

Town of Hamburg
Board of Zoning Appeals
May 5, 2026
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, May 5, 2026 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Ric Dimpfl, Vice-Chairman Nicole Falkiewicz, Commissioner Laura Hahn, Commissioner Jeff Adrian, Commissioner Mark Yoder, Commissioner Dennis Chapman and alternate Commissioner Catherine Mika filling in for Commissioner Jack Kuebler.

Also in attendance were Code Enforcement Officer Jeffrey Skrzypek and Board of Zoning Appeals Attorney Joseph Gogan.

Board members recited the Pledge of Allegiance.

Chairman Dimpfl asked for a moment of silence in honor of our active military and those who have made the ultimate sacrifice.

Chairman Dimpfl pointed out the location of the two (2) fire exits in the room.

Commissioner Hahn read the Notice of Public Hearing.

Tabled Application # 6142 Kimtron Inc. – Requesting one (1) area variance and one (1) use variance for a proposed real estate sign at 2901 Cloverbank Road (Zoned PUD)

No one showed up to speak on this variance. Chairman Dimpfl asked if they could take them off of the agenda because this has been tabled three times, or if they need to stay on for 6 months. Jeff Skrzypek said he believes they need to stay on but he will look into it.

Findings:

Chairman Dimpfl stated this would be tabled. **TABLED**

Tabled Application # 6143 24 Kt Solid Gold Inc. – Requesting one (1) use variance to allow for a veterinary office, animal rescue and retail space at 3747 Lakeshore Road (Zoned M-3)

Chairman Dimpfl stated the Zoning Board Attorney, Joseph Gogan, will make a statement so everyone has a better understanding of the variance.

Attorney Joseph Gogan stated that this is a use variance. He has seen comments from the general public asking about what the board can do for this. He stated that the Zoning Board has very limited authority about what they can do with this particular case. Parcels throughout the town are zoned by the Town Board. They designate which areas can be used for certain business— whether that is commercial property, industrial property, residential, or agricultural. This parcel is M-3 which is General Industrial. He listed some of the uses as lumber yards, coal yards, railroad freight yards, automobile assembly, etc. These uses can be found in the Hamburg Town Code. If someone wants to do business in that area that is not allowed, they

have to ask for a variance. Variances are very strictly only permitted under certain criteria that is determined by New York State law, not the Town of Hamburg Law. Section 267(B) of New York State Town Law says “no such variance shall be granted by a board of appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order prove unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations the applicant (1) cannot realize a reasonable return provided that the lack of return is substantial as demonstrated by competent financial evidence (2) that the alleged hardship related to the property is unique, and does not apply to a substantial portion of the district or neighborhood, (3) that the requested use variance if granted will not alter the essential character of the neighborhood and (4) that the alleged hardship has not been self-created.” This is the very limited authority of the Zoning Board of Appeals. If the applicant does not meet these criteria, the Zoning Board has no authority to change the zoning. Attorney Gogan hopes this clarifies the process for the Zoning Board of appeals for everyone. The Zoning Board of Appeals does not change the zoning; they can only issue a variance under strict New York State guidelines. The reason you want the board to follow those guidelines is so that they do not arbitrarily do it for some other business. The Board has to be consistent with all of their decisions and follow those guidelines.

Kathleen Moriarty, attorney with Attea & Attea, spoke on this variance next and represents the 10 Lives Club. She stated that 24 Karat is represented by a separate attorney, Mark Guglielmi of Webster Szanyi. On April 23, she sent an email to the Town. It was a letter from attorney Mark Guglielmi with a summary of taxes, utilities, and maintenance costs. The response she received was that it was a good start, but they also want to see some indication of how it has been attempted to be sold in the past and some of the difficulties in selling it. Moriarty stated that in 2017 the property was listed for \$2.5 million and did not sell. In 2019 and 2020, it was relisted for \$1.55 million. In 2022, it was finally listed for \$1.5 million. She said she has some issues with client confidentiality but she stated that the current contract is just a fraction of that \$1.5 million. To some degree she feels that the financial hardship is self-evident because he has consistently gone down with his price over the past 10 years. In addition, it is a one acre parcel; for most of the industrial uses that Attorney Joe Gogan listed, the lot is not large enough for an industrial use to operate. 10 Lives already owns the building next to 24 Karat. She is not sure where this falls in terms of being allowed to operate there in reference to when the town code was written and did not allow that use (if they were grandfathered in or received a use variance). When 24 Karat was operating there was significant drug use. 10 Lives has found condoms and needles in the parking lot. She also stated that there was a murder there 10 years ago. These are issues that would trouble any neighborhood. If anyone wanted to use this property for an industrial purpose would need to tear down the existing building; it is a strip club not set up for an industrial use. She apologized that the information was submitted late. She just received the letter from the 24 Karat realtor the day before outlining the property listing history.

