

For fences on corner lots Section 7-5-3 defines the front yard as the frontage where the main entrance is located, in this instance Kingsgate Rd. So for fence height regulations the yard abutting Kingsgate is the front and the portion of the fence that extends west of the front plane of the house is located in the fence front yard and will exceed the 3 ft. height limitation. Note that if the main entrance was on Bentham Pkwy E then there would be no violation.

Maximum fence height in a front yard	3 ft.	
Proposed fence height	5 ft.	
Exceeds permitted	2 ft.	66.6%

3 Uniland Development Company 10-160 Glendon Place Subdivision Identification Sign Setback

This application is a request for a variance to the Zoning Ordinance requirement for the minimum required subdivision identification sign setback from a street right of way. The subdivision identification sign is located at the Sheridan Dr. entrance to "The Glen at Sheridan Meadows" (aka 6275 Sheridan Dr.).

The sign was granted a variance for the maximum sign face area for a ground sign at the ZBA meeting 10/21/2014. That variance permitted the sign to exceed the permitted subdivision identification sign face area by 100% (40 sf vs. 20 sf).

The sign as installed is located closer to the Sheridan Dr. right of way than permitted.

Minimum subdivision identification sign required setback	15 ft.	
Setback as installed (approximate)	10 ft.	
Short	5 ft.	33%

4 ALCO Sign Service 3845 Sheridan Drive Pole Sign Setback

This application indicates a request for a variance to the Zoning Ordinance requirement pertaining to pole signs. However, upon analysis of the application we find that the proposed sign is not, by definition, a pole sign but does meet the definition for a ground sign.

A pole sign is defined per section 7-8-4B(3) as "A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is a minimum of eight feet above the finished grade of a paved walk, drive, or parking area." The proposed sign's bottom edge is located at the base of the sign, approximately 2 ft. above grade.

The application indicated that the sign was a pole sign with skirting exceeding the maximum width of 50% of the width of the sign as per section 7-8-4B(3)(e) and a setback less than permitted per section 7-8-4B(3)(f).

A ground sign is defined per 7-8-4B(1) as "A sign supported by uprights or braces placed upon or in the ground and not attached to any building." The proposed sign conforms to this definition but does not conform to the maximum sign face area and height requirements of sections 7-8-4B(1)(c), (d) and (e).

The sign as indicated in the plans submitted most closely conforms to that of a ground sign and the following analysis is for a ground sign that exceeds the size and location requirements.

1. The first variance required is section 7-8-4B(1)(c), maximum ground sign height above grade.

Maximum permitted height	8 ft.	
Proposed height	21 ft.	
Exceeds permitted	13 ft.	162.5%

6 The Park School of Buffalo 4625 Harlem Road Message Center Sign

This application is a request for a variance to the Zoning Ordinance requirement to permit the Park School to have a message center sign as per section 7-8-4B(2)(b) on a parcel zoned CF where the distance to a residential district is less than 500 ft.

The proposed sign would be located 50 ft. North of the driveway on Harlem Rd. The closest residential district line is the centerline of Harlem Rd at a point where the right of way is approximately 60 ft. wide. The sign would be located 15 from the right-of-way.

Min. req'd distance for a Message Center Sign to a residential district	500 ft.	
Proposed distance	45 ft.	
Short	455 ft.	1,011%

7 Ulrich Sign Co. 5262-5274 Main Street Pole Sign Face Area

This application is a request for a variance to the Zoning Ordinance requirement for the Maximum Pole Sign face area for the pole sign for Tops Plaza on Main St. The property is zoned General Business and has limited frontage on Main St and North Forest Rd. The Pole Sign face area is regulated by the length of the longest street frontage, in this instance the N Forest Rd. Frontage of 257.51 ft. which permits a maximum pole sign face area of 96 sf. (48 sf per side). (Note that the application indicated 64 sf based on Main St frontage).

Maximum permitted pole sign face area	96 sf	
Proposed pole sign face area	128 sf	
Exceeds permitted	32 sf	33.3%

**8 Benderson Development 1600 Hopkins Road Side Yard Setback
Company**

This application is a request for a variance to the Zoning Ordinance requirement for the side yard setback for a building in the NB district. Benderson development is proposing to subdivide the existing plaza at 1600 Hopkins Rd at the Southwest corner of Dodge Rd. The proposed lot line will be located between 2.65 and 3.14 ft. north of the existing strip plaza.

In the NB district the side yard setback must be either 0 ft. or 10 ft. Note that the canopy at the Rite Aid drive-through is located at the compliant 0 ft. setback.

