

Town of Hamburg
Board of Zoning Appeals Meeting
June 2, 2020
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, June 2, 2020 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Vice-Commissioner Ric Dimpfl, Commissioner Louis M. Chiacchia, Commissioner Laura Hahn, Commissioner Mark Yoder and Commissioner Jeff Adrian.

Others in attendance included ZBA Attorney Michelle Parker.

Excused: Commissioner Nicole Falkiewicz

Commissioner Chiacchia read the Notice of Public Hearing.

Application # 5787 Well Now Urgent Care – Requesting three (3) use variances for proposed wall signage at 4923 Southwestern Boulevard

Mr. Phil Convertini from Moeller Sign stated that his client is Anchor Sign, who represents Well Now. He stated that the applicant would like to have wall signage on the north side of the building to increase visibility for its clients. He noted that no pylon sign will be installed at the street.

In response to a question from Chairman Rybczynski, Mr. Convertini stated that the previously requested wall signage on the rear of the building has been withdrawn.

Mr. Adrian asked why this request is considered a use variance and not an area variance. He asked for a legal determination.

Chairman Rybczynski advised Mr. Adrian that the Building Department determines whether a request is a use variance or an area variance. He further stated that a legal determination is only sought if a member of the public requests it.

Findings:

Mr. Dimpfl stated that the applicant did remove the sign that was opposed by the resident on Sowles Road, and the applicant also provided financial evidence in February for the need for the signage.

Mr. Dimpfl made a MOTION, seconded by Mr. Yoder, to approve Application # 5787.

On the question:

Mr. Dimpfl reviewed the use variance criteria as follows:

1. The applicant cannot realize a reasonable rate of return as demonstrated by competent financial evidence – The applicant provided this evidence previously.
2. Whether the alleged hardship is unique – It is.
3. Whether the requested variance, if granted, will alter the character of the neighborhood - No.
4. Whether the alleged hardship is self-created - No.

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

Application # 5789 Kathleen & Kirby Hahn – Requesting two (2) area variances for a proposed residential accessory structure at 5207 South Park Avenue

Mr. Kirby Hahn, applicant, stated that he would like to build a pole barn that would be 25' high because he wants to put a lift in the pole barn so he can work on his personal cars.

In response to a question from Chairman Rybczynski, Mr. Hahn stated that he has four (4) personal vehicles. He further stated that he generally does not work on other people's vehicles.

In response to a question from Chairman Rybczynski, Mr. Hahn stated that he needs the oversized building because he needs a lot of space to store the items he collects and his car parts.

In response to a question from Chairman Rybczynski, Mr. Hahn stated that his property is a bit less than two (2) acres in size.

In response to a question from Mr. Adrian, Mr. Hahn stated that a second story is proposed.

In response to a question from Chairman Rybczynski, Mr. Hahn stated that to his knowledge now, he does not plan to turn the second story into living space.

Findings:

Mrs. Hahn made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5789.

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 request is substantial – No, given the surrounding properties and that the applicant's property is almost two (2) acres in size.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – Yes, but the balancing test tilts in favor of approval.

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

Application # 5790 Charles Goodier – Requesting two (2) are variances for a proposed detached garage at 393 Willett Road

Mr. Charles Goodier, applicant, stated that he would like to construct a detached garage with a lift for his personal use. He stated that the second story standing height would be six (6) feet, and the space would be used for storage.

Mr. Goodier stated that two (2) existing sheds on his property would be demolished.

Chairman Rybczynski advised Mr. Goodier to contact the Building Department if the variances are granted about whether the existing sheds can remain on the property until the new garage is finished.

Mr. Chiacchia stated that the applicant's property is surrounded by vacant land and the Thruway, so the property is quite remote.

In response to a question from Mr. Adrian, Mr. Goodier stated that the new detached garage would be located where the existing garage is that he plans to demolish.

It was determined that the applicant also requires a variance for square footage, and the legal notice did not note the third needed variance.

