

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - September 2, 2008**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday September 2, 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  
Commissioner Paul Eustace  
Commissioner Chuck Morlock  
Commissioner Jim Sortisio  
Attorney Joseph Shaw  
Attorney Cheryl McFadden Zak  
Building Inspector Roger Gibson  
Recording Secretary Laurie Wutz

Secretary Rahill read the following Legal Notice of Public Hearing:

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

Jay Pohlman, attorney for the applicant came before the Board to explain that the Mead family has received Planning Board preliminary approval (copy attached) to subdivide their property, and a positive recommendation to the Zoning Board regarding the applicant's request. This approval is contingent on Engineering Department approval of the concerns addressed in the memo from the Engineering Department dated 6/18/08, and read into record (copy attached). Mr. Pohlman further explained that currently there are three living units on one parcel, one two family dwelling and a single family dwelling (all units are occupied). Subdividing the lot would split the two family dwelling down the middle (making each home a zero line home), giving each unit individual ownership. Each unit would have separate deed and utilities.

The applicant is requesting a variance for two separate living units on one parcel in a R-2 zone. Currently there are three living units on one parcel (a Zoning Board variance was granted ).

The Building Inspection Department sited additional violations associated with subdividing the lot (copy attached).

Mr. Pohlman requested the Board to make a decision on the issue of two living units on one parcel first, then deal with the Building Inspection issues.

**Findings:** Mr. Shaw stated that given the additional Building Inspection violations associated with subdividing the lot, the application should be amended to reflect each violation. Mr. Rybczynski cautioned the Board not to make any hast decisions. Mr. Gugluizza agreed and recommended tabling the application in order to obtain clarification on each violation. Mr. Shaw asked that the record reflect the application was tabled at the August meeting by request of the applicant. Mr. Shaw also asked Roger Gibson to amend that application and be sure Mr. Pohlman was made aware of the additional violations. A copy of the original variance granted to the applicant for three living units on one parcel was also requested from the secretary.

Mr. Rybczynski made a MOTION to table Application #5220 for one month in order to get clarification. Mr. Rahill seconded, all voted in favor. **Tabled**

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

Application #5215 was tabled from the August meeting in order to give the Board members time to adequately review the approved variance and what was actually constructed. Mr. Keene from Superior Decks and Gazebos explained that a miss communication between Kurt Allen and Conrad

Sucharski led him to believe that building the deck up the property line was acceptable. The original intention was to building the deck up to the property line, because Mr. Sucharski is unable to maintain the yard, and wanted it to be handicap accessible (Mr. Sucharski walks with a cane). Mr. Keene further explained that after the permit was issued and the posts were in place, the stop work order was received from Building Inspector Jeff Adrian. Mr. Sucharski then came before the Board and was granted a 4' variance. Mr. Keene assumed that because Mr. Sucharski spoke with Mr. Allen, and the original intention was to build up to the property line, that the variance granted allowed for the deck to be built on the property line. The size of the deck is 12' x 27'. The same pictures were presented to the Board that Mr. Keene presented at the July Zoning Board of Appeals meeting. The final inspection of the deck by Mr. Adrian found the homeowner to be in violation of the building code.

Mr. Connolly asked if the Building Inspector specifically said the deck could not be built to the property line when he issued the stop work order. He did not.

The only way to correct the problem would be to disassemble the deck.

A letter from neighbors Patricia and William Keppel (2326 Beachwood Dr.) stating they have no objection to the deck was read into record.

**Findings:** Mr. Gugluizza felt that the misunderstanding was due to communication problems between homeowner, building inspector, and the contractor.

Mr. Rybczynski felt the testimony indicated that the original intention was to build up to the property line. The criteria has been met for an area variance, no undesirable change, it is not a substantial request given the neighborhood, and the difficulty is not self-created given the small lot size. Mr. Rybczynski did suggest the builder should be aware of the building code requirements in the Town, so that these situations don't happen.

Mr. Morlock stated that the difficulty is self-created, the deck could have been built according to code. By building the deck to the property line, their neighbor's view is obstructed.

Mr. Rybczynski made a MOTION to approve a 7' variance for a deck at 2330 Beachwood Dr. Mr. Connolly seconded, roll call vote taken: **Granted by 5-2 vote**

Mr. Gugluizza - approve  
Mr. Rybczynski - approve  
Mr. Rahill - deny  
Mr. Connolly - approve  
Mr. Eustace - approve  
Mr. Morlock - deny  
Mr. Sortisio - approve

**Application # 5221** - Michael & Heather Hunt for a side yard offset and addition to existing garage at 4233 Salem Drive. Violates 280-278 B(2)

Michael Hunt came before the Board to explain that the addition to the garage was needed for additional storage and restoring cars, which is Mr. Hunt's hobby.

Mr. Rahill and Mr. Gugluizza both visited the site and spoke with the neighbors who had no

problem with the addition. Given the size of Mr. Hunt's lot, and the makeup of the neighborhood the request is not substantial.

**Findings:** Mr. Connolly felt that the criteria had been met, and made a MOTION to approve Application #5221 for a variance of 2'.54" on the side yard requirement, and a variance of 705' for the size of an accessory structure at 4233 Salem Drive. Mr. Rahill seconded, all voted in favor.

**Granted**

**Application # 5222** - James & Karen Dillon for a front yard setback at 5579 Juno Drive. Violates 280-41 (A), code 35', actual 27'.84", variance needed 7'.16".

Jim Dillon and his contractor Mike Kamisowski addressed the Board. Mr. Dillon would like to dress up the front of his house with a full length porch (30').

