

**Minutes of the meeting of the Village of Williamsville Zoning Board of Appeals held on Wednesday, April 21, 2021, at 7:00 p.m. This meeting was held in-person and also virtually due to the NYS Covid-19 lockdown regulations in place at the time.**

Present via Zoom: Richard Andrews, Chairman  
James Celeste, Member  
William Tuyn, Member  
Joseph Frese, Member  
Patricia Fulwiler, Member

Also present via Zoom: Deborah A. Habes, P/T Clerk  
Charles Grieco, Village Attorney  
Matthew Etu, Trustee Liaison to ZBA  
Tim Masters, Code Enforcement Officer

Absent: Timothy Boyle, Alternate member

Chairman Andrews led the meeting with the Pledge of Allegiance.

Mr. Andrews asked for a motion to approve the minutes of the ZBA meeting of March 17, 2021.

**ON MOTION** by Ms. Fulwiler, seconded by Mr. Celeste, it was moved to approve the minutes of the March 17, 2021 meeting as submitted.

Unanimously carried.

**PUBLIC HEARING  
5601 Main St. (MU)  
Area Variance  
The Irishman Pub and Eatery  
Log #2021-ZBA-02  
Request for relief from dumpster location requirement**

Mr. Andrews opened the public hearing for 5601 Main St. at 7:02 p.m.

Legal notice of this public hearing was published in the March 10, 2021 Amherst Bee.  
Mr. Andrews read the items in the file.

Mr. David Sutton, project architect, was present.

Mr. Sutton gave a brief summary of the proposal for an outdoor patio expansion, the proposed relocation of the Dumpster, and the number of parking spaces. He reported that the plan was reviewed by the Planning Board at their April 6, 2021 meeting. At that time, the Planning Board took issue with the reduced number of parking spaces as presented. Since then, he has taken their

input and has reduced the size of the project by reducing the proposed occupancy to less than 50, thereby reducing the required parking spaces. They now have 11 during the winter months and 7 during outdoor seating season.

Mr. Andrews added that there was already a variance granted for 4 parking spaces. Mr. Grieco added that unless there was a time limit imposed, the variance runs with the project.

Mr. Andrews stated that the only variance request left now is a variance for the re-location of the Dumpster from the rear of the property, as required, to the side yard. Mr. Sutton stated for the record that the issue of transparency of the new accessory structure received a variance at the March 17<sup>th</sup> ZBA.

Mr. Sutton reported that the proposed new location of the Dumpster will be an improvement since the Dumpster's new brick enclosure will enhance the appearance of the Dumpster and give it a better pedestrian view from the street. It will be better screened from north and south views. If granted, the new Dumpster enclosure and site will better fit the intent of the code.

Mr. Andrews clarified that the site plan being reviewed this evening was labeled Exhibit 1 and that the site plan labeled Exhibit 2 was the previously presented site plan.

There was neither opposition to the request for a variance for the Dumpster location nor support of the request registered from anyone in the audience.

Mr. Frese asked how many permanent tables would be located behind the bar. Mr. Sutton replied that seating will not be fixed. Mr. Andrews added that the issue of egress will be up to the Fire Inspector.

There were no further questions.

Mr. Andrews closed the public hearing at 7:14 p.m.

**PUBLIC HEARING**  
**5712 Main St. (MU)**  
**Area Variance**  
**Log #2021-ZBA-04**  
**Request for a variance from the code to allow for 2 additional signs on the building.**

Mr. Andrews read aloud the items in the file. The legal notice was published in the April 14, 2021 Amherst Bee.

James Boglioli, the representative from the property owner, Benderson, was present.

Mr. Boglioli gave a brief history of the property and the proposal. They wish to add two 3' x 1' wall signs to the end cap tenant, Chipotle, at the rear entrance to the store. These 2 signs will not

be illuminated. The purpose of these signs is to serve as direction to customers to enter the tenant space from the parking lot. The wall signs on the south and west are conforming and do not require a variance.

The applicant addressed the area variance criteria as follows:

1. There will no change to the character of the neighborhood. The proposed signs are not illuminated and are small, only 3' x 1'.
2. Patron visibility can only be achieved by adding wall signs at the rear of the building so patrons can identify the tenant's rear entrance from the parking lot.
3. Although self-created, it is not determinative.

