

**Town of Hamburg
Board of Zoning Appeals
Meeting - April 3, 2007**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday, April 3, 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
Commissioner Vincent Gugliuzza **Excused**
Commissioner Jim Sortisio
Commissioner Shawn Connolly
Commissioner Brad Rybczynski **Excused**
Attorney Joseph Shaw
Attorney Tim Quinlivan
Building Inspector Roger Gibson
Recording Secretary Laurie Wutz

Secretary Jack Rahill read the following Legal Notice of Public Hearing:

Board of Zoning Appeals
April 3, 2007

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

Application #5126 -Ford Stamping Plant at 3663 Lakeshore Road for an oversized attached sign. Violates 280-261 B (1) A - code 120 s.f., actual 3200 s.f., variance 3080 s.f.
Violates 280-261 B (2) A - code 18', actual 95', variance 77'.

John Wabick, V.P. for West Herr Automotive Group was acting on behalf of the Ford Stamping Plant. Mr. Wabick explained that in the spirit of identifying the Stamping Plant with 80% of the sheet metal made here in W.N.Y, the local Ford dealers and the Stamping Plant have joined forces to promote their product. A 3200 s.f. sign would be attached to the Stamping Plant building so that it would be visible to the traffic heading into Buffalo. Similar signs have been displayed on buildings in Cleveland and Detroit with much success.

The size of the sign was dictated by the size of the building. Without the size of the sign, the graphics would not be identifiable from a distance, and the print would not be legible. A smaller sign on that size building would not serve its purpose. The Ford Edge is currently being promoted.

The sign would be vinyl, attached with pressure treated 2 X12s and multiple supports to secure it permanently to the building (the vinyl would be pulled taut around the sides of the 2X12s). The strong winds coming off Lake Erie were taken into consideration. The sign is changeable. The sign would be illuminated from the ground with flood lights. Ford would be agreeable to a reasonable time frame for the sign as long as it justifies the cost.

Mr. Chiacchia voiced concern about the traffic hazards associated with the sign. Would it be a distraction to drivers? Mr. Blaauboer noted that too much wording would be a distraction, but that is not the case with this sign. Mr. Wabick added that less is more, which is true of billboards as well. Mr. Rahill did not share the concern for traffic safety. He feels it is a tribute to the community.

A member of the audience, Mr. Molenda, was in favor of the project.

Findings: Mr. Blaauboer reviewed the criteria needed for approval.

- Can the benefits be achieved by any other methods? Mr. Chiacchia noted that showing the product made here in Hamburg is a plus for the area - Ford is an asset to the Town. Mr. Blaauboer stated that large advertisement of the product is only feasible in this way.
- Would there be an undesirable change in the property? All members agreed no there wouldn't.
- There would be no adverse physical or environmental effects.

One concern the Committee felt may need addressing is traffic safety. Mr. Blaauboer stated that the potential traffic issue may render a need for the Committee to take a future look at it. Mr. Blaauboer also discussed the issue of changing the sign. Does the Committee want to be involved

Board of Zoning Appeals
April 3, 2007

in changing of the signage? Should there be a time limitation on changing the sign? Mr. Gibson informed the Committee that a permit is required from Building Inspection to reface a sign. The size would have to remain the same, but the content could change. Mr. Blaauboer proposed putting a limitation on sign changes, allowing no more than one change per year. Building Inspection would be instructed not to authorize more than one permit for refacing the sign per year. All members agreed.

Mr. Chiacchia motioned to approve the Ford Stamping Plant application for a size variance for 3080 s.f. and a height variance of 77', with the condition that the sign can not be changed more than once a year. Mr. Sortisio seconded the motion. All voted in favor. **Granted**

Application #5127 - Kimberly's Greenhouse, Inc. at 261 Willet Rd. for an oversized detached sign.

Violates 280-253 (B), code 6s.f., actual 40s.f., variance 34s.f.

