't be able to see the chickens, he is excited about them. They submitted a letter of support from the neighbor and showed a picture he had drawn of chickens. She also submitted a picture of a coop similar to what they are proposing explaining that it would be 6 foot by 8 foot with an attached run. She stated they would have 6 hens, no roosters and would use their manure for compost.

Mr. Williams inquired if the Applicants had spoken to any other neighbors. The Applicants stated no one had stated any opposition.

Ms. Bowers inquired about the acreage of the property and the woods to the rear. The Applicant stated their property was close to 1 acre and the woods they believed to be 15 to 16 acres owned by their next door neighbor.

Mr. Lennartz confirmed that they would only be housing chickens and no other farm animals.

Mr. Metz inquired if they were able to speak to the neighbor across the street. The Applicant stated they had attempted to but were unable to.

Mr. Mateer inquired about the reason for their desire to have chickens. The Applicants stated that they wanted eggs, and they would give the remaining eggs to their neighbors and families. They also stated their son enjoys interacting with chickens at a family member's house and while he is too young to do chores by himself, he will help.

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 no communications had been received.

BOARD DISCUSSION

Mr. Lennartz feels that the lack of complaints from neighbors was an indication that they are not opposed.

Mr. Mateer feels that he is not always in favor of backyard chickens but feels this property is unique in that woods are located to the rear. He suggested a time limit.

Mr. Lennartz suggested a time limit of 5 years, after which the Applicant would need to return to the ZBA.

Mr. Lennartz made a **MOTION**, seconded by Mr. Mateer, to **APPROVE** the Area Variance **with a stipulation** 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.
WITH THE FOLLOWING STIPULATION:

1. This Variance is Approved for a time period of 5 years, after which the Applicant will need to return to the ZBA to continue housing chickens on this property.

THE VOTE ON THE MOTION BEING:

LENNARTZ	AYE
METZ	AYE
RODO	NO
MATEER	AYE
BOWERS	AYE

The Motion being **FOUR** in favor and **ONE opposed**, the Motion to **APPROVE** the Variance is **PASSED with a STIPULATION**.

There being no further business to be presented to the Board at this time, the Chair adjourned the meeting at 7:23 P.M.

DATED: 6/24/24
REVIEWED: 7/16/24

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals