**ZONING BOARD OF APPEALS OF THE TOWN OF ORCHARD PARK**, Erie County, New York, minutes of the January 2019 meeting held in the Municipal Center Basement Meeting Room, S4295 South Buffalo Street.

MEMBERS PRESENT: Kim Bowers, Chairwoman/ Lauren Kaczor/Dwight Mateer/Robert Metz/

Barbara Bernard, Alternate

EXCUSED: Robert Lennartz

OTHERS PRESENT: Len Berkowitz, Deputy Town Attorney

David Holland, Code Enforcement Officer

Rosemary Messina, Recording Secretary

The members recited the Pledge of Allegiance and 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, 279 and 280a, Subdivision 3, 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 Chairwoman stated that the Alternate Member, Mrs. Bernard, will be voting this evening due to the absence of Mr. Lennartz.

**APPROVAL OF MINUTES:**

**The meeting minutes for November 20, 2018, were unanimously approved.**

The Chairman stated that site inspections of all cases presented tonight were made by:

**BOWERS, AYE/BERNARD, AYE/KACZOR, AYE/MATEER, AYE/METZ, AYE**

1. ZBA File #35-18, James F. Jerge, V/L Jewett Holmwood Road, Zoned R-1, (Part of Farm Lot 61, Township 9, Range 7; SBL# 173.19-3-2.1). Requesting an area variance for a proposed 20-lot subdivision. First, to allow (4) sublots with an area of less than 25,000-S.F. Minimum lot area for this R-1 Subdivision is 25,000-S.F. Second, to allow (13) lots with a width of 110-ft. Minimum lot width for this R-1 subdivision is 120-ft., § 144-9B, Supplemental Schedule of Height, Lot, Yard & Bulk Regulations. Note: This case was tabled by the Board at the 11/20/18 meeting, and rescheduled by the Applicant to be placed on the January 15, 2019 agenda.

APPEARANCE: Mr. Chris Wood, Carmina ⦁ Wood ⦁ & Morris

Mr. Thomas Johnson, Developer

Mr. Sean Hopkins, Attorney - Hopkins, Sorge & Romanowski

Mr. Hopkins distributed an updated Site Plan to the members, noting that the plan is based on the comments that were made by the Board members at the November 20, 2018 meeting. Originally, the Petitioners were asking to allow (4) sublots with an area of less than 25,000-S.F; the updated plan is requesting (2). Mr. Hopkins explained the constraints that exist with developing this property to the Board.

The members discussed their concerns with the Petitioners regarding this project. After much discussion a compromise was reached with Sublots #14 and #15. These two lots will have a conforming width of 120-ft. by modifying the widths of several other lots to increase their width to approximately 25,000-sq.ft.

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

Board Discussion:

Ms. Bowers made a **MOTION**, seconded by Ms. Kaczor, to **GRANT** the variance request with **STIPULATIONS**, based on the following:

1. There will be no undesirable change in the character of the neighborhood, or a detriment to nearby properties.

2. The benefit sought can be achieved in another way, other than the granting of the variance.

3. The request is not substantial.

4. There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

5. The difficulty is self-created, but that does not preclude the granting of the Variance.

**This variance is granted with the following stipulation:**

1. Sublots 14 & 15 shall have conforming (120-ft.) widths. Refer to Sketch Plan revision dated 12/6/18.

**THE MOTION BEING:**

**BOWERS AYE**

**KACZOR AYE**

**MATEER AYE**

**METZ AYE**

**BERNARD AYE**

THE **MOTION** BEING **FIVE (5)** **IN FAVOR,** THE **MOTION** IS **PASSED.**

There being no further business to be presented to the Board at this time Chairwoman Bowers adjourned the meeting at 7:50 P.M.

DATED: February 1, 2019

REVIEWED: February 19, 2019 Zoning Board of Appeals Rosemary Messina, Secretary

Kim Bowers, Chairwoman