

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park August 20, 2024, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

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

EXCUSED: Lauren Kaczor Rodo, Chairwoman

OTHERS PRESENT: John C. Bailey, Deputy Town Attorney
Natalie Nawrocki, 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.

The Acting Chair noted that Mr. Williams would be voting tonight in the absence of the Ms. Kaczor Rodo.

APPROVAL OF MINUTES:

A MOTION was duly made and seconded, to APPROVE the Minutes for the JULY 2024 ZBA meeting.

THE VOTE ON THE MOTION BEING:

METZ	AYE
BOWERS	AYE
LENNARTZ	Abstained
MATEER	AYE
WILLIAMS	AYE

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

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

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

NEW BUSINESS

1. ZBA File# 35-24, Daniel Blattenberger, 4663 Abbott Road, Zoned R-3, SBL# 171.12-4-18, (Farm Lot 38, Township 9, Range 7). Requests an Area Variance to construct a 32 foot x 32 foot pole barn next to his existing garage. Total of accessory structures is 1,744 square feet and exceeds the primary structure by 120.64 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: Daniel Blattenberger – Owner

Mr. Blattenberger explained that he is planning on using the proposed barn to store his trailer and truck. He feels this is the minimum size that will accommodate those items, and he has obtained signatures from both neighbors stating that they are not opposed to the barn.

Mr. Mateer inquired about the proposed location and the Applicant explained that it would be located directly behind the existing garage at an angle. This will allow him to utilize the existing driveway. Mr. Mateer inquired about the potential for a smaller barn, however the Applicant feels that he cannot be accommodated with a smaller barn.

Mr. Williams established that the barn would match the house, and the Applicant described the finishes as "high end".

Ms. Bowers confirmed that the size would be 32 feet x 32 feet as stated on the agenda, noting that there was a discrepancy in the paper work.

Mr. Lennartz established that the barn would be used for storage and no business would operate out of the barn.

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. Mateer feels the benefit sought could be achieved without a Variance.

Ms. Bowers made a **MOTION**, seconded by Mr. Lennartz, 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
BOWERS	AYE
LENNARTZ	AYE
MATEER	NO
WILLIAMS	AYE

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

2. ZBA File# 36-24, Kaitlyn Schnieder, 6293 (V/L) Webster Road, Zoned R-3, SBL# 161.00-3-27.1, (Farm Lot 24, Township 9, Range 7). Requests 2 Area Variances to construct a new house with a 30 foot 4 inch front setback and a 10.67 foot side setback. *Minimum front setback in an R-3 zone is 40 feet, minimum side setback is 15feet, §144-9.*

APPEARANCE: *Kaitlyn Schnieder – Owner*
Mather Laughher – Attorney

Mr. Laughher explained that Ms. Schnieder purchased this property in 2020, had received a permit from the DEC and had applied for minor subdivision approval, when it was determined that they required a Variance. He stated that this project was in line with the community, and that the house could not be located in another location due to the wetlands. He feels the request is not substantial and that changing the location of the house at this point would be an economic burden on his client.

Mr. Lennartz inquired about the condition of the wetlands and if they would create a barrier to building on this site. The Applicant stated that while it has been determined that there are wetlands, the site is not visibly “swampy”. Mr. Lennartz inquired about placing the house farther back on the site. Mr. Laughher stated that due to the permit with the DEC they are “locked in” to this location.

Mr. Williams inquired if the DEC had offered any other suggestions for house placement. Mr. Laughher explained that they had hired a consultant for the DEC application. He stated that if they were to change the location at this point it would require a new DEC application, which would be unfeasible.

Ms. Bowers inquired if there was concern about water in the basement, and if the matter had been broached with the DEC. Mr. Laughher was not aware of any such conversations.

Mr. Mateer inquired about elevations. The Applicant showed him an image on her phone. Mr. Mateer inquired about potential changes to the floor plan which would make the home code compliant. Mr. Laughher feels that in order to redesign, they may have to reapply to the DEC which would cost them years of progress on the project.

Mr. Metz inquired if the DEC required a buffer around the wetlands. Mr. Laughher was unsure. Mr. Mateer stated that based on the plans, he feels the buffer appears to be around 5 feet.

Mr. Metz confirmed that this would only be a one-lot subdivision.

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.

*Dennis Lauricella
6292 Webster Road
Orchard Park, NY 14127*

This neighbor requested to see where the house would be located. The Applicant showed her on the Site Plan.

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:

Ms. Bowers feels the request is not substantial.

Mr. Lennartz feels he can support the project.

Mr. Mateer explained that he is divided, and noted that while the request is not substantial, and will not have an adverse impact, he feels the benefit sought could be achieved another way.

Mr. Williams stated that he had originally been opposed, however after listening to the applicant he feels he can support the request.

Mr. Lennartz 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 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
BOWERS	AYE
LENNARTZ	AYE

MATEER
WILLIAMS

NO
AYE

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

3. ZBA File# 37-24, Rosemary M. Messina, 7370 Milestrip Road, Zoned R-2 SBL #153.19-1-20, (Part of Farm Lot 11, Township 10, Range 7). Requests 2 Area Variances to house chickens 45 feet from both side lot lines. *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 §144-32-A-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: *Rose Messina – Owner
Dan Diapallo – Friend of Owner*

Ms. Messina explained that she would like to have chickens. She stated that she owns 5.5 acres with 5 acres in a Conservation Easement and the chicken coop will not approach the Conservation Easement zone. She stated that existing vegetation would screen the coop, and she had spoken to both direct neighbors, who were not opposed and the chickens would not be free range. She noted that two Variances were granted nearby for farm animals.

Mr. Lennartz inquired about keeping the chickens contained. Mr. Diapallo stated that he would construct the coop with a double layer of fencing.

Mr. Williams discussed the construction of the coop with Mr. Diapallo.

Ms. Bowers inquired about winter. Mr. Diapallo noted that chickens continue to live outdoors in winter and typically fair well.

Mr. Mateer noted that the Applicant has the required amount of acreage. He inquired if the coop would be at least 100 feet from any residences. The Applicant stated that it would and that they plan to locate the coop around 150 feet behind the house.

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.

*Carl Oesterle
3401 Baker Road
Orchard Park, NY 14127*

This member of the public was opposed to the project and submitted a letter from another neighbor.

Paul Baldo
3403 Baker Road
Orchard Park, NY 14127

Mr. Baldo is concerned about predators.

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 not opposed and feels that if the coop is properly maintained it is no more likely to attract predators than an outdoor cat. He noted that the Applicant has enough acreage and the coop would be far enough away to not be a hindrance to neighbors.

Mr. Williams stated that he feels the request is substantial.

Ms. Bowers and Mr. Metz were in agreement with Mr. Williams.

Mr. Williams 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 cannot 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
BOWERS	AYE
MATEER	NO
WILLIAMS	AYE
LENNARTZ	AYE

The Motion being **FOUR (4) in Favor** and **ONE (1) opposed**, 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 7:43 P.M.

DATED: 9/9/24

REVIEWED: 9/16/24

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals