

**Town of Hamburg
Board of Zoning Appeals
Meeting - October 2, 2007**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday, October 2, 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 Shawn Connolly
Commissioner Vincent Gugliuzza
Commissioner Brad Rybczynski
Commissioner Jim Sortisio
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:

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

This application has remained on the table pending action on the Gullo's Garden Center law suit. The case has been resolved. Mr. Blaauboer asked that Building Inspection notify Pegagus Restaurant that they are expected to present their case for proof of hardship at next month's meeting. Building Inspection is also to notify the County Planning Dept. as required.

Tabled Application #5147 - Old Time Baptist Church for approval on a multiple dwelling unit. Code - 1 single family unit, actual 3 units within one residence, variance 1 unit (2 family dwelling units pre-existing nonconforming, 2 family dwelling was created in 1974 B.P. #1974-602. Note: utilities are separate to three units.

Applicant withdrew application.

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 s.f., actual 50 s.f., variance needed 10 s.f. Applicant requested application to remain tabled.

This application has remained on the table pending action on the Gullo's Garden Center law suit. The case has been resolved. Mr. Blaauboer asked that Building Inspection notify Peter Duchmann that they are expected to present their case for proof of hardship at next month's meeting. Building Inspection is also to notify the County Planning Dept. as required.

Tabled Application #5156 - BG McKinley II, LLC (Fedex Kinkos) for a 3rd attached sign at 3701 McKinley Pkwy. Violates 280-261 A. 3rd sign not permitted.

Mr. Gugluizza made a MOTION to keep Application # 5156 tabled for 1 month, Mr. Rahill seconded the motion, all voted in favor. **GRANTED**

Tabled Application # 5157 -Burke Homes for a code interpretation for duplex/townhome lot area requirements. Zoning code requirements which apply to proposed Oakwood Drive Subdivision project involving zero lot line duplex/townhomes with 100' frontage.

Motion was made to remove Application #5157 from table by Mr. Sortisio, seconded by Mr. Rahill. All voted in favor

The Board requested clarification from the Planning Board as to why this application was sent to the Zoning Board for interpretation. A memo was received from Drew Reilly of the Planning Department stating that based on the wording of the code, his interpretation would have to change. After discussion with counsel the decision was made to send memo to Drew Reilly recommending action by the Planning Board on this case rather than pursuing at this level

Findings: Mr. Sortisio made the MOTION to retable Application # 5157 pending response from the Planning Board. Mr. Rahill seconded the motion, all voted in favor. **TABLED**

Application #5165 - Ryan Homes for a patio home at 6131 Woodford Dr. Violates 280-282 F (3) Regulations for cluster housing rear yard. Code 28.75, actual 20.66, variance needed 8.09. Applicant did not appear.

Chad Rush from Ryan Homes addressed the Board explaining that the company has changed their product line in order to reduce the need for a rear yard variances in the Wellington Woods Subdivision. Sublot No. 16 is one few remaining lots which requires a rear yard variance. The lot was sold 2 ½ months ago, and the house has not yet been built. Sublot Nos. 18 and 14 have each received a rear yard variance so far. There could be between 6 to 8 lots which would still require a variance.

Findings: Mr. Blaauboer stated that each application must stand on its own merit. The request was not extreme, and had no negative impact on the neighborhood. Mr. Blaauboer asked for a motion to approve.

MOTION to approve made by Mr. Rybczynski, seconded by Mr. Rahill.

Roll call vote:

Mr. Blaauboer - Approve

Mr. Chiacchia - Deny

Mr. Connolly - Deny

Mr. Gugluizza - Deny

Mr. Rahill - Approve

Mr. Rybczynski - Approve

Mr. Sortisio - Approve

Application #5165 for a rear yard variance of 8.09 at 6131 Woodford Dr. **GRANTED** by 4-3 vote.

Application # 5168 - James McNamara for a carport at 4764 Lakeshore Rd. Violates 280-41 B(1), code 10', actual 3', variance needed 9'7".

Mr. McNamara was unaware that a permit was required, and started construction on a carport at his home at 4764 Lakeshore Rd. The side (closest to neighbor) of the carport would be enclosed at the request of his neighbor with small children. The carport would extend out to the lot line.

Letters from neighbors stating they had no objection to the carport were presented:

Jeff Fazzolari - 4770 Lakeshore Rd.

Jacqueline M. Beras - 4758 Lakeshore Rd.

William Nistor - 4769 Lakeshore Rd.

Mr. Blaauboer stated that the definition of a carport is any structure with at least 2 sides open.

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While it fits the definition, Mr. Blaauboer was not sure about the impact on the neighborhood because of the narrow lot line. There would be an adverse effect on neighbors because there is a loss of vision, air, and light, when a structure is too close to the lot line. It is an extreme variance request.

Findings: Mr. Rahill disagreed, he felt that there was no negative impact on the neighborhood. Mr. Sortisio agreed with Mr. Rahill.

Mr. Chiaachia and Mr. Rybczynski expressed concerns about fire safety.

MOTION to approve made by Mr. Rahill, seconded by Mr. Gugluizza.

