

**Town of Hamburg
Board of Zoning Appeals
Meeting - March 6, 2007**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday, March 6, 2007 at 7:30 p.m. in Room 7B to discuss the following applications. Those attending included:

Chairman Peter Blaauboer
Vice-Chairman Michael Chiacchia
Secretary Jack Rahill **Excused**
Commissioner Vinny Gugluizza
Commissioner Jim Sortisio
Commissioner Shawn Connolly
Commissioner Brad Rybczynski
Attorney Joseph Shaw
Attorney Tim Quinlivan
Building Inspector Roger Gibson
Recording Secretary Laurie Wutz

Vice-Chairman Chiacchia read the following Legal Notice of Public Hearing:

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Application #5115 - David Root for variances on a pending subdivision located at 5781 Old Lakeshore Road. Tabled for on site. Lot B lacks total area, code required 15,000 sq. ft. actual is 6,970 sq. ft., variance 8,030 sq. ft. Lot width at the building line, code requires 90', actual 71', variance of 19'. Side yard: Code 10', actual 9.17', variance

Mr. Root originally came before the Board January 4, 2007. The application was tabled for an on-site inspection. The Committee was presented with 7 letters from Mr. Root's neighbors, 5 in favor, 2 against. He originally sent out 12 and received 7 back (Mr. Root stated he had 9 letters, but only 7 were presented). Mr. Chiaachia entered the letters into the record:

In favor: Christian & Rosemary Heintz - 5841 Ainslee Ln.
Diane Miltz - 5831 Ainslee Ln.
Donald Grube - 5767 Old Lakeshore Rd.
Joyce Patelunas - 5848 Ainslee Ln.
Cheryl & Ed. Thompson - 5789 Old Lakeshore Rd.

Against: Jim & Karen Bridges - 5791 Ainslee Ln.
Joe & Colleen Schumacher - 5796 Ainslee Ln.

Mr. Root wants to subdivide the property located at 5781 Old Lakeshore Rd. Currently there is one house and a garage with an apartment on the lot with separate driveways and utilities. The garage apartment (Lot B) is being used as a rental, but the property is not zoned for rental property. The property was used as rental before Mr. Root purchased it.

Two of the neighboring properties which abut Mr. Root's property are in favor of the subdivision, but the neighbor adjacent to the garage apartment is against it.

The variance requested in order to subdivide the lot into two separate lots is extreme. Lot B lacks total area, code required 15,000 sq. ft. actual is 6,970 sq. ft., variance 8,030 sq. ft. Lot width at the building line, code requires 90', actual 71', variance of 19'. Side yard: Code 10', actual 9.17', requiring .83' variance. Rear yard, the code requires 30', the actual is 10.67, requiring a variance of 19.33'.

Findings: Mr. Blauboer reviewed the history of the property. The property has changed hands since the original intention of the permit to build an accessory structure. In order to subdivide the lot, extreme variances would be required (60% -65% of the lot area). Mr. Chiaachia referred to the negative letter for neighbors and the fact that the variance needed is so extreme. Mr. Chiaachia feels the application should be denied. Mr. Connolly agreed. Motion to deny the application made by Mr. Chiaachia, seconded by Mr. Sortisio: **Denied 5-1**

Roll Call: Peter Blauboer Deny
Michael Chiacchia Deny
Jim Sortisio Deny
Brad Rybczynski Deny
Shawn Connolly Deny
Vinny Gugluizza In Favor

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Application #5116 - Lesley Holmes for a deck built without a permit. Infringes on the front yard setback, 280-37(a) Code requires 35', actual 27.92', variance 7.08'.

The wooden deck was built onto the front of the house which encroaches on the front yard set-back. The deck is more of a patio with two sets of stairs with railings, and a railing along the entire deck. The height of the deck is less than two feet off the ground. The patio is used for enjoyment purposes.

Ms. Holmes explained she did not know she needed a permit. A family friend, Peter Gabel, did the work for her. As soon as she was made aware of the violation she brought all the necessary paperwork to the Building Inspection Dept. Mr. Gibson stated there were no letters of complaint from neighbors.

Findings: Mr. Rybczynski noted that the violation was an honest oversight by Ms. Holmes. Motion to approve was made by Mr. Gugliuzza, seconded by Mr. Rybczynski. All voted in favor. **Granted.**

Tabled Application #5120 - Pegagus Restaurant for an extension of an electronic message sign located at 5748 South Park Avenue. Applicant did not appear.

Application #5121 - Dennis Meyer for an accessory structure. Violates 280-40 Height code is 18 ft., actual is 21 ft., variance of 3 ft., violates 280-278 proposed area code is 850 sq. ft., actual is 1,536 sq. ft. variance of 686 sq. ft.

Mr. Meyer explained he wanted to build an additional storage space because of the lack of storage space in his house. The accessory structure has two bays, a workshop, and an attic upstairs. Mr. Meyer presented a picture of the structure. Mr. Gibson informed the committee that the second floor footage is figured into the total sq. footage, which brings the actual footage to 1,536 sq. ft. Without the second floor footage the structure is within the area code.

Mr. Meyer presented three letters from neighbors stating they do not object to the structure.
Michael Jakobowski - 1621 Schoellkopf Rd.
Julie Spies - 1641 Schoellkopf Rd.
Joshua Wisinski - 1631 Schoellkopf Rd

Findings: Mr. Blaauboer did not feel the request was unreasonable or that there would be any undesirable change to the neighborhood. Motion to approve made by Mr. Blaauboer, seconded by Mr. Gugliuzza. All voted in favor. **Granted**

Application #5122 - Michael Martinez for a home occupation for a catering business. Violates 280-17, not a permitted use.

