

Town of Hamburg
Board of Zoning Appeals Meeting
April 1, 2014
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, April 1, 2014 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 Joseph Sacco, Commissioner Richard Dimpfl and Commissioner Louis Chiacchia.

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

Excused: Commissioner Paul Eustace

Chairman Rybczynski asked for a moment of silence in honor of our fallen troops.

Vice-Chairman Connolly read the Notice of Public Hearing.

Tabled Application # 5458 through # 5474 Eddy & Lewin Homes – Requesting an area variance for a front yard setback for 28 proposed lots located on vacant land, south of Sowles Road, west of Yale Avenue and Harvard Street in the proposed Carnegie Subdivision

Attorney Corey Auerbach from the law firm of Damon Morey, representing the applicants, stated that in addition to the requested area variances for front yard setback, lot area variances are being requested for several of the lots in the proposed 28-lot Carnegie Subdivision. He stated that the Hamburg Planning Board previously issued a Negative Declaration regarding this proposed subdivision, and it also passed a resolution in favor of the requested variances. He noted that, although it is not binding and it is not the Zoning Board of Appeals, the Planning Board resolution does indicate that the proposed subdivision with the requested variances fits into the character of the area, matches the existing lots in the neighborhood, includes a better buffer to the existing commercial area and allows a subdivision that does not increase the density allowed under the current zoning.

Attorney Auerbach stated that by issuing the resolution supporting the requested variances, the Planning Board has taken a good plan and turned it into a better one. He noted that the original plan presented to the Planning Board conforms in every way to the underlying zoning requirements of the R-2 District, but on recommendation of the Planning Board, the applicant came up with an alternate plan that decreases the setbacks throughout the entire subdivision and decreases the lot areas of several of the proposed lots. He stated that the alternate plan was created to meet the intent of the Town's Comprehensive Plan, which encourages buffering from commercial uses, and noted that a fairly large robust commercial use exists west of this property. He stated that by decreasing the length of the proposed roadway, the applicants are able to increase the sizes of the lots that adjoin the commercial use, thereby bringing the new homes farther away from the commercial use.

Attorney Auerbach stated that the proposed setbacks make the lots more desirable based upon the subdivision's unique design. He noted that if the setback variances are granted, the new homes would be placed farther away from the existing homes north and south of this property.

Attorney Auerbach stated that New York State Town Law states that variances may be sought for proposed subdivisions such as this one. He further stated that the granting of these

variances would not constitute a rezoning because the boundaries of a district would not be changed, the entire zone would not be radically altered, the essential character of the neighborhood would not be altered, the zoning law would not be destroyed, a substantial change to the Comprehensive Plan would not be affected, and the zoning pattern would not be disarranged.

Attorney Auerbach stated that the applicants are not requesting a rezoning to R-4, whose bulk requirements the proposed lot areas would conform to, because R-4 zoning allows uses that may not be in conformance with the zoning district (multi-family housing, hospitals, nursing homes, etc.).

Attorney Auerbach stated that when the benefit to the applicant is weighed against the detriment to the health, safety and general welfare of the community, it is apparent that the benefit is great and the detriment is nil, and the variances should be granted.

Attorney Auerbach stated that this subdivision was approved over a century ago, and the zoning law has changed dramatically since that time.

In response to a question from Mr. Connolly, Attorney Auerbach confirmed that the original plan submitted to the Planning Board does not require any variances.

Mrs. desJardins stated that the Planning Board did not direct the applicants to revise the original plan submitted. She stated that Board members did ask the applicants how they planned to buffer the new residents from the existing commercial use to the west of the property, and the applicants then proposed the new plan that required the variances.

In response to a question from Mr. Chiacchia, Attorney Auerbach confirmed that the applicants created the new plan, and the Planning Board did not ask the applicants to do that. He further stated that the Planning Board unanimously recommended the proposed (second) plan.

In response to a question from Mr. Connolly, Attorney Auerbach stated that the density of both plans is the same.