Mr. Andrews asked if there was anyone who wished to speak in favor of or in opposition to the proposal.

Kathleen Delaney, 50 Swan Pl. (via Zoom) – Was concerned about sign illumination as she lives directly behind this new building. Mr. Boglioli explained that the 2 signs on the west and south elevations are allowed by code and are illuminated but will not be facing residents. The signs being reviewed this evening are not illuminated. Ms. Delaney was glad they are not illuminated.

Mary Lowther, 120 N. Ellicott St. (via Zoom) – Questioned the need for 3 signs for one tenant. Mr. Boglioli stated the locations of the signs on the south and the west sides of the building are code compliant, however the 2 small signs being reviewed this evening will be located on the rear of the building, are not illuminated and are necessary to guide customers into the tenant space from the rear parking lot. The parking lot lights will be the only means of illumination of these 2 small signs.

There were no other comments from the audience.

Mr. Tuyn – Pleased with the signs. They serve a purpose but wondered if there was any other way they could be done. Mr. Boglioli stated that they are necessary to identify tenant entrance to customers entering from the rear parking lot. Mr. Tuyn understood and stated it was not a deal breaker for him on the issue. Has an issue with the sign on the driveway side as he thinks this is not for pedestrian view but rather for motorists. Wants the Village Board to know that this is not appropriate. Village Board should take note for the future.

Mr. Andrews – Has seen stenciled door signage on tenants in other municipalities. Concerned about the precedent being set here.

Mr. Frese - Complimented the design of the building.

With no other comments, Mr. Andrews closed the public hearing at 7:34 p.m.

**PUBLIC HEARING**  
**29 Belmont Pl. (R-3)**  
**Area Variance**  
**Log #2021-ZBA-05**  
**Request for a variance to allow a new home to be built on a non-conforming lot.**

Mr. Andrews opened this public hearing for 29 Belmont Pl. at 7:34 p.m.

Legal notice of this public hearing was published in the April 14, 2021 Amherst Bee.

Mr. Andrews read the items in the file.

Mr. Robert McKeehan, property owner, was present. He stated he is not proposing to increase the footprint of the original house. The 5' side yard setbacks will remain. Mr. McKeehan stated he bought the property in 2009. Now, the house does not meet his needs as his family has grown. It was a two-family house at that time. Now, he wants to convert it to a single-family home to meet the needs of his growing family. He stated it is currently a non-conforming house.

Mr. Andrews – It is a substantial variance for the rear yard setback. There is currently a 5' rear yard setback. The code requires a 25 ft. rear yard setback.

No one in the audience raised any opposition or support of the variance request.

Mr. Tuyn – Concerned with the look of the rear yard. Mr. McKeehan stated that it will be only green space and has no other plans for the rear yard. This would be consistent with the other homes on the street.

Mr. Frese – Any way he can lessen the difference? Mr. McKeehan stated that no, he has informed his neighbor and the neighbor had no problem with it. The design of the new house compliments the neighborhood.

Ms. Fulwiler – She is not in favor of the look of the 2-car garage.

Mr. Celeste – No questions.

Mr. Frese – The house at the rear is directly at the property line as well.

Mr. Andrews – Has no problem with the request.

With no other comments or questions, Mr. Andrews closed this public hearing at 7:44 p.m.

**PUBLIC HEARING**  
**87 Garrison Rd. (R-2)**  
**Area Variance**  
**Log #2021-ZBA-06**  
**Request for a variance to allow 3 sections of 10 ft. high fence in a rear yard.**

Mr. Andrews opened this public hearing at 7:44 p.m.

Legal notice of this public hearing was published in the April 14, 2021 Amherst Bee.

Mr. Andrews read the items in the file.

Mr. Anthony Gruppo, property owner, was present. Mr. Gruppo stated that this portion of the fence on the north side of his rear yard is not visible from the street. There is a large RV that his neighbor has parked in his driveway. The neighbor has told him he would be ok with the installation of a 10' high privacy fence if the RV can stay in its present location.

