

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - November 8, 2007**

The Town of Hamburg Zoning Board met for a regular meeting on Thursday November 8, 2007 at 7:00 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 Tim Willard  
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.

**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.

Mr. Blaauboer was informed by the Building Inspection Supervisor, Kurt Allen, that the Town Board is planning on modifying the code that controls electronic signage. A public hearing is planned in early 2008. Mr. Blaauboer asked for a motion to keep Application # 5120 and Application # 5155 tabled.

Mr. Rybczynski made the MOTION to keep Application # 5120 and Application # 5155 tabled until the Town Board acts on the issue. Mr. Chiacchia seconded, all voted in favor. **Granted**

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

Michael Eberhard of Alco Sign Service addressed the Board. Fedex would like to have a 3<sup>rd</sup> sign attached to their building which would be facing the Olive Garden restaurant. He pointed out that while the sign would not be facing a public road, it would be visible from McKinley Pkwy. because the building is elevated above the roadway. He also pointed out that currently the Olive Garden and Red Lobster each have 3 signs, and Circuit City has a total of 4 signs. The sign is needed to help identify the business location from McKinley Pkwy.

**Findings:** Mr. Blaauboer stated that there is a history of allowing 3<sup>rd</sup> signs for businesses on buildings that do not have public access in that area. There will be no negative impact on the surrounding neighborhood, and will allow proper traffic identification of business location.

Mr. Gugliuzza made a MOTION to approve Application #5156 for a 3<sup>rd</sup> attached sign on the north elevation of the building, 64.5 sq. ft. Mr. Rybczynski 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.

Mr. Blaauboer stated that by action of the Planning Board this application is withdrawn.

**Application #5172** - Karen Kruszka for a side yard variance for an attached garage at 3885 Harvard Street. Violates 280-41 B. Code 15' total, actual 8.89', variance needed 6.11'.

The original application referenced an incorrect code. Mr. Willard from the Building Inspection Dept. explained that the application has been amended to reflect the following information:

Violates Code 280-41 B (1) - Code requires 10' either side of dwelling, actual 3', variance needed 7'.

Michael Allexenberg representing Karen Kruszka explained that currently there is no garage and Ms. Kruszka would like an attached garage.

**Findings:** The testimony given reflects that the benefit can not be achieved by any other means, there would be no undesirable change to the neighborhood, and the request is not unreasonable.

Mr. Gugliuzza made a MOTION to approve Application #5172 for 7' side yard variance for an attached garage at 3885 Harvard Street. Mr. Sortisio seconded, all voted in favor. **Granted**

**Application # 5173** - John & Joy Boduch for approval on home occupation at 5061 Fairgrounds Road. Violates 280-31. Code not allowed. (Chair will be located on first floor, mainly friends and family.)

Mrs. Boduch appeared before the Board and explained that she would like to be allowed to run a hair salon, mainly for friends and family, out of her home. There would be only 1 salon chair (located on the first floor), and only 1 customer at a time, by appointment only. She would not have a waiting room, or a sign posted outside her home. Mrs. Boduch also expressed that she likes her quiet neighborhood and is not looking to run a business, there would be no other employees, and customers would be limited to one or two a day if that (10 - 15 customers a month). Mrs. Boduch's cosmetology license was presented to the Board.

The following neighbors appeared to express their objections:

Mrs. Lutz - 5069 Fairgrounds Rd.  
Carol Relegal - Real Estate Agent  
Exio Rivera - 5053 Fairgrounds  
Rita Martin - 5069 Fairgrounds  
Doug Jamison - gave no address

Concerns expressed by neighbors were regarding additional traffic, signs posted outside the home, and if property values would be reduced. There was also discussion on requirements of a home occupation.

Mr. Blaauboer read through the code regarding home occupation, and felt that Mrs. Boduch has met the criteria required for a home occupation.

**Findings:** The criteria for a home occupation variance has been met. Mrs. Boduch has presented her cosmetology license, planned use for a single chair on the first floor, limiting to one customer at a time, and has sufficient parking in the driveway to avoid parking on the road. Mrs. Boduch is not

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planning on having a sign, but would be allowed to have one if she chose to. There will be no additional employees.

Mr. Rahill made a MOTION to approve Application #5173 for a home occupation. Mr. Rybczynski seconded, all voted in favor. **Granted**

**Application # 5174** - Blasdell Pizza for a detached sign at 4837 Southwestern Blvd. Violates 280-153.14 F (2) detached sign. Code 40 sf, actual 64 sf, variance needed 24 sf. Sign is already in place.

Tim Garey appeared before the Board and explained that a miss communication was the cause for the sign (a reader board) already being in place. Mr. Garey was busy opening a restaurant in Springville, and thought his father was handling the necessary paperwork here for the sign.

