



TOWN OF AMENIA

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TOWN OF AMENIA ZONING BOARD OF APPEALS

Resolution # 1 for 2025

Resolution Granting an Area Variance from Minimum Lot Size for a Subdivision at 189 Amenia Union Road

January 21, 2025

WHEREAS, Michael Levin and Laurence De Segonzac-Levin (the “Applicants”) seek an area variance from minimum lot size requirements related to the proposed subdivision of a ±61.896-acre parcel located at 189 Amenia Union Road, Tax Parcel # 132000-7266-00-165686-0000 (the “Property”) previously amended by a lot line adjustment filed as Map # 12830; and

WHEREAS, the Code Enforcement Officer (the “CEO”) denied the application for subdivision by letter dated November 11, 2024 and the Planning Board referred the application to the Zoning Board of Appeals (the “Board”) by letter dated December 12, 2024 and offered a positive recommendation to the Board; and

WHEREAS, the proposed subdivision creates an 8.719-acre parcel (“Lot 1”) and a 53.177-acre parcel (“Lot 2”);

WHEREAS, the Property is located in the Town’s Rural Agricultural (“RA”) Zoning District where 10-acres is the minimum lot size pursuant to the Dimensional Table in Section 121-11B; and

WHEREAS, the Applicant seeks an area variance of 1.281-acres for Lot 1 (the “Application”); and

WHEREAS, pursuant to Zoning Code Section 121-59 D (1) the Board has the authority to review an area variance from the dimensional requirements; and

WHEREAS, the Application is a Type II Action for SEQRA purposes in accordance with 6 NYCRR 617.5(c)(17) for the granting of an area variance for a single-family home; and

WHEREAS, pursuant to General Municipal Law 239-m the Application is not subject to the Dutchess County Department of Planning and Development review per an Intermunicipal Agreement exempting area variances for residential uses; and

WHEREAS, pursuant to Zoning Code Section 121-59(G) a public hearing was held on the Application on January 21, 2025, and the public was invited to comment on the Application at the

hearing or submit comments prior to the hearing for consideration by the Board; and

WHEREAS, at its January 21, 2025 meeting, the Board made the findings below, which are being memorialized by this Resolution; and

NOW THEREFORE, BE IT RESOLVED, the Board finds that the granting of the requested area variance will not result in a detriment to the health, safety, or welfare of the neighborhood or community. In so finding, the Board notes that granting of the variance will not create an undesirable change in the character of the neighborhood, nor will there be a detriment to nearby properties; that the proposed 8.719-acre parcel will be adjacent to the Hamlet zoning district which has a minimum lot size of 40,000 sf to 20,000 sf dependent on availability of public utilities and is surrounded by parcels of similar size; that the 1.281-acre variance is not substantial, but that the size of the variance alone in this instance should not be determinative given the character of the property; that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and that the difficulty is self-created, by virtue of the Applicant's desire to subdivide the property. The Board finds that on balance, the Applicant's request for an area variance shall be granted; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of Amenia Town Clerk within five (5) days of the date of this Resolution and shall be mailed to the Applicant within the same five (5) day period.

The foregoing resolution was voted upon with all members of the Zoning Board of Appeals voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>	<u>Signature</u>
Terry Metcalfe, Chairman	_____	_____	_____	✓	_____
David Menegat	_____	_____	_____	✓	_____
Paula Pelosi	✓	_____	_____	_____	<i>Paula Pelosi</i>
Jim Wright	✓	_____	_____	_____	<i>Jim Wright</i>
George Bistransin	✓	_____	_____	_____	<i>George Bistransin</i>

Dated: January 21, 2025
Amenia, New York

Judith Westfall

Judith Westfall, Secretary
Town of Amenia Zoning Board of Appeals

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) 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;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The proposed property is a typical size for a residential property in the neighborhood. The Property is located in a rural agricultural zoning district in a residential neighborhood where the lot sizes of surrounding properties are similar to that proposed by the Applicant. The Property is adjacent to the Hamlet zoning district, where the minimum lot size of parcels is between 40,000 sf to 20,000 sf, under an acre, dependent on the availability of public utilities.

When the requested variance is similar to existing conditions, the variance will not negatively impact character, or physical and environmental conditions. See *Daneri v. Zoning Board of Appeals of the Town of Southold*, 98 A.D.3d 508, 949 N.Y.S.2d 180 (2d Dept. 2012); see also *Defreestville Area Neighborhood Ass'n, Inc. v. Planning Board of the Town of North Greenbush*, 16 A.D.3d 715, 790 N.Y.S.2d 737 (3d Dept. 2005).

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method because the property is bounded by a water body, an existing tree stand separating the parcel from currently operating agricultural fields protected by a conservation easement, and a second access to the roadway for the adjacent farm. Altering the lot lines would impede on these elements while the proposed subdivision protects these natural resources and existing uses while not negatively impacting the community similar to *Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner* [(3 Dept. 2008) 56 A.D.3d 883, 867 N.Y.S.2d 238] where the town engineer attempted alternatives of a proposed driveway and found that it was the best option and would not negatively impact the surrounding community.

(c) Whether the requested area variance is substantial;

The area variance from rear yard setbacks is not substantial, at 12%, to allow a 1.2-acre reduction in the minimum lot size requirement. Notwithstanding that the requested area variance is not substantial, courts have held that substantiality is not to be based solely on the percent deviation. Instead, the Zoning Board of Appeals must consider the overall effect of the variance if granted. See *Beekman Delamater Props., LLC v Village of Rhinebeck Zoning Board of Appeals*, 150 A.D.3d 1099, 57 N.Y.S.3d 57 (2d Dept. 2017). If granting the variance will not create an undesirable

change in the neighborhood character or negatively impact physical and environmental conditions, as discussed above, then the total impact is not substantial.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. Instead, the Applicant's proposal protects the water body, the existing tree stand, fields currently farmed that are protected by a conservation easement and the second roadway access for the adjacent farm.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The alleged difficulty is self-created but does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.