Mr. Gruppo addressed the criteria for an area variance as follows:

1. It will not negatively impact the neighborhood. The fence will only be seen by him and his neighbor.
2. There is no other way to obtain privacy and not see the RV.
3. It is substantial request as it will be an aesthetically nice-looking yard.
4. It will not have an adverse effect on the environment.
5. It is not self-created.

Mr. Andrews stated that he received a letter from a neighbor at 81 Garrison Rd. opposing the 10' high fence stating it would negatively impact his view.

There were no other comments from the audience in opposition or in favor of the variance request.

Mr. Tuyn – How can that RV be legal? Mr. Masters replied that an RV parked in a residential district can be 26' long at the max. It must also be completely enclosed in a building if over 26' long. It is parked there 6 months out of the year.

Mr. Tuyn – Questioned the opposition by 81 Garrison. It makes no sense. It's an issue for these two neighbors.

Mr. Frese – How would a new 10' high fence look? The applicant replied that he would replace the 3 sections of the current fence with 3 sections of 10' high fence. Mr. Frese had an issue with this. Would set a precedent for future occupants.

Mr. Tuyn – We have applicants coming before the ZBA all the time asking for higher fences to prevent deer from jumping into their yards and gardens. How can we say no to them and yes to you?

Mr. Frese – Sees this situation as less urgent than that of the deer people.

Mr. Masters – Will try to confirm length of the RV.

Ms. Fulwiler – Can they move the RV? No.

Mr. Masters – Does not usually pursue these issues unless there is a neighbor complaint.

Ms. Fulwiler – Wondered if the applicant were to sell his property, would he take down the 10” high fence.

Mr. Celeste – Is there a way for the applicant to use another less permanent material to raise the height of the fence? Mr. Masters replied that it is possible, but this has happened to others in the Village. Difficult to come up with something else. He asked different fence companies for suggestions, but they were not comfortable with that idea.

With no further comments or questions, Mr. Andrews closed this public hearing at 8:03 p.m.

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### **The Irishman, 5601 Main St. – Dumpster location**

On the issue of the Dumpster location only, the following motion was made:

**ON MOTION** by Mr. Tuyn, seconded by Mr. Frese, it was moved to approve a variance from the existing requirement for the location of the Dumpster, as submitted:

Roll call:	Mr. Frese	Yes
	Mr. Tuyn	Yes
	Ms. Fulwiler	No
	Mr. Celeste	Yes
	Mr. Andrews	Yes

Motion carried. 4 - 1. Area variance granted.

**5712 Main St. – Chipotle signage**

**ON MOTION** by Mr. Frese, seconded by Mr. Tuyn, it was moved to grant the area variance as submitted and reviewed at this hearing.

Roll call:	Mr. Frese	Yes
	Mr. Tuyn	Yes
	Ms. Fulwiler	Yes
	Mr. Celeste	Yes
	Mr. Andrews	Yes

Motion carried. 5 - 0. Area variance granted.

**29 Belmont Pl.**

**ON MOTION** by Mr. Celeste, seconded by Ms. Fulwiler, it was moved to grant the area variance as submitted and reviewed at this hearing.

Roll call:	Mr. Frese	Yes
	Mr. Tuyn	Yes
	Ms. Fulwiler	Yes
	Mr. Celeste	Yes
	Mr. Andrews	Yes

Motion carried. 5 - 0. Area variance granted.

**87 Garrison Rd.**

**ON MOTION** by Mr. Tuyn, seconded by Mr. Frese, it was moved to TABLE this application until the May ZBA meeting.

On the question, Mr. Tuyn stated he is inclined to table this application to give Code Enforcement Officer Masters the opportunity to talk to the owner of the RV to confirm its length.

Roll call:	Mr. Frese	Yes
	Mr. Tuyn	Yes
	Ms. Fulwiler	Yes
	Mr. Celeste	Yes
	Mr. Andrews	Yes

Motion carried. 5 - 0. Application TABLED.

Without further business, Mr. Andrews asked for a motion to adjourn.

**ON MOTION** by Mr. Frese, seconded by Ms. Fulwiler, it was moved to adjourn the meeting at 8:10 p.m.

Unanimously carried.

Submitted by: *Deborah A. Habes,*  
Clerk, P/T

**Next regularly scheduled ZBA meeting will be held May 19, 2021 at 7:00 p.m.**