

Town of Hamburg
Board of Zoning Appeals Meeting
April 5, 2016
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, April 5, 2016 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Commissioner Louis M. Chiacchia, Commissioner Bob Ginnetti, Commissioner Nicole Falkiewicz and Commissioner Ric Dimpfl.

Excused: Vice-Chairman Shawn Connelly and Commissioner Joseph Sacco

Others in attendance included Attorney Mark Walling, Board of Zoning Appeals Attorney and Sarah desJardins, Planning Consultant.

Chairman Rybczynski asked for a moment of silence to honor our deceased and fallen veterans.

Commissioner Chiacchia read the Notice of Public Hearing.

Tabled Application # 5560 Erie Metro Federal Credit Union – Requesting several area variances and use variances for a proposed detached sign at 3291 Lakeshore Road

Paul Fadale from NAS Sign Company, representing the applicant, stated that in 2013 the Board of Zoning Appeals approved a pole sign on this property in front of the building. He stated that recently the bank has made modifications to the building, and the sign was taken down during the construction. He noted that the bank would like to relocate the sign further north on the property and add landscaping around it.

Mr. Fadale submitted a letter of support from the Woodlawn Volunteer Fire Department.

Mrs. desJardins stated that the currently proposed sign is a monument sign, rather than the previously proposed pole sign.

In response to a question from Mr. Chiacchia, Mr. Fadale stated that the monument sign would be 90" from the ground.

Mr. Chiacchia stated that he does not think there would be a problem with locating the sign where it is proposed, especially because Woodlawn Fire Department has no problems with it.

Findings:

Mr. Chiacchia made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5560.

On the question:

Mr. Chiacchia reviewed the use variance criteria as follows:

1. Cannot realize a reasonable rate of return – substantial as shown by competent financial evidence – the applicant has shown that the sign does bring in additional depositors.
2. Alleged hardship is unique and does not apply to a substantial portion of district or neighborhood – Given the money the applicant has put into the business, this sign will enhance the whole community. The hardship is not unique.
3. Requested variance will not alter the essential character of the neighborhood – This will improve the character of the neighborhood.

4. Alleged hardship has not been self-created – This was not a self-created hardship.

Mr. Chiacchia reviewed the area variance criteria as follows:

1. Whether the benefit can be achieved by other means feasible to the applicant – No, because it is not feasible to put the sign where it was previously.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No, because the sign was on the property previously.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – In some ways, it is self-created, but moving the sign makes sense.

Mr. Dimpfl noted that the applicant has the approval of the Woodlawn Fire Department regarding the placement of the sign.

Chairman Rybczynski commended the applicant for talking to the fire department, as well as taking the Board's comments into consideration and revising the sign to be a monument sign and moving it to a more desirable location.

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

Application # 5541 909 Hertel Ave, Inc. – Requesting two (2) area variances for a proposed parking lot expansion at 4151 Lakeshore Road

Daryl Martin, architect, representing the applicant, stated that the applicant (Lucia's Restaurant) recently completed a building renovation and would now like to expand the existing parking area. He stated that the Zoning Code requires that all parking be set back at least 35 feet from the property line, and the applicant would like to construct the parking expansion within ten (10) feet of the property line bordering LaSalle Avenue. He further stated that the parking lot expansion would result in the overall lot coverage being greater than what is allowed.

Mr. Martin stated that LaSalle Avenue has a 100-foot right-of-way, which makes it difficult to stay 35 feet away from that right-of-way with the new parking area.

Mr. Martin stated that the new parking area is needed very badly to accommodate Lucia's patrons.

Mrs. desJardins stated that if the variances are granted, the Planning Board would approve the revised site plan at its next meeting.

Mr. Donald Weiss, 2963 Cloverbank Road, stated that he is a member of the Hamburg United Taxpayers group. He stated that he would like to see the three (3) existing parking spaces along Route 5 removed and asked if they are part of the requested variances.

Mr. Chiacchia stated that Lucia's business has increased dramatically, and the new parking lot would relieve parking congestion that exists now.

Findings:

Mr. Ginnetti made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5541.

On the question:

Mr. Ginnetti 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 – No, the property has been this way for years.

Chairman Rybczynski stated that parking in this area can be a nightmare. He noted that to alleviate this problem in any way is a step in the right direction. More spots will mean more business for the applicant, but hopefully will also equal less congestion for the people on LaSalle Avenue.