Mr. Rahill stated that the house blends in nicely with the neighboring homes, and the addition of a porch would not be out of character with the rest of the neighborhood.

Three letters were read into record stating no objection:

Charlene Reekie - 5581 Juno Drive  
Susan & Jerry Clark - 5573 Juno Drive  
Christopher Zak - 5580 Juno Drive

**Findings:** Mr. Rybczynski abstained from voting because of a personal relationship with the applicant.

Mr. Rahill made a MOTION to approve Application # 5222 for a front yard setback variance of 4'.16" for a front porch. Mr. Eustace seconded, all voted in favor. **Granted** 6-0 vote

**Application # 5223** - Oxy of NY Inc. an addition to two oversized signs at 5245 Camp Rd. Violates 280-261 F (2) sign #1 - existing signage 124 sf, new signage 144 sf, variance needed 20 sf. Sign #2 - existing signage 86.6 sf, new signage 106.6 sf, variance needed 20 sf.

Todd Maragas of Oxy of NY, Inc. came before the Board to explain that in September 2000 the Knights Inn was purchased by Oxy of NY, Inc. and remained in business as the Tallyho Motel. Mr. Maragas stated that it is a family owned business, and employs 10 to 20 people per year at the Hamburg motel.

Mr. Maragas apologized for the unintentional oversight on the installation of the electronic reader board. The reader board shows only the current room rate (non-flashing), and only changes once or twice a week. The reader board keeps the motel competitive with the surrounding hotels, and builds consumer confidence.

The 19' x 10' sign attached to the building (parallel to the thruway) will be coming down.

**Findings:** Mr. Shaw pointed out the electronic message boards are not legal in the Town of Hamburg. Currently two other application (Application Nos. 5120 and 5155) have been tabled waiting for action from the Town Board on modifying the code. Mr. Gugliuzza suggested tabling this application as well, for a month or two until the Town Board can rule on the issue of electronic message

boards.

Mr. Rahill made a MOTION to table Application # 5223 until the Town Board modifies the code that controls electronic signage. Mr. Sortisio seconded, all voted in favor. **Tabled**

**Application # 5224** - Ryan Homes for an extension on a temporary structure (model home) from nine months to twelve months at 6182 Woodford Drive.

Applicant did not appear, application table for one month.

**Application # 5225** - 3773 Lake Shore Rd. Inc. for a side yard setback at 3774 Lakeshore Rd.

Neil Katz, legal counsel representing 3773 Lake Shore Rd., Inc. addressed the Board explaining that the former Snyder Tank property (3774 Lakeshore Rd.) is being subdivided into three commercial lots. The building along the southwest boundary line of Parcel A (map enclosed) requires a variance of 10'.

A positive recommendation by the Planning Board was read into record (copy attached).

**Findings:** Mr. Gugliuzza stated that the Board is in favor of the property being developed. Mr. Rybczynski made a MOTION to approve Application # 5225 for a 10' area variance at 3774 Lakeshore Rd. Mr. Eustace seconded, all voted in favor. **Granted**

**Application # 5226** - Richard & Susan Schumacher for an in-law apartment at 4700 Bayview Rd. Violates 280-31 A (2), code single family detached dwellings, actual two detached dwellings, variance needed single detached dwelling (in-law apartment).

Richard Schumacher came before the Board to explain that he would like to add a 12' addition to an existing carriage house, for his 80 year old mother who currently lives near Syracuse. There would be no kitchen, and the addition would be unoccupied during the winter months.

Mr. Rybczynski pointed out to Mr. Schumacher that any variance granted for an in-law apartment would not carry over to a new owner if the property was sold.

Mr. Gugliuzza stated that a neighbor down the road with a similar situation was approved for an in-law apartment, but each application is considered on its own merit.

**Findings:** Mr. Gugliuzza suggested tabling this application for one month in order to get some clarification from Building Inspection on in-law apartments.

Mr. Rahill made a MOTION to table Application # 5226 for one month in order to get clarification from Building Inspection on in-law apartments. Mr. Connolly seconded, all voted in favor. **Tabled**

**Application # 5227** - Ann & Dennis Ebert for an attached garage at 4264 Polly Lane. Violates

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280-41, code 10', actual 6', variance needed 4'. (Note: "Neighbor's house to east will be 16 ft. away from proposed attached garage if variance is granted.")

Dennis Ebert came before the Board and explained that he originally had an attached garage, but it was converted into a family room. He would now like to add a 17' x 23' attached garage. He presented a letter from neighbor Michael Croom of 4288 Polly Lane stating he had no objection to the variance.

**Findings:** Mr. Gugluizza felt there were no problems with this request. Mr. Rahill made a MOTION to approve Application # 5227 for a 4' variance needed for an attached garage at 4264 Polly Lane. Mr. Eustace seconded, all voted in favor. **Granted**

**Extensions:**

**Application # 4928** - 4322 Highland Pkwy. for an extension due to financial reasons. The Applicant's last extension expired in April 2008, the original application was granted in September 2004. Roll call vote taken:

Mr. Gugluizza - approve  
Mr. Rybczynski - approve  
Mr. Rahill - approve  
Mr. Connolly - deny  
Mr. Eustace - approve  
Mr. Morlock - deny  
Mr. Sortisio - deny

**Extension Granted for six months by 4-3 vote**

Mr. Rybczynski made a MOTION to approve the minutes from August 7, 2008. Mr. Eustace seconded, all voted in favor motion carried.

MOTION to ADJOURN was made by Mr. Rybczynski, seconded by Mr. Rahill. Motion carried. Meeting adjourned at 10:00 pm. The next Zoning Board meeting will be held Tuesday, October 7, 2008.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 9/3/08**

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