In response to a question from Mr. Chiacchia, Attorney Auerbach stated that no lots have been sold yet.

Mr. Chiacchia stated that if a buffer such as a six-foot high fence was created behind the westernmost lots, no lot area variances would be necessary. Attorney Auerbach responded that there is no buffering like the buffering of distance. He further stated that by decreasing the length of the road, the impervious surfaces would be reduced.

Tom Lewin, applicant, stated that there is no way to buffer the lighting from the parking lot from the westernmost lots.

In response to a question from Mr. Connolly, Attorney Auerbach stated that the subdivision as it was approved 100 years ago could not be developed today because the Town Code has changed since then.

Mr. Connolly stated that if the requested variances are granted, the people who purchase the westernmost lots will benefit, but the people who purchase the lots that are smaller than the Code allow would be the losers. Attorney Auerbach responded that the smaller lots may be more attractive to some people because they would have less of a yard to maintain. He further stated that the people who purchase the smaller lots will have full knowledge of that fact at the time of purchase.

Mr. Chiacchia stated that if the area variances are granted, the people who purchase the smaller lots may have to request variances to construct patios, etc.

Mr. Lewin stated that reducing the front yard setbacks to 25 feet would result in larger back yards, which is what most prospective home owners prefer. He further stated that reducing the width of the lots in the middle of the subdivision would result in a reduction in the cost of the lots, and the cost savings would be passed on to the purchasers of these lots.

In response to a question from Mr. Chiacchia, Mr. Lewin stated that this will be an expensive subdivision to develop because of the amount of roadway that has to be installed and because connections to other roadways have to be made.

Attorney Auerbach stated that the granting of the requested variances will result in a reduction in the cost of the lots that are smaller in area than what is required.

In response to a question from Mr. Sacco, Attorney Auerbach stated that constructing the subdivision with the smaller lots and reduced front yard setbacks will not necessarily cost the developer more money.

Chairman Rybczynski stated that a letter was received from Attorney Auerbach regarding the requested variances, as well as a letter from Supervising Code Enforcement Official, Kurt Allen.

Findings:

Regarding the front yard setback request, Mr. Dimpfl stated that he is concerned about the letter Board members received from Kurt Allen, Supervising Code Enforcement Official, in which Mr. Allen states that "...since this subdivision as amended is designed and promoted solely by the applicant, I question how this variance request cannot be construed as self-created." Mr. Dimpfl noted that he is also concerned about Mr. Allen's statement in the letter that "I have deep concerns if these variances are granted as to the ramifications creating future precedents involving similar applications by developers going forward."

Chairman Rybczynski asked Mr. Connolly to read Mr. Allen's' letter as follows:

"March 28, 2013

Re: ZBA Applications # 5458 through 5474 – Area Variances

Proposed Subdivision – Bradford Street

Dear Mr. Rybczynski and fellow Zoning Board Commissioners:

For your consideration, as it pertains to above referenced area variance application, I offer the following:

1. The applicant seeks bulk area variances for sixteen lots as part of a 29-lot subdivision. This results in creation of a combined total accumulated area of 25,262 square feet (.6 acres) for such bulk request. (160,000 S.F. required lot area for sixteen lots minus the applications proposed 134,738 S.F. actual provided in the variance request.) The area of these sixteen lots has been diminished by reducing the individual lot widths which also factors into contributing to overall increase in the density of the proposed subdivision. The applicant has proven that the reduction of lot area is not essential and can be avoided. (Reference the subdivision preliminary plat by Nussbaumer & Clarke, dated August 23, 2013.) The Zoning Board should consider this important fact when applying the balance test in determining if these area variances are warranted. Specifically, whether or not the applicant can achieve compliance to applicable R-2 lot area regulations by other feasible means certainly can be argued. In addition since this proposed subdivision as amended is designed and promoted solely by the applicant, I question how this variance request cannot be construed as self-created.

