

Town of Hamburg  
Planning Board Actions  
October 24, 1990

Fairway Commons - Proposed Rezoning from R-A to R-3 - Boston State Rd. - Tabled for soils study.

Meineke Muffler Shop - Southwestern Blvd. Modification Approved.

Savage Rezoning - Applicant did not appear. To be reviewed Nov. 14th.

Bob Evans Restaurant - Approved contingent on Corps of Engineer approval and Engineering changes.

Lakeview Court Subdivision - Public Hearing Nov. 14th 8:00 p.m.

Rezoning Petition of Ben Nicosia - Twilight II - Tabled for applicant to address concerns.

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**Town of Hamburg  
Planning Board Minutes  
October 24, 1990**

The Town of Hamburg Planning Board met in regular session on Wednesday, October 24th 1990 at 7:30 p.m. Those attending included: Chairman Richard Crandall, Vice-Chairman Elgin Cary, Secretary Gerard Koenig, David Phillips, D. Gaughan, S.Strnad. Others attending included:G. McKnight, R.Lardo, D. Gorman,S. Bower and T. Dubey, Stenographer. Conservation: J. Piersanti, L. Rockwood.

Excused: Mark Cavalcoli (illness)  
S. Carnevale

Minutes of the meeting of 10-10-90 were approved on motion by Mr. Phillips, seconded by Mr. Gaughan. Carried.

**Executive Session:**

1. Fairway Commons - Boston State Rd. Mr. Tills requested an adjournment due to the fact that an application must be made to the Corps of Engineers because of new regulations that have been issued on environmental & soil concerns, and until that report is available, no further action can be taken.

Motion was made by Mr. Phillips, seconded by Mr. Koenig to **Table** this matter until the report is submitted. Carried.  
(D. Gaughan abstained).

For the record however, the following communication is to be entered from Karen E. Waible of 6284 Boston State Rd.

I wish to express my opposition to the above application to rezone from R-A to R-3 a parcel of land on Boston State Rd. adjacent to the Town Golf Course. Some general reasons for my opposition are:

1. Negative effect on neighborhood aesthetics and scenic views. A major reason to live in the neighborhood is the presence of the Town golf course, which precludes development in that area, and the eastward view toward the Boston Hills.

2. The proposed zoning is not in harmony with the existing neighborhood, and its approval would indicate a patch work, haphazard Master Plan.

3. The Conservation Advisory Board has recommended against the proposal, for a variety of good reasons.

4. Potential reduction in property values of surrounding residences. Evidence of this may be the length of time the adjoining house has been on the market, compared with the last time it was for sale.

5. There would be no buffer between the proposed site and the

surrounding neighborhood. My specific disagreements with particular items in the project sponsors' applications are detailed in the attached 3 pages. The items enumerated refer to particular categories of the Project Information and Project Impacts and their magnitude forms which were submitted by the project sponsors.

A. Site Description: 3a. Soil drainage is very poor according to the Town Conservation Advisory Board not well and moderately well drained, as claimed by the project sponsor.

13. The site certainly **does** include scenic views which are important to the residents in the contiguous community. The (4) two family and (8) condominium housing units proposed would certainly obstruct the existing scenic view.

15. The Conservation Advisory Board report indicates that the soils inventory shows a severe flooding restriction and that the area is subject to seasonal flooding.

C. Zoning and Planning Information

3. Certainly the project sponsor could find a more complete answer than N/A to the question what is the maximum potential development of the site if developed by the proposed zoning?

8. The proposed action is certainly not compatible with adjoining surrounding land uses. The adjoining neighborhood consists of single family homes.

12. The project itself may not generate a large volume of traffic. However, the creation of driveway and parking lot entrances and exits will add to existing traffic problems, i.e. the lack of visibility due to the hill due west of the project (witness the accidents each year at the McKinley Parkway--Boston State Rd. intersection. (2) The 40 m.p.h. speed limit in this area is widely ignored and not enforced.

Part 2: Project impacts and their magnitude

**Impact on land--**Item 1. Construction will not last more than 1 year and involves more than one stage. The project sponsor did not answer this question here, yet the proposal clearly indicates 2 phases over more than 1 year). There is a cliff on the site (unique or unusual land form.

