

ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK, Erie County, New York, minutes of the Orchard Park July 21, 2026, meeting held in the Town of Orchard Park Community Activity Center, 4520 California Road.

MEMBERS PRESENT: Robert Metz, Chairman
Kim Bowers
Dwight Mateer
Matthew Szalkowski, Alternate

EXCUSED: Lauren Kaczor Rodo
Michael Williams

OTHERS PRESENT: Maura Seibold, Deputy Town Attorney
Natalie Nawrocki, Code Enforcement Officer
Kristin B. Mahoney, Recording Secretary

The Chair called the meeting to order at 7:00 P.M. and stated that per Section 144-63 (E) (1) all public notices have been filed.

The Chair led the attendees in reciting the Pledge of Allegiance. The Chair introduced the members of the Board and representatives of the Town of Orchard Park.

The Chair stated 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.

APPROVAL OF MINUTES:

Each member of the Board has previously received and read a copy of the minutes for the June 16, 2026 meeting.

A **MOTION** was duly made by Ms. Bowers and seconded by Mr. Szalkowski, to **DISPENSE WITH THE READING OF** and **APPROVE THE MINUTES** of the June 16, 2026 ZBA meeting.

THE VOTE ON THE MOTION BEING:

METZ	AYE
BOWERS	AYE
MATEER	AYE
SZALKOWSKI	AYE

The Minutes were **UNANIMOUSLY** approved.

The Chair announced that regarding ZBA File #22-26, there has been a change in ownership to Alles Bay LLC, and the record will reflect that. Also, Items #1 and #3 on the original Agenda have been moved to August.

The Chair stated that all persons making an appeal before this Board would be heard in accordance with Article 16, Chapter 62 of the Consolidated Laws of the State of New York, § 267, § 267-a and § 267-b, and the Town of Orchard Park Zoning Ordinance.

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 Recording Secretary read the Affidavit of Publication and Posting of the Legal Notice for this meeting.

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

METZ, AYE / BOWERS, AYE / MATEER, AYE / SZALKOWSKI, AYE

The Chair read the Special Rules regarding the fact that there are only four (4) of the six (6) members here for tonight's meeting; a Variance request will require three (3) votes to approve. If a vote results in a two-two tie, the motion will be defeated. As a result, we offer petitioners three (3) options.

The Chair presented the procedures to be followed at tonight's meeting.

NEW BUSINESS

1. This item has been moved to the August 2026 Agenda at the Applicant's request.
2. ZBA File# 17-26, James Balon, 51 Sonnet Drive, Zoned R-1-CMO, (Sub Lot 10, Map Cover 3547, SBL# 162.08-3-10). Requests an Area Variance for a 16 foot x 11 foot three-season room on the rear of Single Family Dwelling. This addition will create a 22 foot rear setback. *Minimum rear setback in a CMO is 30 feet. No principal building shall extend closer than 30 feet to the rear lot line. The minimum distance between dwellings backing up to each other shall not be less than 60 feet. §144-17.1D (5), Conservation Management Overlay, Design Regulations for Principal Structure and Uses.*

APPEARANCE: James and Monica Balon, Applicants

The Chair confirmed that the Applicants wished to have their case heard tonight.

Ms. Balon stated that they have decided to retire in Orchard Park and need more room in their home. They wish to make the planned addition large enough to make the project worthwhile.

Mr. Balon added that the HOA has approved the project and the neighbors are supportive.

Ms. Bowers thanked the Balons for being prepared for the meeting.

The Chair stated he thinks it's a great project.

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 closed the Public Hearing.

The Chair then asked if the Secretary had received any additional communication either for, or against, granting the Variance. The Secretary stated she tonight received a signed letter indicating support for the project from six (6) neighbors, all living on Sonnet Drive.

The Board Members discussed the project and then closed the Board discussion.

Mr. Mateer made a **MOTION**, seconded by Ms. Bowers, 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
MATEER	AYE
SZALKOWSKI	AYE

The **MOTION** was **UNANIMOUSLY APPROVED**.

3. This item has been moved to the August 2026 Agenda at the Applicant's request.
4. ZBA File# 19-26, Joseph Iafallo Sr., 4177 Abbott Road, Zoned SMU, (Lots 2 & 3 Map Cover 1541, SBL # 161.17-3-9.1). Requests a Variance to extend the two Variances granted on June 17, 2025 (ZBA #21-25) for a side and front yard setback. The applicant requests to extend the granted Variances for 12 months. *§144-63D (2)(d) - A decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within 12 months from the date of authorization thereof.*

APPEARANCE: *Joseph Iafallo, Sr., Applicant*
 Joey Iafallo, Jr., Bammel Architects

The Chair confirmed that the Applicant wished to have his case heard tonight.

