

Town of Hamburg
Board of Zoning Appeals Meeting
November 7, 2019
Minutes

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

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

Excused: Commissioner Ric Dimpfl

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

Attorney Jeff Palumbo from Damon Morey, representing the applicant, stated that the applicant would like to replace the existing pole sign at the South Park Avenue entrance. He noted that the LED portion of the sign is not working well, and the Fairgrounds is experiencing increasing competition. He stated that the applicant is now proposing a new monument sign to replace the existing pole sign.

Attorney Palumbo noted that the signage law in the Town Code does not refer to the Fairgrounds District relative to size requirements.

Attorney Palumbo stated that the benefit of receiving the requested variances would be that the old pole sign that is not operating well would be replaced by a new monument sign.

In response to a question from Mr. Chiacchia, Attorney Palumbo stated that there is increased competition because there are other casinos now.

In response to a question from Mr. Chiacchia, Attorney Palumbo stated that the Fairgrounds is not losing attendance.

Mr. Chiacchia stated that the other two (2) signs the Fairgrounds has (on Quinby Drive and on the corner of Quinby Drive and McKinley Parkway) are beautiful. He asked why the Fairgrounds cannot install a sign on South Park Avenue that looks like the other two. He stated that he feels that the South Park Avenue sign would be too close to the road and too high.

In response to a question from Chairman Rybczynski, Paul Strada from NAS Sign Co., representing the applicant, stated that the sign should be close to the road and easy to read since there are many activities going on at the Fairgrounds.

Arlene Duggan, 4268 Quinby Drive, stated that the content of the sign will not change the number of people who read the sign. She submitted the following comments in writing:

AREA VARIANCE CRITERIA

Can benefit be achieved by other feasible means?

YES... by effective methods already being used..

..... the property is always busy because of advertising by TV, radio, word of mouth, area electronic billboards, and yes the sign at the road which focuses on drivers. All good and effective business practices.

Ask anyone in this half of our state and beyond where the property is and what the property is used for and every one either has been there multiple times or knows about the fair, crafts, circus and gaming. We were all kids going to the circus and fair or adults looking for crafts or shows.. The brand is very well known to everyone so the advertising is very effective already! Changing the sign will not increase business. Only subject changes and fresh ideas can do that.

Yes.. The sign is dated and needs a fresh look. New graphics etc. But it is only an effective advertising tool when seen by people passing by on South Park.. one lane southbound and one lane northbound. It is not necessary or safe for drivers to view anything above their eyelevel. This is a localized sign with hundreds of feet open in either direction for drivers to have ample time to observe its contents and moving graphics.

Can benefit be achieved by other feasible means ? Absolutely. By continuing and/or expanding methods already being used.

A safer and more effective decision would be to follow the rules and correctly place the sign lower and safely within line of sight or refurbish/renew the existing sign.

These requests for height appear to all consider the height of the existing sign as the standard for comparison. No it is not. The only options are to refurbish the existing sign or replace it with a new 8' sign. No other option is available under the current signage codes. The height issue is only to question allowing anything above 8'.

Would there be undesirable change to our neighborhood and local properties?

YES... This town passed signage rules to avoid excessive lighting bothering our neighborhoods and to preserve and enhance the pleasing character of our town. Who is the target audience of this sign? Drivers. Rules say under 8'height for a reason. Its to focus signage on drivers ability to safely read the messages and ... not to annoy and anger neighbors by keeping them up at night with bright flashing lights in their windows

and across their properties 24/7. Tall signs are for distance viewing... not for the drivers at street level who should be the focus of such signs.

Is this difficulty self-created? YES

Effective advertising is already being used. Changing the sign is purely to update an aging tool... not to increase business.

However....

Beyond these details is that tall signs are now "old school" and can "date" a business ... current businesses and the public prefer tastefully designed eyelevel signs that enhance the brand.. Life is busy so people want whatever is pleasing to the eye, informative and helpful.

A consideration might be for relocation closer to the road. It's helpful to be closer to the safe line of sight for passing drivers and not take their attention from the road as a sign placed above their vision level would.

The fact is ..the closer to the road a tall sign is placed the further it is above a drivers view. That's simple math. We do not need drivers leaving their lane trying to crane their necks to read the tall sign above them. But a low one closer to the road would work well for them. It's the most practical and sensible benefit of the 8' code.

An additional consideration would be to expand the width of a normal 8' sign. The entrance has all the room necessary to do that and the only obvious restriction requiring a variance might be the square footage of the lighting. The latest request is an increase from 34 sq ft to 100 sq ft of moving graphics. That's substantial. Larger graphics will be a challenge for drivers. Negotiate that. The area is wide open for drivers to read a wider sign and still be effective.

An aesthetic thought to consider..... the 2 signs on Quinby are both tasteful and neighborhood friendly. Traffic comes and goes thru that entrance day and night so they are effective. Has using their basic look been considered for a fresh new look on the South Park sign? It would be both unique and effective.

This focus on excessive height is poorly thought out because it clearly increases driving hazards without enhancing drivers ability to read their message so what is the real goal?

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Ms. Duggan stated that the digital portion of the proposed sign is 100 sq.ft. as opposed to the existing sign, which only has 34 sq.ft. of digital space.

Findings:

Mr. Adrian made a MOTION, seconded by Mr. Yoder, to approve one (1) use variance and two (2) area variances for Application # 5745 with the following condition:

- The new sign must be set back from South Park Avenue a distance of at least 25 feet.

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Chiacchia), the motion passed.

