

**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the Orchard Park July 16, 2024, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Lauren Kaczor Rodo, Chairwoman  
Robert Metz  
Dwight Mateer  
Michael Williams, Alternate

EXCUSED: Robert Lennartz  
Kim Bowers

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 JUNE 2024 were approved unanimously.

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

#### **METZ, AYE / MATEER, AYE / RODO, AYE / WILLIAMS, AYE**

The Chair stated that at tonight's 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# 30-24, James Canazzi, 3189 Baker Road, Zoned R-2, SBL# 153.15-1-12, (Part of Farm Lot 466, Township 10, Range 7). Requests an Area Variance to remove existing garage and construct a 40 foot x 32 foot pole barn with a 16 foot x 32 foot attached covered porch. Accessory structure exceeds primary structure by 583 square feet. *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, §144-5 Terms Defined.*

APPEARANCE: *James Canazzi – Owner*

Mr. Williams established that the garage would primarily be used for personal storage and no business would operate out of the garage.

Mr. Mateer inquired if the Applicant had spoken to any neighbors. The Applicant stated that he had spoken to his nearest neighbor, who had no issues with the project.

The Chair inquired if the Applicant had any plans to enclose the picnic area. The Applicant stated the he did not, however he may add screens at some point.

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

*Frank Pirillo  
3173 Baker Road  
Orchard Park, NY 14127*

This neighbor spoke in favor of the barn

*Dan Charland  
40 Saddle Brook Court  
Orchard Park, NY 14127*

This neighbor spoke in favor of the barn.

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

*Maria Lauciello  
12 Saddle Brook Court  
Orchard Park, NY 14127*

This neighbor stated that she did not know where the new barn would be located.

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.

The Applicant stated that the new barn would be located in the same place as the existing garage.

BOARD DISCUSSION:

Mr. Mateer noted that the lot was 8 acres. He feels the barn is not oversized for that size of lot.

The Chair feels that she can support the project as the covered porch is considered part of the "building" although it is open on three sides. Taking the square footage of the patio area out of the equation, the barn is close to the allowed square footage.

Mr. Metz made a **MOTION**, seconded by Mr. Williams, 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:

METZ	AYE
RODO	AYE
MATEER	AYE
WILLIAMS	AYE

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

2. ZBA File# 31-24, Felix & Ruth Hromchak, 16 Forsythia Court, Zoned R-2, SBL # 172.03-2-15, (Sub Lot 3, Map Cover 2186). Requests an Area Variance to place a 5 foot x 6 foot storage shed 5 feet from the side lot line. *Minimum side yard setback in an R-2 Zone is 10 feet, §144-9.*

APPEARANCE: *Felix and Ruth Hromchak - Owners*

The Applicants explained that their intention was to install a plastic shed and they have two letters of support from neighbors.

Mr. Metz did not have an issue with the project.

Mr. Mateer noted the small size of the shed. He inquired why the Applicant wanted to place it 5 feet off the lot line. The Applicants felt placing the shed farther from the lot line, would divide the yard. They also stated that they want the shed closer to the house and if it was farther off the lot line they would potentially violate the setback from the house.

Mr. Williams noted the small size of the shed, and did not have any issues with the project.

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 only the communications submitted by the Applicants had been received.

BOARD DISCUSSION:

The Board Members had no comments.

Mr. Williams made a **MOTION**, seconded by Mr. Mateer, 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:

METZ	AYE
RODO	NO
MATEER	AYE
WILLIAMS	AYE

The Motion being **THREE (3) in favor** and **ONE (1) opposed**, the Motion to **GRANT** the Variance is **PASSED**.

3. ZBA File# 32-24, Tammaso Briatico, 5504 Lake Avenue, Zoned R-3, SBL# 152.13-2-15, (Farm Lot 449). Requests an Area Variance to construct a 10 foot addition and 11.33 foot accessible ramp at the front of the house leaving a 26.31 foot house setback and 15.31 foot front setback to the ramp. *Minimum front yard setback in an R-3 Zone is 30 feet, §144-9.*

APPEARANCE: *Thomas Briatico – Architect  
Two Unnamed Residents*

Mr. Briatico explained the project noting the necessity of the ramp and the bathroom addition on the first floor.

Mr. Mateer feels that the design is aesthetically pleasing and that the size is required.

Mr. Williams confirmed that the addition would be 10 feet in front of the existing house. The Applicant explained that by keeping the addition to the front they were able to maintain the bulk of the floor plan and avoid costly demolition and renovations.