**Impact on water--**Item 6. The area is already subject to poor drainage, and the project admittedly will alter drainage flow or patterns, or surface water runoff. No improvement is specified; therefore can a worsening of the situation be expected?

**Impact on Aesthetic Resources--**Item 11. The proposed action **does** negatively affect aesthetic resources. The project is in sharp contrast to current surrounding land use patterns, both man-made and natural. The project will screen scenic views and destroy the enjoyment of same.

**Impact on open space & recreation--**Item 13. The quantity and & quality of open space is reduced. The concern with

**Fairway Commons (Cont.)**

"encroachment of development on the golf courses perimeter" is highlighted in the Conservation Board report.

**Impact on Transportation--Item 14.** Refer to concern with visibility at McKinley and/Boston State Rd. intersection and the speed limit problem on Page 1 of this attachment.

**Impact on Growth and Character of Community or Neighborhood**

Item 18. The project sets an undesirable precedent. The project conflicts with officially adopted plans or goals. At the meeting on the rezoning process on a recent Saturday (9-29-90) it was stated that zoning should be in line with, and in conformance to, the master plan. Unless the Master Plan calls for a patchwork of zoning variances at the whim of developer's and without regard to the most beneficial land use in terms of the surrounding area, this project cannot possibly conform to any rational master plan.

It is my sincere hope that the Planning Board will take my concerns as well as those of my neighbors, under serious consideration, and that the board will take the reasonable step of rejecting this zoning variance request. **Karen Waible**

**Meineke Muffler Shop - Southwestern Blvd.**

A modification has been made to the original site plan for Meineke Muffler which is to be located on Southwestern Blvd. The building will be set back further with a grassed area in front and an elimination of 2 parking spaces. It was noted that this could be a better looking site with the proposed modifications.

Motion was made by Mr. Gaughan, seconded by Mr. Koenig to approve the site plan with the modification of having the building setback further and the elimination of 2 parking spaces. Carried.

**Hydric Soils--**Mr. McKnight noted that there has been a directive that has come down regarding wet lands and new regulations that are being implemented thru the Corps with respect to hydric soils. A potential hydric soil may include standing water, water that is too close to the surface, and wet soil. These conditions must be present in order to be a wetlands. With applications being submitted to the Corps of Engineers, the development process will be slowed down to a great extent. Procedures have not yet been determined. However, with the new regulations, soil specialists and botanists will have to review soils. Legal guidance must be provided as to procedures.

**William Savage Rezoning Petition - Lakeview Road near Old Lakeview Road.** Change in zoning from R-A, residential agricultural to R-1, for single family residence.

Applicant was not present. Motion was made by Mr. Gaughan, seconded by Mr. Phillips to Table until the November 14th meeting.

Carried.

**Bob Evans Restaurant - Commerce Place - Off Camp Road**

Mr. Nick Voellman of Bob Evans Restaurant appeared before the Planning board for a proposed Bob Evans Restaurant which is to be located off Commerce Place on Camp Road next to the Red Roof. The variance on the parking setback was granted. Comments from departments are as follows:

**Engineering--**The following are review comments on a plan last revised 9-26-90 and received on 10-4-90: 4.3 The proposed sanitary sewer manhole along Commerce Place cannot be installed on Town right-of-way. We suggest you move the manhole off the right-of-way or otherwise revise the layout. 5.3 The roll curb at the entrances along Commerce Place must be replaced with a 2' concrete gutter curb, specify this on the plans. Provide a detail of the proposed curb and note that a Highway Permit is required and that the Engineering Department must inspect the replacement. 6.3 Sewage from this site flows to a pump station that was to be replaced by the developer, M.J. Peterson. This replacement was to be performed prior to the construction of any new building on the site. We requested that site plan approval not be given until the sewer is installed or a Performance Bond is posted guaranteeing the sewer installation. **Gerard M. Kapsiak--Richard J. Lardo**

**Planning--**The predominant soil type-Angola silt loam has a high potential for hydric inclusions. A letter from the Thruway Authority is needed.

