

Town of Hamburg
Board of Zoning Appeals Meeting
June 4, 2019
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, June 4, 2019 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Vice-Chairman Ric Dimpfl, Commissioner Louis M. Chiacchia, Commissioner Laura Hahn, Commissioner Bob Ginnetti and Commissioner Ray Gallagher.

Excused: Commissioner Nicole Falkiewicz, Chairman Brad Rybczynski

Others in attendance included Attorney Tamara Harbold and Planning Consultant Sarah desJardins.

Vice-Chairman Dimpfl asked for a moment of silence to honor our service members who have served and are serving.

Commissioner Chiacchia read the Notice of Public Hearing

Application # 5743 Craig Szymanski – Requesting an area variance for a proposed addition to an existing residence at 4237 Robin Lane

Mr. Craig Szymanski, applicant, stated that he and his wife would like to construct an addition to their home that would be too close to the existing detached garage.

Mr. Chiacchia stated that there would be no problems with this request.

Findings:

Ms. Hahn made a MOTION, seconded by Mr. Gallagher, to approve Application # 5743.

On the question:

Ms. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit sought 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 to approval.

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

Application # 5744 John Koch – Requesting an area variance for a covered porch at 4488 Crestside Drive

John Koch, applicant, stated that he would like to construct a covered front porch that would be 2'8" closer to the front property line than what is allowed. He noted that the porch would replace an existing stoop, and his adjacent neighbor's porch is closer to the road than his would be.

Mr. Chiacchia stated that this proposal would be appropriate for the neighborhood.

Findings:

Ms. Hahn made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5744.

On the question:

Ms. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit sought 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 to approval.

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

Application # 5745 Erie County Agricultural Society – Requesting two (2) use variances and two (2) area variances for a proposed new pole sign at the South Park Avenue entrance to the Fairgrounds

It was determined that the applicant had requested that the application be tabled until the Board's July meeting.

Application # 5746 Joseph Martino – Requesting an area variance for a proposed accessory structure at 3596 Pleasant Avenue

Glenn Christner, architect, stated that the applicant would like to construct a four-bay garage on his property. He noted that the garage would be set back a long way from the road behind two (2) large existing landscaped berms. He stated that the garage would be 19 feet high, which is taller than what is allowed (18 feet).

Mr. Chiacchia stated that he does not think any nearby property owners would object to what the applicant is proposing.

Findings:

Mr. Ginnetti made a MOTION, seconded by Mr. Hahn, to approve Application # 5746.

On the question:

Mr. Ginnetti reviewed the area variance criteria as follows:

1. Whether the benefit sought 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 to approval.

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

Application # 5747 Sharon Mead – Requesting a use variance and two (2) area variances to allow two residences on one parcel at 4806 Lakeshore Road

Sharon Mead, applicant, stated that her mother owns two (2) residences next door to her (Sharon), and her mother would like to transfer one (1) of the homes to Sharon's property. She noted that if the variance is granted, she would then own two (2) homes instead of her mother.

Mrs. desJardins stated that if the variance is granted and the residence is conveyed to the applicant, the applicant's newly created lot would not be in conformance with Town requirements regarding width and frontage along the public road.

Findings:

Mr. Ginnetti made a MOTION, seconded by Ms. Hahn, to approve Application # 5747.

On the question:

Mr. Ginnetti reviewed the use variance criteria as follows:

1. The applicant cannot realize a reasonable rate of return as demonstrated by competent financial evidence - This is an estate planning request.
2. Whether the alleged hardship is unique - yes it is because the applicant's mother is doing estate planning.
3. Whether the requested variance, if granted, will alter the character of the neighborhood - No.
4. Whether the alleged hardship is self-created - No.

