

TOWN OF HAMBURG

PLANNING BOARD MINUTES

1-15-86

LEO RYAN
JIM WALSH, ATTORNEY
3802 MC KINLEY PARKWAY

ATTORNEY WALSH CHALLENGES TOWN BOARD
RESOLUTION OF DECEMBER 9TH ON MC KINLEY
PARKWAY ACCESS ON BASIS OF BEING DISCRIMINATORY
& ILLEGAL. AUDIENCE REQUESTED WITH TOWN
BOARD AT WORK SESSION FOR DETERMINATION

DEBRA FOLEY
SPECIAL USE PERMIT
WEEK FOLK COUNTRY LIVING
S-4789 BAYVIEW ROAD

MR. MC KNIGHT TO PREPARE LANGUAGE FOR
AMENDMENT TO CODE TO ADDRESS THIS PROBLEM

EDUARDO'S
4995 SOUTHWESTERN NEAR
SOWLES
RESTAURANT

TO PREPARE NEW SITE PLAN FOR FEBRUARY 12TH
MEETING. DRIVE LOCATION RECOMMENDATION TO
BE MOVED EAST DOWN SOWLES ROAD.
ENFORCEMENT ISSUE TO BE DETERMINED BY
BLDG. INSPECTOR J. LAUCHERT IN REGARD TO
10 DAY NOTICE.

PETER FENN
4535 SOUTHWESTERN BLVD.
REZONING PETITION FOR
GOLF RANGE

MR. MC KNIGHT TO CONTACT ADJACENT NEIGHBOR
TO BE INCLUDED IN REZONING PACKAGE.

KEN NIGRO
ADDITION
4215 MC KINLEY PARKWAY

NOTHING CAN BE DONE UNTIL ISSUE OF
ABANDONMENT HAS BEEN CLEARED. WOULD LIKE
TO ERECT SIGN. MR. NIGRO IS TO COME IN WITH
SITE PLAN AND SHOW LOCATION OF NEW SIGN
FOR JANUARY 29TH.

ORGANIZATIONAL MEETING -

CHAIRMAN G. GERALD VALGORA
VICE-CHAIRMAN RICHARD CRANDALL
SECRETARY GEORGE DANYLUK

TOWN OF HAMBURG
PLANNING BOARD MINUTES

1-15-86

The Town of Hamburg Planning Board met in regular session on Wednesday, January 15, 1986 in the Planning Board room at 7:30 p.m.

Members attending were: G. Gerald Valgora, Richard Crandall, Tom Corcoran, Elgin Cary, George Danyluk. Others attending were: Jay Pohlman, Esq., George McKnight, Terry Dubey, Stenographer. Excused were: Art Will, Ray Joseph.

1986 RE-ORGANIZATIONAL MEETING

Results were as follows:

Chairman:	G. Gerald Valgora
Vice-Chairman:	Richard Crandall
Secretary:	George Danyluk

Minutes of the meeting of 12-11-85 were approved on motion by Mr. Crandall, seconded by Mr. Danyluk. Carried.

EXECUTIVE SESSION:

1. Chairman Valgora noted that the goals for 1986 should include a work session with the Hamburg Town Board to formulate an over-all view of McKinley Parkway and future zoning changes. Request for Work Session time to be made by George McKnight with the possibility of the Feb. 3rd session at 7:30 p.m.
2. George McKnight stated that Mr. Maroone has closed on property on Southwestern Blvd. for a new car agency and plans to commence building as soon as possible.
3. Ken Nigro Addition on McKinley Parkway--The following letters were read:
TOWN ENGINEER - Jack Gilbert - I received an undated plot plan for subject addition. Previous discussion with Mr. Nigro on this proposal included his desire for the abandonment of that part of Sheldon Road west of Allendale Pkwy. Attached is a copy of the October 24th memo to Town Attorney, Jean Peterson, setting out some of the problems involved with the abandonment. Although the structure of the proposed addition appears not to invade the old Sheldon Road right-of-way, the plantings do. The addition would also be partly on land which we believe is owned by Erie County as part of the cul-de-sac.

On June 20, 1985, I wrote a memo to the Town Board with copies to Mr. Lauchert and you setting out the status of the subject abandonment. Earlier this week, we received a drawing (copy enclosed showing the proposed expansion of NDC's office building. We have superimposed that information on our drawing showing the location of our utilities. We would not allow a building to be built over our sanitary sewer. This reduces the size of the proposed addition from 40' x 75' to 40' x 45'. We would want a 15 foot wide easement for our sanitary sewer. There is a Town waterline on the easement on the southeast side of Sheldon Road. The Erie County Water Authority does not like abandonments of roads where there are waterlines. According to Robert T. Bronkie, Executive Engineer, their present position on the waterline within the abandonment is as follows:

1-15-86

EXECUTIVE SESSION (CONTINUED)

Erie County Water Authority will not maintain the line and will not be responsible for damage caused by a break. They will require valves at each end so the line can be isolated. Maintenance and repair of the line would be the responsibility of the Town and we would have to negotiate a right of access. In the cul-de-sac, Erie County has title to 3 parcels including one by condemnation. Part of the process would be for the County to relinquish its title. There is a storm sewer, owned by the County or the State, which appears to go under the existing building. As you can see, this is not your normal abandonment.

