

Town of Hamburg
Planning Board Meeting
January 22, 2014
Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 P.M., on Wednesday, January 22, 2014 in the Hamburg Town Hall Court Room, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, Peter Reszka, Stephen McCabe, Doug Schawel, David Bellissimo, Augie Geraci and William Clark.

Others in attendance included Planning Board Attorney Robert Barnashuck, Andrew Reilly and Sarah desJardins, Town Planners, and Richard Lardo, Assistant Municipal Engineer.

Chairman O'Connell welcomed Mr. Clark, Attorney Barnashuck and Councilwoman Potter-Juda to the meeting.

WORK SESSION

William Jefferson, Inc. – Proposed Arby's (Camp Road)

Ms. Elizabeth Buscaglia, representing the applicant, stated that a 54-seat brand new prototype Arby's with a 25-spot parking lot is proposed between McDonald's and Wendy's restaurants. She stated that no variances will be requested. She showed Board members the elevation of the proposed building, as well as information about the proposed drive-thru. She noted that the dumpster is proposed well behind the building, and three (3) parking spaces for employees are proposed in front of it.

Ms. Buscaglia stated that she has been in contact with the New York State Department of Transportation (NYSDOT), and she has been given verbal approval by that department, pending completed site drawings, for the proposed 51-foot curb cut.

In response to a question from Mr. McCabe, Ms. Buscaglia stated that the existing curb cut on the site is centered on the property, and it would not work well with the planned location of the parking lot.

In response to a question from Mr. Bellissimo, Ms. Buscaglia stated that the distance between the existing Wendy's curb cut and the proposed Arby's curb cut would be approximately 22 feet. She further offered to provide to the Board a copy of an overlay she prepared for NYSDOT showing the existing driveways to the north and south of this site. She noted that the overlay she prepared was part of what helped NYSDOT make the decision that the Arby's proposed curb cut is of a proper width and a proper distance from the Wendy's curb cut.

In response to a question from Chairman O'Connell, Ms. Buscaglia stated that there are no plans to connect the parking area or driveway with those of Wendy's.

In response to a question from Mr. Reilly, Ms. Buscaglia stated that the existing Arby's restaurant north of this site on Camp Road is a leased facility, and to her knowledge there has been no decision made on its future as an Arby's.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

WNY Recovery & Towing (Southwestern Boulevard near Camp Road)

Mr. Jason Garland, applicant, stated that he would like to operate a full-service auto center. He stated that he also owns tow trucks. He noted that he would like to service his own customers and tow, as well. He noted that he plans to erect a six-foot high stockade fence behind the building to store towed vehicles.

In response to a question from Mrs. desJardins, Mr. Garland stated that he plans to ask permission from the Hamburg Police Department to tow for the Town of Hamburg. Mrs. desJardins stated that a Special Use Permit is required in order to tow for the Town of Hamburg, so if he receives a Special Use Permit from the Planning Board, it would cover both the towing and the auto repair aspects of his business.

It was determined that the building has been used by tire businesses in the past, and Mr. Garland began occupying the building in December 2013.

In response to a question from Chairman O'Connell, Mr. Garland stated that the area behind the building where he would store vehicles would consist of stone and millings. He further stated that there would be no contamination or leaking of any kind in that area because he has drain pans that are positioned under any vehicles that are leaking any fluids.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to schedule a public hearing for this project to be held on February 5, 2014. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

J & M Homes (Burke Road)

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that a seven-lot subdivision is proposed on property on Burke Road, slightly north of North Creek Road. He stated that the overall site is approximately four (4) acres in size, is zoned R-1 and is in the Lakeview Overlay District. He noted that there is an existing home on one (1) of the lots that will remain, and sewer and water is already at the road.

