

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - June 2, 2009**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday June 2, 2009 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 Tim Quinlivan **Excused**  
Building Inspector Roger Gibson  
Recording Secretary Laurie Wutz

Secretary Rahill read the following Legal Notice of Public Hearing:

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**Application # 5255** -Matthew Gemmati for a side yard variance at 4747 John Michael Way. Violates 280-34 B (1) - code 10' min., 25' total - actual 6', 23'8" total - variance needed 4', 1'4" total.

Homeowner Matthew Gemmati came before the Board to request a side yard variance for an addition to his garage. The addition is needed primarily for storage of his hot rod, he owns four cars, a jet ski, and other stuff which is currently scattered at different family member's properties, and he would like to be able to store them at his home. Mr. Gemmati presented two letters from neighbors stating they had no objection to the variance request:

Kelly & Jim Schoenhardt - 4765 John Michael Way  
Art Giannicchi - 4937 John Michael Way

Mr. Rahill stated that the request seemed reasonable.

Mr. Connolly asked if the neighbors across the street were notified? Mr. Gibson of Building Inspection explained that only the adjoining neighbors are usually notified.

**Findings:** Mr. Gugliuzza stated that the neighbors had no problem with the request, and read through the area variance criteria:

The Board agreed there was no other way to achieve the benefit, there would be no undesirable change to the neighborhood, the request is substantial, there would be no adverse effects to the area, and while the difficulty is self-created the final decision can not be based solely on that.

Mr. Rybczynski made a MOTION to approve Application #5255 for a side yard variance of 4', and for required yards variance of 1' 4" at 4747 John Michael Way. Mr. Eustace seconded, all voted in favor. **Granted**

**Application # 5256** - David Burke for a side yard variance at 6046 Old Lakeshore Rd. Violates 280-27 B - code 42.5' - actual 19.8', variance needed 22.7'.

Homeowner David Burke came before the Board to explain that he is in the process of restoring his home and would like to add a three car garage with an attached breeze way, to the existing home.

Mr. Gibson explained that in R-E zoning the side yard requirements should equal 30', or the distance equal to the height of the principal building, whichever is greater. The height of the building is 42.5'.

Neighbors Jay & Katie Schneider of 6055 Old Lakeshore Rd were present and stated they were in favor of the Board granting the variance for the addition. Their property is to the right of Mr. Burke's property, and would be the neighbor most effected by the addition.

Mr. Rahill stated he felt it was a handsome looking addition.

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**Findings:** Mr. Gugliuzza stated that Mr. Burke is in the process of renovations to his home, the code for required yard states that the requirements are based on the height of the building, and the neighbors have no problems with the request. Mr. Rybczynski read through the area variance criteria:

The benefits could not be achieved by any other means, there would be no undesirable change to the neighborhood, the request is substantial, there would be no adverse effects, the difficulty is self-created.

Mr. Morlock made a MOTION to approve Application # 5256 for a side yard variance of 22.7' at 6046 Old Lakeshore Rd. Mr. Sortisio seconded, all voted in favor. **Granted**

**Application # 5257** - Donald & Nancy Ware for a front yard variance at 5235 Roberts Rd. Violates 280-34 (A) - code 35', actual 26', variance needed 9'.

Tom Haywood, General Manager for Edu Kids came before the Board requesting a front yard variance for a proposed addition. Edu Kids is planning to add a 570' addition for infants as well as other improvements to the building.

Mr. Haywood presented two letters from neighbors stating they had no objection to the addition:

Joe Dispema - 2557 Amsdell Rd  
Bobby J. Beauchamp - 2545 Amsdell Rd.

Mr. Morlock questioned why the building has a Roberts Rd. address? Mr. Haywood was unsure.

Mr. Connolly asked if there were other object between the front of the building? The parking lot will not be shortened up, the addition will be 15 x 38 with a porch.

**Findings:** Mr. Gugliuzza stated that the neighbors are okay with addition to the building along with upgrades made to the building. He read through the area variance criteria:

An infant room added to the facility is a good thing and can not be achieved by any other means; there would be no change to the neighborhood; the request is not substantial; there would be no adverse effects; and the difficulty is not self-created their business is growing.

Mr. Rahill made a MOTION to approve Application # 5257 for a front yard variance of 9' at 5235 Roberts Rd. Mr. Rybczynski seconded, all voted in favor. **Granted**

**Application # 5258** - Franciscan Sisters of St. Joseph for required yard variance at 5229 South Park Avenue.

Violates 280-48 D: South Side - code 50', actual 29.7', variance needed 20.3'.

North Side - code 50', actual 36.4', variance needed 13.6'.

Note: 5229 South Park Ave. is a temporary address

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Bill Schutt, Site Engineer for the Franciscan Sisters, Sister Judith, and Sister Jean came before the Board requesting a variance on the north and south side a the proposed new mother house for the Sisters. A concept plan was submitted to the Planning Board last May, after several revisions because of the overlay district and wetlands, it was discovered that the setback wasn't 30', but 50'. The Planning Board suggested that the applicant wait to come before the Zoning Board until the site plan review was completed. Mr. Schutt explained that they received a positive recommendation from the Planning Board, which was forwarded to the Zoning Board (Mr. Rahill read the positive recommendation into record, copy attached).

The building will be 81,000 sq. ft., with 72 unit (62 currently residing in the residence which is across the street). There will be a ring road which is a requirement of the fire code for emergency access, being a one-way traffic on the north side and two-way traffic on the south side. Employees, visitor, and deliveries would be made in the front of the building.

Kirby Hahn homeowner of 5207 South Park Ave. (neighbor on the north side) to fully understand what was being developed. He stated that the Sisters have been very good about keeping him informed.

**Findings:** Mr. Gugliuzza stated that the testimony shows that the variances are needed for the ongoing project. Mr. Kirby was present and now has a better understanding of the project. Mr. Rybczynski read through the area variance criteria:

The benefit can not be achieved by any other means, the Sisters have been diligent in resolving the requests of the Planning Board and informing neighbors; there would be no undesirable change in the neighborhood; given the size of the building the request is minimal; no adverse effects; the difficulty is not self-created the care of the sisters in the order in important.

Mr. Rybczynski made a MOTION to approve Application # 5258 for required yards variances of 20.3' on the south side, and 13.6' on the north side at 5229 South Park Ave. Mr. Connolly seconded, all voted in favor. **Granted**

### **Other Business**

Mr. Gugliuzza received a letter from Chiacchia & Fleming, LLP, regarding Application #5239, Dennis Long for a side and front yard variance at 6400 Center Street. Mr. Long built an addition to his garage without a permit. The applicant never showed for the meeting and the application was denied. Mr. Rahill read the letter into record (copy enclosed along with letters from neighbors stating they had no objection to the addition). Mr. Gugliuzza asked the Board if they would consider rehearing the application. The Board unanimously denied.

Mr. Gugliuzza also received a memo regarding required classes for the members, but stated that he needed to get clarification from Ken Farrell on it.

Mr. Rybczynski made a MOTION to approve the minutes from May 5, 2009. Mr. Connolly seconded, all voted in favor motion carried.

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MOTION to ADJOURN was made by Mr. Rahill, seconded by Mr. Eustace . Motion carried.  
Meeting adjourned at 8:00 pm. The next Zoning Board meeting will be held Tuesday, July 7, 2009.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 6/3/09**