

Minutes of the Village of Williamsville Zoning Board of Appeals held at Village Hall, 5565 Main Street, Williamsville, New York, on Wednesday, May 15, 2019, at 7:00 p.m.

Mr. Andrews opened the meeting at 7:00 pm with the Pledge of Allegiance.

- Roll Call: Present: Richard Andrews, Chairman
Patricia Fulwiler, ZBA Member
James Celeste, ZBA Member
Joseph Frese, ZBA Member
William Tuyn, ZBA Member
- Also present: Charles Grieco, Village Attorney
Deborah A. Habes, Deputy Clerk
Tim Masters, Code Enforcement Officer
Basil J. Piazza, Trustee Liaison
- Excused: Mark Maczka, Alternate ZBA Member
Timothy Boyle, Alternate ZBA Member

ON MOTION by Ms. Fulwiler, seconded by Mr. Tuyn, it was moved to approve the minutes of the April 17, 2019 meeting minutes, as amended.

Unanimously carried.

On the agenda:

(3) PUBLIC HEARINGS

ZBA Log # 19-09

Area variance

81 Milton Street (R-3)

Applicants and owners, Brian and Kate Kulpa, request relief from Section 112-14C(c), which limits lot coverage in the R-3 zone to 25% for a principle structure. The proposed addition would require a variance of 175 sq. ft.

ZBA Log # 19-10

Area variance

93 Gordon Street (R-3)

Applicant John Santora, purchaser of 93 Gordon, seeks relief from sections 112-14C(a), which establishes a minimum area for buildable lots in the R-3 zone, and 112-14C(b), which establishes a minimum street frontage of 50 ft.

ZBA Log # 19-11

Special Use Permit

153 Mill Street (R-3)

Applicant and owner, Amy Alexander, seeks a special use permit to raise chickens on her property

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Before proceeding with the items on the agenda, Mr. Andrews addressed the application for an area variance for the property at 93 Gordon Street. He stated he was not sure if this was a re-hearing or a new hearing. Zoning Board members need to clarify this before proceeding further tonight. Mr. Andrews referred to Mr. Grieco for his interpretation. Mr. Grieco suggested that it is technically a different applicant who has made the application for tonight's meeting, but it is essentially the same request as that of the March 20, 2019 public hearing. It is up to the ZBA to decide whether to hear it or not. Mr. Tuyn commented that it was denied by the ZBA last month, without a structure to see at that time. This time there are plans for a proposed structure for the ZBA members to look at. Mr. Andrews stated that it was his experience after many years serving on the Zoning Board that if there is any change in an application, then it could be heard again as a new application. Mr. Frese thinks it is still an un-buildable lot due to the lot size. Mr. Grieco stated the board has to vote whether to hear it as a new application or to consider it as a re-hearing of the same application as was heard in April. Mr. Grieco opined that this is a different application from the one reviewed and voted on at the March 20, 2019 meeting.

ON MOTION by Mr. Tuyn, seconded by Mr. Celeste, it was moved to consider the application before the ZBA tonight for an area variance for 93 Gordon St. (R-3) as a new application.

Roll Call:

Tuyn	Yes
Frese	No
Andrews	No
Fulwiler	Yes
Celeste	Yes

Motion carried. 3 Yes – 2 No.

Mr. Grieco advised the board to identify exactly what they were considering tonight for this application's review.

CEO Timothy Masters cited the (2) issues re the application for 93 Gordon St. before the ZBA tonight as:

1. The width of the lot
2. The square footage of the lot

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**PUBLIC HEARING
81 Milton Street (R-3)**

Area variance

Applicants and owners, Brian and Kate Kulpa, request relief from Section 112-14C(c), which limits lot coverage in the R-3 zone to 25% for a principle structure. The proposed addition would require a variance of 175 sq. ft.

Mr. Andrews opened this public hearing at 7:10 p.m.

Mr. Andrews read into the record the contents of the file.

Legal notice of this public hearing was duly published in the May 1, 2019 Amherst Bee.

Mr. Kulpa addressed the area variance criteria as follows: He stated that his family has a long-term commitment to the Village and in particular to this neighborhood. His family is growing and they need additional space in their house. The rising cost of housing prohibits them from looking for another home. They love where they are now. He and his wife are long-serving servants to the Village, as well as the Town of Amherst. They want to stay in the same house. They have no garage on the property and will not be building a garage, but will be adding a detached storage shed that will not affect lot coverage. They are proposing an addition to the principal structure with a new total lot coverage of 27.5%. The code requires a max lot coverage of a principal building of 25%. It is an increase of only 2.5%.

There will be no undesirable change to the neighborhood. The house is a four-square American style house in an established neighborhood of similar houses. The addition meets the required setbacks. It is not a substantial request, nor is it self-created.

