

Town of Hamburg
Board of Zoning Appeals
July 11, 2023
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, July 11, 2023 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Brad Rybczynski, Vice-Chairman Ric Dimpfl, Commissioner Nicole Falkiewicz, Commissioner Laura Hahn, Commissioner Jeff Adrian and Commissioner Chris Smith.

Also in attendance were Code Enforcement Officer Jeff Skrzypek and Attorney Michelle Parker.

Excused: Commissioner Mark Yoder

Board members recited the Pledge of Allegiance.

Chairman Rybczynski asked for a moment of silence in honor of those who have given their lives in service of their country.

Commissioner Falkiewicz read the Notice of Public Hearing.

Tabled Application #5965 DATO Development, LLC – Requesting six (6) area variances for townhouses at SBL 169.20-1-39 Briercliff Drive (Zoned PUD)

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

Tabled Application #5966 Hamburg Retail, LLC – Requesting a use variance to allow a nine-unit townhouse building at 4100 St. Francis Drive (Zoned WC)

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

Tabled Application #5967 3800 Hoover Road – Requesting a use variance to allow townhouses at 3800 Hoover Road (Zoned WC)

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

Tabled Application # 5989 Joseph Levandowski - Requesting an area variance for a rear fence at 4714 Lilydale

No one appeared on behalf of this application. It was determined that this application

would remain on the table.

Application # 5987 Jarett and Rachel Caparra - Requesting an area variance for a front yard setback at 4012 Stanley Drive

Mr. Jarett Caparra, applicant, stated that they would like to construct a front porch.

Findings:

Ms. Hahn made a MOTION, seconded by Mr. Smith, to approve Application # 5987.

On the question:

Ms. 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 a detriment to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district – No.
5. Whether the alleged difficulty is self-created – Yes, but the balancing test favors the applicant.

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

Application # 5993 Quick Service Realco, LLC - Requesting an area variance for a attached wall sign at 4923 Southwestern Boulevard

Mr. Paul Strada, representing the applicant, stated that the applicant proposes internally illuminated signage on the south wall of the building and that is not allowed because that side of the building does not face a public road or contain a public entrance. He noted that this building is set on an angle to Southwestern Boulevard and the west wall is not fully visible to motorists.

Mr. Strada stated that the proposed signage is not overly large and is proportional to the building. He stated that this is a national brand and the company has standards regarding quantity and placement of signs.

Mr. Strada stated that there would not be an undesirable change to the character of the neighborhood or detriment to nearby properties and the benefit sought by the applicant cannot be achieved by any other means. He stated that the request is not substantial, the signage would not have a negative impact on the physical or environmental conditions and the hardship was not self-created.

Mr. Strada stated that there are other signage in the area similar to what is being

proposed.

Findings

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5993.

On the question:

Ms. Falkiewicz 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 a detriment to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district – No.
5. Whether the alleged difficulty is self-created – Yes, but the balancing test favors the applicant.

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

Application # 5994 Hamburg Tap Room - Requesting an area variance for an attached sign at 4169 McKinley Parkway

Mr. Paul Strada from NAS Sign Company, representing the applicant, stated that the applicant proposes an illuminated wall sign identical to the sign that is on Southwestern Boulevard, which is already permitted and installed. He stated that the signage is not allowed because that side of the building does not face a public road or contain a public entrance.

Mr. Strada stated that motorists traveling west on Southwestern Boulevard do not see the building until they are upon it because of the existing trees on the property. He further stated that the existing monument sign is small and not very helpful.

Mr. Strada noted that this is a new business and there have been numerous restaurants in this building over the years. He stated that the applicant needs the signage for advertising.

Mr. Strada stated that there would not be an undesirable change to the character of the neighborhood or detriment to nearby properties and the benefit sought by the applicant cannot be achieved by any other means. He stated that the request is not substantial, the signage would not have a negative impact on the physical or environmental conditions and the hardship was not self-created.

In response to a question from Chairman Rybczynski, Mr. Strada stated that the signage would be internally illuminated.

