



TOWN OF AMHERST
BUILDING DEPARTMENT

ERIE COUNTY, NEW YORK

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BRIAN P. ANDRZEJEWSKI,
Commissioner of Building

April 4, 2018

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 April 17, 2018

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 Lowes Home Center Inc. 1659 Niagara Falls Blvd. Temporary Use Permit,
4th Renewal**

This request is for a renewal of a temporary use permit for limited outdoor storage within a storage container that was issued 4/20/2010, 4/17/2012, 5/20/2014 and 4/19/2016 each for a period of 2 years subject to a condition that additional trees be provided for screening. Limited outdoor storage of goods is permitted in the GB Zoning District not in storage containers.

This application is requesting the placement of four storage trailers to the rear of the building and the placement of product in 14 parking spaces to the front of the building.

There exists 31 parking spaces more than required.

The temporary use permit was renewed 4/19/2016 subject to 5 conditions:

1. Rear of building be kept completely free of junk, debris and other objects, including pallets and racks, except for the 3 containers.
2. Shall comply and stay in compliance with code Section 7-4-3.
3. Containers shall be located to provide adequate space for vehicle use in rear of building.
4. The applicant shall be limited to three storage containers as authorized by the property owner.
5. The applicant shall be required to store all outdoor materials either within the storage containers, within the other screened area or inside the building

2 Lowes Home Center Inc. 8150 Transit Road Temporary Use Permit

This request is for a temporary use permit for limited outdoor storage within storage containers.

Limited outdoor storage of goods is permitted in the GB Zoning District not in storage containers.

This application is requesting the placement of eight storage trailers to the rear of the building and the placement of product in 72 parking spaces to the front and side of the building and the placement of product along the front of the building.

There exists 42 parking spaces more than required.

**3 Charles Morphy 4250 Tonawanda Creek Road Temporary Use Permit,
2nd Renewal**

This application is a 2nd renewal of a temporary use permit granted December 15, 2015 for two years for an accessory structure (garage) that is on a parcel zoned Suburban Agriculture (SA) where there is no principal structure.

The principal structure, a single family dwelling, was demolished in 2009 due to ground subsidence caused by Tonawanda Creek Road.

Section 6-8-1A prohibits an accessory use without a principal use and in the SA district, Section 3-3-3A, only permits detached garages where there is a permitted principal structure.

4 Empire State Signs Inc. 7770 Transit Road 2 Area Variances

This application is for 2 Area Variances for the square footage of pole sign and total sign square footage in the GB District.

1) Per Section 7-8-8 B, A parcel with a street frontage of under 200' is allowed a pole sign up to 64 square feet.

NOTES:

The street frontage on Transit Road is 172.05', the ramp to Sheridan Drive is not street frontage.

Allowed square feet:	64.00 sf	
Proposed square feet:	170.90 sf	
Exceed allowable:	106.9 sf	167%

2) Per Section 7-8-8 A, the allowable total square footage for all signs is 2.00 sf per linear foot of building façade length facing a public right of way.

NOTES:

Building façade length:	47.30'	
Total signage allowed:	94.60 sf	(47.30 x 2)
Proposed signage:	178.98 sf	
Exceeds allowed:	84.38 sf	89%

5 Pearl Properties 180 South Forest Road Area Variance

This application is for an Area Variance for lot width in the R-4 District

1) Per Section 3-9-B (2) the lot width for an attached four family unit structure is 120.00'.

NOTES:

The street frontage on South Forest is 100.7'

Required width:	120.00'	
Actual width:	100.70'	
Short of required:	19.30'	16%

6 John Herrington 530 Casey Road 2 Area Variances

This application is for 2 Area Variances for an accessory structure in the SA District.

- 1) Side yard setback
- 2) Total square footage of accessory structures.

NOTES:

1) Per Section 2-5-4 B (3)(a) a structure 30.00' or less in height in the SA District, when adjacent to the R-3 District must be a minimum of 30.00' setback from the property line.

Required setback:	30.00'	
Proposed setback:	5.00'	
Short of required:	25.00'	83%

2) Per Section 6-8-1 B The total floor area of all accessory structures and the floor area of attached or built-in garages shall not exceed 75 percent of the floor area of the principal structure, except as permitted by the ZBA in accordance with the provisions of § 8-13 of this Ordinance.

