

Town of Hamburg  
Board of Zoning Appeals Meeting  
January 10, 2017  
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, January 10, 2017 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Vice-Chairman Shawn Connelly, Commissioner Louis M. Chiacchia, Commissioner Bob Ginnett, Commissioner Ric Dimpfl, Commissioner Nicole Falkiewicz and Commissioner Laura Hahn.

Others in attendance included Attorney Mark Walling, Board of Zoning Appeals Attorney.

Chairman Rybczynski asked for a moment of silence to honor our men and women serving in the military.

Commissioner Chiacchia read the Notice of Public Hearing.

**Application # 5604** Mark Kuczewski – Requesting an area variance for a proposed accessory building at 4078 Sheldon Road

**Findings:**

Mr. Connolly made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5604.

On the question:

Mr. Connolly reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – No, because the applicant needs an accessory structure this large.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No, because there are a great deal of trees and seclusion from other neighbors.
3. Whether the request is substantial – It could be argued that it is substantial, because it is 30% more than what is allowed, but it looks that it will feel and look in line with the existing structures.
4. Whether the request will have adverse physical or environmental effects – No, and if fact it may aesthetically improve the situation.
5. Whether the alleged difficulty is self-created – This could be argued either way, but on balance this request should be approved.

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

**Application # 5605** Burke Homes, LLC – Requesting a use variance to allow an off-premise sign at 3833 Howard Road

**Application # 5606** Burke Homes, LLC – Requesting an area variance for an off-premises sign at 3833 Howard Road

It was determined that the applicant submitted a contract with the owner of the property for the placement of the sign.

In response to a question from Mr. Chiacchia, Mr. David Burke, applicant, stated that the sign would be placed approximately 600 feet from the residential and rental properties he is marketing.

In response to a question from Chairman Rybczynski, Mr. Burke stated that the sign would be placed near the corner of Southwestern Boulevard and Howard Road.

In response to a question from Mr. Connolly, Mr. Burke stated that he has owned the property on which the residential and rental units are being constructed for approximately three (3) years. He further stated that the road is not dedicated to the Town yet, and the sign would be installed as soon as that is accomplished. He noted that eventually there will be 104 single-family homes for sale and 110 apartment units for rent.

Mr. Connolly stated that the one issue he has with the requested use variance is relative to the first criterion (applicant must prove with competent financial evidence that he cannot realize a reasonable rate of return on the property without the granting of the variance).

Mr. Burke asked if a developer should flail or flounder before he realizes the need.

Attorney Walling stated that satisfying the four (4) use variance criteria is a statutory requirement by the State of New York.

In response to a question from Chairman Rybczynski, Mr. Burke stated that he cannot sell any of the single-family lots until the public road is dedicated to the Town of Hamburg, but that will happen in the next month, and the marketing of those lots should begin now.

In response to a question from Chairman Rybczynski, Mr. Burke stated that he does not know how much traffic travels down Howard Road, but he can provide the Board with a traffic study that was done on that area. Chairman Rybczynski stated that he believes that the volume of traffic on Howard Road is much less than the volume of traffic on Southwestern Boulevard.

In response to a question from Chairman Rybczynski, Mr. Burke stated that he has developed other projects of this size and scale, notably around Brierwood Country Club.

Regarding the first criterion, Mr. Connolly stated that Mr. Burke has not even marketed the lots yet to be able to say that he cannot realize a reasonable rate of return without the requested signage. He noted that it appears that the cart is before the horse in this instance.

Mr. Burke stated that he is attempting to be proactive before there is a financial hardship.

Mr. Burke stated that his hardship stems from the fact that 130 apartments are currently being constructed at the intersection of Howard Road and Southwestern Boulevard.

Mr. Chiacchia stated that the Board has rejected other requests from developers for off-premises signage.

In response to a question from Chairman Rybczynski, Mr. Burke stated that people learn about new residential projects from the internet primarily, but signage on a nearby roadway is also important to direct prospective buyers to the site.

Mr. Connolly stated that the Board needs some type of financial evidence from Mr. Burke.

Board members agreed to leave this request on the table.

Mr. Ginnetti made a MOTION, seconded by Mrs. Falkiewicz, to approve the minutes of December 13, 2016. All members voted in favor of the motion.

Chairman Rybczynski made a MOTION, seconded by Mrs. Falkiewicz, to retain Commissioners Connolly and Chiacchia as Vice-Chairman and Secretary respectively. All members voted in favor of the motion.

Mr. Dimpfl made a MOTION, seconded by Mr. Chiacchia, 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: January 22, 2017