

**Town of Hamburg
Board of Zoning Appeals
Meeting - January 6, 2009**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday January 6, 2009 at 7:00 p.m. in Room 7B to discuss the following applications. Those attending included:

Chairman Vincent Gugliuzza
Vice-Chairman Brad Rybczynski
Secretary Jack Rahill
Commissioner Shawn Connolly
Commissioner Paul Eustace
Commissioner Chuck Morlock
Commissioner Jim Sortisio
Attorney Joseph Shaw **Excused**
Attorney Tim Quinlivan
Building Inspector Roger Gibson
Recording Secretary Laurie Wutz

Secretary Rahill read the following Legal Notice of Public Hearing:

Application # 5238 - Benderson Development for a second detached sign at 3860 McKinley Pkwy. Violates 280-261 F - Code 1 sign, actual 2 signs, variance needed 1 sign.

Mr. Mavis again came before the Board to answer any further questions the Board may have. Mr. Gibson explained that the Planning Board approved the signs, but didn't realize the issue of illumination.

Mr. Gugliuzza asked if the sign on the corner of McKinley Pkwy. and Highland Pkwy. would restrict the line of sight for traffic pulling out of Highland Pkwy. Mr. Gibson explained that the 30' x 30' triangular sign conforms to the required 5' setback.

Mr. Rybczynski pointed out the other area stores which have illuminated signage.

Findings: Mr. Gugliuzza stated out that signs need to be illuminated in order to be visible at night, that there is no other means by which the applicant can achieve this, and it is not a substantial request.

Mr. Rybczynski made a MOTION to approve Application # 5238 for a variance on 1 sign, and for illumination for both signs at 3860 McKinley Pkwy. Mr. Eustace seconded, all voted in favor.

Granted

Application # 5241 - Gioacchino and Rosaria Schifano for an in-law apartment at 2254 Lakeview Rd. Violates 280-38 A (1) Permitted Structures - not permitted in R-2 zone.

Applicant did not appear, the application remains tabled.

Application # 5243 - Kevin Eaton for an area variance on an over-height accessory structure, and a use variance for a proposed second dwelling at 6263 Old Lakeshore Rd. Violates 280-33 C - Max. Height of bldg. Code 18', actual 24', variance needed 6'. Violates 280-31 A (2) - code single family, actual two family, variance needed to allow second family dwelling.

Mr. & Mrs. Eaton came before the Board to explain that Mrs. Eaton's mother has come to live with them to help out with their children. The existing garage collapsed during the last wind storm, and their house does not accommodate adding an addition on to it. The new structure would be a garage with a living unit on the second floor. There would be no kitchen, only a bedroom, living area, and bathroom.

Mr. Gibson explained that the property is zoned R-1 which allows for only 1 dwelling unit. Mr. Gibson referred to Section 280-342 of the Town Code which defines a dwelling unit.

Mr. Rybczynski asked Mr. Gibson, "If a room was added to the second floor of an attached garage would only a permit be required?" Mr. Gibson responded only in a R-2 district which allows for a second dwelling unit, applicant is in a R-1 district.

Other options, such as adding onto the house, or adding a breeze way connecting the accessory structure to the house were explored.

Mr. Gugliuzza explained that more applications have been coming before the Board regarding in-

law apartments. According to the Town Code in-law apartments or second dwelling units are not permitted in an R-1 zone, and he is obligated to uphold the Town Code. He has discussed the issue with the Code Review Committee, and will continue to request the Code Review Committee to take another look at it.

Findings: Mr. Gugluizza stated that the Board could not grant a use variance for the second dwelling unit, but was willing to consider the area variance for the height of the building if they so chose.

Mr. Rybczynski suggested tabling the application for one month in order to give the applicants sufficient time to come up with an alternative solution. He also suggested that the Eaton's inform the Building Inspection Department if they decided to withdraw their application.

Mr. Rybczynski made a MOTION to table Application #5243 for one month. Mr. Rahill seconded, all voted in favor. **Tabled**

Application # 5244 - William and Susanne Brown for a home occupation at 3997 Towers Place. Violates 280-38 B (1).

Mr. Brown came before the Board to explain that he would like to be able to build custom acoustic guitars at his home. He is not expecting a large volume, only one to three clients a year. All work would be done in his basement (guitars would built one at a time). This would just be a part-time job for him. He does not want to have a sign outside his home. There would be no loud music.

The Applicant presented three letters from neighbors stating they had no objection. The letters were read into record:

Patricia Williams - 3998 Towers Place
Vince Andriaccio - 4010 Big Tree Road
Nicholas Forth - 4002 Towers Place

Mr Morlock asked if the request is for a use variance. Mr. Rybczynski stated that it would be an area variance.

Findings: Mr. Rybczynski stated that the request is a permitted use as a home occupation, and read through the area variance criteria. It would not be feasible for the applicant to rent space for such small volume.

Mr. Rybczynski made a MOTION to approve Applicant #5244 for a home occupation at 3997 Towers Place. Mr. Rahill seconded, all voted in favor. **Granted**

Other Business

Tim Quinlivan was welcomed back to the Board as second attorney. Mr. Gugluizza stated that Cheryl McFadden-Zak has been transferred to the Planning Board.

Mr. Eustace asked about the sign at the Tallyho Motel which was supposed to be removed. Mr. Gibson stated that the banner sign has been removed.

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Mr. Rybczynski made a MOTION to approve the minutes from December 6, 2008. Mr. Rahill seconded, all voted in favor motion carried.

MOTION to ADJOURN was made by Mr. Rybczynski, seconded by Mr. Rahill . Motion carried. Meeting adjourned at 8:20 pm. The next Zoning Board meeting will be held Tuesday, February 3, 2009.

Respectfully Submitted,

Jack Rahill, Secretary
Board of Zoning Appeals

Date: 1/7/09