



**Zoning Board of Appeals**  
5583 Main Street  
Amherst, NY 14221  
www.amherst.ny.us

Francina J. Spoth  
Town Clerk

Meeting: 06/21/22 06:30 PM

DOC ID: 25993

**ZBA ITEM (ID # 25993)**

**APPROVED**

## **3275 & 3325 Millersport Highway - Area Variances**

WHEREAS, **Levin Inc./The Green Organization** has made application for an Area Variance(s), under

- 1.) SECTION: 3-15-5A(4) (front building setbacks)**
- 2.) SECTION: 2-5-3 (front building setbacks to centerlines)**
- 3.) SECTION: 3-15-5B (building wall offsets)**
- 4.) SECTION: 3-15-5B (max. wall length)**
- 5.) SECTION: 3-15-5A(4) (side setback bldg. 3)**
- 6.) SECTION: 7-2-4A(1) (high impact screening)**
- 7.) SECTION: 7-2-4A(2) (VUA 36 inch fence)**
- 8.) SECTION: 7-4-4B(4)(f) (signage)**

of the Zoning Ordinance of the Town Amherst for the property owned by him/her at:

### **3275 & 3325 Millersport Highway within a MRF-5 Zoning District**

The petitioner's proposed buildings number 1, 2 and 3 will be **10** feet from the **north property line** and **65** feet from the **centerline of North French Road**, whereas, the zoning ordinance requires **70** feet and **90** feet respectively from each line, and whereas, buildings number 1, 2, 3, 4 and 5 will have building **wall offsets** of **4.67** feet, whereas, the zoning ordinance requires building wall offsets of **10** feet minimum when such building walls exceed 132 feet in length, and the length of buildings number 1, 2, 3 and 5 will be **180** feet long, and building number 4 will be **240** long, whereas, the zoning ordinance limits such buildings to a length of **176** feet, and whereas, building number 3 will be **4.83** feet from a **western property line**, whereas, the zoning ordinance requires **49.8** feet, and whereas, a **high impact landscape buffer** will not be provided along the North French Road or Millersport Highway Road frontages as required by the zoning ordinance, and whereas, the petitioner is not providing a 36 inch tall wall, earthen berm, or fence along the vehicle use area on the North French Road frontage as required by the zoning ordinance, and whereas, the petitioner's proposed identification sign will be 48 s.f. in area, whereas, the zoning ordinance permits a maximum of **20** s.f. , AND

WHEREAS, a public hearing was held on **June 21, 2022** after proper notice, AND

WHEREAS, this Board must consider the testimony and evidence submitted by the

applicant and the following factors detailed in §267-b(3)(b) of the NY Town Law:

- ) **whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,**
- ) **whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance**
- ) **whether the requested area variance is substantial,**
- ) **whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
- ) **whether the alleged difficulty was self-created; AND**

WHEREAS, this Board after reviewing the application and supporting materials, conducting a public hearing and after due deliberation and vote of the Board finds that the variance(s) are not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; AND

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby GRANT an area variance from the above-mentioned sections of the Zoning Ordinance of the Town of Amherst.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Kelly J. Philips, Member
<b>SECONDER:</b>	Ellen Parker, Member
<b>AYES:</b>	Nichols, Shubert, Philips, Bray, Parker