

**Town of Hamburg  
Board of Zoning Appeals  
Meeting - July 7, 2009**

The Town of Hamburg Zoning Board met for a regular meeting on Tuesday July 7, 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 **Excused**  
Commissioner Shawn Connolly  
Commissioner Paul Eustace  
Commissioner Chuck Morlock  
Commissioner Jim Sortisio  
Attorney Joseph Shaw  
Attorney Tim Quinlivan  
Building Inspector Roger Gibson  
Recording Secretary Laurie Wutz

Acting Secretary Rybczynski read the following Legal Notice of Public Hearing:

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**Application # 5259** - Parker Road Dev. Co. for a rear yard setback at 4740-L#35 Parker Road. Violates 280-282 F (3) Minimum rear yard setback - code (25%) 22.1', actual 16', variance needed 6.1'

**Application # 5260** - Parker Road Dev. Co. for a rear yard setback at 4740-#36 Parker Road. Violates 282-282 F (3) Minimum rear yard setback - code (25%) 22.1', actual 20', variance needed 2.1'

These two applications were heard together. John Kalstek, President of Parker Road Development came before the Board to explain that when the map cover was prepared by Nussbaumer & Clarke, Inc. the back of these two lots were cut on an angle leaving the lots 88' deep rather than 100' deep. The error was not caught.

The normal front setback is 5', but the sanitary sewer required the setback to be 10' for lots with a manhole. In order to accommodate the sewer request and keep all front yard setbacks in the subdivision consistent they were all kept to 10'.

The area behind these two lots is a common area, so no other homeowners will be affected.

Mr. Morlock asked how deep is the common area? Mr. Kalstek responded 40' - 50'.

Mr. Connolly asked if the adjacent property owner on Parker Road would be affected? Mr. Kalstek responded no.

**Findings:** Mr. Gugliuzza stated that the development was started in November of 2008, the engineering firm cut the lots short, and in order to accommodate with the sewer request and keep the houses in line, creates the need for a variance.

Mr. Rybczynski read through the area variance criteria for Application #5259: there is no other means feasible to achieve the benefit, the houses would remain lined up so there would be no undesirable change to neighborhood, the request is not substantial, and the difficulty is not self-created.

Mr. Rybczynski made a MOTION to approve Application # 5259 for a 6.1' rear yard setback at 4740 Parker Road-Lot #35. Mr. Eustace seconded, all voted in favor. **Granted**

Mr. Rybczynski read through the area variance criteria for Application #5260: there is no other means feasible to achieve the benefit, the houses would remain lined up so there would be no undesirable change to neighborhood, the request is not substantial, it is actually smaller than the previous request, and the difficulty is not self-created.

Mr. Rybczynski made a MOTION to approve Application # 5260 for a 2.1' rear yard setback at 4740 Parker Road-Lot #36. Mr. Morlock seconded, all voted in favor. **Granted**

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**Application # 5261** - Russell & Linda Schulz for a side yard variance for a proposed detached garage at 1588 South Bend.  
Violates 280-278 B (2) Obstruction in required open space - code 5', actual 1', variance needed 4'

Mr. Schulz appeared before the Board to explain that he has owned the home for 8 years. The existing garage is rundown, and in need of repair. He received his building permit and proceeded to tear down the garage. It was assumed that the neighbor's fence was the property line, but the fence was actually 4' onto the neighbor's own property. When he realized the true property line would not allow for the 5' minimum he applied for a variance.

The new structure will be slightly larger than the previous one, but the 10' separation from the house will be maintained. The foundation will be 2' from the property line, leaving 1' after the overhang. The original foundation was actually crooked, leaving the setback for the front of the garage 5' - 6.1', the rear corner of the garage is the most restrictive with 1.75' from the property line.

Mr. Schulz presented three letters from neighbors stating they had no objection to the variance request:

Jason Kuczkowski - 1592 South Bend Lane  
Josephine Sciabarrasi - 1584 South Bend Lane  
Jean A. Aldridge - 5972 North Drive

Mr. Rybczynski and Mr. Gugliuzza commended Mr. Schulz for doing the right thing and applying for a variance.

**Findings:** Mr. Gugliuzza stated that Mr. Schulz is replacing a run-down garage, when it became evident there was an issue with the property line, he did the right thing and applied for a variance. He has presented letters from his neighbors stating they had no problem with the request.

Mr. Rybczynski read through the area variance criteria: there is no other means feasible, the character of the neighborhood would not be changed, the old garage was an eyesore. It is not a substantial request, and the difficulty is not self-created, it was assumed that the neighbors fence was the property. Mr. Rybczynski expressed that he was extremely impressed with Mr. Schulz's honesty.

Mr. Rybczynski made a MOTION to approve Application #5261 for a 4' side yard variance at 1588 South Bend Lane. Mr. Connolly seconded, all voted in favor. **Granted**

**Application # 5262** - B/B Real Estate Assoc. for a height variance on a detached sign at 5400 Southwestern Blvd.  
Violates 280-261 (F) 4 Pylon sign height - code 18', actual 35', variance needed 17'

Attorney James Boglioli was present to represent Benderson Development.

Roger Gibson, Building Inspector explained that according to Drew Reilly in regard to the

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SEQR Report, the final signage plan has not been approved by the Planning Board.

Mr. Gugliuzza explained to Mr. Boglioli that Benderson must first go back to the Planning Board, the Zoning Board can not act on the application, it will have to be tabled until after the Planning Board gives recommendation.

Mr. Boglioli requested to still give his presentation.. He explained that they are planning a single free standing sign, to replace the original sign from the previous plaza. The original sign (damaged by fire and since been removed) was granted a variance in June 1999 for 35'. He requested the Board to once again grant a variance for 35' for a free standing sign. Signs for Walmart will be consolidated with the single free standing sign.

Mr. Rybczynski made a MOTION to table Application #5262 for B/B Real Estate Associates for a height variance at 5400 Southwestern Blvd. Mr. Sortisio seconded, all voted in favor. **Tabled**

#### **Other Business**

Mr. Gugliuzza stated that the training session held last month at the Orchard Park Country Club was attended by all Board members except Mr. Rybczynski and Mr. Rahill. They will have to submit their agenda to the Board as to which training session they will be attending.

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

MOTION to ADJOURN was made by Mr. Rybczynski, seconded by Mr. Morlock. Motion carried. Meeting adjourned at 7:30 pm. The next Zoning Board meeting will be held Tuesday, August 4, 2009.

Respectfully Submitted,

Jack Rahill, Secretary  
Board of Zoning Appeals

**Date: 7/8/09**