Mr. Kulpa read aloud letters from 4 neighbors who were in favor of the variance request:

1. Jeff Marcus, 97 Los Robles
2. The Murphys, 152 Los Robles
3. The Schery Family, 85 Milton St.
4. Deb Steinbrückner, 86 Milton St.

No one in the audience spoke in opposition to the variance request.

Member(s) of the audience who spoke *in favor* of the variance:

Dawn Jones, 82 Milton St. – In favor.

There being no further comments, Mr. Andrews closed this public hearing at 7:20 p.m.

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**PUBLIC HEARING
93 Gordon Street (R-3)**

Area variance

Applicant John Santora, contract purchaser of 93 Gordon, seeks relief from section 112-14 C (a), which establishes a minimum area for buildable lots in the R-3 zone, and 112-14 C (b), which establishes a minimum street frontage of 50 ft.

Mr. Andrews opened this public hearing at 7:20 p.m.

Mr. Andrews read into the record the contents of the file.

Legal notice of this public hearing was duly published in the May 1, 2019 Amherst Bee.

Property owner John Santora III was present along with his architect, Holly Koss. He stated he is a realtor by profession so is familiar with the market and the neighborhood.

He addressed the area variance criteria as follows:

There would be no undesirable change to the neighborhood.

It is not a substantial request. There are about 20 other lots in the neighborhood with the same frontage width. Ms. Koss noted that they did not max out the lot coverage of the proposed house, as they wanted to respect all setback requirements. They are 300 sf. under what they could have had for the house size.

It won't affect the environment.

It is not self-created. The lot was created with its own SBL #. He has been diligently working with CEO Tim Masters on the plans for this house.

Mr. Masters - Concurred that the setback of this proposed house is in line with the setbacks of nearby existing houses.

There was no one in the audience who spoke in favor of the request.

Member(s) of the audience who spoke *in opposition* to the request [*Board members' and others' comments in italics*]:

1. Sharon Daniels, 172 Arend Ave. – Lot is too narrow. Design of the house is too big for the lot. [*CEO Tim Masters – footprint of proposed new house is 1,246 sf.*]

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2. Sam Alessi, 99 Gordon St. – Has lived at 99 Gordon St. for 50 years and was always told by the Village Building Dept. that the lot at 93 Gordon was not a buildable lot. Thinks the lot is too narrow for Gordon St. Only one other lot is less than 50’ wide, and the house was built before the code changed. The vacant lot is not an eyesore. He likes the open land. Thinks the new owner should adhere to the code.
3. Doug DeRose, 87 Gordon St. - Does not understand why it is not a re-hearing. Thinks house being proposed is over the allowable square footage allowed for the lot. [Mr. Masters explained that “footprint” is the area of the land that is covered by the building’s footprint, and does not include any other square footage (above the first floor) in the calculation. The land is marshy. *[Mr. Grieco – The land is not in the flood plain according to our code. Mr. Andrews and Mr. Frese – NYS Code regulates drainage during construction. It would be a civil case if there were eventual water damage to Mr. DeRose’s property. It is up to the CEO to enforce the NYS code during the construction and approval process.]*
4. Bill Hamlin, 100 Gordon St. – Thinks there is a pond there. Had to put in sidewalk a few years ago and wasn’t happy about having to do that. Likes the look of an empty lot at 93 Gordon St. Not enough land for much of a front yard. {Mr. Andrews – The front setback is still in line with the other houses nearby on each side of it.
5. Susan Makowski, 92 Gordon St. – Her dad had water in his basement.
6. Gentleman, 92 Gordon St. – Open space is good for the neighborhood. Would have an adverse effect on the neighborhood.
7. Hendrich, 82 Gordon St. – House is too large and too overbearing for the neighborhood. Thinks everyone always gets granted variances in the Village. *[At this point, Mr. Andrews invited the audience up to the dais to view the submitted architectural elevation of the house for themselves.]* Still thinks a two-story house is too big for the neighborhood.

Mr. Celeste - Asked the applicant why he thinks this application is different from the previous one.

Mr. Santora - The lot was previously listed by a different agent and no one purchased the property. The previous applicant just wanted to sell the lot and did not intend to build a house there. Mr. Santora wants to build a house on the lot. He has a strong connection to the Village. He has a fully executed sales contract which is contingent on the granting of this variance and soil testing.

Mr. Frese – He is seeking a variance from the 50’ wide frontage requirement and the min. 5, 535 sf. lot size requirement for this R-3 zoned lot.

Mr. Santora – People think the house looks big on paper but it really isn’t.

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There being no further comments, Mr. Andrews closed this public hearing at 7:58 p.m.

PUBLIC HEARING
153 Mill Street (R-3)

Special Use Permit
Applicant and owner, Amy Alexander, seeks a
Special Use Permit to raise chickens on her property

Mr. Andrews opened this public hearing at 7:59 p.m.