Todd Klubeck, the owner of Kimberly's Greenhouse showed board members a site plan of the property and where the sign would be located. The sign would be located approximated 127' from his east property line (15' from east property line, 66' driveway, 46' from driveway), and 73' from the center line of the road. The sign would not block the line of site for traffic coming from either direction.

The sign would be illuminated, but the illumination would face toward the greenhouses, and the sign would only be illuminated during business hours.

Mr. Klubeck stated that the sign was needed to advertise seasonal sales and for customers coming in for wholesale orders. The business has been at this location for a number of years.

Mr. Rahill read into record four letters from neighbors stating that they do not object to the sign:

Jennifere Queen - 211 Willet Rd.
Connie Miller - 219 Willet Rd.
Helen Fernan - 203 Willet Rd.
Arline Miller - 193 Willet Rd.

Mr. Rahill commented that he had been to the greenhouse and complimented Mr. Klubeck on doing a good job.

Findings: Mr. Blaauboer read through the list of criteria.

- The benefits of having a sign can not be achieved by any other means.
- The request was not substantial.
- There are no undesirable effects from having a sign.
- There are no adverse physical or environmental effects by having a sign.

Mr. Blaauboer made the motion to approve the application for a variance of 34 s.f. for an oversized sign for Kimberly's Greenhouse located at 261 Willet Rd. Mr. Connolly seconded the

Board of Zoning Appeals
April 3, 2007

motion, all voted in favor. **Granted**

Application #5128 - David McNeight at 6310 Southwestern Blvd. proposes to open bar/restaurant formerly known as "Route20"/"Beefers". Discontinuance of a nonconforming use as the premises have been abandoned over one year. Bar/restaurant is not a permitted use in R-A district as allowed by Code Section 280-17. Requires a use variance.

Mr. McNeight explained that closing took over a year because of liens against the property, and he was not aware of the zoning of the property.

Mr. Blaauboer stated that because the former bar/restaurant had closed over a year ago, the nonconforming use variance expired and the property reverts back to original zoning, which is R-A. In order to get another use variance, it must be proven that no other use can be sustained on the property.

Mr. Blaauboer moved to table the application in order to give Mr. McNeight 30 days to provide proof that the property had no other use. All voted in favor.

Application #5129 - Jay Patel for a proposed Holiday Inn Express at 3565 Commerce Place front setback and height variance. Front setback violates Code 280-85 (A) req. yards - code 40', actual 20' variance 20'. Height violates Code 280-83 Max. Height, code 35', actual 61'-6", variance 26'-6".

Dana Auman showed the Committee members a site plan for the proposed Holiday Inn Express. He explained that the front setback variance of 20' is needed for the canopied entrance, not the building itself.

Tom Molenda spoke in reference to the height variance of 26'6" needed. The hospitality industry is going in the direction of 4 story buildings, as is found in other nearby townships. The Holiday Inn Express will be a class 1-A facility. There is a first floor meeting room, indoor pool, and breakfast area. There is no restaurant.

Mr. Blaauboer added that the Camp Road Overlay District is the hospitality area, and it was the intent of the development of that area.

Mr. Chiacchia also added that with the loss Leisure Land, it would be beneficial to add a facility that would bring business into Hamburg.

Mr. Connolly questioned Mr. Molenda about the status of the current Holiday Inn. Mr. Molenda explained that the Holiday Inn Express is planned to open in the Fall of 2008 at which time the business from the current Holiday Inn would transfer to the new facility. There are other plans

Board of Zoning Appeals
April 3, 2007

for the current Holiday Inn, it will remain open, but under a different name.

Mr. Connolly asked if the plans have gone before the Planning Board yet. The plans have not.

With concern of safety issues, Mr. Chiacchia informed the Committee that the area fire departments are equipped with tower trucks which are capable of reaching the top of the 4 stories. Mr. Auman and Mr. Molenda informed the Committee that a sprinkler system would be installed.

Legal counsel assured the Committee that precedent would not be set by allowing the height variance for the Holiday Inn Express.