Findings:

Chairman Rybczynski stated that this applicant would be left on the table because there was a discrepancy between the application and the legal notice.

Application # 5791 Michael Lazarski – Requesting an area variance to allow domestic fowl at 3046 Upper Court

Mr. Michael Lazarski, applicant, stated that he would like to have five (5) chickens and no roosters. He submitted letters of support from several neighbors for the Board members to review.

It was noted that the applicant's property is large enough for domestic fowl but is not wide enough.

Ms. Kathy Teson, 3026 Cloverbank Road, stated that she owns the property that runs behind the development to the Hamburg baseball diamond, and she is against the variance request because she wants to sell that property eventually and would not want chickens running around. She stated that rodents may become a problem.

Findings:

Mr. Dimpfl stated that the Board should consider not only the nearby property owners who signed letters of support, but also the resident who spoke in opposition.

Chairman Rybczynski noted that several property owners on Upper Court support the request.

Attorney Parker noted that the letters that were submitted from the nearby neighbors do not indicate what the applicant is asking for specifically and do not describe the subject of the request. She stated that the record the Board has from the neighbors may not be sufficient.

Mrs. Hahn stated that this application should be tabled so that the applicant can submit new letters of support that indicate what he proposes to do.

Mrs. Hahn made a MOTION, seconded by Mr. Dimpfl, to table this application.

All members voted in favor of the motion.

Application # 5792 Maria Blaszkowiak – Requesting two (2) area variances for a residential addition at 2059 Lakeview Road

Ms. Maria Blaszkowiak, applicant, stated that she would like to construct an addition in the rear of her home, and she would like to construct an attached two-car garage on the side of the home. She noted that there is an existing single-car garage and a shed on the property that would be demolished if the variances are granted.

In response to a question from Mr. Adrian, Ms. Blaszkowiak stated that the distance from the home on the adjacent northern property to the shared property line is approximately 20 feet.

Mr. Chiacchia stated that the applicant's current garage is falling apart, and her project would not pose any site problems for nearby properties. He further noted that the proposed construction would vastly improve the value of the applicant's property.

Findings:

Mrs. Hahn made a MOTION, seconded by Mr. Adrian, to approve Application # 5792.

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, the applicant is limited on space.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No, this will be an improvement.
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 – Yes, but the balancing test tilts in favor of approval.

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

Application # 5793 Michael Polasik – Requesting an area variance for an above ground swimming pool at 4733 Kennison Parkway

Mr. Michael Polasik, applicant, stated that he would like to install a 15' X 30' 52" above ground pool that would be too close to the rear property line. He stated that all other requirements have been met.

In response to a question from Chairman Rybczynski, Mr. Polasik stated that the location he chose for the pool is the best one because he wants to run utilities to it.

Mr. Chiacchia stated that the applicant plans to remove the existing pool on the property. He further stated that the property is fully enclosed by a six-foot high solid wood fence, which will ensure the other children would not be able to jump into the pool.

Findings:

Mr. Dimpfl made a MOTION, seconded by Mr. Yoder, to approve Application # 5793.

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 – Yes, but the balancing test tilts in favor of approval.

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

Application # 5794 Daniel Eckert – Requesting an area variance for a residential addition at 3655 Wabash Avenue

Mr. Edward Wilczynski, architect, representing the applicant, stated that the proposal is to construct a garage with a connected breezeway that would be five (5) feet from the side property line. He stated that without the variance, the breezeway will not be possible.

Findings:

Mr. Dimpfl made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5794.

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 – Yes, but the balancing test tilts in favor of approval.

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

Mrs. Hahn made a MOTION, seconded by Mr. Dimpfl, to approve the minutes of March 3, 2020. All members voted in favor of the motion.

Chairman Rybczynski made a MOTION, seconded by Mr. Dimpfl, that the deadline for submission of items to be placed on a Board of Zoning Appeals agenda be 15 days prior to the scheduled meeting at 12:00 P.M.

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

The meeting was adjourned at 7:50 P.M.

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

DATE: June 10, 2020