Mr. Andrews read into the record the contents of the file.

Legal notice of this public hearing was duly published in the May 1, 2019 Amherst Bee.

Property owner Amy Alexander was present.

Village Attorney Grieco prefaced the hearing by stating the Village Board is currently considering changing the code regarding chickens, but has not done so yet. The hope is to have the Building Inspector review special permit applications for chickens and issue any special permits and not the Zoning Board. But since no amendment to the code has been enacted as of yet, this application must be reviewed by the Zoning Board of Appeals and is under review for any granting of a Special Permit to house chickens. The ZBA must be satisfied that the applicant has adhered to all the requirements of the code as it stands today.

Mr. Masters – Made a site visit 5/14/19 and determined that the site is code compliant. Where the applicant wants to add the coop is well away from the property lines. It is more than 15' from the property line. He recommended to the ZBA that they approve the Special Use Permit as submitted.

Mr. Grieco – Confirmed that all required factors have been fulfilled by the applicant in her application. ZBA can impose restrictions if they so choose.

Ms. Alexander – Has no roosters. Not transferable with the property. Subject to regulations of the health dept. As per current code the permit is good for 2 years.

Mr. Grieco – The ZBA must determine if there is anything that would prevent them from granting the special use permit.

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Member(s) of the audience who spoke in favor or in opposition of the granting of the Special Use Permit to permit chickens:

Patrick Keaveny, 161 Milton St. – In favor.

There being no other comments, Mr. Andrews closed this public hearing at 8:10 p.m.

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Following the public hearings, the members of the Zoning Board made their decisions as follows:

ZBA Log # 19-09 81 Milton Street (R-3)

ON MOTION by Mr. Tuyn, seconded by Mr. Frese, it was moved to grant the area variance as submitted.

Roll call:

Tuyn	Yes
Frese	Yes
Andrews	Yes
Fulwiler	No
Celeste	Yes

Motion carried. 4 Yes – 1 No. **Area variance granted.**

ZBA Log # 19-10 93 Gordon Street (R-3)

ON MOTION by Mr. Tuyn, seconded by Mr. Frese, it was moved to approve both area variances as submitted.

On the question:

Mr. Tuyn – There are 9 identical lots on this street. It is consistent with the neighborhood. It complies with all other aspects of code. Thinks the proposed house is attractive.

Mr. Frese – House is not giant. His own house is 25’ wide and 2 stories. Other houses in the neighborhood are similar in size to the proposed.

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Mr. Andrews – Still has a problem with the grey area of the hearing. Also, that it is dependent on this applicant to build this house. He may not even build it.

Mr. Grieco – The question is will it alter the neighborhood? A condition could be added that any approval be based on this exact house rendering/plan/size, as submitted tonight.

Ms. Fulwiler – The new info has been given and should be included in this motion. She agrees to this particular house being built as per what has been submitted and reviewed tonight.

Mr. Celeste – Agrees with Ms. Fulwiler.

Mr. Tuyn – Agrees with Ms. Fulwiler and Mr. Celeste. It is reasonable to hold Mr. Santora to this restriction. The code was based around the surrounding suburban towns. This is a Village and times are changing regarding lot sizes in walkable communities. We are returning to smaller lots and close-knit neighborhoods, not the sprawling lots of suburban America from the fifties and sixties.

ON MOTION by Mr. Tuyn, seconded by Mr. Frese, it was agreed to amend their original motion and to approve both area variances (from Section 112-14 C (a), which establishes a minimum area for buildable lots in the R-3 zone, and from Section 112-14 C (b), which establishes a minimum street frontage of 50 ft. min.) as submitted, *with the following condition: That the applicant, Mr. Santora, submit substantially the same building plans, design and size of the house, as was submitted and reviewed tonight.*

Roll Call:

Tuyn	Yes
Frese	Yes
Andrews	No
Fulwiler	Yes
Celeste	Yes

Motion carried. 4 Yes – 1 No.

(2) Area variances granted.

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ZBA Log # 19-11

153 Mill Street (R-3)

ON MOTION by Mr. Frese, seconded by Ms. Fulwiler, it was moved to grant the Special Use Permit to allow for chickens at 153 Mill St., as submitted.

Roll Call:

Tuyn	Yes
Frese	Yes
Andrews	Yes
Fulwiler	Yes
Celeste	Yes

Unanimously carried. 5 Yes – 0 No **Special Use Permit granted.**

ON MOTION by Mr. Frese, seconded by Ms. Fulwiler, it was moved to adjourn the meeting at 8:23 p.m.

Unanimously carried.

Deborah A. Habes
Deputy Clerk

**Date of the next scheduled
Zoning Board of Appeals meeting:
June 19, 2019 at 7:00 p.m.**