2. These bulk variance applications evoke further concerns arising from the unique approach in the Town Subdivision approval process. It is questionable that it is appropriate for the Town Planning Board to recommend Subdivision approval when so many variances are required. It has the appearance of a means to circumvent the applicable Zoning area regulations typically enforced. I have deep concerns if these variances are granted as to the ramifications creating future precedents involving similar application by developers going forward.

Thank you for your attention in this matter. Respectfully submitted,
Kurt Allen, Supervising Code Enforcement Official"

Regarding the applicant's request to reduce the front yard setbacks for all lots from 35 feet to 25 feet (Application # 5458), Mr. Chiacchia stated that the applicant can build this subdivision without the requested variances, and if it can be built without variances, that is how it should be built.

Mr. Chiacchia made a motion, seconded by Mr. Dimpfl, to deny the requested variance.

On the question:

Chairman Rybczynski reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – Yes.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – The applicant is creating the neighborhood, in essence, and there is a great difference between the proposed 8,000 or 9,000 square foot lots and the 20,000 square foot lots across the street.
3. Whether the request is substantial – It can be argued that the request is substantial.
4. Whether the request will have adverse physical or environmental effects – It was discussed that this proposal will produce less blacktop.
5. Whether the alleged difficulty is self-created – It can be argued that the alleged difficulty is self-created.

Mr. Connolly explained to the applicant that regarding three (3) of the five (5) area variance criteria, there is no debate as to whether the benefit can be achieved by other means, whether the request is substantial or whether the alleged difficulty is self-created. He noted that when considering the other two (2) criteria, the applicant has done a good job of showing that the request would not result in an undesirable change in the neighborhood or have adverse physical or environmental effects.

Mr. Connolly stated that when balancing the five (5) criteria, it weighs more towards a denial.

Attorney Auerbach stated that the criteria are for the Board to use to balance the benefit to the applicant against the detriment to the health, safety and general welfare of the community, and he does not think there is any detriment at all from the proposal.

Chairman Rybczynski stated that Attorney Auerbach is paid not to see any detriment.

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

Regarding Applications # 5459 through # 5474 for proposed lots 1, 2, 3, 4, 5, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25 and 26, Mr. Chiacchia again stated that the applicant can build this subdivision without the requested variances, and if it can be built without variances, that is how it should be built.

Mr. Chiacchia made a motion, seconded by Mr. Connolly, to deny the requested variances.

On the question:

Mr. Connolly reviewed the following area variance criteria:

1. Whether the benefit can be achieved by other means feasible to the applicant – Yes, there is a plan to go forward without variances.
2. Whether the request is substantial – The number of variances requested for the development is certainly substantial.
3. Whether the alleged difficulty is self-created – It can be argued that the alleged difficulty is self-created.

Mr. Connolly stated that when looking at balancing the benefit to the applicant against the detriment to the health, safety and welfare of the community, if there is a development that is not significantly established and there is something special about that area that needs to be changed that would improve the welfare of the community, the Zoning Board of Appeals has the ability to approve that change. He further stated that developers know when they purchase the land what can and cannot be done in the proposed subdivision, and if there are one or two lots or a unique area within the subdivision that needs adjusting, the Zoning Board of Appeals can do that. He noted, however, that when it is known that there is not a need to adjust the whole subdivision (in the opinion of the Zoning Board of Appeals, as well as the Supervising Code Enforcement Official), this validates the Board's opinion that these variance requests do not meet the balancing test.

Mr. Connolly stated that this is not an easy decision, and this is a very unique case and very difficult to balance. He further stated that the Zoning Board of Appeals tries to make things good for developers, but when the variance criteria is balanced, it falls to a denial in his opinion.

Chairman Rybczynski stated that the case for bettering the health, safety and welfare of the community has not been made.