4. On Edwardo's Restaurant, Southwestern and Sowles, the following communication was received from the Traffic Safety Board. The Traffic Safety Board recommends that this drive be eliminated and that no permit be issued for same for traffic safety reasons.

5. Rezoning Petition - Peter Fenn 4535 Southwestern Blvd. Hamburg from R-2, C-1, & R-2 to C-2 for a Golf Center and driving range. This is near the gas station on the corner of Southwestern.

6. Letter from Conservation Board on Ben Nicosia's request for rezoning on a mobile home park recommending against the rezoning due to the Berrick's Creek nearby. Letter to be forwarded to Town Board. Hearing set for Feb. 10, 7:00 p.m.

DEB FOLEY - SPECIAL USE PERMIT TO ALLOW NURSERY SCHOOLS IN ALL ZONING DISTRICTS

Director of Planning McKnight informed the board that he forwarded material to the Planning Board to make nursery schools and day care centers a permitted use in any district, under the Special Use Permit section, subject to special conditions to protect adjacent neighbors. The rationale for this was based on a review of court cases whereby any type of school should be allowed in any zoning district. The original memo went to the Zoning Board when Deb was applying for expansion for a home occupation for her nursery school. The Board of Appeals, based on my recommendation, granted her the permission to conduct the nursery school. However, they directed the Planning Board to make it a Special Use permit in the town. There was to be a written follow up to us from their Zoning Board Attorney. However, that was never done. Deb Foley is present as she is the one that triggered the action by moving forward with the day care center in the Town. Presently, she is operating as a variance for a home occupation. Ms. Foley explained that it took her 5 years to obtain New York State licensing. Day care is a very hard occupation and does not regret operating one. However, I am now living in only two rooms in my house. The waiting list for day care is quite extensive. The State requires that for each child, one must have 35 s.f. of area. Any kind of encouragement that I can get from this board will be very much appreciated.

It is up to the Planning Board to approve a Special Use Permit. In order to accomplish this, we would have to schedule a Public Hearing. The Town Board would have to approve the amendment. Once, the amendment to the zoning code is passed, we would hear the case on the Special Use Permit process. Every application would have to be heard by the Planning Board. The criteria has been established by one situation. If Ms. Foley moves from her home, she no longer has the home occupation variance. Our current ordinance does not permit this. Nursery schools are permitted in the R-2 and they are not permitted in the R-1 zone.

1-15-86

Mr. McKnight pointed out that guidelines should be established. An amendment will be required to the zoning ordinance which is a two step process. The Town Board must approve the amendment change and arrange for a public hearing. If the Planning Board agrees that nursery schools can be permitted in any district, special conditions should be attached which are:

1. Operators should be licensed in the State of New York. This is especially important because of public health and safety.

2. Adequate outdoor play space shall be provided based on the number of children. The general suggestion of 75 s.f. per child under the age of 3 was recommended, and 100 s.f. per child, 3 years and older.

3. No play area or equipment shall be in a front or side yard. Where a nursery school or day care center abuts a residential property, there shall be a minimum 30' buffer with adequate screening as determined by the Planning Board.

4. Child discharge and pickup area shall not be in the public right of way. There shall be 1 off street parking space for each full time staff person and a minimum of 3 spaces for parents and visitors.

DEFINITIONS:

Day Care Centers shall be licensed by the State of New York providing day care for 3 or more children for at least 3 hrs. but less than 24 hours, away from their homes in which parents, or guardians, or others responsible for care placed children. This does not include care provided in an after school program operated for the primary purpose of religious education. FOR NURSERY SCHOOLS--See Day Care Centers. In addition, nursery schools shall be for children at least 3 years old and provide instruction.

If the Planning Board is in agreement, it will have to be put in legal form and make amendments to each zone and be amended in the Special Permit section.

Motion was made by Mr. Danyluk, seconded by Mr. Crandall to direct Mr. McKnight to prepare the proper wording for legal form for public hearing. Carried.

EDUARDO'S RESTAURANT - 4995 SOUTHWESTERN BLVD.

A copy of the survey on Eduardo's Restaurant was presented to the board by Messrs. Tarquini and Counsel, Vincent Sorrentino. An extra driveway was blacktopped and opened without the required approvals by the Town of Hamburg or County Highway. The driveway is between "A" and "B" portion, 35' in width along the southerly line of Sowles Road. Mr. Tarquini has leased the premises from the Walden Holding Corp. This used to be the Steak Hut and Heritage II. There have been several businesses on that location. Mr. Tarquini feels that part of the reason the previous owners have not been able to maintain the business is due to the fact that patrons are unable to enter and exit the premises. The intersection of Sowles Road and Southwestern come together. There is an exit and one driveway on Southwestern and the traffic signal at the corner. Patrons who have easy access are those going on Southwestern toward McKinley Parkway. A right hand turn movement is required. However, for people going in the opposite direction, they have to pass the signal and make a left hand turn to on-coming traffic in a westerly direction on Sowles. The proposed driveway, which is already there, was put in as Mr. Tarquini was unaware that permits were required. The Building Inspector then cited Mr. Tarquini for the violation and a request was made to appear before the Planning Board.

