

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park September 17, 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
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.

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 dispense with the reading of, and **APPROVE** the Minutes for the AUGUST 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 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# 38-24, Richard Barnes, 47 Birdsong Parkway, Zoned R-1, SBL# 173.12-1-24, (Sub Lot 74, Map Cover 3207). Requests an Area Variance to enlarge a previously ZBA granted patio from 22 foot x 16 foot to 30' x 16'

for a 16.16% lot coverage. Initial ZBA File #15-05 granted 15% lot coverage when house was built. *Current lot coverage in R-1 zone is 14%, §144 Attachment 15 Bulk, Yard Lot Regulations.*

APPEARANCE: *Daryl Martin – Architect*

The Applicant stated that the only difference between this proposal and the previous was that the Applicant is requesting to extend the covered patio an additional 8 feet.

Mr. Metz established that the Applicant wished to amend his Application as follows: **a second Variance request is added allowing the structure 8.5 feet from the house due to a bay window impeding into the space between the house and the covered patio.**

Mr. Williams feels the request is similar to the previously granted Variance.

Mr. Mateer inquired about what had changed for the Applicant since the previous request. The Applicant would like more space so that they can have both a living and a dining area.

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:

The Board Members were not opposed to the project.

Ms. Bowers made a **MOTION**, seconded by Mr. Williams, to **APPROVE** the Area Variances 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	AYE
WILLIAMS	AYE

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

2. ZBA File# 39-24, Nathan Randall, 35 Kathryn Drive, Zoned R-1, SBL# 16.14-3-15, (Farm Lot 8, Township 9, Range 7). Requests 3 Area Variances. First Area Variance is to construct a 3600 square foot garage and a 785 square foot addition to the existing 645 square foot garage. Total of all accessory structures exceeds the primary structure by 1,747 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 Accessory Use- Terms defined.* Second Area Variance is for the 3,600 square foot garage to have a 19.5 foot height. *Maximum height accessory is 15 feet § 144 Attachment 14 Height, Lot, Yard, Bulk Regulations.* Third Area Variance is for a 22.5 foot front setback for the garage addition. *Front yard setback in an R-1 Zone is 50 feet, §144 Attachment 14 Height, Lot, Yard Bulk Regulations.* Initial ZBA File # 34-24 Denied Variances to exceed the primary structure by 2,947 square feet and for a front yard setback of 22.6 feet.

Mr. Metz noted that under Town Code, § 144-63(E)(3) Required interval for hearings on applications and appeals after denial; "Whenever the Board, after hearing all the evidence presented upon an application or appeal under the provisions of this chapter, denies the same, the Zoning Board of Appeals shall refuse to hold further hearings on the said or substantially similar application or appeal by the same applicant, his successor or assign for a period of one year except and unless the Zoning Board of Appeals shall find and determine from the information supplied by the request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing would be allowable only upon a motion initiated by a member of the Zoning Board of Appeals and adopted by the unanimous vote of the members present but not less than a majority of all members."

Mr. Metz therefore inquired if there was a Motion from the Board.

There being no Motion, the ZBA declined to hear the case.

3. ZBA File# 40-24, Silver Grove Financial Group, 400 Sterling Drive, Zoned I-1, SBL# 152.19-1-30, (Part of Farm Lot 27, Township 10, Range 7). Requests 2 Area Variances for a monument sign. First Area Variance is for the sign to be 9.33 feet in height and the second is for the sign to be 54 square feet. *A freestanding sign with a solid supporting base, not exceeding 30 square feet in area or five feet in height. Where sign surface and base are the same dimension, the text of the sign shall not exceed 20 square feet. [Added 8-6-1997] §144-5 Monument sign, terms defined.*

APPEARANCE: Chris McCaffe – Ulrich signs

Mr. McCaffe stated that his client wanted the sign to match the aesthetic of the building. He feels that the "roof peak" on the sign and the stone base are a betterment, although they make the sign taller. The "sign case" is similar in size to other nearby signs. He had questions about how the sign area was calculated, which Code Enforcement Officer, John Wittmann answered.

Mr. Williams noted that if the peak were removed the sign would potentially be compliant. The Applicant feels that the peak mimics the architecture of the building and he would like to keep it.

Ms. Bowers established the location of the sign. She noted that there was no need for the sign to draw a lot of attention from traffic given its location, and she feels it could be smaller. The Applicant stated that they could reduce the "sign case" portion to 30 square feet, and then lower the height of the "peak" to 20 inches instead of 30 inches.

Mr. Lennartz feels that the Applicant's response answered his questions and he could support the reduced size.

Mr. Mateer discussed another sign done by the Applicant in the area, noting it was smaller. He feels the proposed sign is too large.

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. Williams feels the sign is too tall.

Ms. Bowers would prefer the sign be altered. The Board discussed possibly removing the peak or reducing the size of the peak.

Mr. Lennartz can agree with the reduced dimensions discussed with the Applicant.

Mr. Mateer was in agreement with Mr. Lennartz.

Mr. Williams made a **MOTION**, seconded by Ms. Bowers 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 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 the modification alleviates some of the issues.

The MOTION is passed with the following stipulation:

- 1. The dimensions are amended to an overall height of not more than 82 inches, the case of the sign being not more than 30 square feet, the top structure not taller than 4 inches.

THE VOTE ON THE MOTION BEING:

METZ	AYE
BOWERS	AYE
MATEER	AYE
WILLIAMS	AYE
LENNARTZ	AYE

The Motion being **UNANIMOUS** 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 7:30 P.M.

DATED: 9/20/24
REVIEWED:

Respectfully submitted,
Anna Worang-Zizzi

Ms. Lauren Kaczor Rodo, Chairwoman
Zoning Board of Appeals