Mr. Martinez owns a restaurant/catering business (Pasta Pronto). He explained that he wanted to set up a full size kitchen in his three car garage to serve as a satellite location for his

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catering business to help out with the overflow (about 5 to 6 hours a week) when his restaurant is at its busiest time. Only the catering portion of his business would be operating out of the satellite location, and all food prepared on site would be taken out. No customers would be coming to the location. He stated that he is currently declining business because of high demand.

Mr. Martinez's home is located at 3423 Lakeview Rd, lot size 435 x 256. He has no neighbors to the front or back of his property, and the closest neighbor is about 400' to the left of his property. Mr. Martinez also presented ten letters from neighbors who do not object to his application. Mr. Chiacchia read the names into record:

James & Jacqueline Lutz - 3459 Lakeview Rd.
Sharon Zaccarine - 3368 Lakeview rd.
Alice McLellan - 3033 Lakeview Rd.
Paula Waving - 3170 Lakeview Rd.
Leo Schifano - 3183 Lakeview Rd.
Luke Garey - 3520 Lakeview Rd.
Liz Fangbaner - 3390 Lakeview Rd.
Michael Jablonski - 3110 Lakeview Rd.
Boncraft Hamburg Distributing - 3556 Lakeview Rd.
Martin Dugan - 3519 Lakeview Rd.

Renovations to the 3 car garage would cost between \$4,000 and \$5,000, and the equipment would cost about \$15,000. Mr. Martinez also assured the Committee that the facility would have to meet Health Dept. regulations. The Health Dept. would also inspect the facility several times a year.

Mr Blaauober read the Home Occupation Code (280-17 Definition, and Permitted Uses and Structures). Mr. Martinez stated that he and his wife would be the only employees, and the facility would be used mainly on weekends during the summer and less often during the winter months.

Mr. Chiaachia asked where deliveries would be made - the restaurant or the home address. Mr. Martinez would follow the Board's instruction regarding deliveries.

Findings: Mr. Blaauober noted that home occupation is meant to allow someone to conduct a small business out of their home. Mr. Martinez would be supplementing his restaurant/catering business out of a satellite of his restaurant. The definition of Home Occupation (Code 280-17) was read. Motion to deny application was made by Mr. Blaauober.

Roll Call:

Peter Blaauboer	Deny
Michael Chiacchia	Deny
Jim Sortisio	Deny
Brad Rybczynski	Deny
Vinny Gugluizza	In Favor
Shawn Connolly	In Favor

Denied 4-2

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Application #5123 - Parker Road Development/J&M Home Builders for a model home. Violates 280-264 A2.

Mr. Kalstek of J&M Home Builders stated that they have completed Phases I & II of the Parker Road Subdivision and are down to the last three lots in Phase III. They will be starting a new project (Patio Homes) down the road from the subdivision, and would like an extension until late-fall for the use of the model home. All applications for the new project have been filed with the Attorney General and are waiting approval.

Mr Chiacchia inquired if the model home is still being used as a business office as well as a model home. Mr. Kalstek confirmed that it is, and that he has no other business office.

Findings: Mr. Blaauboer stated the request for the extension was not unreasonable, but the use of the model home as a business office is not the intention of a model home. Motion to grant the 9 month extension for use of the model home by Mr. Connolly, seconded by Mr. Rybczynski. All voted in favor. **Granted**

Application #5124 - Scott Dzubella for a rear addition. Violates 280-20B. Minimum side yard code is 30 ft., actual is 7 ft., variance of 23 ft.

Mr. Dzubella explained that currently there is an enclosed porch on his house which would be removed and the addition added on. Mr. Dzubella presented pictures of the existing porch. The addition would only extend another ten feet from where the existing porch ends.

Mr. Dzubella presented a letter from his neighbor stating there was no object.
Colleen Comerford-Kamien - 6845 Gowanda State Rd.

Findings: Mr Blaauboer noted that due to the unique shape of the lot and building, it limits any other location for the improvement. Mr. Rybczynski motioned to approve the application. Seconded by Mr. Chiacchia. All voted in favor. **Granted**

Application #5125 - Ryan Homes for a Single Family Dwelling. Violates 280-282F Rear Yard Setback. Code is 28.75 ft., actual is 21 ft., variance of 7.75 ft.

Mr. Rush from Ryan Homes stated he had actually two objectives to obtain from the Committee:

- (1) To get the variance needed for the depth of the home on the lot in question.
- (2) For some direction on how to proceed with the remaining lots in the new Wellington Woods Subdivision, in that the same problem will occur with the sale of about 20 of the remaining 54 lots.

The subdivision plans were shown to the Committee. The property behind the lot in question is owned by the Town of Hamburg, so there would be no rear neighbors. The plans showed that the front yard set-back was 25 feet, but the code only requires a front yard setback of 20 feet. The home

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could be moved closer to the front in order to reduce the size of the variance.

Mr. Rybczynski expressed he did not feel comfortable operating outside the scope of this one application. The Committee agreed that the Planning Board should be consulted for guidance on any future lots. The Zoning Board only deals with individual lots and will not issue blanket variances.

Findings: Mr. Rybczynski motioned to approve the application for the variance of the single lot, seconded by Mr. Chiacchia. Mr. Connolly voted to deny. Motion **Granted**

Minutes of February 2007 were approved on motion by Mr. Blaauboer, seconded by Mr. Connolly. Motion carried.

Motion to adjourn was made by Mr. Blaauboer, seconded by Mr. Chiacchia.. Motion carried. Meeting adjourned at 9:41p.m.

Respectfully submitted,

Michael Chiacchia, Vice-Chairman
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