**Letter from A. Capobianco of the Thruway Authority - Secretary of the Real Property Committee, 200 Southern Blvd. Albany, N.Y.12201-0189.**

The Planning Dept. received a phone call from the above-named individual of the Thruway Authority in Albany stating that they will issue an Occupancy Permit for the Bob Evans' Restaurant in Commerce Park. The conditions are: The restaurant is responsible for the parking lot and if any repairs are necessary by the Thruway Authority, Bob Evans' Restaurant is liable. (This relates to the sewer line). The application was presented at the October 2nd meeting and Bob Evans' Restaurant is interested in buying the surplus land. This will take time thru the Legal Dept. However, this will eventually happen.

Applicant was advised that something will be required in writing from the Corps of Engineers with respect to the potential for hydric soil.

Motion was made by Mr. Phillips, seconded by Mr. Koenig to grant conditional approval pending certification by the Corps of Engineers that the soil is of the nature that development can take

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**Bob Evans Restaurant:**

place; that the required changes as requested in the Town Engineer's letter dated 10-23-90 be made; that a negative declaration can be issued by the Corps of Engineers that this is not a wet lands soil. Carried. Mr. Volleman is to contact the Corps of Engineers on 10-25-90.

**Lakeview Court Subdivison - Pearl Montgomery - Rezoned from R-A to R-1 for single family residences.**

Attorney Jay Pohlman appeared before the Planning Board on a proposed subdivison (22 lots) on Lakeview Road. The rezoning has already taken place from R-A to R-1. Comments from departments are as follows:

**Recreation--**We have reviewed the Lakeview Court Subdivision plan and offer the following recommendations: (1) A comprehensive recreation plan should be developed for the entire area from Smith Road to the eastern junction of Old Lakeview-New Lakeview Roads. (2) With three separate developers initiating proposals, provisions should be made for a common recreation area accessible to all these areas. (3) Consideration should be given to recreation needs when future development occurs from Smith Road to the western junction of Old Lakeview-New Lakeview Roads. (4) The Planning Board should consider cluster development in this area. Forcing developers to preserve green space, then linking that green space with hiking, biking paths could result in a trail leading to the Lakeview Road Recreation area (NIKE). Recreation needs of the area would be taken care of while preserving green space.**Richard Tripp**

**Engineering -** The following are review comments on a plan dated April 18, 1990: 1. Show the centerline radius of all curves. 2. Show the adjacent owners names. 3. Show the building setback line. 4. The lots along New Lakeview Road are to be labeled without access to New Lakeview Road. 5. Lots, 1, 19, 22, and 13 are to be labeled without access to Old Lakeview Rd. 6. A site location map is required. 7. The site is not in a water district and a new district will have to be created. 8. The site is in an existing sewer district. All comments are to be addressed for approval. Our review plan is not being returned with our comments.**Gerard Kapsiak**

**Planning--**Reed Hook Silt Loam, has a high potential for hydric inclusions. 2. There are many trees on this site. Does the developer have any plans to actively protect them? 3. What is the buffering material in the 25' buffer? 4. There are proposals for subdivisions adjacent to this property, effort should be made to coordinate designs and include an internal trail system to connect these proposed developments and any future adjacent development. This is an excellent opportunity to plan a comprehensive total design and also keep pedestrian and bike traffic off Lakeview and Old Lakeview. 5. The following is a list of basic requirements

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**Lakeview Court Subdivision (Cont.)**

that are to appear on the plan (Section 31-26): (a) owner of tract or authorized agent and subdivider; b. a key or vicinity map, c. the names of all owners of immediately adjacent unplatted land. d. building setback lines.

**Building Inspection--**S.L. 1, 19, 13, and 22 should front to the new proposed road as far away from Old Lakeview Rd. as possible. S.L. 20 and 21 frontage to Old Lakeview Rd. only. There should be no entrances to New Lakeview Rd. for any of these proposed lots, and plans should show location of utilities.

A request for a 50' trail, to be left in its natural state, would go from east to west. Mr. McKnight is to work with Dick Tripp and Mr. Manfreda to line up some type of connecting trail. Applicant was also advised that soil testing and an application to the Corps of Engineers is required.

