

Town of Hamburg
Board of Zoning Appeals Meeting
December 13, 2016
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, December 13, 2016 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, as well as for Jack Rahill, previous Board of Zoning Appeals member who recently passed away.

Commissioner Chiacchia read the Notice of Public Hearing.

Application # 5603 5073 Camp Road LLC – Requesting a use variance to allow the replacement of an existing pole sign at 5073 Camp Road

Attorney Jacob Piorkowski from Shaw & Shaw, representing the applicant, stated that currently a pole sign exists on the property, and the applicant would like to change its design. He noted that some panels would be removed, and an LED panel with rotating messages (specials, gas prices, etc.) would be inserted.

Attorney Piorkowski stated that nothing in the size or orientation of the existing sign would change. He further stated the applicant has a hardship in that business is down, and he has a lot of strong national competitors. He further noted that the applicant has one of the only local gas stations in the area. He stated that the applicant needs modern signage to display specials, sales, etc. in order to draw clients in.

Chairman Rybczynski asked Attorney Piorkowski to respond to the four (4) use variance criteria as follows:

1. Cannot realize a reasonable return – substantial as shown my competent financial evidence: Jim Lutz, applicant, stated that in connection with his business servicing the Town's emergency vehicles, he purchased a \$30,000 generator so that the business is always open in case of a power failure and can always service the emergency vehicles. He stated that his business is declining, and he thinks this proposed signage will help that problem.

Mr. Connolly stated that the Board is looking for specific financial evidence that the proposed signage is necessary.

Mr. Lutz submitted a letter from his accountant indicating that business is currently down compared to 2015. He further stated that his gas volume is down 15%, and the Dunkin Donuts business is struggling, three (3) months behind on their rent and considering closing. He stated that if he has to replace the pole sign with a monument sign, he would lose more business.

2. Alleged hardship is unique and does not apply to substantial portion of district or neighborhood – Chairman Rybczynski stated that the property is on a corner, there are visibility issues and there are competition issues because this is a locally owned business.
3. Requested variance will not alter the essential character of the neighborhood – Mr. Lutz stated that this will not alter the essential character of the neighborhood.
4. Alleged hardship has not been self-created – Attorney Walling stated that the applicant did not create the problems that intersection inherently has.

Mr. Connolly asked Mr. Lutz if he had a better number for the actual revenue for the entire establishment on that property as opposed to volume on the gasoline sales. Mr. Lutz responded that he does not have an exact number because 80% of his business is gas, but overall his beer numbers are down and Dunkin Donuts is way off on sales.

In response to a question from Mr. Connolly, Mr. Lutz stated that it would probably cost between \$50,000 and \$60,000 to replace the existing pole sign with a monument sign that would conform to the Town's Code.

Chairman Rybczynski stated that that is a dangerous corner as it is, and he would not feel comfortable as a resident of this Town or member of this Board placing any more impediments to anyone's view.

Findings:

Mr. Connolly made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5603.

On the question:

Mr. Ginnetti reviewed the use variance criteria as follows:

1. Cannot realize a reasonable return – substantial as shown my competent financial evidence – Evidence has been presented that business revenue is down on a variety of different financial metrics, and it would cost the applicant approximately \$50,000 to \$60,000 to install a conforming sign while revenues are going down.
2. Alleged hardship is unique and does not apply to substantial portion of district or neighborhood – This business is located in an extremely difficult location that has seen a significant increase in volume, which is unique in nature to the Town in that particular intersection.
3. Requested variance will not alter the essential character of the neighborhood – This is a very commercial neighborhood that has plenty of similar signs.
4. Alleged hardship has not been self-created – There can be an argument either way, but it could be argued that this hardship is not self-created because the applicant has had a lot of different factors over the last ten years that created this situation.

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

Mr. Dimpfl made a MOTION, seconded by Mrs. Falkiewicz, to approve the minutes of November 1, 2016. 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 2, 2017