Square footage of primary structure	1,400 sf	
Allowable accessory square footage:	1,050 sf	
Existing accessory use:	530 sf	(garage 338 sf, shed 192 sf.)
Remaining accessory use:	520 sf	
Proposed garage:	766 sf	
Exceeds allowable:	246 sf	23%

7 The Marrano/Marc Equity 51 Northhill Drive Area Variance Corp.

This application is for an Area Variance for side yard setback in the MFR-4A District

NOTES:

Per Section 3-10-2 B (3) the minimum side yard setback for an attached dwelling structure is 40.00'

Required setback:	40.00'	
Proposed setback:	35.87'	
Short of required:	4.13'	10%

**8 Stampede Presentation 35 & 55 Woodridge Drive Use Variance, 2 Area Variances
Products Inc.**

This application is for a Use Variance and 2 Area Variances in the RD District.

- 1) Use Variance for a parking lot as a primary use (35 Woodridge)
- 2) Area Variance for setback of a vehicle use area from a property line (35 Woodridge)
- 3) Area Variance for setback of a vehicle use area from a property line. (55 Woodridge)

NOTES:

These are existing conditions that was brought to the Town’s attention when there was a request to merge 45 & 55 Woodridge Dr.

1) Per Section 4-9-2 A, a parking lot without a principle structure is not a permitted use. The parking is for 55 Woodridge Dr.

2) Per Section 4-9-2 B, vehicle use area setback from a property line is 10.00’

Required setback:	10.00’	
Proposed setback:	00.00’	
Short of required:	10.00’	100%

3) Per Section 4-9-2 B, vehicle use area setback from a property line is 10.00’

Required setback:	10.00’	
Proposed setback:	00.00’	
Short of required:	10.00’	100%

**9 Dr. Gundula Dunne-Lugo, 213 Burbank Drive Area Variance
DVM**

This application is for an Area Variance for an addition to a single family house on a corner lot in the R-3 District.

Per Section 2-5-2 A (5) (b), The exterior side yard for any building or structure on a corner lot shall meet the front yard requirement for the district within which it is located; provided, however, that for buildings on lots within subdivisions given preliminary plat approval prior to October 24, 1960, the minimum width of the exterior side yard shall be 20 feet. For other uses and structures, the exterior side yard shall comply with the minimum regulations for the district.

NOTES:

This house was built in 1945, the required side yard for this corner lot is 20.00’

Required side yard setback:	20.00’	
Proposed setback:	4.33’	
Short of required:	15.67’	78%

10 TRM Architect

2665 Millersport Highway

Area Variance

This application is for 2 Area Variances for 2 stone pillars in the MFR-4A District.

- 1) Fence / wall height in a front yard.
- 2) Lighting levels at property line.

NOTES:

1) Per Section 7-5-3 No fence or wall, other than a necessary retaining wall, over three feet in height shall extend into the front yard of any lot, except in an industrial district. For the purposes of administration of this Section, the front yard of a principal structure shall be the yard abutting the street that is directly associated with the primary entrance to the structure.

Height permitted:	3.00'		
Proposed height:	5.167'	(5'2")	
Exceed allowable:	2.167'	(2'2")	72%

2) Per Section 7-3-3, light Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

The light fixture will be mounted on the top of the pillars and a minimum amount of light will cross the property line.

11 BRD Construction

334 South Cayuga Road

Area Variance

This application is for an Area Variance for a side yard setback on a corner lot in the R-3 District

Per Section 2-5-2 A (5) (b), The exterior side yard for any building or structure on a corner lot shall meet the front yard requirement for the district within which it is located; provided, however, that for buildings on lots within subdivisions given preliminary plat approval prior to October 24, 1960, the minimum width of the exterior side yard shall be 20 feet. For other uses and structures, the exterior side yard shall comply with the minimum regulations for the district.

This development was approved after 1960, the side yard setback shall be 30.00'

A side yard setback variance was granted on 5/2017 for a setback of 21.00'.

The setback is for a basement egress window well.

NOTES:

Approved setback:	21.00'		
Proposed setback:	18.00'		
Short of granted:	3.00'		14%

12 RAS Development I, LLC**2350 Sweet Home Road &
Portion of 2360 Sweet Home
Road****3 Area Variances**

This application is for 3 Area Variances in the MFR-5 District.

- 1) Front yard setback of vehicle use area.
- 2) Setback of subdivision identification sign.
- 3) Sign face area for subdivision identification sign.

NOTES:

1) Per Section 3-15-6 the minimum setback for a vehicle use area to a public right of way (N Ellicott Creek Rd) is 20.00'

Required setback:	20.00'	
Proposed setback:	3.08'	
Short of required:	16.92'	85%

2) Per Section 7-8-4 B (4)(b) sign shall be located on private property a minimum of 15 feet from any lot line and not in a clear vision triangle as described in § 2-5-1.