Motion was made by Mr. Gaughan, seconded by Mr. Strnad to proceed to public hearing on the preliminary. Carried. Hearing is set for November 14th at 8:00 p.m.

**VFW Post - South Park Avenue.**

Attorney Gorman noted that he received a phone call from B. Shanks, Attorney for the V.F. W. Post on South Park Avenue with respect to an area that is to be dedicated for their new site on South Park Avenue. Matter is to be review at the next executive session.

**Rezoning Petition of Ben Nicosia - Twilight III - Bayview Road**

Mr. Ben Nicosia and his daughter Gail Betzing appeared before the Planning Board on the proposed rezoning of land near Beetow Drive from R-1 to R-2 for attached homes, duplexes. Mr. Nicosia stated that he was a Hamburg developer before he became an Orchard Park developer. His three children attended Hamburg Schools and he was a resident in the Village of Hamburg for many years, as well as the developer of 23 homes in Hamburg. The dwelling units on Twilight I are an asset to the community as well as a good tax base for the Town. Mr. Nicosia stated that he has been in touch with many of the neighbors in the adjacent area who noted that they would not mind seeing the area developed as opposed to cars racing up and down the street, gun shooting, and drug dealing. The following information was presented:

**Conservation Board Review - Completed by Duke Spittler, Chairman**  
Mr. Spittler did a walk thru of the Nicosia site and has noted the following information on the Part II of the Environmental Assessment. Refer to Part 2. Item #1--soil map indicates large portion of the site is fill land - the nature and source of the filled material should be investigated. The soil types within the site are: 1. Manlius shally silt loam. 2. Angola silt loam. The

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Twilight III (Cont.)

Angola soil has fair to poor drainage and the seasonal water table is within 6-18 inches of the surface. The depth to shale bedrock is 1-1/2 to 3-1/2 feet. These soils have severe limitations for homes with basements.

Item #9--development of the site will displace most forms of non-threatened or non-endangered wildlife such as small rodents, cottontail rabbits, ground and low level nesting songbirds, and deer. Some mitigation can be accomplished with buffer and open space areas on the perimeter. Also, area owned by Niagara Mohawk and the Town Park area across the railroad tracks can absorb some of the displaced species.

Item #14--The 110 family units can create a marked increase in traffic using Beetow Drive. This may be mitigated by an entrance on Beetow near its junction with South Park Avenue.

Item #17--Due to the potential hazards from electric power lines (see reference cited) developer should be informed of the advisability of a buffer zone parallel to the Niagara Mohawk power lines even though the issue at this time involves only rezoning.

Item #18--Land use map (2010 master plan) calls for low density housing on the subject site. The R-2 zoning requested by the developer is considered low density, and the proposal conforms to the Master Plan.

Since the proposed use conforms to the master plan, and small impacts noted on the Environmental Assessment can be mitigated, the Conservation Advisory Board is submitting a favorable recommendation. **Duke Spittler - Chairman Conservation Board**

Attorney Giacalone then spoke in opposition to the project. He is representing the residents of Beetow Drive who are opposed to the expansion of Mr. Nicosia's project. Concerns raised are as follows:

1. Traffic patterns, ingress and egress from a major arterial. Is this proposal good planning sense? What will be the impact on the existing neighborhood? Has the density been addressed as well as the number of automobiles that will be coming and going from this subdivision? In terms of how the judge ruled, there was no paper trail and the Planning Board did not follow the requirements as outlined by SEQR. How can the Planning Board make a recommendation from a preliminary survey?

Mr. Crandall pointed out that the Conservation Board Chairman determined that there would be no affect on the existing transportation systems. Mr. Spittler noted that there will be increased traffic.

2. Attorney Giacalone stated that with another 108 additional units, there will be 200 more vehicles per hour. What is the exact

Twilight III (Cont.)

automobile count? What is the maximum potential traffic volume during peak periods? Mr. Crandall responded that these issues can be addressed at the time of the subdivision review. On potential traffic, even if you have a 2 car family, not everyone will leave the subdivision at the same time. Mr. Nicosia stated that in Twilight I, 60% of the units are occupied by singles, young professionals, and there are at most 2 children on the entire street.