Mr. Gow stated that if he applies the required 50% increase in the bulk requirements of the Lakeview Overlay District, one (1) of the seven (7) lots would be lost, but then he would be forced to create a second flag lot, as opposed to one (1) flag lot. He further stated that the lots across the street from this property are smaller than what is required for R-1 lots and would be much smaller than the proposed lots if the 50% increase in the bulk requirements is required. Mr. Gow stated that for that reason, he feels the seven (7) lot layout is compatible with the existing neighborhood.

Mr. Reilly reminded Board members that the Planning Board can waive the 50% increase in bulk requirements if it feels that the applicant is being creative in accomplishing the goals of the Overlay District.

Chairman O'Connell stated that he would rather see the six (6) lot layout with the two (2) flag lots. Board members agreed.

Mr. Gow stated that at the Board's next meeting, he will present an alternate plan showing the reduced number of lots with two (2) flag lots for consideration.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

For the benefit of the members of the audience, Board members introduced themselves.

Chairman O'Connell asked Mr. Bellissimo to be Vice-Chairman and Mr. McCabe to be Secretary. Both members agreed.

Public Hearing – Sherwood Meadows Apartments

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by David Burke to construct 224 apartments on vacant land located east of Breckenridge Road and northeast of Howard Road. The public hearing will be held on January 22, 2014 at 7:00 PM in Room 7B of Hamburg Town Hall.”

Mr. Reszka stated that he recused himself when this project was previously before the Board. However, as a result of legal opinion, he will not be recusing himself because this is a new project that will go through a new set of approvals.

Attorney Sean Hopkins, representing the applicant, stated that the Board held a public hearing on this project on August 21, 2013, and at that time the project consisted of 128 apartment units on the existing infrastructure that would connect to Heatherwood Drive. He noted that despite the fact that there were traffic impact studies and review by the Town's Traffic Safety Advisory Board (TSAB) demonstrating that such a connection and the traffic associated with it would not result in any significant adverse traffic impacts, there were concerns raised about community character impacts. He stated that as a result of comments received at the public hearing, as well as subsequent discussions with the Planning Board and input received from residents of the adjacent subdivision, the project was modified to include a second means of access to the site via Howard Road.

Attorney Hopkins stated that the modified project consisted of a roadway connection to Howard Road and approximately 96 additional two-story apartment units, as well as three (3) single-family homes along Howard Road.

Attorney Hopkins asked that the Board consider the following factors:

1. The Board should consider whether or not this project complies with the Town's Zoning Code and not whether Board members like the project or not.
2. The applicant has addressed unequivocally that this property, as well as the additional land recently purchased by Mr. Burke, is property zoned R-3.
3. R-3 zoning allows three-story buildings, but Mr. Burke has no interest in three-story buildings.
4. The applicant believes that this project is consistent with the Town's Comprehensive Plan and specifically Map 2-10 (Generalized Future Land Use), which designates this site and the surrounding properties quite clearly as residential high-density mixed use. The Comprehensive Plan is a guideline filled with many goals, but it does not supersede zoning, and the use that is proposed is expressly permitted.
5. Regarding SEQR (State Environmental Quality Review Act), prior to issuing any decision on the project, the Planning Board must evaluate the identified potential adverse environmental impacts. The applicant has provided the Board with a wide

assortment of studies and reports to assist it with complying with SEQR, including the following:

- A new wetland delineation report was performed indicating the presence of 3.9 acres of federal wetlands, 1/10 of one acre of which would be impacted by the project. Because these are federal wetlands, there is no 100-foot adjacent area and the remainder of the wetlands would be preserved in their entirety.
- A Traffic Impact Study (TIS) was performed for the original project, and then the scope of the study was broadened based on input from the Planning Board. The TIS has again been updated and is based on the current proposal for the site. It shows that the access to Howard Road will relieve the pressure of all traffic having to exit this site through Heatherwood Drive and the surrounding residential roadway network. It also demonstrates that the currently proposed project will not result in a reduction in the Level of Service at any of the intersections in the study area. Traffic impacts have been reviewed and considered by the Town's Traffic Safety Advisory Board (TSAB) on at least two (2) occasions, and on both occasions it has issued memos to the Planning Board indicating that the project will not have any adverse potentially significant traffic impacts.
- A preliminary Engineer's Report was submitted that demonstrates that this project is subject to the very stringent storm water quantity and quality standards of the New York State Department of Environmental Conservation (NYSDEC). The applicant's engineering firm must demonstrate to the NYSDEC that upon construction of this project, the rate of runoff off site will not increase.