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Sacco), the motion to deny passed. **DENIED.**

Application # 5414 DDR Corporation – Requesting a six-month extension of previously approved area variances for signage at 3701 McKinley Parkway

Steve Hutchinson from DDR Corporation stated that two (2) variances were granted, but they expired in February 2014. He stated that demolition has recently begun at the site to accommodate the new L A Fitness. He further stated that the project was delayed because of a delay in the negotiations regarding the lease with the proposed tenant, as well as certain site constraints.

In response to a question from Mr. Chiacchia, Mr. Hutchinson stated that he believes that based on the current timing, six (6) months will be sufficient.

Findings:

Mr. Chiacchia made a MOTION, seconded by Mr. Sacco, to approve Application # 5414.

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

Application # 5476 Hopevale, Inc. – Requesting two (2) area variances for a proposed new lot at 3780 Howard Road

Mr. Connolly stated that the variances being requested are for a rear yard setback and for not having any frontage on a public road.

Michael Hettler from Hopvale, Inc. stated that the variances being requested are in relation to a subdivision application currently before the Planning Board. He noted that the subdivision request is in connection with the sale of a portion of the property that was previously operated by Hopevale Union Free School District to the Randolph Academy Union Free School District to continue the operating of the school on the site.

Mr. Hettler stated that Randolph Academy has been operating the school since 2011 and plans to acquire the parcel that houses the school building and the administration building. He noted that there will be no new construction. He further stated that there will be recorded easements on the existing driveway to give Randolph Academy access out to Howard Road.

Findings:

Mr. Ginnetti made a MOTION, seconded by Mr. Sacco, to approve Application # 5476.

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

Application # 5477 Native Development, Inc. – Requesting a use variance to allow outdoor entertainment and alcohol consumption at 5381 Abbott Road

Matt Brunner, representing the Armor Inn Tap Room, stated that he is asking for a variance to continue what the Armor Inn has been doing for the last two (2) years, which is a weekly Bike Night in the main parking lot on the building site. He noted that the Bike Nights included live music and alcohol.

Mr. Brunner stated that without the Bike Nights, the festivities would have to be moved inside, which would take away from the whole idea of people being able to see other people's bikes, etc. He stated that without the Bike Nights, the establishment will suffer and it will affect the business negatively.

Mr. Brunner stated that the current environment is tough for businesses, and without the Bike Nights the business will lose between \$4,000.00 and \$7,000.00. He noted that Bike Nights are held over a 20-week period, so without those events the Armor Inn could lose between \$60,000.00 and \$140,000.00. He further stated that the Bike Nights help the business survive throughout the year.

Mr. Brunner stated that he is not looking to expand the Bike Nights, but just to continue holding the event as they have in the past.

Mr. Brunner stated that he does not feel that this hardship is self-created because the property is not zoned for outdoor activities.

Mr. Brunner stated that the Armor Inn has taken a building that was about to be torn down and improved it so that it is now something that he feels is a gem for the community.

Mr. Brunner stated that he is willing to work with the community as much as possible, noting that he is aware that the sound levels are an issue.

Mr. Chiacchia stated that he has been to the Armor Inn and has noticed that the music is very loud and that the amount of parking is greatly reduced on Bike Nights.

In response to a question from Mr. Connolly, Mr. Brunner stated that during Bike Nights the main parking lot is closed to automobiles (only motorcycles are allowed), and cars park at the Fire Hall and other off-site parking areas. He noted that Bike Nights begin at 6:00 P.M. and used to end between 10:00 P.M. and 10:30 P.M., but because of some complaints from the community, the ending time was changed to 9:30 P.M. and then to 9:00 P.M. He stated that when the school year begins, the music stops between 8:30 P.M. and 8:45 P.M.

Mr. Brunner stated that the food trailer and the beer tent open at 6:00 P.M. and the bikers usually arrive at 7:00 P.M. and leave between 9:30 P.M. and 10:00 P.M.

Mr. Brunner stated that the few complaints that have been received have been addressed.

In response to a question from Mr. Connolly, Mr. Brunner stated that Bike Nights begin on May 20th and go on for a total of 20 weeks (until the third week in September).