Findings

Mrs. Falkiewicz made a MOTION, seconded by Mr. Adrian, to approve Application # 5994.

On the question:

Ms. Falkiewicz 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 a detriment to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – No.
5. Whether the alleged difficulty is self-created – This could be argued either way but the balancing test favors the applicant.

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

Application # 5995 Donald and Ann Minnick - Requesting an area variance for a detached garage at 2653 South Place

Mr. Ed Shanahan with Atlantic Garages, representing the applicant, stated that the variance is needed because Mr. Minnick is paralyzed and they need extra room to accommodate a ramp for his wheelchair.

Findings

Ms. Hahn made a MOTION, seconded by Mr. Dimpfl, to approve Application # 5995.

On the question:

Ms. 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 a detriment to nearby properties – No.
3. Whether the request is substantial – No.

4. Whether the request will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district - No.
5. Whether the alleged difficulty is self-created – Yes, but the balancing test favors the applicant.

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

Application # 5996 Revive Wesleyan Church - Requesting two (2) area variances for a detached sign at 4999 McKinley Parkway

A gentleman from Flexlume Signs, representing the applicant, stated that the church would like to erect a monument sign because it does not have much signage currently and it has a very large campus. He further stated that the church will place the monument sign wherever the Board of Zoning Appeals allows, noting that the area where the sign is proposed is on a slope. He added that McKinley Parkway is a very busy street with an average speed of 50 miles per hour and almost 1,000 people belong to the church, so it would like to have a large enough sign that it can be easily seen from a distance.

The representative stated that the proposed message center on the sign would be used for blood drives, community outreach, etc. and would not be used to advertise.

In response to a question from Mr. Dimpfl, the representative stated that the church would be willing to utilize the signage, if necessary, to aid law enforcement, for a silver alert, etc.

In response to a question from Chairman Rybczynski, Mr. Skrzypek stated that this type of sign is allowed because the church is considered an institution.

A representative of the church stated that its goal is to let the community know what opportunities exist within the building.

Findings

Ms. Falkiewicz made a MOTION, seconded by Mr. Adrian, to approve Application # 5996.

On the question:

Ms. Falkiewicz 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 a detriment to nearby properties – No.
3. Whether the request is substantial – Yes.

4. Whether the request will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – No.
5. Whether the alleged difficulty is self-created – This could be argued either way but the balancing test favors the applicant.

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

Application # 5997 Robert Clifford - Requesting an area variance for a detached garage at 6459 Southwestern Boulevard

Mr. Robert Clifford, applicant, stated that he would like to construct a pole barn so that he can park his motor home in it. He further stated that his parents are looking into moving in with him and he needs space to store their belongings, as well as other belongings of his like ATVs.

In response to a question from Ms. Falkiewicz, Mr. Clifford stated that the building would be used strictly for storage and no kitchen would be installed in the building. He further stated that he plans to put windows in the building so that it does not look commercial and he has spoken to his neighbors, who are fine with it.

In response to a question from Chairman Rybczynski, Mr. Clifford stated that the current garage has already been demolished. He further stated that the other buildings on the property are a greenhouse and a three-season room and he would like to keep those.

Findings

Mr. Dimpfl made a MOTION, seconded by Mr. Smith, to approve Application # 5997.

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 a detriment to nearby properties – No.
3. Whether the request is substantial – It can be argued that it is partially substantial.
4. Whether the request will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – No.
5. Whether the alleged difficulty is self-created – This could be argued either way but the balancing test favors the applicant.

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

Chairman Rybczynski noted that the owner of the property that is the subject of a use variance request for townhouses has found a tenant for the former Dock at the Bay building.

Ms. Falkiewicz made a MOTION, seconded by Mr. Dimpfl, to approve the minutes of June 15, 2023. All members voted in favor of the motion.

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

The meeting was adjourned at 7:30 P.M.

Respectfully submitted,
Nicole Falkiewicz, Secretary
Board of Zoning Appeals

DATE: July 13, 2023