

Meeting No. 18  
December 12, 2005  
Hamburg Town Board Meeting  
S-6100 South Park Avenue  
Hamburg, N.Y. 14075

Supervisor Hoak calls the meeting to order at 7:00 p.m.

Roll Call:	Patrick H. Hoak	Supervisor
	D. Mark Cavalcoli	Councilman
	Kathleen C. Hochul	Councilwoman
	Joan A. Kesner	Councilwoman
	Thomas Quatroche, Jr.	Councilman

Also Present:	Catherine Rybczynski	Town Clerk
	James Spute	Finance Director
	Gerard Kapsiak	Town Engineer
	Richard Boehm	Deputy Town Attorney
	Joseph Coggins	Police Chief
	James Connolly	Highway Superintendent
	Martin Denecke	Director of Recreation
	Robert Hutchison	Town Assessor
	Tim Ellis	Traffic Safety Coordinator
	Kurt Allen	Supervising Building Inspector

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

**I.**

**RESOLVED**, that the Town Board approve the minutes of the following meetings:

November 21, 2005                      Town Board Meeting

December 5, 2005                      Work Session/Public Hearing

Moved: Hochul

Seconded: Quatroche

Roll Call:      Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

## **II.**

**WHEREAS**, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed the proposed amendments (side yard issues, home occupation, and junk vehicles) to the Code of the Town of Hamburg, Chapter 280-Zoning and

**WHEREAS**, the zoning modifications will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public, and are consistent with social and economic considerations:

**THEREFORE BE IT RESOLVED**, that the Town of Hamburg has determined that the proposed amendments to Chapter 280, Zoning is not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued, based on the following reasons:

1. The modifications are in conformance with the adopted Hamburg Comprehensive Plan,
2. The modifications to the Zoning Code will have no direct physical impact on the natural, manmade, or environmental resources of the Town;
3. The zoning modifications create better setback requirements that protect public health and safety, and improves the junk vehicle law that protects the aesthetics of the community.

Moved: Cavalcoli

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

## **III.**

**WHEREAS**, the Town of Hamburg has researched, developed and made amendments to the Code of the Town of Hamburg, Chapter 280-Zoning, which involves the allowance of home occupation in the R-A District, creates new side setback requirements, amends the size restrictions on detached accessory structures, and improves the junk vehicle law.

**WHEREAS**, the Town Board has held the required Public Hearing and received no adverse comments (except some concern over the intent of the junk vehicle law), and

**WHEREAS**, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has issued a SEQRA Negative Declaration.

**THEREFORE BE IT RESOLVED**, that the Town of Hamburg hereby adopts the proposed amendments to the Code of the Town of Hamburg, Chapter 280-Zoning based on the following reasons:

1. The modifications are in conformance with the Town of Hamburg Comprehensive Plan, and
2. The modifications will protect public health and safety, and aesthetics in the Town.

**BE IT FURTHER RESOLVED**, that the Planning and Legal Departments be directed to produce the final copy of the proposed code modifications and submit them to the Department of State and General Code Publishers Corp. as required.

Moved: Cavalcoli

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried



cannot be acted upon.

**VII.**

**WHEREAS**, the Town of Hamburg has received a rezoning application from Theresa A. Matusick for the rezoning of property located at 3855 McKinley Parkway from R-2, single family residence, attached district to H-C, Hamburg Commercial district, and

**WHEREAS**, the Town held the required public hearing and received comments from the public, other agencies and Town departments, and

**WHEREAS**, the Town Board has issued a SEQR Negative Declaration, and

**WHEREAS**, the Town of Hamburg wishes to rezone this parcel from R-2 to H-C for the following reasons:

1. The rezoning is in accordance with the Town's Comprehensive Plan
2. The H-C zoning district was specifically created for this area of the Town.
3. No adverse comments were received from the public, other agencies or Town Departments.