GRANTED.

Tabled Application # 5772 Erie Wind, LLC – Requesting an amendment of an existing variance for a wind turbine at 3150 Lakeshore Road (previous variance granted in March 2010)

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

Application # 5773 Joseph Marzello – Requesting two (2) area variances for a proposed attached garage at 4938 Lakeshore Road

Joseph Marzello, applicant, stated that he would like to construct an attached garage at this location, and it would be too close to the northern property line.

Mr. Adrian expressed concerns about the distance of the proposed garage to the property line.

Findings:

Mrs. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to approve Application # 5773.

On the question:

Mrs. 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.

As the vote on the motion was five (5) ayes and one (1) nay Mr. Chiacchia), the motion passed.

GRANTED.

Application # 5774 Richard Lunz – Requesting an area variance for a proposed detached garage at 5896 Smith Road

Brian Lewis, architect, representing the applicant, stated that the applicant would like to construct a detached garage that would be higher than what the Town Code allows. He noted that the applicant needs the extra height for a recreational vehicle.

Findings:

Mrs. Hahn made a MOTION, seconded by Mrs. Falkiewicz, to approve Application # 5774.

On the question:

Mrs. 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 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 # 5775 Ford Beckwith – Requesting two (2) area variances to allow domestic fowl at 4316 Highland Parkway

Ford Beckwith, applicant, stated that he would like to keep chickens on his property, and the property is not quite large enough per the Town Code.

Findings:

Mrs. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to approve Application # 5775.

On the question:

Mrs. 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 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 # 5776 Annette Rucker – Requesting an area variance for a proposed detached garage at 5549 Scranton Road

Robert Uzer, resident of this property, stated that he would like to construct a 1,928 sq.ft. detached garage to store vintage vehicles, equipment, tools, etc.

Board members expressed concern about the amount of total square footage between the existing detached garage on the property and the proposed new detached garage. Mr. Uzer was

asked if he would be willing to demolish the existing detached on the property before being allowed to begin construction on the new detached garage. Mr. Uzer indicated that he would not want to do that because if he did he would have nowhere to store the items that are currently being stored there.

Findings:

Mrs. Falkiewicz made a MOTION to approve Application # 5776. The motion did not receive a second.

Mrs. Hahn made a MOTION, seconded by Mr. Yoder, to deny Application # 5776.

As the vote on the motion was five (5) ayes and one (1) nay (Mrs. Falkiewicz), the motion passed. **DENIED.**

Application # 5777 Amsdell Properties LLC – Requesting two (2) area variances for a proposed monument sign at 3080 Amsdell Road

Jamie Allen from Signs Unlimited, representing the applicant, stated that the applicant would like to erect a monument sign that would be 44 sq.ft. in area instead of the required 40 sq.ft. and 13.6 feet high instead of the required eight (8) feet.

Mr. Allen stated that the need for the oversized sign stems from the fact that there are three (3) tenant spaces on the property, and the property owner wants room for all three (3) to be able to advertise.

Findings:

Mrs. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to approve Application # 5777.

On the question:

Mrs. 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 # 5778 Lakeview Vol. Fire Association – Requesting two (2) area variances for a proposed monument sign at 2011 Lakeview Road

Jamie Allen from Signs Unlimited, representing the applicant, stated that the applicant would like to erect a new monument sign that would be 44 sq.ft. in area. He further stated that the property does not have the required 200 feet of frontage on a public road.

Findings:

Mrs. Falkiewicz made a MOTION, seconded by Mr. Yoder, to approve Application # 5778.

On the question:

Mrs. 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 # 5779 John Mallaber – Requesting an area variance for a playhouse at 3461 Old Lakeview Road

John Mallaber, applicant, stated that he would like to build a playhouse for his granddaughter, and the playhouse would be too close to the top of the bank of Eighteen Mile Creek.

It was determined that the applicant contacted the New York State Department of Environmental Conservation about his project and was notified that that department has no concerns about it.

It was further determined that the Conservation Advisory Board indicated that it sees no problems with what the applicant is proposing.

Chairman Rybczynski read letter of support from the following property owners:

- William Savage, 3597 Old Lakeview Road
- Shaun Kempsten, 3242 Old Lakeview Road
- Craig Kempsten, 3194 Old Lakeview Road
- Doug Pinheiro, 3425 Old Lakeview Road
- Gregory Savage, 3592 and 3339 Old Lakeview Road
- Scott Fleirl, 3415 Old Lakeview Road
- Thomas Sardinia, 3315 Old Lakeview Road

Findings:

Mrs. Hahn made a MOTION, seconded by Mr. Adrian, to approve Application # 5779.

On the question:

Mrs. 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 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 # 5780 Gerald Schmidt – Requesting four (4) area variances to allow a minor subdivision at 6284 Smith Road

Attorney Michael Stachowski, representing the applicant, stated that the applicant has been in Hamburg Town Court for five (5) years, and appearing before the Planning Board is part of an agreement made with the Town to resolve the fact that the applicant has two (2) residences on one (1) lot. He stated that subdividing the parcel will allow each residence to be on its own property.

Findings:

Mr. Adrian made a MOTION, seconded by Mrs. Hahn, to approve Application # 5780.

On the question:

Mrs. 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 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.**

Mrs. Falkiewicz made a MOTION, seconded by Mr. Yoder, to approve the minutes of October 1, 2019. All members voted in favor of the motion.

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

The meeting was adjourned at 8:50 P.M.

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

DATE: November 25, 2019