

Town of Hamburg
Board of Zoning Appeals Meeting
December 5, 2017
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, December 5, 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 Connolly, Commissioner Nicole Falkiewicz, Commissioner Louis M. Chiacchia, Commissioner Bob Ginnetti, Commissioner Ric Dimpfl and Commissioner Laura Hahn.

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

Chairman Rybczynski asked for a moment of silence to honor our fallen men and women in the military serving overseas, as well as for Officer Craig Lehner, who was lost in the line of duty.

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

It was determined that this application would be left on the table at the applicant's request.

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

Jeffrey Anderhalt, applicant, stated that he and his wife would like to put a 24' X 40' garage on the side of their house, which is situated on a corner lot. He stated that they have two (2) classic cars and a boat that they would like to put inside for protection.

Mr. Connolly stated that based on the neighborhood of over 100 homes, there are no other garages that are the size the applicants propose. He noted that one (1) of the criteria the Board must address is whether the requested variance would result in an undesirable change in the neighborhood or to the character of nearby properties and asked why the proposed garage would not be an undesirable change in the neighborhood.

Mr. Anderhalt responded that the garage would match the look of the home. He further stated that people try to cut through their yard, and this garage would be an added deterrent to those people.

Kim Anderhalt, applicant, stated that theirs is the largest lot in the neighborhood, and because of that the garage will not look as big as it really is.

Mr. Connolly stated that he agrees that the applicants' property is the largest in the neighborhood, but he asked why the garage could not be built within the confines of the Town Code requirements.

Mrs. Anderhalt stated that the two (1) cars and the boat would fit in the proposed garage, and there would also be room to get in and out of the garage without damaging the vehicles and boat.

Chairman Rybczynski asked why the garage needs to be so close to the exterior side yard (10 feet instead of 40 feet). Mr. Anderhalt responded that the proposed garage would be 20 feet from the exterior side yard and not ten (10) feet.

It was determined that the applicants' proposed garage would be 20 feet from the exterior side lot line, and therefore a 20-foot variance was being requested instead of a 30-foot variance.

In response to a question from Chairman Rybczynski, Mr. Anderhalt stated that the garage would be used solely for storage of the cars and boat.

The applicants indicated that the existing 96 sq.ft. shed on the property would be taken down if the Board deemed it appropriate, but they would rather keep it on the property in a different location.

Mr. Chiacchia stated that the applicants' situation is unique because they want to store their cars and boat inside.

The applicants submitted three (3) letters of support from the following property owners:

- Mike Bevilacque, developer of the subdivision being constructed behind the applicants' home
- Lisa Kennedy, 3288 Brookfield
- Debbie Pawlak, 3322 Brookfield

Ms. Cheryl Zimmerman, 3287 Brookfield Lane, submitted the following letter from Julie Plarr, 3295 Brookfield Lane, regarding the requested variance:

December 5, 2017

Town of Hamburg
Zoning Board of Appeals
S-6100 South Park Avenue
Hamburg, NY 14075

Re: 3308 Brookfield Lane – Proposed Building of Garage

To Whom It May Concern:

I am unable to attend tonight's hearing regarding the above matter. Please accept this correspondence as notice of my opposition to the building of the garage at the above address. I feel that a building of that size placed in the proposed location would detract from the aesthetics and tarnish the Country Woods subdivision image. I reside across the street from the proposed building site and would be looking directly at it from my front yard and picture window if it is built to the proposed specifications. The impact this would have on the value of my property greatly concerns me.

I would also like to add that I have noticed for some length of time mechanic work being done on various vehicles at this address and feel that there may be some intention to operate a business from this proposed new building.

I appreciate your taking my concerns into consideration when determining whether to allow this variance.

Sincerely,

Julie K. Plarr
3295 Brookfield Lane
Hamburg, NY 14075

cc: Debbie and Eugene Monesi
Cheryl Zimmerman

In response to a question from Chairman Rybczynski, Mr. Anderholt stated that he has a registered repair shop in East Aurora, and he has no reason to bring work home with him.

Mr. Eugene Monesi, 3303 Brookfield Lane, stated that he is opposed to the placement of the proposed garage. He noted that the garage would be clearly in his line of sight from his home. He stated that if the new garage was flush with the existing attached garage, he would not object. He stated that he is more concerned with the proximity of the garage to the exterior side yard.