Attorney Hopkins stated that a memo from Erie County Division of Sewerage Management was received by the Planning Department indicating that there is a strong possibility that sewer capacity in the Nottingham line will not be available for a project of this magnitude. The applicant's engineer will have to prepare a very detailed downstream sanitary sewer analysis, which will be reviewed by the NYSDEC, Erie County Division of Sewerage Management and the Town's Engineering Department. If upgrades to the sanitary sewer infrastructure need to be made as a result of this project, the applicant will solely be responsible for paying for those upgrades.

Attorney Hopkins stated that it is a first-come, first served basis for sanitary sewer capacity when a project is ready to be connected. He noted that if sanitary sewer capacity is not available, the project will not go forward as proposed.

Attorney Hopkins stated that Mr. Burke, applicant, is not comfortable being at the center of such controversy and would be willing to make a major concession and eliminate the 96 apartments proposed on the new roadway out to Howard Road and replace them with 29 single-family homes. He noted that he and the applicant would like to meet with the neighbors' counsel and representatives sooner rather than later to see if a consensus can be reached on the project going forward. If a consensus can be reached, the application will be amended, and all multi-family uses on the Hopevale property will be eliminated.

Attorney Hopkins stated that this clearly demonstrates that the applicant is making a very concerted effort to address the concerns that have been raised by the nearby residents. He further stated that although the residents would like the applicant to go back to the originally approved project (56 townhouse units), this is not going to occur, but the applicant hopes that a consensus can be reached with the neighbors.

Attorney Hopkins stated that if a consensus cannot be reached, he will report that to the Planning Board and would then ask that the Board advance the review of the site plan that is technically in front of it at this time.

In response to a question from Chairman O'Connell, Attorney Hopkins stated that the new proposal would include the originally proposed 128 apartment units and 29 single-family homes.

Mr. Reilly stated that regardless of which project ultimately is proposed, another public hearing will have to be held. Attorney Hopkins stated that he disagreed with that statement, noting that the project at this stage of the review process is the one with all multi-family units. He stated that the applicant is showing the Board an alternative plan that he hopes he can reach a consensus on with the neighbors.

Mr. Reilly stated that regardless of what sort of agreement is or is not reached with the neighbors, the ultimate decision regarding SEQR and the approval or disapproval of this project rests with the Planning Board.

Mr. Reilly stated that because of the comment letter received from Erie County Division of Sewerage Management regarding the question of whether sewer capacity exists for this project, the Planning Board will need additional information on that subject before a SEQR decision can be made.

Chairman O'Connell declared the public hearing open. The following people spoke:

- Attorney Steve Ricca stated that he has been retained by the Roundtree Village Neighborhood Association, which is not satisfied with the conclusion that there is no potential for significant adverse impact from this project. This project is rife with issues that have yet to be resolved. The Planning Board has indicated that a Positive Declaration is appropriate for this project, but the applicant is asking that that decision be put off pending additional information, and this is frustrating the intent of the statute.

Attorney Ricca stated that the Negative Declaration that was issued relative to the originally approved project involving 56 townhouse units should be ignored, except for the fact that a recreational trail system was supposed to be provided, and it does not appear on the current proposal's plans. The proposed play area is not sufficient.

Attorney Ricca stated that adding the traffic mitigation measure (additional access to Howard Road) doubled the number of proposed apartment units. Neighbors are concerned about the number of vehicles travelling on the roadways, the safety of their children and the absence of adequate playgrounds.

Attorney Ricca stated that this project is considered a Type I Action, which presumes that an Environmental Impact Statement (EIS) will be prepared because the project may result in significant adverse impacts that should be more closely examined.

