

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - August 7, 2008**

The Town of Hamburg Zoning Board met for a regular meeting on Thursday August 7, 2008 at 7:00 p.m. in Room 7B to discuss the following applications. Those attending included:

Chairman Vincent Gugluizza  
Vice-Chairman Brad Rybczynski  
Secretary Jack Rahill  
Commissioner Shawn Connolly **Excused**  
Commissioner Paul Eustace  
Commissioner Chuck Morlock  
Commissioner Jim Sortisio  
Attorney Joseph Shaw  
Attorney Cheryl McFadden Zak  
Building Inspector Jeff Adrian  
Recording Secretary Laurie Wutz

Secretary Rahill read the following Legal Notice of Public Hearing:

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**Tabled Application #5120** - Pegagus Restaurant for an extension of an electronic message sign located at 5748 South Park Avenue.

**Tabled Application # 5155** - Peter Duchmann for a detached electronic message board sign/oversized detached sign at 4207 Southwestern Blvd. Violates 280-252, code-sign not allowed. Variance needed to allow sign. Violates 280-261 F(2), code 40 sf., actual 50 s.f., variance needed 10 s.f. Applicant requested application to remain tabled.

Application # 5120 and Application # 5155 will remain tabled until the Town Board modifies the code that controls electronic signage. A public hearing is planned in early 2008.

**Tabled Application # 5208** - Vanderbuilt Properties for a lot width variance at front of property at 6860 Woodland Drive. Violates 280-18 minimum lot size/lot width at front line. Code 100', actual 60', variance needed 40'. (Note: mixed zoning R-1 front lot, R-A rear lot)

David Stapleton from Vanderbuilt Properties again came before the Board and gave a brief history on the application. Mr. Stapleton further explained that the 15 acre parcel, which is located at the end of a dead end road, is largely NYSDEC wetlands. He has met with the DEC and the Army Corps of Engineers, and a full wetlands delineation has been done. The home being built is not on the wetlands, but the 100' buffer was disturbed during the clearing process, and Mr. Stapleton is currently working with the DEC to replace the buffer or provide additional non-wetlands property to make up for what has been disturbed. Mr. Stapleton has the NYSDEC report and will provide a copy to Building Inspection and the Zoning Board.

Daniel Brick, attorney for Mr. Stapleton, explained he has been in contact with Mr. Shaw, and has provided the search of the property. Title information will be provide within the next 7 -10 days. Mr. Shaw felt that Mr. Brick has been acting in good faith.

Mr. Stapleton stated again for the record he would give both adjoining property owners written documentation regarding their rights of ingress/egress along the private road. He also stated that if the Town chose to put in a T turn-around for the snow plows, he would be agreeable to that as well.

Dr. Cyril Bodnar (6841 Woodland Drive) was present and again expressed concerns about the rights of ingress/egress of the flag strip property. He also expressed concerns about his side lot having access if in the future he decided to develop it. Mr. Brick assured Mr. Bodnar that they provide written documentation of their rights of ingress/egress along the entire flag strip (260'). Dr. Bodnar was not in favor of the T turn-around for the snow plows.

**Findings:** Mr. Gugliuzza stated that given the unique nature of the property the Board could not make a ruling without the requested title report. Mr. Brick, assured the Board that a written agreement on the ingress/egress rights, satisfactorily agreed upon with the 2 neighboring properties would be submitted. He also guaranteed that the title report would be provided to Mr. Shaw within 7 -10 days.

Mr. Rybczynski made a MOTION to approve Application # 5208 for a variance of 40' for lot size/lot width at front line, with the conditions that the title report is provided to Mr. Shaw within 7 - 10 days, the NYSDEC report is submitted to Building Inspection and the Zoning Board of Appeals, and written documentation of a satisfactory agreement regarding the ingress/egress rights between

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Vanderbuilt Properties and the 2 neighboring properties (Dr. Bodnar and Mr. & Mrs. O'Neill) be submitted to Building Inspection and to each property owner. Roll call vote was taken:

All voted in favor. **Granted**

Mr. Sortisio - approve  
Mr. Morlock - approve  
Mr. Gugliuzza - approve  
Mr. Rybczynski - approve  
Mr. Rahill - approve  
Mr. Eustace - approve

**Application # 5217** - Sado Gas Sales, Inc. for an extension of the continuation of a permitted non-conforming use at 6685 Southwestern Blvd. Violates 280-17 (B) 7.

Kevin Saxon came before the Board to explain that the station had been in operation since the early-1970's. They closed last year because of needed improvements and the worsening economy. They would like to extend the permitted non-conforming use for 2 years while deciding what to do with the property.

**Findings:** Mr. Gugliuzza stated that the request was not unreasonable, but felt that a 1 year extension would be sufficient.