Mr. Iafallo, Jr. stated that the Variances were granted previously but the Applicant ran out of time to use them.

Mr. Mateer inquired as to why they needed the extensions.

Mr. Iafallo, Sr. stated that it was due to his misunderstanding of the necessary steps in the process and how they come together. For example, he was not aware that he needed Planning Board approval to obtain a demolition permit.

The Chair inquired as to the timeline to start construction, because we do not want to be in the same position again of needing extensions.

Mr. Iafallo, Sr. stated that he will begin after the Buffalo Bills season. After January, he will demolish 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.

(Twice) NO RESPONSE

The Chair closed the Public Hearing.

The Chair then asked if the Secretary had received any additional communication either for, or against, granting the Variance. The Secretary stated no additional communications had been received.

The Board Members discussed the project and then closed the Board discussion.

Ms. Bowers made a **MOTION**, seconded by Mr. Szalkowski, to **APPROVE THE EXTENSION FOR THE 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
MATEER	AYE
SZALKOWSKI	AYE

The **MOTION** was **UNANIMOUSLY APPROVED**.

5. ZBA File # 20-26, Andrew Kaminski, 7459 Michael Road, Zoned R-2, (Part of Farm Lot 468, Township 10, Range 7, SBL # 153.11-2-18). Requests an Area Variance to move an existing 10 foot x 10 foot shed from a non-compliant location to a location with a 6 foot 5 inch rear setback. *Minimum rear setback for this R-2 lot is 10 feet 144-9B, Schedule of Height, Lot, Yard & Bulk Regulations.*

APPEARANCE: Andrew and Carol Kaminski, Applicants

The Chair confirmed that the Applicant wished to have his case heard tonight.

The Applicant explained the situation regarding his shed.

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.

Mark Pawlak, 7435 Michael Road, Orchard Park, NY 14127

Mr. Pawlak stated that the Applicant's garage is interfering with a stream, and there is no record of a permit for the garage. The shed is encroaching three (3) feet onto Mr. Pawlak's property.

Mr. Mateer stated that what is in front of the Board tonight is the issue of the shed, not an issue of the garage.

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the Variance.

NO RESPONSE

The Chair closed the Public Hearing.

The Chair then asked if the Secretary had received any additional communication either for, or against, granting the Variance. The Secretary stated she has two (2) letters of support received this evening.

The Board Members discussed the project and then closed the Board discussion.

Mr. Mateer made a **MOTION**, seconded by Mr. Szalkowski, to **APPROVE THE AREA VARIANCE TO ALLOW A 6 FOOT, 5 INCH REAR SETBACK**, 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
MATEER	AYE
SZALKOWSKI	AYE

The **MOTION** was **UNANIMOUSLY APPROVED**.

6. ZBA File # 21-26, John Buss, 6860 Cole Road, Zoned A-1, (Part of Farm Lot 57, Township 9, Range 7, SBL # 198.00-5-11). Requests an Area Variance to construct a 36 foot x 36 foot detached garage approximately 22 feet beyond the front of the primary structure. *No accessory structure shall be located within the front yard, §144-24A (1)(b).*

APPEARANCE: *John Buss, Applicant*

The Chair confirmed that the Applicant wished to have his case heard tonight.

The Applicant stated he wants to tear down his old garage and put in a bigger garage, which needs to be placed forward of his home.

Ms. Bowers stated that it is not possible to see anything from the road.

Mr. Mateer inquired if the Applicant has spoken to his neighbors about the project.

The Applicant stated he has not; his nearest neighbor is 500 feet away.

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 closed the Public Hearing.

The Chair then asked if the Secretary had received any additional communication either for, or against, granting the Variance. The Secretary stated that no additional communication had been received.

The Board Members discussed the project and then closed the Board discussion.

Mr. Szalkowski thanked the Applicant for the material provided.

Ms. Bowers made a **MOTION**, seconded by Mr. Szalkowski, 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
MATEER	AYE
SZALKOWSKI	AYE

The **MOTION** was **UNANIMOUSLY APPROVED**.

7. ZBA File # 22-26, Allesi Bay LLC, 5002 Armor Duells Road, Zoned B-2, (Part of Farm Lot 37, Township 9, Range 7, SBL # 183.08-4-5). Requests an area Variance to create a parking lot to extend and connect business parking on adjacent property. *§144-22K A driveway to any structure or any hard surface other than natural vegetation shall be located no closer than five feet to the lot line. This section shall apply to all lots in the business zones and the industrial Zones. A parking space shall have direct access to a street or alley, §144-5, Terms Defined.*

APPEARANCE: *Chuck Allesi, Owner and Applicant*
Jim Bammel, Bammel Architects

Mr. Bammel presented a brief history of the issue. Mr. Bammel explained that the restaurant is located in Hamburg and the parking lot in question is located in Orchard Park. The business needs additional parking. He is working with Hamburg to resolve drainage and setback issues.