Required setback:	15.00'	
Proposed setback:	00.00'	
Short of required:	15.00'	100%

3) Per Section 7-8-4 B (4)(f) the sign shall not exceed 20.00 square feet.

Maximum allowed:	20.00 sf	
Proposed size:	64.00 sf	
Exceed allowed:	44.00 sf	220 %

13 Fox Creek Estates Townhouses II, LLC**9530 Transit Road****Area Variances**

This application is for renewals of an Open Development Area and 4 Area Variances in the MFR-7 District.

- 1) Open Development Area
- 2) Length of building
- 3) Front yard setback of structure
- 4) Side yard setback
- 5) Front yard setback, vehicle use area

1) An Open Development Area is requested for this parcel since it will not have frontage on Transit Road. Access to the parcel is provided through 9500-9510 Transit Road as part of the overall development.

This is a renewal of Open Development Area that was granted on 5/19/2015

2) Per Section 3-15-5 (B), Building Wall Lengths and Offsets and Location for attached dwellings. In the MFR-4A, MFR-5, MFR-6 and MFR-7 districts, any exterior wall of a sequence of units shall not exceed 132 ft. in length without a 90 degree offset of at least 10 ft. and the aggregate length of any wall including its offsets shall not exceed 176 ft.

The area variance is for the aggregate length of the 8 unit town house building and will exceed the permitted length of 176 ft. The proposed length is 229.16ft.

Maximum aggregate length of building allowed:	176.00'	
Proposed length:	216.29'	
Exceeds allowable:	40.29'	23%

This is a renewal of a variance that was granted February 23, 2016.

3) Per Section 3-15-5A (4) Building and lot line separation (south), Setback is 2x mean building height.

Mean building height:	15.75'	
Required setback:	31.50'	
Proposed setback:	9.00'	
Short of required:	22.50'	75%

This is a renewal of a variance that was granted February 23, 2016.

4) Per Section 3-15-5A (4) Building and lot line separation (east) Setback is 1.5 x mean building height.

Mean building height:	15.75'	
Required setback:	23.60'	
Proposed setback:	13.75'	
Short of required:	9.85'	62%

This is a renewal of a variance that was granted February 23, 2016.

5) Per Section 3-15-6 Setback of vehicle use area is 5.00'

Required setback:	5.00'	
Proposed setback:	0.00'	
Short of required:	5.00'	100%

This is a renewal of a variance that was granted February 23, 2016.

**14 Transcend Wireless – T-Mobile 450 Wehrle Drive (Water Tank) Special Use Permit,
Telecommunication Facility,
Waivers Requested**

This application is for a Special Use Permit for a telecommunication facility co-location antenna upgrade on an existing Erie County water tower in the CF District.

This is an existing co-location that must obtain a Special Use Permit.

The applicant is requesting the following waivers:

- 1) 6-7-3 G 18, Certification on RF interference
- 2) 6-7-3 G 20, Topographic & geomorphological study
- 3) 6-7-3 J, Certification of grounding & bonding
- 4) 6-7-3 K, Conductors within 50'
- 5) 6-7-3 M 1, Zone of Visibility Map
- 6) 6-7-3 M 2, Before & After Visualizations
- 7) 6-7-3 M 3, Visual impact assessment
- 8) 6-7-3 N, Provide screening plan
- 9) 6-7-3 P, Underground utilities
- 10) 6-7-3 S, Access road requirements
- 11) 6-7-3 W, Feasibility of future users
- 12) 6-7-3 Y Pre-application meeting
- 13) 6-7-3 AA, Lighting requirements
- 14) 6-7-4 E Location review report.
- 15) 6-7-5 A, Existing site use
- 16) 6-7-5 B, Consent letter from property owner.

**15 American Town Asset Sub II, 200 Irwin Place
LLC**

**Special Use Permit,
Telecommunication Facility,
Co-Location
Waivers Requested**

This application is for a Special Use Permit for a telecommunication facility, new emergency generator and co-location antenna upgrade on an existing macro tower in the GI District.

This is an existing co-location that requires a renewal of its Special Use Permit.

