

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - February 3, 2009**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday February 3, 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 **Excused**  
Commissioner Paul Eustace  
Commissioner Chuck Morlock  
Commissioner Jim Sortisio  
Attorney Joseph Shaw  
Attorney Tim Quinlivan  
Building Inspector Roger Gibson  
Recording Secretary Laurie Wutz

Secretary Rahill read the following Legal Notice of Public Hearing:

**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.

Roger Gibson, Building Inspector, gave the Board a review of the tabled application. He also informed the Board that the Schifano's appeared in court on January 2, 2009 regarding violations of the Town code.

Gioacchino Schifano, Jr. addressed the Board regarding their court appearance, stating that the Town Prosecutor postponed the hearing until after they appeared before the Zoning Board.

Mr. Schifano, Sr. briefly explained the history of the barn; his daughter needed the barn for her horses, when they no longer had the horses his son turned the second floor of the barn into an apartment for himself, which already had running water, electricity and sewer hookup. When he put the property up for sale the realty company listed the property with an in-law apartment. The Town Assessor did an inspection and then notified the Building Inspection Dept., who then notified the property owner he was in violation.

Mr. Gugliuzza stated that there are no provisions for in-law apartments in the Town code. He has met with the Code Review Committee and they have no intention of making any changes regarding in-law apartments in the near future. The Board can not grant the applicants request.

**Findings:** Mr Gugliuzza stated again that in-law apartments are not allowed in R-2 zoning and there are no provisions in the Town code at all for in-law apartments.

Mr. Rybczynski read through the use variance criteria stating that there was no financial evidence, the hardship is not unique, a 4<sup>th</sup> living unit would alter the character of the neighborhood, and that the hardship is self-created. He made a MOTION to deny Application 5241 for an in-law apartment at 2254 Lakeview Rd. Mr. Rahill seconded, all voted in favor. **Denied**

**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.

The Applicants did not appear.

**Findings:** Mr. Gugliuzza stated that for the same reasons they could not grant the Schifano's application, they could not grant this application. R-1 zoning does not allow for in-law apartments, and there are no provisions in the Town code for it.

Mr. Rybczynski made a MOTION to deny Application #5243 for an second family dwelling unit at 6263 Old Lakeshore Rd. Mr. Eustace seconded, all voted in favor. **Denied**

### **Other Business**

Mr. Gugliuzza explained to the Board the new arrangement for the required four hour training session. They would be allowed to work on training three hours at home and then a one hour testing period held here at the Town Hall. Drew Reilly would do the testing. Dates are not finalized yet. Board members

Board of Zoning Appeals  
February 3, 2009

would receive a stipen, and any member unable to attend would be given an opportunity to make up the session. They would not be released with notification.

Mr. Rybczynski made a MOTION to approve the minutes from January 6, 2009. Mr. Rahill seconded, all voted in favor motion carried.

MOTION to ADJOURN was made by Mr. Eustace, seconded by Mr. Rahill . Motion carried. Meeting adjourned at 7:30 pm. The next Zoning Board meeting will be held Tuesday, March 3, 2009.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 2/4/09**