

Town of Hamburg
Board of Zoning Appeals Meeting
November 9, 2017
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Thursday, November 9, 2017 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Commissioner Louis M. Chiacchia, Commissioner Bob Ginnetti, Commissioner Ric Dimpfl and Commissioner Laura Hahn.

Excused: Chairman Brad Rybczynski, Vice-Chairman Shawn Connolly and Commissioner Nicole Falkiewicz

Others in attendance included Attorney Mark Walling, Board of Zoning Appeals Attorney and Sarah desJardins, Planning Consultant.

Acting Chairman Dimpfl asked for a moment of silence to honor our fallen men and women in the military.

Commissioner Chiacchia read the Notice of Public Hearing.

Tabled Application # 5649 Verizon Wireless – Requesting a use variance for attached wall signage at 6050 South Park Avenue

Mr. Paul Pici from Santoro Signs stated that Verizon is requesting signage on the rear of the building at 6050 South Park Avenue. He stated that when Mr. Luke Fletcher from Verizon purchased the franchise, there was signage on the front, side and rear sides of the building. He noted that Benderson Development, owner of the building, has provided correspondence indicating that it has no problem with Verizon installing signage on the rear of the building.

Mr. Luke Fletcher from Verizon stated that wireless sales are a bit different because generally people are not coming directly to Verizon, but rather they drive by and see the location, and then when they need wireless help they return to the store.

Mr. Fletcher stated that Verizon has projections when a store is opened, and this particular store is operating approximately 29% below what was projected. He stated that people who do enter the store say they did not know the store was there, and when someone is driving along South Park Avenue, it is difficult to see until he or she is past it.

Mr. Fletcher stated that Verizon is worried about the existing tree line blocking the building from view along South Park Avenue in the spring. He noted that the Verizon wall signage is not invasive.

Mr. Fletcher stated that when he picked this location for a Verizon store, he did so because of the visibility and because it was on a corner. He stated that he did not know until after the lease was signed that the previous wall signage on the rear of the building was not conforming to the Town Code. He thought he would be able to simply replace the wall signage on the rear of the building with no problem.

In response to a question from Acting Chairman Dimpfl, Mr. Fletcher stated that he is aware of the criteria associated with a use variance.

Acting Chairman Dimpfl stated that the financial hardship criterion must be proven by competent financial evidence, and giving the Board projections of success may not be enough to satisfy that criterion.

Mrs. desJardins explained to Mr. Fletcher that he must prove that Verizon cannot realize a reasonable rate of return on this property without the requested variance being granted.

Mr. Fletcher stated that Verizon would like to hit the numbers it projected for this site.

Mr. Fletcher stated that the Verizon wall signage is smaller than the Radio Shack signage that was on the rear of the building previously.

In response to a question from Mr. Chiacchia, Mr. Fletcher stated that if he is not successful reaching the projections for this store, it will hurt his ability to get approvals from Verizon to open more stores.

Mrs. desJardins suggested that Mr. Fletcher return to the Board in December with competent financial evidence.

Mr. Fletcher noted that Radio Shack was not successful at this location even with wall signage on three (3) sides.

Findings:

Mr. Chiacchia made a MOTION, seconded by Ms. Hahn, to table Application # 5649.

All members voted in favor of the motion. **TABLED.**

Application # 5651 John Redmond – Requesting two (2) area variances for an addition to the existing home at 6497 Gowanda State Road

John Redmond, applicant, stated that he would like his ill father to live with him in his home at this location, and he would like to demolish the existing attached garage and construct a new attached garage with a second floor addition for his father.

Mrs. desJardins stated that the proposed attached garage would not be any closer to the side property line than the existing attached garage is.

Mr. Redmond stated that he spoke to his neighbors, and none had any problems with his proposal.

Findings:

Mr. Ginnetti made a MOTION, seconded by Ms. Hahn, to approve Application # 5651.

On the question:

Mr. Ginnetti reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – No.

All members voted in favor of the motion. **GRANTED.**

Application # 5652 Jeffrey & Kim Anderhalt – Requesting an area variance for a proposed detached garage at 3308 Brookfield Lane

It was determined that this application would be tabled until the Board's December 5, 2017 meeting due to an error made by the Building Department regarding the variances required.

Application # 5653 Thomas Polisoto – Requesting two (2) area variances for a proposed attached garage at 45 Wanakah Heights

It was determined that this application would be tabled because the applicant was not present.

Findings:

Mr. Chiacchia made a MOTION, seconded by Ms. Hahn, to table Application # 5653.

All members voted in favor of the motion. **TABLED.**

Application # 5654 Eddy & Lewin Homes – Requesting an area variance for a fence at 3644 Delilah Lane

Pat Eddy from Eddy & Lewin Homes, applicant, stated that he would like to erect an eight-foot high fence along the rear of his property between West Herr Chevrolet and his model home. He provided a letter from West Herr Chevrolet indicating that they have no problem with the proposal.

In response to a question from Mr. Chiacchia, Mr. Eddy stated that he would like to screen the vehicles in the West Herr parking lot from the model home.

Findings:

Ms. Hahn made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5654.

Ms. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – This could be argued either way, but on balance it tilts the balancing test to approval.

All members voted in favor of the motion. **GRANTED.**

Ms. Hahn made a MOTION, seconded by Mr. Chiacchia, to approve the minutes of October 3, 2017. All members voted in favor of the motion.

Mr. Chiacchia made a MOTION, seconded by Mr. Ginnetti, to adjourn the meeting. All members voted in favor of the motion.

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

L. Michael Chiacchia, Secretary

Board of Zoning Appeals

DATE: November 22, 2017