In response to a question from Mr. Dimpfl, Mr. Brunner stated that the Armor Inn owns the property directly north of the building on Abbott Road, and there are plans to convert that site into additional parking, but financially the business is not in the position to do that at this point.

The following people in the audience spoke regarding the requested variance:

- Mary Leitten, Edgewood Drive, stated that inside her house with the windows closed she can hear every single note of every song. The first year the Armor Inn had Bike Nights, she called almost every week and the people who answered the phone could not hear what she was saying because of the excessive noise, and when she spoke to the manager, he hung up on her. She stated that last year she contacted the police and was told there was nothing they could do. This has made Tuesday evenings horrendous, and she has had to leave her home until the music stops.
- Michael Winkleman, 5441 South Abbott Road, stated that he lives right next door to the Armor Inn, and his windows shake on Tuesday nights. People relieve themselves in his yard, and the bikes are very loud when they do burn-outs, which shake his house. The noise level is unacceptable.
- Jim Leitten, Edgewood Drive, stated that the corner in front of the Armor Inn has gotten so bad that the nearby residents avoid it because of the people crossing the street who pay no attention to oncoming cars or street signs. The bikes are very loud. The professional audio equipment can be heard at the corner of McKinley Parkway and Prospect.
- Jim Sardina, 5374 Abbott Road, stated that he vigorously objects to the granting of the requested variances because the music is so loud that his residence shakes and it hurts his ears. He is worried about his pregnant wife and unborn child. When he called the police about the noise several times in March 2014 to complain about the music being played indoors, he was told that the Armor Inn has a permit to play loud music until 12:30 A.M.
- Mark Jay, 4784 Crestwood Drive, stated that he has lived at his address for over 30 years. He appreciates the Armor Inn manager's efforts to work with the public, but the music is very loud and he lives ¼ mile from the establishment. He is worried about the value of his home decreasing because of the noise.

- Lynn Jay, 4784 Crestwood Drive, stated that it is a quality of life issue, and she cannot enjoy her own backyard or pool or even carry on a conversation. Her windows shake and she has to go inside and close them, and then it is too hot in her home. She feels that this is beyond reason.
- Mary Foster stated that she lives on Knab Drive and she was not sent a notice. She is concerned that so many people who are affected by the noise were not notified, and many residents are in Florida. She stated that the noise is excessive, and she is looking for a quality of life where she can just sit in her own backyard.
- Scott Smith, Woodside Drive, stated that he cannot even sit in his backyard and read a book because the noise is so obnoxious. He was at the corner of Newton Road and Abbott Road and could hear the noise from the band from there. The noise is excessive.
- Marlena Heinz, 5609 Kings Lane, stated that her house rattles and it is difficult to put her three-year old child to bed at night. She stated that she is glad that the restaurant is there and that the applicants took a crumbling building and turned it into a very nice local spot, but this is a residential area. She cannot use her deck when the Armor Inn events are going on, and noted that the traffic and noise from motorcycles is unfortunate because Western New York summers are so short. She feels it should be up to the applicant to figure out other marketing strategies to draw business.
- Cecilia Early, 4717 Lillydale Drive, stated that she lives a mile from this business, and she can hear every word of every song during the Bike Nights. She feels that the decibel levels of the music should be investigated, and she is worried about the value of her home if she ever has to sell it. She asked if any Board members live in this area.

Chairman Rybczynski stated that regardless of where Board members live, they are the individuals appointed by the Town Board to make these decisions. He noted that Board members are able to be sympathetic and empathetic enough.

In response to a comment by Ms. Early, Chairman Rybczynski stated that he has had no conversations with anyone about this application until the start of this meeting.

