



TOWN OF AMHERST

BUILDING DEPARTMENT

ERIE COUNTY, NEW YORK

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BRIAN P. ANDRZEJEWSKI, P.E.
Commissioner of Building

September 10, 2015

TO: The Honorable Zoning Board of Appeals

FROM: Brian P. Andrzejewski, P.E., Commissioner of Building

RE: Applications for Variances and Special Permits -
Meeting of September 15, 2015

The following is a summary of specific information for each application, showing minimum requirements appealed from and requested variances to be considered by your Honorable Body:

1 Walmart **3290 Sheridan Drive** **Temporary Use Permit, Storage Trailers**

This application is a request for a Temporary Use permit to allow the Walmart store to place a number of storage trailers adjacent to the east side of the building in the vicinity of the existing truck dock area. The property is zoned General Business which does not permit such storage outside of a building.

The ZBA granted a similar request November 18, 2014 with the following conditions:

1. The moving of inventory to and from the trailers must be done between the hours of 8 am to 7 pm.
2. The trailers shall be removed as soon as possible and not later than February 28, 2015.
3. There shall be a limit of twenty five (25) trailers on site.
4. Prior to installing any additional trailers this year or in future years, the petitioner must apply in advance for a permit, or risk denial.

2 Erin Thomas **140 Irwin Place** **Temporary Use Permit Renewal, Motor Vehicle Repair Shop**

This application is for a renewal of a temporary use permit first granted September 17, 2013, for a period of one year and subject to two conditions, to allow a motor vehicle repair shop in the General Industrial Zoning District.

The two conditions of the temporary use permit are:

1. Hours of operation are Monday thru Friday, 8 am to 5 pm and Saturday from 8 am to 12 pm (noon).
2. All vehicle repairs must be done inside the buildings.

The Temporary use permit was renewed 9/23/2014, for a period of one year subject to three conditions.

1. Hours of operation are Monday thru Friday, 8 am to 5 pm and Saturday from 8 am to 12 pm (noon).
2. All vehicle repairs must be done inside the buildings.
3. Tow truck operators are required to drop off trucks in an area designated for drop off by the property owners.

5 McGuire Development Company, LLC 1760 maple Road Variance, Accessory Structure Without Principal Structure – Parking Lot

This application is a request for a variance to the Zoning Ordinance requirement to section 6-8-1A that does not permit an accessory structure, in this instance an accessory parking area, without a permitted principal structure on the same lot.

The subject parking area is accessory to the medical office building on the adjacent parcel at 1800 Maple Rd. from which the parcel at 1760 was subdivided. There is an approved site plan SP-2010-002A, dated 4/10/2015 and designated as a unified development, for a new medical office building on the parcel at 1760 showing the new lot subdivision.

6 Plato’s Closet & Clothes Mentor 9490 Transit Road Variance, Window Signs Exceeding 20% of Window

This application is a request for a variance to the Zoning Ordinance requirement regulating the maximum area of a window pane that is allowable without a sign permit and the requirement for storefront windows.

There are two issues that are affected by this application.

The first issue is to section 7-8-3B (9) that limits the allowable area for a window sign to 20% of the area of an individual window pane. The applicant proposes to cover 100% of the subject window panes. Note that window signage exceeding the 20% limitation would be deemed to be wall signs and regulated as such.

Maximum permitted window signage area of a pane	20%	
Proposed signage area	100%	
Exceeds permitted	80%	80%

The second issue, not noted in the application, is that section 4-8-6D(1) requires that storefront display windows be provided on building façades facing a public right-of-way equal to 25% of such façade.

This building is a mixed use building, the majority of the first floor area is retail use, there are 6 dwelling units on the second floor and one dwelling unit on the first floor. The ZBA granted a variance to permit the dwelling unit on the first floor at the August 19, 2014 meeting.

The required storefront window area is determined from the first floor retail portion of the façade, the area of the façade on the second floor is not included. The required storefront window area facing Transit Rd. is approximately 480 sf and the storefront window area provided is approximately 760 sf.

The proposed window signage will cover approximately 170 sf.. The remaining 590 sf exceeds the minimum required window area. Note that the proposed signage on the windows not facing Transit Rd. does not affect the storefront window area requirement.

7 Greenman-Pedersen, Inc. 1500 Hopkins Road Variance, Accessory Structure Setback to Centerline - RPZ

This application is a request for a variance to the Zoning Ordinance requirement of section 2-5-3 of the Zoning ordinance applicable to the minimum required setback from the centerline of Hopkins Rd. The subject structure is a backflow prevention device (RPZ).

Minimum setback from the centerline of Hopkins Rd	90 ft.	
Proposed setback	57 ft.	
Short	33 ft.	36.7%

Note that the device must be screened in accordance with section 7-2-4C of the Ordinance.

8 Alexander Estates, Inc. 2215 Sweet Home Road Appeal Under Section 280-a (3) of Town Law, Open Development Area

This application is a request for an Open Development Area per Section 280-a (3) of New York State Town Law in order to permit the construction of a structure on a parcel that does not have frontage on an improved street.