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

Mr. Ginnetti reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – This could go either way.
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 # 5748 Jeffrey Vara – Requesting a use variance and an area variance to allow ducks on property located at 3965 Staley Drive

Jeffrey Vara, applicant, stated that he and his wife would like to keep ducks on their property, and their property is slightly smaller than what is required (14,000 sq.ft. .vs 15,000 sq.) and it is slightly narrower than what is required (80 feet vs 90 feet).

Mr. Vara stated that ducks are wonderful pets and great egg layers. He noted that ducks are not very loud, and they would have a coop or pen 13 feet from the property line.

Mrs. desJardins stated that per Town Code ducks cannot be kept unless they are female and there are no more than six (6). She noted that if it can be proven that the applicant's ducks are females, a use variance will not be required.

Mr. Vara stated that they do not want male ducks. In response to a question from Attorney Harbold, he stated that one cannot tell the sex of a duck until it is approximately seven (7) months old.

In response to a question from Mrs. desJardins, Mr. Vara stated that the ducks are 10 weeks old at this point in time.

Mrs. desJardins stated that the Building Department received a complaint from the adjacent property owner, and that property owner also emailed her concerns to the Planning Department because she and her husband could not be present at the meeting.

Vice-Chairman Dimpfl read the following correspondence from Katelyn Gabel, 3973 Staley Drive:

"Hi, I live at 3973 Staley Dr, Hamburg NY 14075. The neighbors next door are applying for a variance for ducks. We are unable to attend this meeting tonight due to my husband and I working 3-11 shift. We are opposed to having ducks in the neighborhood in fears of how it will affect the environment and atmosphere of our street. We believe that having ducks next door will cause a noisy, smelly environment and can possibly attract rodents. We live on a quiet street, and believe that will change with ducks quacking and dogs nearby barking at them. We recently moved in to our home last July, and if we would have known there were be ducks next door, we more than likely would not have bought a house there. Thank you for your consideration in this matter.

Katelyn Gabel"

Findings:

Board members agreed that this application would be tabled to the Board's July meeting in order to gather additional information and answer certain questions.

Mr. Chiacchia made a MOTION, seconded by Ms. Hahn, to table Application # 5748.

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

Application # 5749 Kavcon Development, LLC – Requesting several variances for a proposed subdivision of commercial property at 5110 Camp Road

Attorney Sean Hopkins, representing the applicant, stated that the applicant would like to subdivide this parcel for financing purposes, and in order to accomplish that a number of variances would be required relative to the internal property lines. He noted that in addition to the internal property line variances, a number of variances are requested relative to signage proposed in connection with a project on this site that is currently being reviewed by the Planning Board.

Attorney Hopkins explained the variances relative to the internal property lines (11 proposed variances), as well as the variances relative to the proposed signage on Camp Road and Southwestern Boulevard (7 proposed variances).

In response to a question from Vice-Chairman Dimpfl, Attorney Hopkins stated that there is a distinct possibility that the existing Consumers Beverages in Hamburg would remain open after a new Consumers Beverages is constructed on this site.

Findings:

Mr. Ginnetti made a MOTION, seconded by Ms. Hahn, to approve Application # 5749, variances 1 through 11.

On the question:

Mr. Ginnetti reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – This could go either way.
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 to approval.

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

Mr. Ginnetti made a MOTION, seconded by Ms. Hahn, to approve Application # 5749, variances 12 through 18 with the following conditions:

- The installation of a monument sign on the newly created outparcel shall be prohibited.
- The existing monument sign on Camp Road shall be removed.
- The approved off-premises signage shall only advertise those businesses operating on the overall project site (5110 Camp Road and 0 Southwestern Boulevard).

On the question:

Mr. Ginnetti reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – This could go either way.
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 to approval.

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

Mr. Ginnetti made a MOTION, seconded by Ms. Hahn, to approve the minutes of May 7, 2019. All members voted in favor of the motion.

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

The meeting was adjourned at 7:45 P.M.

Respectfully submitted,
L. Michael Chiacchia, Secretary
Board of Zoning Appeals

DATE: June 10, 2019