- Jennifer McMillan, 21 Peppermill (Orchard Park), stated that she lives approximately a mile away from the Armor Inn, and the music from Bike Nights is very loud and does not end until between 10:00 P.M. and 10:30 P.M. She is worried that the Armor Inn will add additional events besides the Bike Nights, and noted that the event creates a lot of traffic. She stated that she and her children cannot sleep at night during these events.
- Ron Hojnacki, 4758 Edgewood Drive, stated that he agrees with all of the previous comments and noted that the music does not end at 8:30 P.M. The music is extremely loud, and neighborhood children cannot sleep during the events. He asked if there is a time limit and a decibel limit for outdoor events.

Chairman Rybczynski stated that the Noise Ordinance of the Town of Hamburg does not mention decibel levels. He read the ordinance to the members of the audience. He stated that the Zoning Board of Appeals has the ability to place reasonable restrictions on any variance it grants.

- Doug Darrell, 5382 Bayview Road, stated that the noise from these events is unbearable. He leaves his property during the events.
- Mary Leitten asked whether, if the requested variance is granted, the approval would be yearly.

Chairman Rybczynski stated that if a variance is granted, it is permanent. He noted that there are instances when the Board has issued a variance for a trial period, but he does not believe a trial period would be relevant in this case.

Mr. Sacco stated that the members in the audience should be assured that a decision on this matter is not a "done deal", as suggested by Ms. Early. He noted that the Board members had not spoken about this request until this evening and the Board has legal counsel. He stated that the Board reviews the criteria, listen to the public and the applicants and then makes the decision based upon those discussions and the criteria.

Mr. Connolly stated that Board members receive the materials for each application prior to the meeting, and each member does his due diligence. He noted that some members speak to neighbors about what is going on, so even before the meeting they have done their homework as far as what is happening.

- Cecilia Early stated that she will not divulge her source, but she was told that this was more or less a "done deal".

Chairman Rybczynski informed Ms. Early that her source is wrong, and he stated that there would be no further discussion of this issue. He stated that the idea that there was some deal made prior to this meeting is insulting to every member on the Board, and further stated that Ms. Early was making assertions and accusations that the Board is doing something improper and illegal.

- A member of the audience asked if there could be additional input from the public because she does not know that all of the surrounding neighbors are aware of the Armor Inn's plans to increase the noise. She stated that she does not think the problem is being taken seriously.

Chairman Rybczynski stated that the public notice was placed in two (2) newspapers, and property owners within 500 feet of this parcel were notified by mail. He noted that he will discuss with his Board members what they feel is an appropriate distance away to notify by mail.

Mr. Chiacchia stated that given the large number of people were in attendance this evening it appears that the word did get out.

- Linda Smith, resident, stated that the noise is very loud, and if someone get off the 219 at Armor Duells Road on a Tuesday night and forgets that it is Bike Night, it is dangerous to try and get through the intersection in front of the restaurant at dusk because of the drunken people crossing the street. She feels that restaurants should have enough parking spaces to accommodate their patrons.

Mrs. desJardins stated that the public was notified using a computer program that produced the names of property owners within 500 feet of the subject property. She noted that for other Mr. & Mrs. applications, property owners within 100 feet are notified.

Mr. Connolly stated that in the approximately eight (8) years he has been a member of the Zoning Board of Appeals, he has never seen more people come to a meeting to speak on a subject. He further stated that Board members have also spoken to other members of the public who were not at the meeting. He stated that the public should not fear that Board members do not understand the magnitude of their concern

It was determined that the applicant is asking to continue Bike Night every Tuesday night beginning May 20, 2014 for 20 weeks from 6:00 P.M. until 10:00 P.M.

A member of the audience stated that he would like the Zoning Board of Appeals members to meet within a reasonable distance from the restaurant and see if they would like to have bought a home there and if they would like to try and sell a home there under these circumstances.

Chairman Rybczynski stated that the Planning Department received two (2) phone calls from a gentleman named Gary who lives on South Abbott Road and Gerald King, 4610 Edgewood, both of whom oppose the granting of the use variance, as well as a phone call from Mr. Dennis Brackey, South Abbott Road, who is in favor of the granting of the variance.