**THEREFORE BE IT RESOLVED**, that the zoning code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the code of the Town of Hamburg entitled "Zoning" to provide for a change in the boundary of the zoning map whereby the zoning is changed from R-2, single family residence, attached district, to H-C, Hamburg Commercial district for the property located at 3855 McKinley Parkway as described as follows:

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie, and State of New York being parts of Lots Numbers forty-eight (48) and fifty-six (56), Township nine (9), Range seven (7) of the Holland Land Company's Survey and further distinguished as part of Subdivision Lot Number seventy-eight (78) as shown on a map filed in Erie County Clerk's Office under Cover 925 and being more particularly described as follows:

BEGINNING at an iron pipe on the southerly line of Highland Parkway, having a right of way width of 100.00 feet and distant easterly 56.08 feet from the northwesterly corner of Sublot 78 as shown on map filed under Cover Number 925, in the Erie County Clerk's Office; said point also being 60.00 feet easterly as measured along the southerly line of Highland Parkway from the centerline of McKinley Parkway, which iron pipe is the true place of point of beginning on the land being herein described; thence easterly along the southerly line of Highland Parkway 32.35 feet to a point thence along the arc of a 4 degree 00 minutes curve having a radius of 1432.68 feet, 37.65 feet to a point; thence southerly and parallel with the easterly line of McKinley Parkway 60.00 feet to an iron; thence easterly and parallel with the southerly line of Sublot 78, 116.00 feet to an iron set on the easterly line of Sublot 78 and distant southerly 51.00 feet from the southerly line of Highland Parkway; thence southerly along the easterly line of Sublot 78, 84.00 feet to a point; thence at a right angle westerly and parallel with the southerly line of Sublot 78, 184.19 feet to an iron on the easterly line of McKinley Parkway, thence northerly along the easterly line of McKinley Parkway 143.82 feet to the place or point of true beginning.

Moved: Cavalcoli

Seconded:

Roll Call: Ayes:

Noes:

**VIII.**



**BE IT RESOLVED**, that the Gullo rezoning request be removed from the table.

**WHEREAS**, the Town of Hamburg has received a rezoning application from Gullo's Garden Center for the rezoning of property located behind their garden center at 4767 Southwestern Blvd., from R-2 single family residence, attached district to R-A, Residential Agricultural, to allow for the expansion of their garden center, and

**WHEREAS**, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed this rezoning request, and

**WHEREAS**, the rezoning of the property and subsequent expansion of the garden center will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public, and is consistent with social and economic considerations.

**NOW THEREFORE BE IT RESOLVED**, that the Town of Hamburg has determined that the proposed rezoning and expansion are not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued.

**BE IT FURTHER RESOLVED**, that the Supervisor be authorized to sign the Environmental Assessment form.

Moved: Cavalcoli

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried









Noes: None  
Carried

### **Correspondence**

Letter #106 - Supervisor Hoak comments this is from Don Deperto, Village of Blasdell Trustee, on procedures in handling code violations. Mr. Allen, Supervising Code Enforcement Officer has responded to him on a process and procedures and they have been updating them. He asks that George Lee, Deputy Mayor of Blasdell, take that back to Mr. Deperto.

Letter #100 - Supervisor Hoak refers this to the Legal Department. Mr. Boehm responds they have already taken care of it.

Letter #108 - Supervisor Hoak comments that the HUD report came in with no significant findings and that is always good news.

### **Reports From Town Board Members and Department Heads**

Councilwoman Hochul reports that over a year ago she announced that they were pursuing “railroad quiet zones”. This is in response to an action taken by the Federal Government that you can have areas in your Town where trains would not blow their horns at the normal volume if at all. In a community that has the distinction of having five railroad crossings they aggressively pursued this and Mr. Kapsiak probably knows more about this than anyone in the Country. She thanks him for pursuing this so strongly and it is something they thought would be simple but, there were many delays. They were under the impression that the regulations would be in affect last June but they have been delayed. Also, for them to come up with the mitigation required the estimate is about \$100,000 and the Federal Government sets the standards for this and in their opinion they are the ones responsible for creating the revenues for them to make it better for the residents. There is more train traffic than ever before and she wants the residents to know that they are trying. Mr. Kapsiak comments that they were told that they are the only Town in New York State that are making this much effort towards this issue. Residents have submitted petitions and they have looked into it and the problem is that there is no Federal funding that they say is identified for it, although they have identified projects in other States where Federal funding has been provided. They pointed this out to the Federal Railroad Administration and they are waiting a response from them for the request for funding. Once they get the money in place, they can go ahead with the improvements that are necessary at the railroad crossings in order to establish a quiet zone. This means that trains would not blow their horns, when going through the Town of Hamburg, unless it is an emergency situation. They need to put in measures at the crossings, like a median divider that would be in the center of the pavement that would prohibit traffic from going around the lower crossing gate. That is the concern that they have. If the traffic is prohibited from going around the crossing gates that eliminates the concern that the quieting of the horn would entice people to do that. Councilwoman Hochul comments that they would like it silent, but in the meantime at least reduce the decibel level at which the horns are blowing now. They are saying that according to regulations, that yes they will ultimately, but they have until the year 2010. They are arguing that is unreasonable and would they reconsider that. She just wants the residents to know they are on this.