Roll call vote:

Mr. Blaauboer - Deny

Mr. Chiacchia - Deny

Mr. Connolly - Deny

Mr. Gugluizza - Approve

Mr. Rahill - Approve

Mr. Rybczynski - Approve

Mr. Sortisio - Approve

Application # 5168 for a variance of 9' 7" for a carport at 4764 Lakeshore Rd **GRANTED** by 4-3 vote.

Application # 5169 - Bruce and Mary Kreuzer for a shed/pool house at 1385 Evergreen Dr. Limitations in required open space. Violates 280-278 B(2) side yard. Code 5', actual 2', variance needed 3'. Violates 280-278 B(3) fire separation, code 10', actual 5', variance needed 5'.

Mr. and Mrs. Kreuzer came before the Board to request a variance for a shed. The shed would be 8 x 12, it would be located 5' from the pool, and there would be no electric or plumbing. The shed is needed for storage, and there is no other location for it on the property.

Letters from neighbors stating they had no objection were read into record:

Guy Thomas - 1383 Evergreen Drive

Rick Salisbury - 1389 Evergreen Drive

Findings: Mr. Rahill made a MOTION to approve Application #5169 for a 5' variance for a shed at 1385 Evergreen Drive, with the recommendation on the fire variance. Mr. Gugluizza seconded the motion, all voted in favor. **GRANTED**

Application # 5170 - Franklin and Mildred Dickey for a detached garage at 5405 Columbia Ave. Violates 280-278 B (4) (a)-- R-1 Zoning less than acre allowed 850 sf. Code 850 sf, actual 1098 sf (combined sf of existing garage and proposed garage.) Variance needed 248sf..

Jim Barry, the contractor for Mr. and Mrs. Dickey, addressed the Board. The existing garage would remain, and a separate 24 x 24 two car garage would be located at the end of the driveway, beyond the existing garage.

Findings: Mr. Rybczynski made a MOTION to approve Application # 5170 for a detached garage. Mr. Sortisio seconded the motion, all voted in favor. **GRANTED**

Application # 5171 - Daniel and Donna Kogut for a proposed lot split - variance width at building line at 4353 Fairview Pkwy. Violates 280-39 B (1) lot width at building line. Code 70', actual 59.13', variance needed 10.87'. Note - has access to sewer on Abbott Pkwy. lot area is o.k. at 10890 sf for single family home.

Mrs. Kogut addressed the Board and presented photos of their house, and GIS printouts showing the subdivision with similar lot size dimensions. Mrs. Kogut expressed their intention was to subdivide the lot, but had no plans to sell or develop it at this time.

Mr. Blaauboer read a memo from the Planning Department with a positive recommendation. A letter from Mr. Coniglio, an adjacent property owner against the request, was also read into record (copies attached).

Mr. Chiacchia asked legal counsel if the new lot would now be required to follow current R-2 building requirements. Yes, current building requirements would be required.

Mr. Coniglio of 4351 Fairview Pkwy. expressed his objection to creating a new lot which would be a non-conforming lot. He stated the Town has an opportunity to correct any contradiction to building codes made in the past. Mr. Blaauboer explained that the lot is a legal size lot permitted in an old subdivision. It is a buildable lot, and any new development of the lot would follow current building codes.

Mr. Chiacchia **RECUSED** himself because of a personal relationship with the Koguts. Mr. Sotisio also **RECUSED** himself because of his personal relationship with the Coniglios. Mr. Rybczynski explained he has history with the Koguts, but feels he can be objective in his vote.

Findings: Mr. Blaauboer stated that the new lot would have to conform to current R-2 building codes, but it is a buildable lot. A good portion of homes in that area are developed on lots with less than 70' frontage. He felt there would be no undesirable change to the area, and that the lot size is more than sufficient.

MOTION to approve was made by Mr. Rahill, seconded by Mr. Gugluizza.

Roll call vote:

Mr. Blaauboer - Approve
Mr. Chiacchia - Abstained
Mr. Connolly - Deny
Mr. Gugluizza - Approve
Mr. Rahill - Approve
Mr. Rybczynski - Approve
Mr. Sortisio - Abstained

Application # 5171 for a variance requested to allow a proposed lot split at 4353 Fairview Pkwy. was **GRANTED** by 4-1 vote.

Extensions

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A six month extension was granted for Application # 5104 at 3756 Westview due to financial reasons.

A six month extension was granted for Application # 4928 at 4322 Highland Ave. due to financial reasons.

The Board discussed changing the time of future Zoning Board meetings from 7:30pm to 7:00pm.

Mr. Blaauboer made the MOTION to change the starting time of all future meetings from 7:30pm to 7:00pm. Mr. Chiacchia seconded the motion, all voted in favor. The Town Clerk will be notified by Laurie Wutz of an amendment to the Board's rules of procedure to reflect the change in starting time.

Minutes from the September 2007 meeting were approved on MOTION by Mr. Rybczynski, seconded by Mr. Connolly. Motion carried.

MOTION to ADJOURN was made by Mr. Rybczynski, seconded by Mr. Blaauboer. Motion carried. Meeting adjourned at 9:45 p.m. The next Zoning Board meeting will be held Thursday, November 8, 2007 at 7:00 pm.

Respectfully Submitted,

Jack Rahill, Secretary
Board of Zoning Appeals

Date: 10/4/07