Attorney Ricca stated that although traffic studies have been prepared relative to this project, numbers can lie and are not always adequate enough to capture the full array of quality of life issues associated with vehicles moving through residential areas.

Attorney Ricca requested, on behalf of his clients, that the Planning Board issue a Positive Declaration and a public Scoping Session be scheduled. Issues to be addressed in the EIS should include the impact of this project on the community character, adequate buffering, adequate landscaping and appropriate lighting.

Attorney Ricca stated that the Comprehensive Plan can be used to argue any number of positions. The Comprehensive Plan states that one of the purposes of the zoning ordinance is to ensure that developments are in keeping with the neighborhood character and emphasizes the need to protect existing residential uses from incompatible uses and provide adequate buffering of these areas. It also promotes the creation of walkable neighborhoods.

Attorney Ricca stated that if there is a surplus of apartments in the Town of Hamburg and they continue to be built, the Town runs the risk of blight in certain areas where apartments will be underutilized and/or suffer from a lack of maintenance because the market does not support them. This in turn will not have a positive effect on the health, welfare and wellbeing of the community.

Attorney Ricca stated that the Erie County Department of Environment & Planning submitted a letter to the Board in January 2014 indicating that the market for 224 apartments requires close scrutiny by the Planning Board and that the cumulative impact on the area of all proposed apartments should be addressed.

Attorney Ricca stated that it defies common sense to believe that there would be no significant impacts on any of the intersections in the vicinity of this project site. The Planning Board could ask for an independent review of the submitted traffic studies as part of an EIS.

Attorney Ricca stated that the Town's Comprehensive Plan advocates the reduction of vehicular conflicts by reducing the number of conflict points, separating through traffic from local traffic. The traffic from this project will feed into the adjoining neighborhood, and no one knows for certainty where the traffic will go. The Roundtree Village roads are currently in disrepair and will only get worse with the multi-phased project construction. The submitted traffic studies do not address issues of the safety of children and school buses, nor do they address the history of accidents in the Roundtree Village neighborhood.

Attorney Ricca stated that the nearby residents are concerned about future development on the Hopevale site east of the newly acquired property. They are also concerned about sewer capacity. He asked if the required downstream sewer capacity analysis has been performed.

Attorney Ricca stated that this project would result in the reduction in open space, and the adequacy of open space is important because this creates a potential hazard for children looking for places to play.

Attorney Ricca stated that construction-related impacts (noise, dust, impacts on existing roadways, potential hazards, heavy equipment, etc.) must be considered, as well as the increased demand for community services. He asked if comments have been solicited from the local school district, fire department or police department.

Attorney Ricca stated that there would be significant runoff associated with the impervious surfaces created by this project. He stated that folks should be able to see pre- and post-construction calculations to make informed decisions about whether there will be adverse impacts, adequate flood protection, whether the sewers are going to overflow, whether there will be any adverse health effects from having this concentration of people in this location.

Attorney Ricca asked if the detention pond will be a wet pond, if there will be a fence around it and if it will present safety hazards to children.

Attorney Ricca stated that the applicant putting off the preparation of the Storm water Pollution Prevention Plan (SWPP) is an improper deferral of a mitigation measure.

Attorney Ricca stated that the wetlands should be avoided.

- Ken Radens, 4538 Roundtree Road, stated that everyone in the audience was opposed to the proposed project and that the majority should rule. He is concerned that the applicant's traffic impact studies were performed by an engineering firm that has a business relationship with the applicant. He is concerned that if the applicant builds the apartments and then they do not sell, he will build low-income apartments instead. He is concerned about the fiscal stress these apartments would put on the school system. He asked if a project has ever been approved in Hamburg where apartments are constructed in a residential neighborhood. He asked why this proposal cannot be treated like the proposal for duplexes on the south side of Howard Road was.