EDUARDO'S RESTAURANT (CONTINUED)

There is no site plan on file with the Town Planning Board as the restaurant was developed before the review process began. Mr. Sorrentino noted that he has contacted Paul O'Neill for the submission of the site plan. However, due to inclement weather and the amount of snow, it has been difficult to determine where the curb actually is at the present time. A survey has been submitted which indicates a 35' driveway. Sowles Road is a County highway and the contact has been made with Mr. Osborne.

Chairman Valgora read a communication from the Traffic Safety Board, Norm Ryan, Coordinator, which states: There has been another driveway added to Eduardo's Restaurant on Southwestern & Sowles. The Traffic Safety Board recommends that this drive be eliminated and that no permit be issued for traffic safety reasons.

A suggestion was made to locate the driveway further back on Sowles Road, as far east as possible. Mr. Tarquini responded that he has a water hydrant to contend with on one side as well as a gas line. The Town is presently securing permission for an easement for the sewer line. The suggestion was made to move the driveway further west, on Southwestern Blvd. The entrance to the restaurant is now next to an intersection. The Southwestern drive should be moved further west.

Mr. Tarquini explained that he has been in business for 2 months and has witnessed two accidents which have occurred under the traffic light. He felt it was more advantageous to have another drive as patrons experience difficulty in getting in. The traffic pattern on Southwestern Blvd. is 50 times greater than traffic on Sowles. The present driveway causes problems with traffic flow.

Mr. Alfred Rozbicki of Ockler Place, commented that he is a patron of the restaurant, and when Mr. Tarquini first put in the driveway, I felt it was beneficial. With the new drive, gaining entrance is more expedient.

Chairman Valgora asked if there was any way to move the drive back, as where it exists, now is unsafe. Cutting down the drive to 25' might make a difference. Also, if the drive is moved 25' further down Sowles, might also help. The driveway cannot be maintained at its present 35'. There was also the suggestion to reduce the problem by having patrons just enter the premises, with exiting on the Southwestern portion. The present drive should also be moved further west. It was agreed by Planning Board members to draw a new site plan narrowing the drive, and moving the other entrance down for overall safety. A new site plan will be readied for the February 12th meeting and enforcement will be left up to the Building Inspector, Jack Lauchert on the information matter.

MR. PETER FENN - GOLF DRIVING RANGE & CENTER ON SOUTHWESTERN BLVD. - REZONING
PETITION - SAUNDERS PROPERTY - 4535 S.W. BLVD. FROM R-2, R-C, C-1 TO C-2

Mr. Peter Fenn appeared before the Planning Board for an information session to develop a golf center and driving range to be located on vacant property on 13 acres of land west of South Park Avenue. The parcel is approximately 300 yds. deep and 250 yds in depth. Approximately 60 parking spaces will be required for the range. Planning Board members agreed that it would be better to expand the C-2 zone to include the Kayo gas station and property on the west side of South Park to the Thruway including the property of Mr. Saunders. This would avoid the situation of a spot zone. Planning Board members recommended that Mr. McKnight should get in touch with the property owners in the area to see what their feelings are. Report to be made at the January 29th meeting.

LEO R. RYAN 3802 MC KINLEY PARKWAY - REQUEST PERMISSION TO CONTINUE USE OF THEIR DRIVEWAY TO MC KINLEY PARKWAY

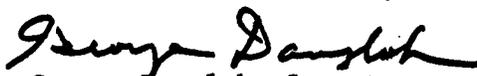
Attorney James Walsh presented a petition to the Planning Board relative to Mr. Ryan's property which is currently situated at 3802 McKinley Parkway. They have requested permission to authorize use of his existing driveway. This is a result of the December 9th Town Board resolution on the rezoning of property on McKinley to C-2 and the conditions set forth in that resolution. Mr. Walsh feels that the action of the Town Board is unconstitutional and illegal and has questioned the fact that the condition precedent has granted commercial access of no more than one point. They need access to a second drive. Planning Board members agreed to support the original recommendation that was given to the Town Board by amending this to two driveways. Mr. Walsh would like to take the matter up with the Town Attorney Jean Peterson and the Town Board for further clarification. See attachment and copy of petition.

KEN NIGRO -PROPOSED ADDITION NDC BUILDING MC KINLEY PARKWAY

Mr. Ken Nigro appeared before the Planning Board with a proposal for an addition to his NDC building on McKinley Parkway. Mr. Nigro was given a copy of the development check list and advised that there can be no additions made until the issue of the abandonment has been made. Mr. Nigro commented that he has an existing sign that he would like to erect on the property. Applicant was advised to find the original site plan, locate the sign on the plan, and apply for a building permit for signage. Matter to be discussed at January 29th meeting.

Motion was made by Mr. Cary, seconded by Mr. Danyluk to adjourn the meeting. Meeting adjourned at 11:30 p.m.

RESPECTFULLY SUBMITTED,


George Danyluk, Secretary

NEXT MEETING DATE:

JANUARY 29TH, 1986

