

Town of Hamburg  
Board of Zoning Appeals Meeting  
February 4, 2020  
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, January 7, 2020 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 Nicole Falkiewicz, Commissioner Louis M. Chiacchia, Commissioner Laura Hahn and Commissioner Mark Yoder.

Others in attendance included Sarah desJardins, Planning Consultant.

Excused: Commissioner Jeff Adrian and Attorney Michelle Parker

Commissioner Chiacchia read the Notice of Public Hearing.

**Application # 5785 Anthony Bernardi – Requesting a use variance in order to sell an existing home at 5343 Scranton Road**

Anthony Bernardi, applicant, stated that he has been trying to sell his duplex and has found a buyer, but the buyer cannot obtain financing because the property is zoned commercial. He stated that he needs relief from the Code so that his buyer's mortgage company knows that if the building is damaged more than 50% it can be rebuilt.

In response to a question from Chairman Rybczynski, Mr. Bernardi stated that the property has been on the market since June 2019.

**Findings:**

Mrs. Falkiewicz made a MOTION, seconded by Mrs. Dimpfl, to approve Application # 5785.

On the question:

Mrs. Falkiewicz 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 the property has been on the market since June 2019, and he cannot sell the property unless the use variance is granted.
2. Whether the alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood – The hardship is unique.
3. Whether the requested variance will 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 # 5786 Jeremy Desmond – Requesting an area variance for a residential addition at 3173 Durham Road**

Jeremy Desmond, applicant, stated that he is planning an addition on his home, and the total of the two (2) side yards does not equal the required 25 feet.

In response to a question from Mr. Dimpfl, Mrs. Desmond stated that she spoke to all of her neighbors, and several of them signed a document indicating that they are not in opposition to the requested variance.

**Findings:**

Mrs. Hahn made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5786.

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 – Yes, but on balance the variance should be granted.

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

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve the minutes of January 7, 2019. All members voted in favor of the motion.

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

The meeting was adjourned at 7:15 P.M. in memory of Luca Calanni, who recently passed away and whose family needs prayers.

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

DATE: February 5, 2020