Chairman Rybczynski stated that letters of opposition were received from the following:

- Doug and Donna Darrell, 5382 Bayview Road
- Robert Loomis, 5332 Oakridge Drive
- Cecilia Early
- Sally Hogan, 5395 Oakridge
- Mr. & Mrs. Daniel Koczwar, 5552 Oakridge
- Charles & Barbara Pechulis, 4929 Clark Street
- Anna Zdjelar, 4748 Maplewood Drive
- Michelle Miranda-Johengen, 22 Short Drive, Orchard Park

Mr. Connolly stated that the Board heard from residents from more than ten (10) different streets, which is unprecedented.

In response to a question from Mr. Connolly, Mr. Brunner stated that the Armor Inn has had outdoor music on the weekends occasionally, but those events will be eliminated.

Mr. Connolly stated that the Zoning Board of Appeals could grant a variance that limits the amount of Bike Nights or the time of the events for the current year based on input from the owner and the residents and see how things go. He noted that based upon how the first year goes, the Zoning Board could revisit the issue and eliminate Bike Nights altogether, increase or decrease the number of events, etc. He further stated that there also might be a middle ground where both sides are satisfied.

In response to a question from Mr. Chiacchia, Mr. Brunner stated that if the Bike Nights are eliminated, there is a good chance that the Armor Inn could go out of business.

FINDINGS:

Mr. Sacco made a motion, seconded by Mr. Connolly, to table Application # 5477 to see if some common ground can be reached.

On the question:

Chairman Rybczynski stated that the Board would like the applicant to suggest alternate parameters that might be more appealing to the neighborhood.

Mr. Sacco stated that it is up to the applicant to return to the Board with an alternate plan.

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

Application # 5478 Bounce Magic – Requesting three (3) area variances for proposed detached signage at 4255 McKinley Parkway

Paul Strada from NAS Sign Company, representing the applicant, stated that the existing pole signs on the property were used by Walmart, and at this time the site is being redeveloped. He noted that the proposed pole signage would be externally illuminated.

Mr. Strada stated that due to the nature of the property, the changes made to Big Tree Road and the traffic flow on Big Tree Road and Route 20, the pole signs are set back quite a way from the street, and Bounce Magic feels that the pole signs are required to keep the business viable and draw attention to it.

Mr. Strada stated that the proposed signage would not alter the character of the neighborhood, the hardship is not self-created, the benefit cannot be achieved in any other way and the requested variances are not substantial relative to the size of the property and the viewing distances that are required to make the business visible. He further stated that the granting of the variances would not adversely affect the physical or environmental area and would not generate any harm to the community.

Findings:

Mr. Ginnetti made a motion, seconded by Mr. Dimpfl, to approve Application # 5478.

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

Application # 5479 Bounce Magic – Requesting an area variance for building signage at 4255 McKinley Parkway

Mike Reynolds from DKM, representing the applicant, stated that a variance is being requested for the combined building signage on the west and north side of the building. He stated that the need for the signage is because people may not be aware of the location of this business. He noted that the proposed signage on the north side of the building is appropriate for the size of the building, and the signage on the west side of the building is directional and would serve to lead people to the front entrance.

Mr. Reynolds stated that the building signage would be internally lit and compliant in all other respects.

In response to a question from Mr. Connolly, Tim Wood, owner of Bounce Magic, stated that the northern facing building signage would be identical in size to the front signage at the Bounce Magic in Amherst, and the western facing signage would be smaller than that in Amherst. He further stated that the other Bounce Magic building does have a pole sign at the street.

Findings:

Mr. Sacco made a motion, seconded by Mr. Dimpfl, to approve Application # 5479.

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

Mr. Dimpfl made a MOTION, seconded by Mr. Ginnetti, to approve the meeting minutes of March 4, 2014. All members voted in favor of the motion.

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

The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Paul Eustace, Secretary
Board of Zoning Appeals

DATE: April 21, 2014