

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - May 5, 2009**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday May 5, 2009 at 7:00 p.m. in Room 7B to discuss the following applications. Those attending included:

Chairman Vincent Gugliuzza **Excused**  
Vice-Chairman Brad Rybczynski  
Secretary Jack Rahill  
Commissioner Shawn Connolly  
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:

Board of Zoning Appeals  
May 5, 2009

**Application # 5236** - Walgreens for 3 area variances at 6185 South Park Ave.  
Violates 280-219 (E) - Parking Spaces, code 78 spaces, actual 44 spaces, variance needed 34 spaces.  
Violates 280-74 (A) - Minimum Front Setback, code 40', actual 0, variance needed 40'.  
Violates 280-229 (B) (1) - Setback For Off Street Parking, code 35', actual 12', variance needed 23'.

Sean Hopkins, Legal Counsel for Walgreens, and Tony Battista from Benderson Development came before the Board to explain the reason for the delay in obtaining the building permits after the 3 area variances were granted in November 2008. Mr. Hopkins explained the holdup has been in acquiring property directly adjacent to the roundabout, which is owned by Erie County. The Erie County Legislature will be voting on May 14, 2009, which will finalize the process. Mr. Hopkins stated nothing else has changed, they are simply requesting a 6 month extension.

**Findings:** Mr. Rybczynski stated that the 3 variances requested have already be granted, nothing has changed.

Mr. Connolly made a MOTION to approve Application # 5236 for 3 area variances at 6185 South Park Ave. Mr. Morlock seconded all favor. **Granted**

**Application # 5254** - John Kuebler for a parking lot setback at 4035 McKinley Pkwy.  
Violates 280-229 B (1), code 35', actual 20', variance needed 15'.

Teri Meyers from LCB Construction came before the Board representing Mr. Kuebler, to request a parking lot setback variance for the proposed ice cream/pool supply store. Mr. Kuebler currently has a pool service business within the Town, in which he strictly services pools, he would occupy the pool supply store which would allow him to sell directly to the public. The two businesses would be under one building, but separated in order to meet safety requirements due to the pool chemicals stored on site. The site would have a outdoor play area for kids, which would be located 10' in from the rear property line. Ms. Meyers also stated that Mr. Kuebler is agreeable to extensive landscaping in the 20' setback. He is planning a sailboat centerpiece, and shrubbery.

The Town Planning Dept. has requested that the site provide access for neighboring properties on the north and south end of the parcel. Providing access at the rear of the property results in 2 issues, the loss of 35' of property, and moves the parking to face the neighbors at the rear of the parcel, which would be intrusive to them even with a fence and landscaping. By moving the access road to the front of the property the building is pushed back from the street, a parking lot setback variance is needed. Without the variance the building size would have to be reduced. No work has been started on the site as yet.

Mr. Quinlivan asked about the on site detention area. Ms. Meyers explained that it would be an underground detention. Mr. Quinlivan also pointed out the Planning Board's positive recommendation with the following 3 conditions:

- (1) The parking area shall not be located any closer than twenty feet from McKinley Parkway.
- (2) The detention area for this site is not to be located in the reduced setback area.
- (3) A landscape plan is to be submitted to and approved by the Planning Dept. showing enhanced landscaping in the green area between McKinley Parkway and the parking area.

Board of Zoning Appeals  
May 5, 2009

**Findings:** Mr. Morlock recused himself from voting on this application.

Mr. Connolly read through the area variance criteria finding that the benefit can not be achieved by any other means, reducing the size of the building would be detrimental to the applicant, the request is not substantial, there would be no adverse effect, and the difficulty is not self-created, Mr. Kuebler is trying to work within the size of lot.

Mr. Connolly made a MOTION to approve Application #5254 for a parking lot variance of 15' with the following conditions set by the Planning Board:

- (1) The parking area shall not be located any closer than twenty feet from McKinley Parkway.
- (2) The detention area for this site is not to be located in the reduced setback area.
- (3) A landscape plan is to be submitted to and approved by the Planning Dept. showing enhanced landscaping in the green area between McKinley Parkway and the parking area.

Mr. Eustace seconded, all voted in favor. **Granted**

Mr. Eustace made a MOTION to approve the minutes from April 7, 2009. Mr. Morlock seconded, all voted in favor motion carried.

MOTION to ADJOURN was made by Mr. Rahill, seconded by Mr. Eustace . Motion carried. Meeting adjourned at 7:30 pm. The next Zoning Board meeting will be held Tuesday, June 2, 2009.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 5/6/09**