**Findings:** The Board found the request to be reasonable, not achievable by other means, would cause no undesirable change to the area, and no adverse effect on the environment, but did find it to be a substantial request. Mr. Blaauboer pointed out the negligence of the applicant in filing for the permit.

Mr. Connolly requested a fee of some sort to be imposed on applicants who are negligent in filing for the proper permit. The Building Inspection Dept. will post a sign in their office stating that a fine may be imposed to those who start work without the proper permits.

Mr. Rybczynski made a MOTION to approve Application #5174 for a detached sign, Mr. Sortisio seconded the motion. Mr. Connolly denied the motion. **Granted** by 6-1 vote.

**Application # 5175** - Lutz Mobile for detached signs at 5073 Camp Rd. Violates 280-254 B and 280-190 (B) 7. See attached sheet

Walter Rooth, Jr., Attorney for the applicant briefly explained why the variances were being requested.

Jim Lutz presented the Board with site plans for the building with the new facade, photos of each sign and its location, and drawings of the drive-thru lanes and directional signs. The building will have a Dunkin' Donuts attached and a carwash on the back side of the building. Mr. Lutz explained that the Dunkin' Donuts' contract (20 year lease contract) requires certain signage, if the request for the variance is denied, he would lose the deal.

The Board complimented Mr. Lutz on the time and care that went into the planning of the signs and renovations made to the building.

Mr. Blaauboer read the Planning Board's approval for the Special Use Permit for the car wash facility with conditions. Copy attached.

The following neighboring businesses signed letters stating they have no objection to the

requested variances were presented:

West-Herr Chev. - 5025 Southwestern Blvd.  
Artcraft Printing - 5143 Camp Road  
Hamburg Honda - 5133 Camp Road  
World Gym - 5110 Camp Road  
S+S Service - 5071 Southwestern Blvd.  
Tower Wholesale - 5160 Camp Road

**Findings:** The Board found that the benefit cannot be achieved by any other means, there would be no undesirable change in the neighborhood, the height request is substantial, but the overall square footage is less, the difficulty is self-created by reason of staying competitive, making the request reasonable.

Application #5175 has been broken down by sign:

- (1) Wall sign (business sign) for Dunkin' Donuts - East elevation wall sign violates Code Section 280-261 A, sign does not front a public street or public entrance.

Mr. Rybczynski made a MOTION to approve a wall sign for Dunkin' Donuts, seconded by Mr. Connolly. All voted in favor. **Granted**

- (2a) Detached business signs, violated Code Section 280-190 (B) 7. (Currently 4 signs being replaced  
by 2) Proposed Height 18 ft., code allows 12 ft., variance requested 6 ft.

Mr. Gugliuzza made a MOTION to approve 6 ft. height variance for 2 detached business signs, Mr. Rybczynski seconded, all voted in favor. **Granted**

- (2b) Detached business signs, violates 1986 previous variance. Proposed sign area 150 sq. ft., code allows 132 sq. ft. variance requested 18 sq. ft.

Mr. Rybczynski made a MOTION to approve the area variance requested for 2 detached signs. Mr. Gugliuzza seconded, Mr. Connolly denied. **Granted** by 6-1 vote.

- (3a) Directional signs (sign Nos. 5 & 8) Proposed sign area 8 sq. ft., code allows 4 sq. ft., variance requested 4 sq. ft.
- (3b) Sign No. 8A (Car Wash Height Clearance) Proposed sign area 6 sq. ft., code allows 4 sq. ft., variance requested 2 sq. ft.
- (3c) Sign No. 7 (Dunkin' Donuts Menu Sign) Proposed sign area 47 sq. ft., code allows 4 sq. ft., variance requested 43 sq. ft.
- (3d) Sign Nos. 9 & 10 (Car Wash Menu Signs) Proposed sign area 15 sq. ft., code allows 4 sq. ft., variance requested 11 sq. ft.

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Mr. Connolly made a MOTION to approve variances requested for sign Nos. 5, 7, 8, 8A 9 & 10. Mr. Rybczynski seconded the motion, all voted in favor. **Granted**

**Extensions**

A six month extension was granted for Application Nos. 5108 and 5109 for Walmart.

A six month extension was granted for Application Nos. 4989, 4990, and 4991 for Hickey Farms.

Minutes from the October 2, 2007 meeting were approved on MOTION by Mr. Rybczynski, seconded by Mr. Blauboer. Motion carried.

MOTION to ADJOURN was made by Mr. Rybczynski, seconded by Mr. Blauboer. Motion carried. Meeting adjourned at 10:15 p.m. The next Zoning Board meeting will be held Tuesday, December 4, 2007 at 7:00 p.m.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 11/14/07**

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