Minimum setback in NB, when less than 10 ft.	0.00 ft.	
Proposed side yard, at closest point	2.65 ft.	
Exceeds permitted	2.65 ft.	100%

**9 5949 Main Street, LLC 5949-5951 Main Street and 21 Renewal of Variances
Richfield Road**

This application is a request to renew 3 of 4 variances and a restricted parking area in an R3 district granted by the Zoning Board of Appeals on November 19, 2013 and modified June 17, 2014. (One of the three original variances was not required after the site plan was revised.) The following is from the original application:

1. *The first variance request was for the building setback from the centerline of Main St. as per 2-5-3.*

Minimum distance to building from centerline of Main St.	115.0 ft.	
Proposed distance	49.5 ft.	
Short	65.5 ft.	57%

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~~ 40.33 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.

The first request has been modified to reflect a reduction in the building height and reduction in the required setback.

- 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.*

<i>Minimum required setback for 42.25 <u>40.33</u>ft building height</i>	126.75 ft	<u>120.99 ft</u>	
<i>Proposed setback</i>	70.00 ft	<u>54.30 ft</u>	
<i>Short</i>	56.75 ft	<u>66.69 ft</u>	44.8% <u>55%</u>

The previous second variance request was withdrawn.

- ~~*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 setback per section 3-15-5 of 52 ft. This variance could be dismissed.*~~

The next request has been modified to reflect a reduction in the building height and reduction in the required setback.

- 2. The next 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).*

<i>Minimum required setback for 42.25 <u>40.33</u>ft building height</i>	126.75 ft	<u>120.99 ft</u>	
<i>Proposed setback</i>	77.20 ft	<u>75.70 ft</u>	
<i>Short</i>	49.55 ft	<u>45.29 ft</u>	39% <u>37%</u>

The next request has been modified to reflect a correction in the proposed setback.

- 3. The next 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.*

<i>Min setback per 2-5-4B(3) for building height < 30 ft.</i>	30.00 ft.		
<i>Proposed setback</i>	16.30 ft	<u>16.10 ft.</u>	
<i>Short</i>	13.70 ft	<u>13.90 ft.</u>	45.7% <u>46.3%</u>

The next request was deleted from the revised application but upon further analysis we find that the maximum 176 ft. length of a series of dwelling units is exceeded. In order to end a series of dwelling units there must be some non-dwelling space such as a common area, stair or elevator area, etc.

The current plan does not so conform on the second and third floors. If the variance request is re-instated the overall length of the current proposal is similar in degree to the original application.

Note that the limitation on building length did not apply in the MFR-7 district prior to May 23, 2006.

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

<i>Maximum permitted length of a series of dwelling units</i>	<i>176.00 ft.</i>
<i>Proposed overall length of building</i>	<u><i>413.81 ft.</i></u>
<i>Exceeds permitted</i>	<i>237.81 ft. 135%</i>

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.

The next modified request reduces the number of proposed off-street parking spaces.

4. #5. *The next variance request is to the minimum required number of off-street parking spaces. The ordinance requires two spaces per dwelling unit for the 66 units resulting in a 132 spaces. Note that the overall parking must also include that required for the existing assisted living center. The requirement for the assisted living center is regulated similar to a nursing home which requires 1 space per 3 beds plus one per employee. The site data chart on drawing C-100 indicates that the required parking equals 189 and the proposed number, including garages, is 179 spaces.*

<i>Required number of parking spaces</i>	<i>189 sp</i>
<i>Proposed number of parking spaces</i>	<u><i>179 sp 128 sp</i></u>
<i>Short</i>	<i>10 sp 61 sp 5.3% 32%</i>

Note that the zoning ordinance in effect prior to May 23, 2006 required 0.5 spaces per dwelling unit.

The Final request is an appeal per Section 280-a(3) of NYS Town Law for an Open Development Area for a parcel that does not have frontage on an improved street. An existing recorded easement is indicated as providing the necessary access across 390 Mill St. note that the applicant owns a parcel that connects to Mill St. between buildings numbered 436 and 440.

Other Matters

1 Youngs Center

1020 Youngs Rd

Request for rehearing

Brian Andrzejewski, P.E.

BPA: js

- cc: Dr. Barry Weinstein, Supervisor
 Councilmembers
 Roderick J. Cameron, Supervising CEO
 E. Thomas Jones, Town Attorney
 Marjory Jaeger, Town Clerk
 Eric Gillert, Planning Director
 Ellen Kost, Planning Department
 Joe Speth, Highway Superintendent