The Chair inquired if the Applicants had spoken to any neighbors. The Applicants stated that due to their mobility issues they were not able to. The Chair inquired how long they had lived in the house. They stated approximately 12 to 14 years.

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

*Daniella (last name inaudible)*  
*West Seneca, NY*

This family member spoke of the necessity of the addition stating that the residents' condition worsens over time.

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. Mateer is in favor of the project and feels that it is an attractive design.

The Chair stated that she is pleased they are working to be able to stay in their existing home.

Mr. Mateer 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 not self-created.

THE VOTE ON THE MOTION BEING:

METZ	AYE
RODO	AYE
MATEER	AYE
WILLIAMS	AYE

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

4. ZBA File #33-24, Catholic Health/Father Baker Manor, 6400 Powers Road. Zoned R-2, SBL #184.12-3-10.2) (Part of Farm Lot 12, Township 9, Range 7) Requests an Area Variance to replace a collapsed freestanding sign with a new Monument Sign. This proposed Monument Sign exceeds allowable sign area in this R-2 Zone. §144-37, Signs in R or A districts.

APPEARANCE: *Chad Radicha – Catholic Health Representative*  
*Bethany Bernatovicz – ASI Signage Representative*

The Applicants explained their desire to replace an existing damaged sign with an internally illuminated sign with a mason base which met the Catholic Health Brand Standards. It will also include a line for the “subacute care” they provide at this site.

Mr. Mateer inquired about the size of the new sign compared to the old. The old sign was 19.8 square feet (38 inches x 75 inches) compared to the new sign which will be 22.7 square feet (40 inches by 82 inches).

The Chair inquired if the sign would be similar to the sign at the MAC Center. The Applicant stated that it would be very similar.

Mr. Mateer established that the sign would be in the same location as the old sign. Mr. Mateer inquired if the lighting on the sign would be static, meaning there would be no moving or flashing. The Applicants confirmed that it would be static and only the lettering would be illuminated.

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.

*Amy Whitford*  
*6375 Powers Road*  
*Orchard Park, NY 14127*

Ms. Whitford spoke in opposition to the sign and feels the new sign will appear more commercial and stated that the old sign fit into the residential neighborhood better. She also stated she was also responding for a neighbor who resides at 6385 Powers Road.

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.

The Applicants stated the mason portion of the sign would be 18 inches to be above the snow, making the sign 2 inches taller and that the sign would be Brown and Grey.

BOARD DISCUSSION:

Mr. Mateer inquired if the sign needed to be illuminated all night and if the Applicant had considered low plantings around the sign. The Applicants felt the illumination will help visitors and residents find the site. The Applicants stated are certainly in favor of plantings.

Mr. Williams inquired if anyone would be coming to the Site late at night who would need the sign to locate it. The Applicants noted that sometimes ambulances need to access the site.

Mr. Metz is in favor of the sign.

Mr. Mateer prefers the internal illumination and feels it is less obtrusive.

Mr. Mateer made a **MOTION**, seconded by Mr. Williams, 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:

METZ	AYE
RODO	AYE
MATEER	AYE
WILLIAMS	AYE

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

5. ZBA File# 34-24, Nathan Randall, 35 Kathryn Drive, Zoned R-1, SBL # 162.14-3-15, (Farm Lot 8 Town 9 Range 7. Requests 2 Area Variances. First Variance is to construct a 4,800 square foot garage and 785 square foot addition to and existing 645 square foot garage. Total of all accessory structures exceeds the primary structure by 2,947 square feet. *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, §144-5 Terms Defined.* Second Variance is for the addition on the existing garage for a 22.6 foot front setback. *Minimum front setback in an R-1 Zone is 50 feet, §144-9.*

APPEARANCE: *Nathan Randall – Owner*  
*William R Ciszak - Architect*

Mr. Randall explained his desire to build a pole barn and a garage addition. He stated that he needs to store a camper and a boat.

Mr. Williams inquired with respect to the addition, could it be constructed on the other side, avoiding the setback violation. The Applicant stated that there was a deck that he wanted to keep. Mr. Williams inquired if the Applicant had spoken to any neighbors and if he could make do with a smaller barn. The Applicant felt it was

possible to make do with a smaller barn, however the height of a door that could accommodate his camper necessitated a large garage. Neither he nor his architect could determine an exact size on the spot. He stated he had spoken to some neighbors who had no issues.

Mr. Mateer established distances with the Applicant. He inquired if elevations were available. The Applicant stated that there were not, however the addition would be stick frame.