Commissioner Falkiewicz asked what the contract price was. Moriarty stated that it is estimated around \$750,000. Commissioner Falkiewicz said that is a substantial difference from the listings and is important for them to know.

James Joyce, 2744 Thornwoods Dr. Wheatfield NY, spoke in favor of this variance and did not want a strip club in the neighborhood anymore.

Marie Edwards, 7789 Back Creek Rd. Hamburg NY, founded 10 Lives Club in 2001. She bought this building in 2014 and for the first two years they had to deal with the strip club every day. There was sex and drugs always going on in the parking lot. They were constantly calling the police to document this. The police told them to keep it up and they should lose their license. In 2016, right before the strip club closed, someone threw a beer bottle and broke the window. She has 34 employees and for everyone's safety she does not want another bar or strip club next door. Every day at least 100 people come in and out of their building to volunteer and rescue the cats. They want to continue having a positive impact on the neighborhood.

Barbara Glover, 23 Windgate Orchard Park NY, has been employed at the 10 Lives Club for 2 years and loves serving the community. She has tracked how many cars drive by 10 Lives Club and 24 Karat on different days and times to get a good estimate. Approximately 39-83 go by per minute. When people enter the Southtowns the first thing they see is a strip club. This is the first impression people get of our town. 10 Lives had permission to store items for a gala in 24 Karat and even though there were locks and cameras, there were still break ins and items were stolen. The building has leaks and damage. Glover feels like they would be doing the town a favor to take this off their hands and take care of the place. They want to make this a safe place. She wants the first thing for people to see when they enter the Southtowns is a community—not just an adoption center for cats but also a clinic so people can actually afford to take care of their animals.

Chairman Dimpfl said that it is great that everyone came to show their support but wants everyone to understand that the Board does not have anything against 10 Lives Club. The reason they have not been able to approve this because New York State requires that financial disclosure and that was not provided until tonight.

Commissioner Falkiewicz asked Attorney Moriarty and owner Marie Edwards the value of the items for the gala that were stolen. Edwards stated it was about \$10,000. Edwards stated that there were six break-ins in six months.

Commissioner Yoder asked Attorney Kathleen Moriarty if the plan was to renovate or demolish the building. Moriarty stated that the plan is to just renovate and add a cat café and additional cat shelter space.

Code enforcement officer Jeff Skrzypek added that over the past couple days there have been about two dozen calls in favor of granting the use variance.

The Board had no further questions.

Findings:

Ms. Falkiewicz made a motion, seconded by Mr. Yoder, to approve Application # 6143.

Ms. Falkiewicz reviewed the use variance criteria as follows:

- The applicant cannot realize a return, provided that lack is substantial as demonstrated by competent financial evidence – The applicant and the seller have given the Board financial evidence to show the building is consistently losing money on a monthly and annual basis. It has declined in value significantly. This property is not making money with its current use.
- The alleged hardship relating to the property is unique and does not apply to a substantial portion of the district or neighborhood – Yes, it is very unique. It is on a one acre lot. Not many M-3 businesses would be able to operate on a lot that size.
- The requested use variance, if granted, will not alter the essential character of the neighborhood – It will not, if anything it is going to improve the neighborhood.
- The alleged hardship has not been self-created – No, this property has been zoned industrial for so long and as times change the uses of properties change.