Mr. Monesi stated that the applicants could continue to keep their cars and boat in storage, and the garage would be an undesirable change to the neighborhood. He stated that the request is substantial. He stated that when he purchased his lot, he did so purposefully and understood that a structure like what is being proposed would not be built in his line of sight.

Mr. Monesi stated that he and his wife are in mortgage lending, and allowing a structure like this to be built will impact them if they ever want to sell his property. He stated that although granting these variances may satisfy the applicants' dilemma, it would create a dilemma for the surrounding property owners.

Ms. Zimmerman submitted the following letter regarding the proposed variance requests:

December 5, 2017

Town of Hamburg
Zoning Board of Appeals
S-6100 South Park Avenue
Hamburg, NY 14075

Re: 3308 Brookfield Lane – Proposed Building of Garage

To Whom It May Concern:

I have been a resident of the Country Woods subdivision for 15 years. I have invested my life savings to build my house. In addition, I have spent thousands of dollars in landscaping my yard. I continue to spend time and effort to maintain my property.

As I am outside working in my yard, particularly on the weekends, I often notice different motor vehicles being worked on in the attached garage of 3308 Brookfield Lane. The motor vehicles being worked on are not necessarily owned by the residents of 3308 Brookfield Lane. I frequently also hear car engines revved up, creating lots of noise. I am aware the residents of 3308 Brookfield Lane also own an auto repair garage business in East Aurora.

I am in opposition to the proposed 3 bay garage. Country Woods is zoned Residential. I am concerned the auto repair business in East Aurora will be eventually moved to 3308 Brookfield Lane. As I noted, work on various automobiles already takes place frequently at this address.

I am a taxpayer. I chose the Town of Hamburg to live due to its friendly people. I chose Country Woods to live as the homes are beautiful as well as the yards. I feel the construction of a 3 bay garage will be used as an auto repair shop and impact the neighborhood in a negative way.

As a design professional, I am concerned a 3 bay garage is not in keeping with the residential character of the neighborhood – “it is an undesirable change in the neighborhood character”. I feel a further insult that the proposed 3 bay garage is sited so close to the street. My home will have full view of the garage. “The garage has an adverse physical effect to the neighborhood”.

There is a reason for the Town Zoning, site setbacks and limits of the size of accessory structures on home sites. The reason is to protect the integrity of the neighborhood and the character of the residential area.

In a neighborhood of ¼ acre properties, the owner of 3308 Brookfield Lane already has a 2 ½ attached garage. An additional 3 bays garage added to the property is a detriment to neighboring properties.

Please protect our homes – the biggest investment of my life and of my neighbors' lives. I am concerned my property value will decrease. I cannot afford this to happen as I near retirement. My neighborhood is beautiful right now. I am very proud to live there. I respectfully request you vote against the 2 variances.

Sincerely,



Cheryl P. Zimmerman, R.A.

3287 Brookfield Lane, Hamburg, NY 14075

It was determined that the proposal was for a three-bay garage with two (2) doors on it.

Mr. Anderhalt stated that Ms. Zimmerman's property is more than 100 feet away from his. He further stated that the neighbors will either be looking at his classic cars or at the garage in which they are stored.

Mr. Monesi stated that there have been times when he has observed several vehicles in the applicants' driveway, and he cannot say whether work is being done on those vehicles in the existing attached garage.

Ms. Donna Fanti, 3311 Brookfield Lane, stated that she is also concerned about what the applicants are proposing and what might be done inside the new garage. She stated that she is concerned about the value of her home and the aesthetics of the neighborhood.

Findings:

Mr. Connolly made a MOTION, seconded by Mr. Chiacchia, to deny Application # 5652.

Mr. Connolly reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – Yes, the property is big enough to allow for an accessory structure that would just have to be in compliance with the Town Code.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – Yes, the Zoning Board of Appeals received written and oral testimony from at least four (4) property owners who feel this garage would be an undesirable change to the neighborhood.
3. Whether the request is substantial – Yes, the variance regarding the size of the garage, even without the shed, would be 12.94%, and if the shed were to remain, the variance request would be for an over 22 % increase. The variance regarding the proximity to the road, if it is 20 feet, would be a 100% variance.
4. Whether the request will have adverse physical or environmental effects – This could be debatable.
5. Whether the alleged difficulty is self-created – Yes, there are over 100 homes in the neighborhood, and many of them probably have equipment and cars to store, and the applicants have alternatives for storage.

Chairman Rybczynski stated that he does not believe that there is a way that is feasible to the applicant that would conform to the requirements of the Town Code. He stated that "substantial" is relative to the situation and is not just a numbers game.