Joe Kilian comments that this is one of the issues he brought up back in 1997. The trains start in Lake View and hang on their horns until they get to Bay View which is about 7 miles. They sound like they are coming through his bedroom. Councilwoman Hochul comments, that is why Hamburg is so unique. By the time they finish blowing for the first crossing they are at the second and so on. She just wants the public to know they are working on this and now they have something to pursue that has some teeth to it, they just need to make it happen. Councilwoman Hochul states that they also are not happy with the Town because if the trains are sitting idle for

more than five minutes the Police are called because they are blocking the tracks which is dangerous in case an emergency vehicle needs to get through.

Councilman Quatroche wants to thank the Recreation Department. The goal for their enterprise account, which is the golf course account, was \$475,000 and they brought in \$495,000. He wants to congratulate them for running a fine operation out there and always looking for alternative sources of revenue.

Supervisor Hoak comments that this is his last public meeting as Supervisor. He wants to share some of the things he is going to miss. He will miss his colleagues on the Board. Councilman Cavalcoli was on the Board prior to him but since that time there have been three excellent additions to the Town and he will miss the camaraderie and the honesty. He will miss Jim Spute coming to his Office and there is not a finer example of a Finance Director in this Country. He treats every nickle and dime like it is his. He is going to miss Mr. Kapsiak and his diligence. He will miss Cathy Rybczynski who is always busy doing something and her staff and how they treat people. He will miss the Legal Department, he and Mr. Boehm are like family. You don't see the scandals in our Town that you see in others under the leadership of Mr. Sorrentino and Mr. Boehm. He will miss Mr. Ellis and all his guidance in the Traffic Safety Department, which has developed and gotten more busy every year. Mr. Denecke was just starting in the Recreation Department and he will miss the professionalism that he exhibits in our community and what our community has to offer. Mr. Hutchison was a real find from Tonawanda and everyone who comes in contact with him realizes they are dealing with a professional. He wouldn't want Mr. Allen's job. If there is a complaint, he has to enforce it. He then compliments the Police Department, Mr. Coggins and Mr. Kesner and what they have all gone through and how professional they are. He will miss Mr. Connolly coming in and taking over two Departments which he really doesn't get enough credit for. He doubled his responsibility. He will miss George Lee. How many Deputy Mayors come in that are interested in our community. He volunteers for everything and doesn't get any additional money for it. He will miss the taxpayers associations and all their questions. They didn't always agree, but the job always got done. He will miss Tom Ernst. He is one of the hard-nosed reporters that you have trouble finding in the newspaper business. He is a veteran and he gets right to the point. You always get the facts from him. He will miss the students coming in. It has been a blessing and he wouldn't change a thing. He doesn't know what his future will hold, but he will have fond memories and his love and thanks go out to everyone in the room.

Mr. Kapsiak, Town Engineer, reports that the South Park Sewer is completed. There is still a testing period before the people can hook in so, within a month, they will be sending out notices.

Mr. Ellis reports that they will be putting additional signs on Lake Avenue. Mr. & Mrs. Reszka were there about traffic on Lake Avenue and they had the State give them signs to send the truck traffic to Coder Road. They will put additional signs outside the truck depots to direct them to Coder Road. Councilwoman Hochul asks Mr. Ellis to put that in writing and send it to the Reszkas.