The parcel is part of a unified development on property zoned New Community District – Neighborhood (NCD-ND) effective 6/23/2012. Proper easements are required within the unified development as part of the site plan review process. There is currently a proposal to amend the approved site plan (SP-2005-021G) for the unified development to indicate the existing lot lines for the parcels.

9 Youngs Center 1020 Youngs Road Variance, Maximum Overall Sign Face Area

This application is a request for a variance to the Zoning Ordinance requirement for the maximum allowable sign face area for a property zoned Office Building (OB).

An OB zoned property is permitted a maximum of 0.75 sq. ft. of signage for each lineal foot of building facing a street. The building is 143 ft. in length which permits 107.25 sf of signage for all signs on the property.

There are currently three signs, one ground sign at 81 sf of signage plus two wall signs with a total of 15.96 sf resulting in a total sign face area of 96.96 sf. There is a remaining balance of 10.29 sf.

Proposed is a new wall sign 32.59 sf in area which will exceed the allowable area by 22.3 sf. Note that the application indicated a request for an additional 50 sf. but we cannot determine where that additional signage is.

Maximum total sign face area permitted	107.25 sf	
Proposed (based on the sign diagram provided plus existing)	129.55 sf	
Exceeds permitted	22.30 sf	20.8%

If the additional signage were 50 sf then the maximum would exceed permitted by 46.6%.

10 Acquest Mill Street, LLC 410 Mill Street Six Variances

This application is for an Open Development Area per Section 280-a (3) of NYS Town Law and six area variances.

Proposed is a three story senior housing building containing 66 dwelling units along with two 10 unit garages plus surface parking on a parcel zoned Multi-Family Residential 7 (MFR-7). The site contains an existing single story assisted living building that will remain. The proposed height of the new building is 42.25 ft. to the highest portion of the roof.

The first three variance requests are to the building setback requirements of section 3-13-2B (2) and the requirements of section 2-5-4B (3) for side and rear setbacks.

Note that developments on parcels without street frontage such as this one, do not have a defined front or rear yard so all setbacks are deemed side yards.

The setback requirement of 2-5-4B (3) is only applicable to those locations where the parcel abuts the R4 and CF districts and not to the portion abutting the RC district. The RC district abuts the site on the north and west sides and a portion of the south side. The parcel abuts the R4 district on the east side and abuts the CF district on the south at the west end.

The setback requirements of 3-13-2B (2) directs us to section 3-15-5 for setbacks. These setback requirements are a function of the mean roof height and are either 1.5 or 2 times the mean height. The mean height is indicated as 34.67 ft. resulting in a 52 ft. setback for the narrow end of the building and 69.3 ft. for the long side of the building.

1. The first variance request is to the building setback on the south side. Since the building height exceeds 35 feet the building setback per 2-5-4B (3) is 126.75 ft. (3 x 42.25). The proposed setback is 70 ft.

Minimum required setback for 42.25 ft. building height	126.75 ft.	
Proposed setback	70.00 ft.	
Short	56.75 ft.	44.8%

2. The second variance request is for the building setback on the west side. Upon review we find that a variance to section 2-5-4B (3) is not applicable since the abutting property is zoned Recreation (RC) and the proposed 54.48 ft. setback exceeds the minimum 52 ft setback per section 3-15-5. This variance could be withdrawn or dismissed.

3. The third variance request is for the building setback on the East side. The proposed setback is compliant with the requirements of section 3-15-5 but does not conform to the requirements of section 2-5-4B (3).

Minimum required setback for 42.25 ft. building height	126.75 ft.	
Proposed setback	77.20 ft.	
Short	49.55 ft.	39%

4. The fourth variance request is for the accessory structure (garages) east side setback to the adjacent R4 district. Accessory structures must conform to both the requirements of section 2-5-4B (3) and 3-15-5. The proposed location conforms to the requirements of 3-15-5 (5 ft.) but does not conform to the requirements of section 2-5-4B (3) for a building of less than 30 ft. in height.

Minimum required setback per 2-5-4B(3) for building height < 30 ft.	30.00 ft.	
Proposed setback	16.30 ft.	
Short	13.70 ft.	45.7%

5. The fifth variance request is to section 3-15-5B that limits the maximum length of a sequence of dwelling units to 176 ft.

Maximum permitted length of a series of dwelling units	176.00 ft.	
Proposed overall length of building	413.81 ft.	
Exceeds permitted	237.81 ft.	135%

Note that the plan indicates that the requirements of section 3-15-5B pertaining to offsets of ten feet every 132 ft. or less may be met by the 10 ft. by 12 ft. offsets.

Other Matters

1 Consideration of Proposed Findings of Fact

Brian P. Andrzejewski, P.E.
Commissioner of Building

BPA: js

cc: Dr. Barry Weinstein, Supervisor
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