Mr. Giacalone stated that he is of the impression that no matter what he says that is not positive, but critical as to how the Planning Board is handling the items, his comments are not welcome.

Chairman Crandall responded that this is not the case, and that he has gone out of his way to gather input from the public. Also, the developer has just as much right as the public.

Mr. Giacalone asked what change has occurred in this community that requires a rezoning at this point. Response given was that this was not a fair question. Mr. Crandall noted that input is being sought, and the only thing that the Planning Board can do at this point is make a recommendation.

Attorney Giacalone again reiterated that there is not enough information on the traffic to make a proper recommendation. Also, what changes have occurred to warrant a rezoning?

Chairman Crandall again pointed out that when a recommendation is made to the Town Board, reasons are stated either favorable or unfavorable on a project.

3. This proposal will change the existing character of the neighborhood. There will be an affect of traffic and density in an existing neighborhood. This proposal will be hazardous to human health with the construction of homes near the power lines. The proposed development will increase density, noise, and have a negative affect and will change the community and existing neighborhood.

4. There will be an impact on the habitat and small mammals and birds, there is shallow bedrock and will affect the water table. There will be an impact on existing land. There has been nothing mentioned on how close the homes will be to the power lines, We feel this project needs an Environmental Impact statement.

Mr. & Mrs. John Tunney spoke in opposition to the proposal. On Twilight I, a 15' buffer was to be left in its natural state. This was one of the conditions that was established at the time of the rezoning. However, the buffer was removed. There is also

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Twilight (Continued)

a fence abutting the property. The trees were removed and there is no buffer. These were to be filed in the County Clerk's Office. There should be no fence on the property line at all.

Attorney Giacalone noted that what the residents are saying is that Mr. Nicosia did not live up to the agreement on the first project, and that the track record has been established.

Mr. Nicosia responded that the fence was erected by the resident as this is their property and they can do with their property as they choose. The fence was put up to keep Mr. Tunney from throwing his garbage on the new resident's property.

Mr. Lynch of Beetow Drive noted that Mr. Nicosia is not in compliance with existing conditions and are concerned. They would like the 15' buffer replaced.

Mr. Gary Smith of Beetow Drive noted that the proposed rezoning to R-2 is not contiguous with R-1 residential. This is setting a precedent.

Mr. Piersanti of the Conservation Board noted that Angola silt loam is a hydric soil and this must be taken into consideration.

Mr. G. Martin of Beetow Drive noted that there are many drainage problems there now and new construction will just add to it.

Mr. Rayer of Beetow Drive noted that there should be a moratorium on building duplexes and there should be no duplexes built. The soil should also be investigated. The Hamburg Future Development Board said that the Master Plan should not be abused.

Mr. Lynch noted that a D.E.I.S. is required. Also with the depth of bedrock will there be any blasting.

It was pointed out that the residents of Beetow Drive have the same soil type as what is there. They all have basements and this is the same situation.

Motion was made by Mr. Gaughan, seconded by Mr. Phillips to table so that the developer can address these concerns. Carried.

It was explained later at the end of the meeting by Mr. Lardo that the drainage swale was put in to alleviate the constant wetness which was in the back. There were complaints from both sides. Therefore, Jim Ryan of the Engineering Dept. went out and recommended a drainage swale. Mr. Nicosia was advised to put in the swale. Therefore, the buffer was removed to alleviate the wetness. There was only 25' feet to work with.

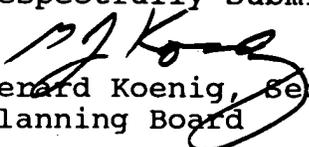
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Twilight III Continued

(A check was made in the Legal Dept as to the restrictive covenants for Twilight I. They were filed in the County Clerk's Office on May 29th, 1987 under Map Cover 2475, Liber No. 9718, Pages 207, 208, 209 and they were recorded.)

Motion was made to adjourn the meeting by Mr. Phillips, seconded by Mr. Gaughan. Carried. Meeting adjourned at 10:30 p.m

Respectfully Submitted,

  
Gerard Koenig, Secretary  
Planning Board

Next Meeting Date: November 14, 1990  
7:30 p.m.