Mr. Rahill made a MOTION to extend the permitted non-conforming use permit at 6685 Southwestern Blvd. for a period of one year. Mr. Eustace seconded, all voted in favor. **Granted**

**Application # 5218** - Neil Scott for an illuminated detached sign at 3250 Countryside Lane. Violates 280-255 B Permitted Sign in R-2 Zoning District. Code is 2 sq.ft, actual is 5.49 sq. ft., variance needed 3.49 sq. ft.

Dr. Scott came before the Board to explain that he currently is running his dental practice out of his home, and is expanding to 24 hour emergency care. His current sign is difficult to see and would like to have an illuminated detached sign (24x36), so it would be visible at night. He sees about 6 - 8 patients a day, and would have minimal patient care during the evening hours.

Dr. Scott presented 4 letters from neighbors stating they have no objection:

Michael A. Wacter - 3269 Countryside Lane  
Gary L. Preischel - 3258 Countryside Lane  
Susan Dziwulski - 3259 Countryside Lane  
Melissa Stephan - 3264 Countryside Lane

Nancy Burgess, 3202 Lake Heights Drive was present to state that she brought her son to Dr. Scott at 1:00 am for an emergency visit, and had difficulty finding the office because the sign was not visible. Dr. Scott had to wait out front for her so she could find his office.

Mr. Gugliuzza commented that a home occupation permit is not necessarily meant for a 24hr. service.

**Findings:** Mr. Rybczynski reviewed the criteria for an area variance, and found that there are other means to identify Dr. Scott's home office (sign could be moved to a more visible area), there would be an undesirable change to the neighborhood, the request is substantial, and the difficulty is self-created.

Mr. Rybczynski made a MOTION to deny Application # 5218 for an illuminated detached sign at 3250 Countryside Lane. Roll call vote was taken: **Denied** 5-1

Mr. Sortisio - approve  
Mr. Morlock - deny  
Mr. Gugliuzza - deny  
Mr. Rybczynski - deny  
Mr. Rahill - deny  
Mr. Eustace - deny

**Application # 5219** - Julie Covert for a home occupation - dog grooming business at 3625 James Avenue. Violates 280-38 not a permitted use in a R-2 Zoning District.

Julie Covert appeared before the Board requesting approval for a home occupation permit for dog grooming. She currently works on a part-time basis doing animal rescue and dog grooming. The business would consist of bathing and hair cutting, there would be no other employees, no overnight stays, and no waiting (by appointment only). Her hours would be Monday - Friday 3:00 pm - 8:00 pm, and Saturday 9:00 am - 3:00 pm.

Ms. Covert presented letters from 12 neighbors stating no objection to the home occupation:

Robert & Anita Monaco - 36937 James Ave.  
Robert Hillman - 3730 James Ave.  
Wm. M. Hocton - 9267 Mundy St.  
Joe & Nina Prendergast - 3637 James Ave.  
Florence Dulski - 3640 James Ave,  
Mirella Ventre - 3646 James Ave.  
Betty Sattler - 3724 James Ave.  
Anthony Fini - 4272 Mundy St.  
Frederick Schaefer - 3624 James Ave.  
Entesar Alkaatari - 3633 James Ave.  
Timothy J. Coonly - 4272 Mundy St.  
William Diamond - 3628 James Ave.

**Findings:** Mr. Rybczynski made a MOTION to approve Application # 5219 for a home occupation at 3625 James Avenue. Mr. Morlock seconded, all voted in favor. **Granted**

**Application #5220** - Richard Mead for a proposed subdivision at 4808 Lakeshore Road.

Applicant requested that this application be table for one month. Mr. Gugliuzza requested Building Inspection to obtain clarification regarding the proposed scope of the work, and identify variances needed.

**Application #5215** - Clarify the factual basis of the previously approved variance for Conrad Sucharski for a rear deck located at 2330 Beachwood Drive.

At the July 1, 2008 Zoning Board of Appeals meeting Mr. Sucharski was granted a 4' side yard variance for a deck at his home at 2330 Beachwood Drive. Upon inspect by the Building Inspection Dept. it was discovered that the deck was constructed on the property line. After discussing the matter with legal counsel Mr. Gugliuzza felt that in order to properly clarify the variance and eliminate any challenges, that the application should be tabled for one month.

Mr. Sortisio made a MOTION to table Application # 5215 for one month in order for the Board to properly review and clarify the previous variance granted. Mr. Rahill seconded, all voted in favor.

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**Tabled**

Mr. Rybczynski made a MOTION to approve the minutes from July 1, 2008. Mr. Eustace seconded, motion carried.

MOTION to ADJOURN was made by Mr. Rybczynski, seconded by Mr. Rahill. Motion carried. Meeting adjourned at 8:30 pm. The next Zoning Board meeting will be held Tuesday, September 2, 2008.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 8/8/08**