

Town of Hamburg  
Board of Zoning Appeals Meeting  
September 10, 2019  
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, September 10, 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, Commissioner Mark Yoder and Commissioner Jeffrey Adrian.

Others in attendance included 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**

Chairman Rybczynski stated that the item would remain on the table.

**Findings:**

It was determined that this application would be left on the table.

**Application # 5763 WNY Fuels LLC – Requesting a use variance to reface an existing pole sign at 3405 Big Tree Road**

Goldy Sandhu, applicant, stated that he would like to reface the existing pole sign on the property to reflect the Sunoco logo per Sunoco requirements.

In response to a question from Chairman Rybczynski, Mr. Sandhu stated that a monument would block visibility at the intersection, and Sunoco will not pay for a monument sign to be erected.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5763.

On the question:

Mr. Dimpfl reviewed the use variance criteria as follows:

1. The applicant cannot realize a reasonable rate of return – substantial as shown by competent financial evidence – The applicant has indicated that Sunoco will not pay for a new monument sign.
2. The alleged hardship is unique and does not apply to substantial portion of the district or neighborhood – It is unique.
3. The requested variance will not alter the essential character of the neighborhood – It will not.

4. Whether the alleged hardship is self-created – It is not.

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

**Application # 5764 Chad Cudny – Requesting an area variance to allow domestic fowl at 5024 Roseview Avenue**

Chad Cudny, applicant, stated that he would like to keep chickens (no more than six (6)), and his property is not quite large enough.

Mr. Adrian stated that the pen is well maintained, and the pen would not be too close to any neighbors.

Mr. Cudny submitted letters of support from four (4) neighbors as follows:

- William Bleem, 5025 Roseview Avenue
- Matthew Williams, 5018 Roseview Avenue
- John A. Fuhrman, 5035 Lynwood Avenue
- Ruza Josewski, 5023 Roseview Avenue

**Findings:**

Mr. Dimpfl made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5764.

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, and four (4) neighbors submitted letters of support.
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 # 5765 Joseph Beres – Requesting an area variance for an attached garage at 2184 Shadow Lane**

Christina Smaczniak, stepdaughter of the applicant, stated that her stepfather would like to construct an attached garage that would be too close to the side property line.

**Findings:**

Mr. Dimpfl made a MOTION, seconded by Ms. Hahn, to approve Application # 5765.

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.
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 # 5766 Mary Star – Requesting an area variance for a new front deck at 4835 Morgan Parkway**

Mary Star, applicant, stated that her son built her a new front deck for Mother’s Day, and he did obtain a Building Permit for it.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approved Application # 5766.

Ms. Falkiewicz made a motion to amend the motion to include the following condition:

The deck will not be converted to habitable space.

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.
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 # 5767 Ryan Brady – Requesting an area variance for a proposed deck at 5233 Scranton Road**

A representative for the applicant stated that a deck was constructed without obtaining a Building Permit. She stated that the deck does not block any views and is not very large.

**Findings:**

Mr. Dimpfl made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5767.

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.
3. Whether the request is substantial – This could be argued either way.
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 # 5768 Billy-Lee LLC – Requesting an area variance for a proposed addition to the existing building at 4760 Camp Road**

Dan Buchanan from Bammel Architects, representing the applicant, stated that a 10,000 sq.ft. addition is proposed to an existing building, and the addition would be too close to a side property line (Queens Lane). He noted that the existing building is considered “existing non-conforming”.

Mr. Buchanan stated that the location of the addition is what makes the most sense and would not be close to Camp Road.

Debra Behringer, 3344 Queens Lane, asked if the woods along Queens Lane would remain and how tall the addition would be. It was determined that the woods will remain, and the addition would be only as tall as the existing building is.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Ms. Hahn, to approve Application # 5768.

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 – It is self-created, but on balance it tilts to approval.

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

**Application # 5769 Roger Duffett – Requesting a use variance to operate a fitness facility at 5640 Maelou Drive**

Mrs. desJardins stated that the Building Department had recently determined that in addition to the use variance, two (2) area variances were also required.

Roger Duffett, applicant, stated that he is proposing to construct a new building for one of his tenants in the existing building on the property. He noted that it would be a basketball training facility.

Mrs. desJardins stated that use of the proposed building is not an expressly permitted use in the M-2 District, in which this property is located. She noted that the tenant who requests the new building is considered legal non-conforming.

Attorney Sean Hopkins, representing the applicant, stated that a Certificate of Occupancy was issued for the tenant in question, although his use is not permitted.

Attorney Hopkins stated that he would amend the application and return to the Board at its October meeting for review of the use variance, as well as the two (2) required area variances.

**Findings:**

It was determined that this item would remain on the table.

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve the minutes of August 6, 2019. All members voted in favor of the motion.

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

The meeting was adjourned at 7:40 P.M.

Respectfully submitted,

L. Michael Chiacchia, Secretary  
Board of Zoning Appeals

DATE: September 24, 2019