As the vote on the motion was five (5) ayes (Mr. Connolly, Ms. Hahn, Ms. Falkiewicz, Mr. Ginnetti and Mr. Chiacchia) and two (2) nays (Chairman Rybczynski and Mr. Dimpfl), the motion passed. **DENIED.**

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

Thomas Polisoto, applicant, stated that he received two (2) variances in 2013, and he was not able to start the project. He stated that he'd like to build a handicapped accessible home with a garage that can accommodate a handicapped accessible van. He stated that the variances he is requesting are the same as what he was granted in 2013.

Findings:

Mr. Dimpfl made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5653.

On the question:

Mr. Dimpfl stated that these are variances that were previously granted in 2014.

Mr. Dimpfl 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.**

Application # 5655 Andrew Waterman – Requesting an area variance for a proposed addition to the existing home at 5052 College Street

Ashley Waterman, applicant, stated that they would like to construct an attached 2 ½ car garage on the side of their existing home that would have second floor space to increase the home's square footage. She stated that the existing detached garage on the property is very old and has fire damage from many years ago, and her car cannot even fit in it.

Mrs. Waterman stated that three (3) large trees on the property would have to be taken down in order to construct the attached garage.

Mr. Brad Valliancourt, architect, stated that the existing kitchen and living areas would be expanded as part of the project.

Mrs. Waterman stated that photos were submitted to the Board showing that there are other garages in the neighborhood that are closer to the road than what their new garage would be.

Mrs. desJardins stated that the applicant is asking that the garage be located eight (8) feet from the exterior side lot line.

Mr. Andrew Waterman stated that the old existing garage would be demolished.

Mrs. Waterman submitted three (3) letters of support from the following property owners:

- Sandra and Gregg Shelvay, 5068 College Street
- Mary Paz, 3815 Yale Avenue
- Bradley Salzman, 3822 Yale Avenue

Marlene Cheman, 5068 College Street, asked what the size of the addition would be. She stated that the addition would affect her view.

Chairman Rybczynski stated that the size of the addition is within the requirements of the Town Code, and therefore the Zoning Board of Appeals has no jurisdiction over that.

Ms. Cheman stated that the addition is very large compared to what the other homes in the neighborhood are. She stated that she also had an old garage that had to be demolished, and she replaced it with a two-car garage that did not require a variance.

Mrs. Florence Mazzu, 5051 College Street, stated that the addition is not in keeping with the surrounding neighborhood and is too close to Yale Avenue. She stated that the addition would impede her view and could obstruct the line of sight for school buses. She stated that she has never seen a home this large on a corner in this neighborhood.

Mr. Chiacchia stated that when a home is expanded and its value increases, surrounding homes' values usually rise as well.

In response to a question from Mr. Connolly, Mr. Valliancourt stated that he had not thought about only expanding the attached garage as far towards Yale Avenue as the existing detached garage currently is. He stated that the applicants want to have a two-car garage and also add on space for the kitchen and dining areas.

Findings:

Ms. Mazzu asked the Board to consider tabling this application so that the neighbors can have time to submit written objections and clarify their position.

Chairman Rybczynski stated that the neighbors have had the opportunity to offer objections at the meeting.

Mr. Connolly made a MOTION, seconded by Mr. Dimpfl, to approve a 30-foot variance for Application # 5655 instead of a 32-foot variance so that the new garage is parallel with the existing detached garage.

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 – This could be debated because the structure's size could be reduced, but based on the applicants' needs, this would be difficult.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No, because there are many non-conforming structures in the neighborhood, and many homeowners have received variances for new structures.
3. Whether the request is substantial – No. Residents of Yale Avenue have submitted letters of support and the addition would be 45 feet from College Street.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – Yes.

Chairman Rybczynski stated that two (2) feet will not make much of a difference.

As the vote on the motion was five (5) ayes (Mr. Connolly, Ms. Hahn, Ms. Falkiewicz, Mr. Dimpfl and Mr. Chiacchia) and two (2) nays (Chairman Rybczynski and Mr. Ginnetti), the motion passed. **GRANTED.**

MR. Dimpfl made a MOTION, seconded by Mr. Connolly, to approve the minutes of November 9, 2017. All members voted in favor of the motion.

Board members agreed that the January 2018 meeting will be held on January 9, 2018.

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

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

L. Michael Chiacchia, Secretary
Board of Zoning Appeals

DATE: January 5, 2018