Ms. Bowers clarified where the entrance to the new lot would be and inquired if the parking lot across Abbott Road would remain in existence.

Mr. Allesi stated that he would prefer to sell it.

Mr. Mateer clarified the placement and ownership of the new driveway, and that it and the lot would be illuminated.

Mr. Szalkowski questioned where the snow and the snow melt would go.

Mr. Bammel stated that all drainage is going toward Abbott Road, and that the snow will be hauled away.

The Chair stated that photos show a lot of water on Abbott during rain and snow melt. He confirmed with Mr. Bammel and the Applicant that there is a drain in the existing parking lot, and verified that there will be a properly engineered stormwater system in both lots- the Hamburg lot and the OP lot. He also verified that lighting will be box lighting so it will not be directed toward residential areas.

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.

Mark Ebeling, representing his son, who lives at 5345 Abbott Road.

Mr. Ebeling stated that the location they want to put the parking lot abuts directly to the fence in his son's backyard. He questioned where the water will go? Who's going to patrol the parking lot? Why put the parking lot five (5) feet from the neighbors? Why not put it where the house is located now? He stated that there is not one drain in the parking lot as of now and the runoff water just flows down Abbott Road like a river.

Mr. Bammel stated that the drainage is being completely engineered by site civil engineer, and there are drains in the old parking lot now.

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the Variance.

NO RESPONSE

The Chair closed the Public Hearing.

The Chair then asked if the Secretary had received any additional communication either for, or against, granting the Variance. The Secretary stated that no additional communication had been received.

Mr. Szalkowski clarified what the Board was voting on.

Mr. Bammel explained that the driveway crosses different lot lines and different towns.

Mr. Mateer and Mr. Bammel confirmed that if all parcels involved here were in the Town of Orchard Park, there would be no need for this to be in front of the ZBA- the owner would simply combine parcels.

The Chair stated the below stipulations and confirmed with Ms. Seibold that they should indeed be added as stipulations: There's going to be a properly installed engineered underground drainage system in both parking lots, appropriately delineated snow storage area, and a six (6) foot high fence separating your parking lot from the neighbors.

The Chair closed the Board discussion.

Ms. Bowers made a **MOTION**, seconded by Mr. Mateer, to **APPROVE the AREA VARIANCE WITH STIPULATIONS**, 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.
7. There will be a properly installed engineered underground drainage system throughout both parking lots to effectively manage the stormwater runoff.
8. The Applicant will clearly identify and provide an appropriate snow storage plan that ensures snow will not be piled against neighboring residential properties.
9. The Applicant will install a six (6) foot high wooden property fence along the property line to help protect privacy, reduce the light intrusion, and to provide a buffer between the commercial parking and the residential homes there.

THE VOTE ON THE MOTION BEING:

METZ	AYE
BOWERS	AYE
MATEER	AYE
SZALKOWSKI	AYE

The **MOTION** was **UNANIMOUSLY APPROVED**.

8. ZBA File # 24-26, 9274 Group Inc, 0 South Benzing Road, Zoned DR-2, (Part of Farm Lot 29, Township 10, Range 7, SBL #161.06-1-2). Requests a Use Variance to construct a flex use industrial building in a DR-2 Zone. Permitted uses in this DR-2 Zone do not include Flex use industrial buildings. §144-9A, *Schedule of Use Controls. Attachment 14-A*.

APPEARANCE: *Sean Hopkins, Attorney*
Luis Rodriguez, Applicant

The Chair confirmed that the Applicants wished to have their case heard tonight.

The Applicants presented a PowerPoint presentation. The site is 9.75 +/- acres. The only vehicular access to it is via South Benzing Road. NYS DOT will not allow access onto Milestrip Road; it is a controlled access highway. The site was previously zoned I-1 and changed to DR-2 by the Town in January 2025. The project will also require Site Plan approval by the Planning Board. The proposed project is multi-phase. Phase 1 would be Mr. Rodriguez's business, composed of an 1800 square foot office building and a 6600 square foot single story commercial garage/flex building with an outside storage area of approximately 61,000 square feet.

The Chair inquired as to what would be stored in that area.

Mr. Rodriguez and Mr. Hopkins explained that there would be vehicles and dumpsters entirely screened in the back of the building, with an office building in front of it. Mr. Rodriguez's construction business would be located in the office building. It would be an owner-occupied site. There will be future phases, generally flex commercial spaces. The other buildings are entirely conceptual at this point. Every effort will be taken to be good neighbors. Mr. Rodriguez explained his construction business. He founded it in 2012. Today he has 105 employees and approximately \$45 million/year in revenue.

