

Town of Hamburg  
Board of Zoning Appeals Meeting  
December 3, 2019  
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, December 3, 2019 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Commissioner Ric Dimpfl, 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 Nicole Falkiewicz

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 # 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)**

Attorney Jeff Davis from Barclay Damon, representing the applicant, stated that the existing wind turbines along Lake Erie constitute the Steel Winds II project that was approved by the Town a number of years ago. He stated that four (4) of the turbines are located in the Town of Hamburg.

Attorney Davis stated that the turbines were built with Clipper technology, but Clipper went bankrupt and can no longer support the equipment. He stated that parts cannot be located and the blades and gear boxes can no longer be replaced, so the owner of the facility is proposing to replace the tops of the existing turbines so that they can continue to produce electricity.

Attorney Davis stated that turbine #10, which is 420' tall, would be extended to 456' because of the new blades being 36' longer than what is existing. Attorney Davis stated that there is no exact replacement part for the tops of the turbines, which is why the replacement will be slightly taller than what is existing (36' taller to the top of the blade).

He stated that in 2010 a variance was granted allowing it to be located where it is, which is closer to the southern property line than what is allowed by Code. He noted that the base of the tower would remain, but the setback would be increased due to the length of the replacement blades. He stated that the turbine must be set back at least 1 ½ times its height.

Attorney Davis 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 facility is existing, and the change in height will be virtually imperceptible.
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 – No.

Attorney Davis stated that the Erie County Industrial Development Agency (ECIDA) issued a Negative SEQR Declaration on November 20, 2019.

Mark Lorquet, Chairman of the Conservation Advisory Board (CAB), asked if there will be a reduction in the amount of time the wind turbines will spin to reduce bird strikes.

Attorney Davis stated that there will be a curtailment approach being put in place at this facility that does not currently exist. He stated that the wind turbines will not operate at low wind speeds between the months of July and October. He further stated that when the wind turbines are not operating, they will be feathered.

Michael Mosey, member of the public, stated that he believes that the variance request is substantial. He asked how the wind turbines benefit the Town of Hamburg.

Chairman Rybczynski advised Mr. Mosey that the Board of Zoning Appeals was only considering the area variance for turbine # 10.

Attorney Davis stated that the Town of Hamburg will receive a considerable amount of tax revenue from the wind turbines on a property that is otherwise unusable.

**Findings:**

Mr. Adrian made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5772.

On the question:

Mr. Adrian 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 # 5781 Douglas McLaughlin – Requesting an area variance for a proposed residential addition at 3053 Old Lakeshore Road**

Derrick Frank, contractor, representing the applicant, stated that the applicant would like put an addition on his house that would be too close to a side property line.

In response to a question from Mr. Dimpfl, Mr. Frank stated that the adjacent residence that shares the side property line that would be affected would be approximately 23 to 25 feet from the applicant's addition.

**Findings:**

Mr. Dimpfl made a MOTION, seconded by Mr. Hahn, to approve Application # 5781.

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 – It could be argued that the request is substantial.
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.**

Mr. Dimpfl made a MOTION, seconded by Mr. Yoder, to approve the minutes of November 7, 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 7:30 P.M.

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

DATE: December 10, 2019