The applicant is requesting the following waivers:

- 1) 6-7-3 G (10), Existing landscaping and fencing
- 2) 6-7-3 H, report on securing a co-location
- 3) 6-7-3 N, Provide screening plan
- 4) 6-7-3 W (1), Number of FCC licenses available for the area
- 5) 6-7-3 W (2), the kind of WTF site and structure proposed
- 6) 6-7-3 W (3), The number of existing and potential licenses without WTFs spaces/sites
- 7) 6-7-3 W, (4), Available space on existing and approved towers.
- 8) 6-7-3 Y, Pre application meetings
- 9) 6-7-4 E, Review of location given priority
- 10) 6-7-5 D, Legally non-conforming structures

**16 American Town Asset Sub II, 2700 Millersport Highway
LLC
AT&T**

**Special Use Permit,
Telecommunication Facility,
Co-Location
Waivers Requested**

This application is for a Special Use Permit for a telecommunication facility, new emergency generator and co-location antenna upgrade on an existing macro tower in the MS District.

The applicant is requesting the following waivers:

- 1) 6-7-3 G (10), Existing landscaping and fencing
- 2) 6-7-3 H, Report on securing co-location
- 3) 6-7-3 K, Conductors within 50'
- 4) 6-7-3 L, Environmental assessment analysis and a visual addendum
- 5) 6-7-3 M (3) Assessment of visual impact
- 6) 6-7-3 N, Provide screening plan
- 7) 6-7-3 R, Stealth or concealment of structures
- 8) 6-7-3 W (1) Number of FCC licenses available for the area
- 9) 6-7-3 W (2) The kind of WTF site and structure proposed
- 10) 6-7-3 W (3), The number of existing and potential licenses without WTFs spaces/sites
- 11) 6-7-3 W (4), Available space on existing and approved towers.
- 12) 6-7-3 Y, Pre application meetings
- 13) 6-7-4, Location of WTF
- 14) 6-7-5, Shared use of WTF & Other Structures
- 15) 6-7-7 E, Visual screening
- 16) 6-7-3 J, Grounding & bonding

**17 Crown Castle /T Mobile 200 Bassett Road
Barclay Damon LLP**

**New Special Use Permit,
Telecommunication Facility
Waivers Requested**

This application is for a Special Use Permit for a telecommunication facility, co-location on and existing macro tower in the MFR-7 District.

This is an existing co-location that must obtained a Special Use Permit.

The applicant is requesting the following waivers:

- 1) 6-7-3 G (1) Demonstrate a need for the WTF
- 2) 6-7-3 G (6) Property size and survey
- 3) 6-7-3 G (7) All structures within 500'
- 4) 6-7-3 G (8) All structures on the property
- 5) 6-7-3 G (18) Certification that the proposed antenna will not cause interference with other telecommunication devices
- 6) 6-7-3 G (20) topographic and geomorphologic study
- 7) 6-7-3 M (1) zone of visibility map
- 8) 6-7-3 M (2) pictorial representation "before & after" views
- 9) 6-7-3 M (3) visual impact, and appropriateness of screening

Other Matters**1 Crown Castle/ T-Mobile 455 Schoelles Road Special Use Permit**

This request is for waivers to Section 6-7 Telecommunication Facility Standard for an alteration of an existing monopole macro tower in the SA District.

6-7-3 G All applications for the construction or installation of new WTFs shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the petitioner. Where a certification is called for, such certification shall bear the signature and seal of a professional engineer licensed in the State of New York. The application shall include the following information:

Waivers requested:

1) 6-7-3 G (1)

Documentation that demonstrates the need for the WTF to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;

2) 6-7-3 G (6)

Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines along with the setback dimensions from the WTF to the abutting property lines;

3) 6-7-3 G (7) The location and use of all structures within 500 feet from the WTF;

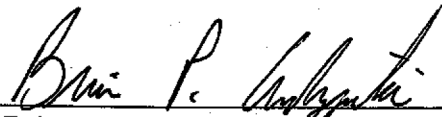
4) 6-7-3 G (8) The location, size and height of all structures on the property which is the subject of the application;

5) 6-7-3 G (18) Certification that the proposed antenna will not cause interference with other telecommunications devices;

6) 6-7-3G (20) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed WTFs on the proposed site.

Special Use Permit originally issued in 1997, Special Use Permit has expired.

Adjourned on 3/20/2018



Brian P. Andrzejewski, P.E.

DG:js

cc: Dr. Barry Weinstein, Supervisor
Councilmembers
Stanley Sliwa, Town Attorney
Marjory Jaeger, Town Clerk
Dan Howard, Planning Director
Ellen Kost, Planning Department
Patrick Lucey, Highway Superintendent