Mr. Hopkins discussed the criteria necessary for the granting of a Use Variance. He stated that no other uses are economically viable on this site. In his opinion, the zoning of DR-2 does not work on this site; it was previously zoned correctly. The site owner, Ellicott Development (owner of 1093 and 9274 Groups) did not consent to this rezoning. It is not possible to connect directly to Milestrip Road. He emphasized that the Town has many protections in place- landscaping, lighting, sanitary sewer, stormwater management standards- will all go through the Planning Board.

Ms. Bowers confirmed that Phase 2 of the project is not planned at this time, the means of ingress and egress, and that the remainder of the site will remain green until the point of its development.

Mr. Szalkowski confirmed that this is the first step in the process for the Applicants, and that they are still required to go through the Planning Board and permitting processes.

The Chair questioned the number of dumpsters to be stored, and if a berm would separate that space from the nearby residences.

Mr. Rodriguez and Mr. Hopkins confirmed that there would be 10-20 dumpsters and also equipment (vehicles), and that the green space buffer existing today will remain.

Mr. Mateer questioned whether a Variance would be required if the site had not been rezoned and Mr. Hopkins stated that he believed no Variance would be required if the site had remained zoned Industrial.

Mr. Mateer stated that the information provided regarding economic return seemed "light" and "glossed over." For example, a permitted use would be for a hotel.

Mr. Hopkins stated that Ellicott Development's Tom Fox can fully discuss the viability of a hotel on this site. Unfortunately, he could not be here tonight, but additional information can be provided regarding that.

Mr. Mateer inquired if there would be odors present and Mr. Rodriguez stated that there would be construction and demolition debris in the dumpsters, having no odor.

In response to a question from Mr. Mateer, Mr. Hopkins attempted to clarify the concept of flex use/warehouse spaces- incorporating storage for equipment with small office spaces.

Ms. Bowers clarified that prior to rezoning, this would not have required a Use Variance. This prior Industrial zoning could have resulted in a much more intensive use of the property.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of the granting of the Variance.

Joe Deck, owner of medical building at the end of South Benzing Road

Mr. Deck stated that he, in partnership with others, has previously attempted to gain access to the Wal Mart property in order to gain access to Milestrip Road, but has been unsuccessful. He feels that the Town overreached to rezone Benzing- it was always an Industrial street, not really part of the new stadium.

The Chair then asked if there was anyone in the audience who would wish to speak in favor of the granting of the Variance.

NO RESPONSE

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the Variance.

Lori Lawson, 3565 South Benzing Road

This is a beautiful and quiet neighborhood. We moved here because of that. We wouldn't have come here if we knew this would happen. This development will be in the heart of our neighborhood, literally in our front yards. There will be noise and traffic.

Sharon O'Connor, 3557 South Benzing Road

I own a duplex and am a parental caregiver. This is no place for traffic and large trucks. You should build a road to California Road or get an easement to Milestrip Road, consider a different entryway /exit.

Sharon Fiederowicz, 3519 South Benzing Road

The road is very narrow, and trucks get stuck in the circle. This will bring in a lot of extra traffic.

The Chair then asked if there was anyone in the audience who would wish to speak against the granting of the Variance.

NO RESPONSE

The Chair closed the Public Hearing.

The Chair then asked if the Secretary had received any additional communication either for, or against, granting the Variance. The Secretary stated that no additional communication had been received.

Ms. Bowers stated that before it was rezoned, it was zoned Industrial. A construction, manufacturing or concrete facility could have been located there, traffic could be even worse.

Mr. Mateer stated that this was not an easy decision, and many factors must be weighed. It if was two (2) years ago, a Use Variance would not have been necessary. Any use of the property would be disturbing to the neighbors. At the same time, the owner has the legal right to develop the property.

The Chair closed the Board discussion.

Ms. Nawrocki added that the site had been zoned Industrial for at least 15-20 years prior to being rezoned.

Ms. Bowers made a **MOTION**, seconded by Mr. Mateer, to **APPROVE THE USE VARIANCE**, based on the following:

1. Per Section 144-63 (E) (1) All public notices have been filed.
2. Strict application of the regulations will deprive the applicant of a reasonable return on the property, and the lack of return is substantial as demonstrated by competent financial evidence.
3. The hardship is unique and does not apply to a substantial portion of the district or neighborhood.
4. The variance will not alter the essential character of the neighborhood.
5. The alleged hardship was not self-created.

THE VOTE ON THE MOTION BEING:

METZ	AYE
BOWERS	AYE
MATEER	AYE
SZALKOWSKI	AYE

The **MOTION** was **UNANIMOUSLY APPROVED**.

The meeting was adjourned at 8:33 P.M.

DATED: 08/04/2026
APPROVED: 08/18/2026

Respectfully submitted,
Kristin B. Mahoney, Recording Secretary

Mr. Robert Metz, Chairman, Zoning Board of Appeals