Findings: Mr. Blaauboer read through the criteria:

- Can the benefits be achieved by any other means? Not really, the lot size is not big enough to build out.
- Is the request substantial? Yes, but reducing the height to code would cause a loss of 3/5 of their marketable rooms.
- Are there any undesirable effects? No.
- Is the difficulty self created? Yes, the lot is too small, but 4 floor hotels is the current trend of this industry.
- There are no adverse physical or environmental effects by the structure.

Mr. Chiacchia made a motion to approve the Holiday Inn Express front setback variance of 20', and the height variance of 26'-6". Mr. Connolly seconded the motion. All voted in favor.

Granted

Application #5130 - Barnes & Nobles at 3701 McKinley Pkwy. for an oversized attached sign. Violates 280-261 B 1 (a) - code 120 s.f., actual 145 s.f., variance 25 s.f. Violates 280-261 B 2 (a) - code 18', actual 29'-10", variance 11'-10".

John Lynch, Jr., Frank Bourque and Eddy Andre presented the committee with a visual of the front of the McKinley Mall. It was pointed out that the signs for both Bed, Bath, and Beyond, and Best Buy were previously approved. Barnes & Noble would be located between Famous Footwear and J.C. Penny. There would be an outside entrance, as well as a mall entrance. The site plan was approved by the Planning Board and the Town Board.

The drawings to scale showed the relationship between the signs for Barnes & Noble to Bed, Bath and Beyond, and Best Buy. The Barnes & Noble sign would also have internally illuminated letters similar to the other approved signs. The sign is 29'-10" from the top.

Mr. Connolly asked if the height of the Barnes & Noble sign is the same as Bed, Bath and Beyond and Best Buy. Mr. Lynch said it is slightly below, within 2 to 3 feet.

Findings: Mr. Blaauboer read through the criteria:

- The benefits of having a sign can not be achieved by any other means.

Board of Zoning Appeals
April 3, 2007

- The request was not substantial.
- There are no undesirable effects from having a sign.
- There are no adverse physical or environmental effects by having a sign.

It was also noted that the McKinley Mall is a unique feature in the Town of Hamburg, the changes made have been well thought out. Mr. Rahill motioned to approve the McKinley Mall Barnes & Noble application for a size variance of 25 s.f., and a height variance of 11'-10". Mr. Chiacchia seconded. All voted in favor. **Granted**

Application #5131 - Ulta Beauty Store at 3701 McKinley Pkwy. for an attached over height sign. Violates 280-261 B 2 (a) - code 18', actual 25'-6", variance 7'-6".

John Lynch, Jr., Frank Bourque and Eddy Andre also represented Ulta Beauty Store. The variance is needed because of the mounting height of the sign. The bottom of the sign is above 18' but will be below the peak of the roof to the entrance. The Ulta sign is the same height of the Best Buy and Bed, Bath and Beyond. It would also have internal illumination similar to the other approved signs.

No further information was needed by the Committee.

Findings: Mr. Blaauboer read through the criteria:

- The benefits of having a sign can not be achieved by any other means.
- The request was not substantial.
- There are no undesirable effects from having a sign.
- There are no adverse physical or environmental effects by having a sign.

Mr. Chiacchia motioned to approve the McKinley Mall Ulta Beauty Store for a height variance of 7'-6". Mr. Connolly seconded. All voted in favor. **Granted**

Minutes of March 2007 were approved on motion by Mr. Chiacchia, seconded by Mr. Rahill. Motion carried.

Mr. Blaauboer informed the members of free Planning and Zoning Board training sessions offered by TVGA Consultants. He also reminded members the financial disclosures are due May 1, 2007

Motion to adjourn was made by Mr. Blaauboer, seconded by Mr. Chiacchia.. Motion carried. Meeting adjourned at 9:35 p.m. The next Zoning Board meeting will be held May 2, 2007.

Respectfully submitted,

Jack Rahill,
Secretary
Board of Zoning Appeals

Board of Zoning Appeals
April 3, 2007