Mr. Metz inquired what the addition would be used for. The Applicant stated that it would be used for vehicles. It was established that he has three vehicles in use at his property and that he would also like a workshop area. Mr. Metz inquired if there would be vehicle sales operating out of the garage. The Applicant answered negatively. Mr. Metz inquired about the visibility of the projects. The Applicant feels it would be minimal given the tree coverage and the size of his property, and the distance to neighbors.

The Chair inquired about the workshop. The Applicant feels that it's nonobtrusive.

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.

*Olin Campbell*  
*37 Kathryn Drive*  
*Orchard Park, NY 14127*

This neighbor's property is adjacent to this property and he stated he contacted the Applicant requesting a meeting over text and did receive some information about the project but was not granted a meeting. He feels it would change the character of the neighborhood.

*Jeannette Hadwin*  
*40 Nearcrest Lane*  
*Orchard Park, NY 14127*

This neighbor has concerns about potential increased traffic and also feels the barn is too large and "warehouse sized".

*Mark Banczerowski*  
*34 Kathryn Drive*  
*Orchard Park, NY 14127*

This neighbor has concerns about the traffic, the size of the building and the potential change to the neighborhood.

*David Blake*  
*34 Kathryn Drive*  
*Orchard Park, NY 14127*

This neighbor stated that the Applicant only spoke to one minimally impacted neighbor, was upset that the Applicant was non-communicative, and is opposed to the projects.



*Carla Marrazzo  
11 Kathryn Drive  
Orchard Park, NY 14127*

This Neighbor noted that the structure would be twice the size of most homes and is opposed.

*Nicole Reinard  
10 Kathryn Drive  
Orchard Park, NY 14127*

This neighbor spoke in opposition and is concerned that this site could be used for industrial purposes in the future.

*Holly Bird  
19 Kathryn Drive  
Orchard Park, NY 14127*

This neighbor is opposed and is concerned about traffic and what the barn might be used for in the future.

*Anne Marie Kuwik  
3965 Baker Road  
Orchard Park, NY 141227*

This neighbor spoke in opposition, and expressed concerns about construction and traffic. She was also concerned that the barn could be used for a business in the future.

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.

The Applicant stated that there was no direct relationship from his barn to increased traffic, and his only plan for the barn was to house things for the winter and for his own personal use. He stated he would not operate a business out of the barn and would be willing to plant arborvitae to obscure the structures.

#### BOARD DISCUSSION:

Mr. Mateer stated that while he does not necessarily believe traffic concerns are valid, he does feel that the barn is quite large. He feels that the Applicant can already build a large (over 3,000 square foot) structure without a Variance. He finds this to be a substantial request and he cannot support the request especially without elevations.

Mr. Metz was in agreement.

Mr. Williams made a **MOTION**, seconded by Mr. Metz, 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, and 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:

METZ	AYE
RODO	AYE
MATEER	AYE
WILLIAMS	AYE

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

- 6. 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: Victor Zelenov – Owner

The Applicant explained his desire to install a fence in his backyard to keep deer out. He stated he didn't realize there was a restriction on fence height and he had already purchased the fence. He stated he had spoken to neighbors who had no issues.

The Chair stated her concern that the "spokes" on the top of the fence may impale deer. The Applicant stated he is not concerned because the "spokes" are rounded, and he feels deer will not jump a 7 foot fence, however they may jump a 6 foot fence. The Chair inquired if he had tried a 6 foot fence. The Applicant stated he had not.

Mr. Williams established that the fence would be located on the sides of his back yard. Along the back there is a ditch, and he feels posts with wire will be sufficient there.

Mr. Mateer established that the fence would be see-through.

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.

*Andria Nolan  
345 Independence Drive  
Orchard Park, NY 14127*

Ms. Nolan spoke about a drainage easement and a ditch. She felt that leaves might be knocked into the ditch by the fence, however now understands a fence won't be installed along the rear.

*Carrie Nolan  
345 Independence Drive  
Orchard Park, NY 14127*

Ms. Nolan also discussed the ditch.

The Chair acknowledged the concerns about the ditch, however, that is outside the purview of this Board.8

The Chair then asked if the Secretary had received any communications either for, or against, granting the Variance. The Secretary stated only the communications submitted by the Applicants had been received.

**BOARD DISCUSSION:**

Mr. Metz made a **MOTION**, seconded by Mr. Mateer, 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 not 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-create.

**THE VOTE ON THE MOTION BEING:**

METZ	AYE
RODO	AYE
MATEER	AYE
WILLIAMS	AYE

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

There being no further business to be presented to the Board at this time, the Chair adjourned the meeting at 8:43 P.M.

DATED: 7/26/2024  
REVIEWED: 8/20/24

Respectfully submitted,  
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman  
Zoning Board of Appeals