

Town of Hamburg
Board of Zoning Appeals Meeting
July 2, 2019
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, July 2, 2019 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Commissioner Louis M. Chiacchia, Commissioner Nicole Falkiewicz, Commissioner Ric Dimpfl, Commissioner Laura Hahn and Commissioner Mark Yoder

Others in attendance included Attorney Tamara Harbold, 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.

Commissioner Chiacchia read the Notice of Public Hearing.

Tabled 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 this request would be left on the table.

Application # 5750 Julie Adamczyk – Requesting two (2) area variances for a proposed fence at 577 Willett Road

Julie Adamczyk, applicant, stated that she would like to erect a fence in both the front and rear yard of her home. She stated that she needs a ten-foot high fence in her rear yard because her new neighbor of two (2) years uses strobe lights and motion lights that bother her very much, and she is afraid of him. She stated that he is harassing her and disrespecting the surrounding neighbors.

Ms. Adamczyk stated that she finally had to go stay with a friend because of the over-stimulation from the neighbor's lights. She stated that she has tried everything she can think of but nothing has worked to give her peace of mind. She noted that the extra high fence is her last and only remaining option.

Ms. Adamczak stated that she has contacted the police about this situation, but she was told that what the neighbor is doing is not against the law. She stated that she was also told that the lights that bother her should be addressed as a Town Code issue.

In response to a question from Chairman Rybczynski, Ms. desJardins stated that the applicant has a Lackawanna address but resides in the Town of Hamburg and pays taxes there.

Chairman Rybczynski stated that he does not feel that a ten-foot high fence would help the applicant because the neighbor could simply shine the lights at a greater height.

Chairman Rybczynski stated that this is not the type of thing that should be allowed to happen to anyone.

Ms. Adamczak's father stated that his daughter slept at his house for a month, and she has had to sleep at a friend's house as well. He stated that the neighbor's behavior is harassment, and he is worried about his daughter's mental health.

In response to a question from Ms. Falkiewicz, Ms. Adamczak stated that she contacted the police twice this year about this problem and was told that the police cannot tell someone to shut a light out. She stated that she has not filed a harassment complaint against him.

In response to a question from Mr. Chiacchia, Ms. desJardins stated that the existing six-foot high fence in front of her home is considered grandfathered.

Findings:

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5750. with the following condition:

- The fence cannot be higher than six (6) feet from the house forward and eight (8) feet from the home rearward.

On the question:

Ms. Falkiewicz 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.

As the vote on the motion was six (6) ayes and one (1) nay (Mr. Chiacchia), the motion passed. **GRANTED.**

Application # 5751 Emmski Development Corp. – Requesting an area variance to create two (2) building lots on vacant land located on the north side of Richmond Road, east of 4976 Richmond Avenue

Chris Jablonski, applicant, stated that he purchased five (5) small lots and had them merged. He stated that he would like to create two (2) building lots, and he plans to construct a single family home on each one. He noted that they are slightly smaller in area than what the Town Code requires. He stated that the homes will fit in nicely in the neighborhood.

Findings:

Ms. Falkiewicz made a MOTION, seconded by Ms. Hahn, to approve Application # 5751 with the following condition:

The small parcels must be merged.

On the question:

Ms. Falkiewicz 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 requested variance 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 # 5752 Gilbert & Shirley Brennan – Requesting an area variance for a proposed covered porch at 6411 Versailles Road

Daryl Martin, architect, stated that the applicants would like to rebuild a home that was destroyed by fire. He stated that they will build the new home on the existing foundation but would like to add a front porch that would be closer to the road than what is allowed by the Town Code.

Findings:

Mr. Dimpfl made a MOTION, seconded by Mrs. Falkiewicz, to approve Application # 5752.

On the question:

Mr. Dimpfl 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, the neighbors do not object, and it will fit into the neighborhood..
3. Whether the requested variance 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 # 5753 David Brooks – Requesting an area variance for a proposed tool shed at 2334 Beachwood Drive

David Brooks, applicant, stated that he would like to put a shed in his front yard, noting that his house is located on Lake Erie so his “front yard” actually serves as his rear yard.

Ms. desJardins stated that a shed is not allowed in the required front yard, which is why the applicant requires a variance.

Mr. Brooks stated that he spoke with all affected neighbors, none of which have any objections to his proposal.

In response to a question from Ms. Falkiewicz, Mr. Brooks stated that there is no place in his rear yard he could place the shed because no matter where he puts it will obstruct a neighbor’s view of either the sunset or the City of Buffalo.

Findings:

Ms. Falkiewicz made a MOTION to deny Application # 5753. The motion did not receive a second.

Ms. Hahn made a MOTION, seconded by Mr. Chiacchia, to approved Application # 5753.

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, because putting it on the Lake side of the property would bother the adjoining neighbors.
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.

As the vote on the motion was six (6) ayes and one (1) nay (Ms. Falkiewicz), the motion passed. **GRANTED.**

Application # 5754 E. F. Burke Co. LLC – Requesting two (2) area variances for a proposed apartment project on vacant land, north of 3300 McKinley Parkway

Attorney Sean Hopkins, representing the applicant, stated that the property on which the two (2) proposed apartment buildings are located is separate from the existing apartment complex, but it is owned by the Burke family and will be an extension of the complex. He stated that the benefit of keeping the parcel separate from the rest of the apartment complex is financing - the applicant does not want to collateralize the rest of the complex buildings when obtaining financing for the new buildings.

Attorney Hopkins stated that because the new buildings would be connected to the existing ones via a driveway, and therefore no new curb cut would be required. He noted, however, that because no new curb cut is proposed, the applicant needs variances for the distance of the new southernmost building from the southern property line and the fact that there would not be five (5) feet of green space from that same property line.

Attorney Hopkins stated that all but the last area variance criteria have been met.

Findings:

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5754.

On the question:

Ms. Falkiewicz 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 – Yes.

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. Dimpfl made a MOTION, seconded by Mr. Chiacchia, to approve the minutes of June 4, 2019. All members voted in favor of the motion.

Chairman Rybczynski thanked Commissioner Ginnetti for his years of service to the Town and welcomed new member Commissioner Mark Yoder.

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

The meeting was adjourned at 8:05 P.M.

Respectfully submitted,

L. Michael Chiacchia, Secretary
Board of Zoning Appeals

DATE: July 14, 2019