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

Application # 5567 Uncle Bob's Self Storage – Requesting an area variance for new wall signage at 4445 Lake Avenue

Bruce Irwin from Ad-A-Sign Company, representing the applicant, stated that the applicant is proposing two (2) new wall signs on a building addition to the second floor, and both would face the New York State Thruway. He stated that the New York State Thruway Authority has indicated that it is not opposed to the new signage.

Mr. Chiacchia stated that the Board approved wall signage facing the New York State Thruway on another building.

Findings:

Mr. Dimpfl made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5567.

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, these two signs will just face the New York State Thruway.
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 debated, but the balancing test is in favor of the applicant.

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

Application # 5568 ALDI Food Market – Requesting two (2) area variances for new wall signage at 3750 McKinley Parkway

Steve Cleason from APD Engineering and Architecture, representing the applicant, stated that Aldi plans to expand the store on McKinley Parkway, and as part of that project they plan to upgrade the signage on the building. He stated that the additional wall signage would not be out of character with the surrounding businesses.

Mr. Dimpfl stated that the building is set back quite a distance from McKinley Parkway.

Findings:

Mr. Dimpfl made a MOTION, seconded by Mrs. Falkiewicz, to approve Application # 5568.

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, because these signs are necessary for what the applicant is doing to the building.
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 – No.

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

Application # 5569 GO Enterprises, LLC – Requesting an area variance for a parking lot at 4187 Lakeshore Road

Oscar Williams, applicant, stated that he is requesting a variance to allow a parking area for his business to be located ten (10) feet from the property lines rather than the required 35 feet.

Mrs. desJardins stated that this project is currently being reviewed by the Planning Board, and if the variance is granted, the Planning Board will approve the project. She further stated that the pavement on the property is existing.

Mr. Chiacchia stated that he worries about traffic safety along Lakeshore Road. Mr. Williams noted that Lakeshore Road will be closed off except for room for one (1) entrance, and there will be one (1) entrance on Camp Road.

Mr. Donald Weiss, 2963 Cloverbank Road, stated that this is one of the most dangerous spots on Lakeshore Road. He stated that he would like to see just one (1) entrance to this business on Camp Road. He stated that the existing grass berm on the corner should be expanded. He stated that he believes that the Town Code should be adhered to more closely.

Jessica Kiss, a government student who resides at 2186 Foxchase Road, stated that she believes that an ice cream shop at this location is a good idea and the area is not as dangerous as some people think.

Findings:

Mr. Ginnetti made a MOTION, seconded by Mr. Chiacchia, to approve Application # 5569.

On the question:

Mr. Ginnetti 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 debated, but the balancing test favors the applicant.

Chairman Rybczynski stated that the Board took a good hard look at this project, and it seems that the applicant took many questions into account and made sure they were answered.

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

Mr. Ginnetti made a MOTION, seconded by Mrs. Falkiewicz, to approve the minutes of March 8, 2016. All members voted in favor of the motion.

Mrs. desJardins asked that Board members to approve revised minutes for January 5, 2016, as an error was found after the original minutes were approved in March. She stated that it pertains to Application # 5559.

Mr. Ginnetti made a MOTION, seconded by Mr. Dimpfl, to reconsider the minutes from January 5, 2016.

All members voted in favor of the motion.

Mr. Chiacchia made a MOTION, seconded by Mr. Dimpfl, to amend the minutes as stated.

All members voted in favor of the motion.

Mrs. Falkiewicz made a MOTION, seconded by Mr. Chiacchia, to approve the amended minutes from January 5, 2016.

On the question:

Attorney Walling asked that one more word be added to the minutes as follows: In the last full paragraph on page 2 of the original minutes, he stated that he meant to say “no rational basis”, instead of “no basis”.

Mr. Dimpfl made a MOTION, seconded by Mrs. Falkiewicz, to amend the original minutes to include the word “rational” in the last full paragraph on page 2.

All members voted in favor of the motion.

Mr. Dimpfl made a MOTION, seconded by Mr. Chiacchia, to approve the January 5, 2016 minutes as amended twice.

All members voted in favor of the motion.

The Board adjourned into executive session.

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

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,

L. Michael Chiacchia, Secretary
Board of Zoning Appeals

DATE: March 21, 2016