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

Application # 6145 Michael Galley – Requesting two (2) area variances for a proposed detached garage at 4586 Kennison Parkway (Zoned R-2)

Michael Galley showed up to speak on the variance. Last month his friend spoke on this variance on his behalf. From his understanding it was tabled because the Board wanted to hear from his neighbors and they were concerned about the height. Galley turned in letters of support from his neighbors next to him and across the street from him. They are the ones that would look out their window and see the structure; they are in support of the project. For the height, he did originally ask for 24 feet, but he is going to try to keep that as short as he can. He has a travel trailer that needs a 12 foot door, so he needs a 14 foot wall minimum, and then to have the correct roof pitch he will need about 22-24 ft. in height. Part of the 1,900 sq. ft. is an overhang roof for his pool and pool deck. The actual building will only be 1,672 sq. ft. Galley approached the board to show them the view. He wants this to protect his investments and work on his cars. He would only be doing personal work, it is his hobby. He feels having the trailer stored away would make the neighborhood look nicer.

Commissioner Hahn commented that even using the square footage without the overhang, the square footage is double the code. The code is 850 sq. ft., so it falls just under double. Galley said the size is driven by the travel trailer. It would meet all of the setbacks and it's all the way in the back. It will be flush with the back of his house. He will only take down one tree, but that is because it is leaning over the power lines and National Grid told him it had to come down.

The Board had no further questions.

Findings:

Ms. Falkiewicz made a motion, seconded by Mr. Adrian, to approve Application # 6145.

Ms. Falkiewicz reviewed the area variance criteria as follows:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties – It will not
- Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance – It can not
- Whether the request is substantial - Yes
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district - No
- Whether the alleged difficulty was self-created – Yes, but the balancing test still favors granting the area variance.

As the vote on the motion was six (6) ayes and one (1) nay (Mrs. Hahn), the motion carried.

GRANTED

Application # 6148 Charles Mondo – Requesting one (1) area variance for a proposed residential addition/3 season room at 4606 Deerfield Road (Zoned R-2)

Charles Mondo, homeowner, spoke on this variance. He bought the home 18 months ago. The three season room would be about a foot too close to his neighbor's fences which is why he needs the variance. It won't make his home any wider or deeper; there is an "L" there and is already a concrete slab. He will remove that concrete slab and that is where the three season room will go. He will be about 8 feet away from his neighbor's fence.

Commissioner Falkiewicz asked if he talked to his neighbor about this. He said yes he talked to Dennis. All of his neighbors got the letter from the town and no one was against the variance.

The Board had no further questions.

Findings:

Mr. Adrian made a motion, seconded by Mr. Yoder, to approve Application # 6148.

On the question:

Mr. Adrian reviewed the area variance criteria as follows:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties – It will not
- Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance – He does not think it can

- Whether the request is substantial – No it is not; it is within the footprint of the original building
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – No it will not
- Whether the alleged difficulty was self-created – He does not believe that is true; it passes the balancing test to grant the variance

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

Application # 6149 Lauren McDermott – Requesting one (1) area variance for a proposed accessory structure at 6813 Taylor Road (Zoned RA)

Lauren McDermott (Herbert), homeowner, spoke on the variance. This variance is for 32 x 60 ft. pole barn. This would be 1920 sq. ft. She purchased the property in 2022. Since then she has removed three dilapidated structures totaling approximately 12,000 sq. ft. The property sits on about five acres of land. There are currently five accessory still standing. Two of them will be coming down within the next few years due to disrepair. The other three are in need of extensive repair and they are not watertight so they cannot be used for storage. The new pole barn would not be near the property line of either neighbor. It would sit in front of the space where another two story barn was recently tore down that was about 40 ft. tall. It was 9,600 sq. ft. This would be a one story pole barn and will not exceed 18 ft. The variance is needed for the square footage.

The Board had no further questions.

Findings:

Mr. Yoder made a motion, seconded by Mr. Adrian, to approve Application # 6149.

On the question:

Mr. Yoder reviewed the area variance criteria as follows:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties – It will not
- Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance – No
- Whether the request is substantial – That can be argued
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – It will not
- Whether the alleged difficulty was self-created – That can be argued, but the balancing test favors granting the variance

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

Ms. Falkiewicz made a motion, seconded by Mr. Chapman, to approve the minutes of April 2026. All members voted in favor of the motion.

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

The meeting was adjourned at 7:45 PM.

Respectfully submitted,
Laura Hahn, Secretary
Board of Zoning Appeals
Date: May 18, 2026