

Town of Hamburg  
Board of Zoning Appeals Meeting  
October 4, 2016  
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, October 4, 2016 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Vice-Chairman Shawn Connelly, Commissioner Bob Ginnetti, Commissioner Nicole Falkiewicz, Commissioner Ric Dimpfl and Commissioner Laura Hahn.

Others in attendance included Attorney Mark Walling, Board of Zoning Appeals Attorney.

Excused: Commissioner Louis M. Chiacchia

Chairman Rybczynski asked for a moment of silence in remembrance of the men and women who have died in service of our country.

Commissioner Connolly read the Notice of Public Hearing.

**Application # 5594** Debbie Pound, architect, representing Cynthia Livsey-Wurster – Requesting an area variance for a proposed covered porch at 3926 Brian Court

Architect Debbie Pound stated that the applicant was recently granted a variance for an attached garage. She stated that at that time, she (Ms. Pound) neglected to also request a front yard variance for a proposed front porch. She noted that the porch would be approximately five (5) feet too close to the front of the property, but the existing home already infringes on the required front yard setback by approximately two (2) feet.

Ms. Pound stated that the home on the adjacent property to the west also infringes on the required front yard setback.

**Findings:**

Mrs. Dimpfl made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5594.

On the question:

Mr. Dimpfl reviewed the area variance criteria as follows:

1. Whether the benefit 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, but on balance it favors approval.

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

**Application # 5595** 1159 Abbott Road LLC – Requesting two (2) area variances for proposed building signage at 3218 Lakeshore Road

Don Grundtisch stated that his company recently purchased the building at 3218 Lakeshore Road, and he would like more street advertising.

In response to a question from Mr. Connolly, Mr. Grundtisch stated that there is an existing ground sign in front of the building. Mr. Connolly informed Mr. Grundtisch that the previous owner of this building received an area variance for that existing ground sign. He further stated that the previous owner's reason for requesting the variance for the ground sign was that he needed advertising space for the tenants in the building.

In response to a question from Mr. Connolly, Mr. Grundtisch stated that the additional signage that is currently being requested would be for his company's name. He noted that his company owns the building and occupies the top floor.

In response to a question from Mr. Connolly, Mr. Grundtisch stated that his company's name is on the ground sign currently in front of the building.

**Findings:**

Mr. Connolly stated that the Board already granted an area variance for the existing ground sign that is used to identify who is in the building. He stated that in this area of town, there are a lot of people who want a lot of signage, and as people are allowed to have more signs, any business will want as many signs as it can have. He stated that the Town Code attempts to limit signage to a reasonable level, and having the ground sign in front of the building plus the wall signage is adequate.

Mr. Connolly made a MOTION, seconded by Mr. Dimpfl, to deny Application # 5595.

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

**Applications # 5596** Kevin Tomasik – Requesting a use variance to allow a private horse stable at 2215 Lakeview Road

Kevin Tomasik, applicant, stated that several neighbors signed a petition indicating that they are in favor of the requested variance.

Mr. Connolly read the petition as follows:

“September 25, 2016

We the undersigned are in favor of the variance for the private horse stable for Kevin Tomasik at 2215 Lakeview Road.”

Mr. Connolly noted that 12 residents from nine (9) addresses signed the petition.

It was further noted that letters of support were received from Ronald and Linda Pierscinski, as well as from Greg Sipes.

Mr. Tomasik stated that although his property is zoned R-1, he owns 4.9 acres, a barn and a pasture area, which is unique.

Chairman Rybczynski stated that the first use variance criterion regarding not being able to realize a reasonable rate of return on the property is his biggest concern.

Mr. Connolly stated that it appeared that the applicant was not in a position that evening to present evidence regarding the first use variance criterion. He stated that it might be prudent for the applicant to ask that the request be left on the table until the Board's next meeting so he can gather more evidence regarding the first use variance criterion.

Emily Tomasik, daughter of the applicant, stated that she has been riding horses for seven (7) years, and getting a horse is very important to her. She stated that she will be paying for the horse herself, and having a horse would be a great opportunity for her to assume responsibility and grow as a person and a student.

Ms. Tomasik stated that she feels that having a horse on the property will enhance its value.

**Findings:**

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

**Application # 5597** Walter Klubek – Requesting a use variance to allow an in-law apartment in a proposed home to be construct on vacant land adjacent to 6778 Boston State Road

Walter Klubek, applicant, stated that his father has recently become sick, and he is having a hard time living in his current residence alone. Mr. Klubek stated that he would like to construct a new home with an in-law suite for his father so that he and his wife can take care of his father.

Mr. Klubek stated that his situation is unique because his father is in renal failure and has diabetes and congestive heart failure. He stated that he is worried about putting his father in a nursing home because his father's insurance will not cover that. He further stated that he is his father's only living family.

Mr. Klubek stated that the home he hopes to build is a modern-style farmhouse that would be similar in style to other homes in the area and match the rural landscape of Boston State Road. He stated that the in-law apartment would be under the same roof as the rest of the home and would be located in the rear of the home so that it would not be evident from the road that it exists.

Mr. Klubek stated that the hardship has not been self-created because his father's health has been decreasing. He stated that the location of the property on which he would like to build is ideal because it is on a main road near a Thruway to ensure access to a hospital and dialysis even in the winter months. He further stated that the location is ideal because he works in the Village of Hamburg and his wife works in Forestville.

Mr. Klubek stated that he currently lives in the Village of Hamburg and loves it, and this property allows him to stay close to the Village. He further stated that he had much difficulty finding R-2 zoned property in the Village that would meet his needs for his father's care.

Mr. Klubek stated that the alternative to keeping his father where he currently lives is placing him in a nursing home, but his father's insurance would not cover that scenario. He noted that if he did place his father in a nursing home, he would have to cover the cost, which would be more than \$100,000 per year and which would deplete his life savings quickly.

Mr. Klubek stated that if/when he ever sold this house years from now, he doubts anyone would want to rent the in-law suite out because it would be under the same roof as the rest of the home.

In response to a question from Chairman Rybczynski, Mr. Klubek stated that the property he would like to purchase is not currently being farmed, nor has it been used for farming recently.

In response to a question from Mr. Klubek, Chairman Rybczynski stated that the addition of a kitchen is what makes the in-law apartment a dwelling.

In response to a question from Mr. Connolly, Mr. Klubek stated that to access the in-law apartment from the rest of the home, one would not need to exit the home and enter via an

outside access.

Chairman Rybczynski advised Mr. Klubek to take a look at why this use is a better return on his investment than a farming situation. He noted that it has to pertain to the land.

Mrs. Klubek stated that this property cannot be farmed because a portion of it is located in a flood plain.

Attorney Walling noted that the majority of the property is not located in the flood plain.

**Findings:**

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

Mr. Dimpfl made a MOTION, seconded by Mr. Connolly, to approve the minutes of September 6, 2016. All members voted in favor of the motion.

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

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

L. Michael Chiacchia, Secretary  
Board of Zoning Appeals

DATE: October 12, 2016