Mr. Connolly comments that he did serve on the Town Board for 15 years, as a Councilman, and then has served as Highway Superintendent and Supervisor Hoak has run the Town as a CEO. That is what the Town needs, to be run like a business. He conducted himself as a CEO not a politician and that was the important thing about his term. He has an outstanding record. He served under 5 Supervisors and no one could come close to Supervisor Hoak in exhibiting the care, concern, empathy and love for human beings. That was exhibited on a continual basis as he served and that is an extraordinary talent that the Town was fortunate enough to have in his tenure. He wants to recognize that on behalf of the community and they will miss him and they look forward to seeing him in the future.

### **Business From the Floor**

Faye Dils, First Street, Scranton, wants to complain about the snow plowing on her street during the last big storm. Her street wasn't plowed for three days and she talked to other people in the area and they weren't plowed either.

Mr. Connolly responds that the first storm of the season was probably the worst they have ever had. His plows couldn't even get through because the snow was so wet. They had 2 to 3 feet of snow, but it wasn't so much the volume as the type of snow. So it took them that long to get through.

Councilman Quatroche comments, as liaison to the Department, he witnessed many commercial plows getting stuck in that snow. There was a lot of frustration at the time, but everyone has to realize it wasn't the amount of snow it was the type. Mr. Connolly has taken this very seriously because he takes a lot of pride in his snowplowing in the Town of Hamburg.

George Lee, Deputy Mayor of Blasdell, reports that this Friday will be the tree lighting in the Village of Blasdell. Santa will arrive at 7:00 p.m and refreshments will be served at the Blasdell Elementary School. Everyone is welcome.

## **XXI.**

**RESOLVED**, that the Town Board adjourn to Executive Session at 8:00 p.m.

Moved: Hoak

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

---

Catherine Rybczynski, Town Clerk

## **Correspondence - December 12, 2005**

105 - To Supervisor Hoak from the Town Clerk's Office, the monthly report for November 2005 with receipts totaling \$38,522.63.

106 - To Supervisor Hoak from Donald Deperto, Village of Blasdell Trustee, commenting that he had recently come to Town Hall to fill out complaint form regarding a code violation at the Lake Avenue Plaza. He was informed there are no such forms and needed to verbally tell someone his complaint. Questioning how the Town can track complaints when there is no paper work or progress reports regarding these complaints.

107 - Copy to Cathy Rybczynski, Town Clerk from Assemblyman Jack Quinn to Mr. & Mrs. Salvo regarding drainage concerns on their property. Enclosing a copy of a letter from the NYSDOT addressing those concerns.

108 - To Supervisor Hoak from the U. S. Department of Housing and Urban Development stating that they have completed their review of the Single Audit Report concerning programs and fiscal year 2004. The report does not identify any findings or recommendations that materially affect the Town's management of those programs.

109 - To the Town Board from Mitchell Matusick regarding his rezoning application for property at 3855 McKinley Pkwy. This matter was referred to the Town Traffic Safety Department and in his discussion with Mr. Ellis, Traffic Safety Coordinator, he was informed that the review did not indicate the presence of any traffic problems that the law office would cause on McKinley Parkway. Also including an excerpt from the Traffic Safety minutes from 11/3/05 stating that information from the Planning Department in reference to McKinley and Highland Parkway was reviewed and it was decided to make no changes to existing drives.

110 - To the Town Board from Thomas Wrzosek, 1175 West Arnold Dr., stating that he is the owner of lots: 28, 18 and a portion of lot 17 as indicated on a map. A paper road named Arnold Road divides lot 17 rendering it basically useless. Requesting that the Town remove the road from the surveys so that the land would become of value.

111 - To the Town Board from Eleanor Bastedo commenting on the proposed new Benderson Plaza on Milestrip Road and all the empty plazas around Hamburg. The Town does not need another plaza, how can they stop it?

112 - To Supervisor Hoak from the NYSDEC stating they have the opportunity to acquire a piece of property located on Basswood Dr. Along Eighteen Mile Creek for use as an angler parking

area and public fishing area. They are required to notify local governments to give them the opportunity to comment on this proposal. If the Town Board would officially express non-objection it would help speed up the process.

113 - To Andrew Reilly, Planning Consultant, from John Verbanoff, 4870 Winterway Lane, stating he read the News article regarding the proposed commercial development on Milestrip Road. Those who were in attendance at the public hearing voiced real and valid concerns. Commenting on all the vacant plazas and the continuous mindset of build, build, build. Asking that the Town Board “just say no”.