

Town of Hamburg
Board of Zoning Appeals Meeting
December 2, 2014
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, December 2, 2014 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Commissioner Louis Chiacchia, Commissioner Bob Ginnetti, Commissioner Joseph Sacco, Commissioner Richard Dimpfl and Commissioner Paul Eustace.

Others in attendance included Attorney Mark Walling and Sarah desJardins, Planning Consultant.

Excused: Vice-Chairman Shawn Connelly

Commissioner Eustace read the Notice of Public Hearing.

Tabled Application # 5507 Cathy Fabiatos – Requesting a use variance to allow automotive repair at 3233 Lakeshore Road

Mrs. desJardins noted that the applicant had asked that the request not be discussed until the Board's January 2015 meeting.

Chairman Rybczynski stated that the item would stay on the table.

Findings:

Mr. Sacco made a MOTION, seconded by Mr. Chiacchia, to leave this application on the table. All members voted in favor of the motion. **TABLED.**

Application # 5509 DM Properties Hamburg, Inc. – Requesting an area variance for a new detached sign at 4020 Jeffrey Boulevard

Paul Fadale from NAS Sign Company, representing the applicant, stated that the applicant is rebranding its logo and changing its name. He stated that the proposal is to erect a monument sign that is larger than what is allowed, but much of the square footage of the proposed sign is comprised of the concrete on which the letters would be placed and that which surrounds the letters.

Mr. Fadale stated that the sign would be reverse lit with white LED lighting, and it would be the only sign the applicant has on the property.

In response to a question from Mr. Chiacchia, Mr. Fadale stated that the existing sign on the property would be removed.

Findings:

Mr. Sacco made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5409.

On the question:

Mr. Sacco stated that this is in an industrial area, and the applicant proposes to replace the existing sign with the new sign.

Mr. Sacco 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, this is an industrial area.
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 – No.

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

Application # 5510 4878 Hamburg, LLC – Requesting two (2) area variances for a new detached sign at 4878 Lakeshore Road

Jamie Allen from Signs Unlimited, representing the applicant, stated that the applicant proposes to erect a 16 sq.ft. sign on the property, and because the property is located in the Neighborhood Commercial District, 10 sq.ft. is the largest sign allowed. He noted that this is a Mobil Station, and the applicant wishes to install an LED price changer at the bottom of the sign, and a 16 sq.ft. sign is the smallest possible sign that will achieve this goal.

Mr. Allen stated that there are complications on the property regarding the location of a new sign. He noted that Route 5 was widened in front of the property, and the old sign base that is there cannot be used anymore because of the sign setback requirements. He further stated that the applicant proposes to place the new sign two (2) feet from the side yard on the south side of the property, and a five-yard side setback is required.

In response to a question from Mrs. desJardins, Mr. Allen stated that the new sign would be 14 feet tall. He stated that it would be a single pole sign that would have ten (10) feet of open space at the bottom, and the 4' X 4' signage would be at the top.

In response to a question from Mr. Sacco, Mr. Allen stated that the new sign would have to be placed outside the right-of-way and therefore would not interfere with the existing power line pole on the property.

Mr. Chiacchia congratulated the applicant for improving the property. He asked Mr. Allen if the proposed sign could be moved three (3) more feet away from the side property line so that a variance would not be required. Mr. Allen responded that moving the sign would result in eliminating a needed parking space.

Ms. Karen Ladori, adjacent property owner to the south, stated that she is concerned that the location of the new sign might impede her tenants' parking ability on her property. She was shown a drawing indicating the proposed location of the new sign, and she asked why this is the only place the sign can be located. Mr. Allen responded that the setback requirements hinder the applicant in this regard.

Chairman Rybczynski stated that placing the sign anywhere else would impede the traffic pattern of the property.

Findings:

Mr. Sacco made a MOTION, seconded by Mr. Eustace, to approve Application # 5510.

On the question:

Mr. Sacco reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – This is questionable, but the applicant would like to do it this way.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No, because there are other signs in this area like this.
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 – No.

Chairman Rybczynski stated that this is a welcome addition to the Lakeview area.

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

Application # 5512 Lakshmi, Inc. - Requesting a use variance to expand a permitted non-conforming use at 4414 Southwestern Boulevard

Jonathan Bennett, architect for the applicant, stated that the applicant would like to expand the building on the property that houses the manager's living quarters and the motel lobby. He stated that four (4) or five (5) people currently reside in the manager's quarters, and they need more room.

Mrs. desJardins explained that the applicant could expand the building by up to 25% without requesting a variance, but because the request is to expand the building by more than 25%, a use variance is required.

Chairman Rybczynski reviewed the use variance criteria the Board must use to make a decision on this request. He asked Mr. Bennett to speak to these particular criteria.

Mr. Bennett stated that this is a family-run business and all of the family members live in the home, and the applicant wants to create more separation between them and the business that is conducted in that building. He stated that the applicant also wants to have more room for the lobby so that more amenities may be offered to guests.

Mr. Bennett stated that expanding this building will not create a change in the character of the neighborhood because the home already exists and will fit in with the neighborhood.

Mr. Bennett stated that the building was non-conforming when the applicant purchased the property ten (10) years ago, and this building was used at that time for employees to live in.

Mr. Bennett stated that if this variance is not granted, the applicant would have to rent apartment off-premises to house his family members/employees, which would be a financial hardship.

In response to a question from Chairman Rybczynski, Mr. Bennett stated that the percentage of the structure used for business is 33%. He further stated that after the addition to the structure, the percentage of the structure used for business would be 40%.

In response to a question from Chairman Rybczynski, Mr. Bennett stated that this addition and the related improvements to the motel lobby would hopefully increase profitability and occupancy rates.

Findings:

Mr. Dimpfl made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5512.

On the question:

Mr. Chiacchia stated that the employees/family of the motel are living in very small quarters, and improving the lobby might increase the motel's business.

Mr. Sacco stated that there is a lot of space on this property, and this motel has a very good reputation.

Mr. Dimpfl reviewed the use variance criteria as follows:

1. Cannot realize a reasonable return, substantial as shown by competent financial evidence – The applicant satisfactorily explained the financial situation he would be in if the variance was not granted.
2. Whether the hardship is unique and does not apply to substantial portion of district or neighborhood – While the Board may consider the percentage the applicant is looking for substantial, the hardship is unique to this applicant.
3. Requested variance will not alter the essential character of the neighborhood – No, it may actually improve the character of the neighborhood.
4. Whether the alleged difficulty is self-created – No.

Chairman Rybczynski stated that this is a very unique situation.

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

Mr. Eustace made a MOTION, seconded by Mr. Sacco, to approve the meeting minutes of November 12, 2014. All members voted in favor of the motion.

Chairman Rybczynski asked that the meeting be adjourned in memory of his uncle, who recently passed away.

Mr. Eustace made a MOTION, seconded by Mr. Sacco, to adjourn the meeting. All members voted in favor of the motion.

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Paul Eustace, Secretary
Board of Zoning Appeals

DATE: December 12, 2014