Mr. Reilly stated, for the record, that the worst thing the Planning Board could do is turn this project down because of public opposition. He stated that the Planning Board would lose in court because it has to have reasons to turn a project down. He noted that the Planning Board cannot make a decision based on public consensus.

Mr. Reilly stated that the proposed project on Howard Road was a rezoning request and the Town Board rejected the request. He stated that in the case of a rezoning request, public input and public desire for a project has some influence on the Town Board's decision. However, in the case of a request for Site Plan Approval, public concerns are important instead of public support or opposition.

- Bryan Wittmeyer, 3752 Howard Road, stated that his home is two (2) lots away from where the entrance to Howard Road is proposed. He stated that during the four (4) years he has lived in his home, he has had to replace three (3) mailboxes due to vehicles travelling too fast along Howard Road, losing control and driving up on to his front lawn. He stated that the submitted traffic studies have not discussed the speed of vehicles on Howard Road, and he believes that there will be increased traffic associated with the apartments and therefore increased dangerous conditions. He stated that the Planning Board must consider the public safety of its residents.
- Terri Schelter, Breckenridge Road, stated that Howard Road is part of Roundtree Village, and there is a lot of traffic on this road. She stated that the second access to the proposed apartment project was never a good solution even before the number of apartments was doubled. She stated that traffic on Howard Road has increased significantly in the twenty years she has lived in Roundtree Village, and this project would make it far worse. She stated that this project would have a large impact on what is currently a desirable, stable neighborhood. She stated that this project would forever change the character, as well as the value, of the homes in Roundtree Village, and not in a positive way, and presents a safety issue.
- Michael Edwards, 3705 Breckenridge Road, stated that his in ground pool would back up to the apartment garages, and he is concerned that it will be dirty the whole time construction is ongoing, and he will also lose his peace and quiet during those years of construction. He stated that he bought his home because there was nothing behind it except a ball diamond, green space and schools. He stated that he has never had any problems with Hopevale. He stated that the elimination of that green space is important to people like him who live on Breckenridge Road, and this is where his children play. He is concerned that the value of his home will change if a two-story apartment building

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is constructed behind it. He stated that his back yard is always wet because of the runoff from the Hopevale property, and there are underground streams everywhere.

- Todd Falkiewicz, 3663 Woodhaven Circle, stated that the Planning Board is under no obligation to approve DATO Development's amended site plan because it approved a 56-unit townhome project previously. He is concerned about the increase in traffic generated by the apartments and feels it would negatively affect the character of his neighborhood. He is concerned about the safety of neighborhood pedestrians and children, deteriorating roads due to increased traffic, build-up at the two (2) main local intersections (Southwestern Boulevard/Howard Road and Camp Road/Howard Road) and the increase in pollution from vehicles. He feels that both access points for the apartments will empty into the same neighborhood, so it is not any better than when just one (2) access was proposed. He is concerned about keeping the quality of life that exists in the neighborhood. He is concerned about proper drainage, the increase in pavement from the project, the increase in dumpsters that will attract rodents and other waste. He is concerned that there will be moving vans in and out all the time after the apartments are constructed. He is concerned about whether there is police and fire coverage for the additional apartments and whether the schools have capacity for the added children. He feels that this project is not in conformance with the Town's Comprehensive Plan because it will negatively affect the character of the residential neighborhood.
- Dennis Chapman, 3715 Woodhaven Circle, asked the Planning Board to scrutinize all of the reports it gets for accuracy.
- Robert Biondi, 3454 Heatherwood Drive, stated that he feels privileged to have lived in the Roundtree Village development for ten years, and the neighborhood is a very close one. He asked the Planning Board to consider the safety of the neighborhood, the addition of 454 vehicles and how that will impact residents' drive time to and from work, the value of the existing homes, the safety of the children, deteriorating roadways and traffic delays in and out of the neighborhood.
- Steven Dickey, resident of Buckingham, stated that the proposed project is a square peg trying to fit in a round hole, and it does not fit in with any of the surrounding neighborhoods. He stated that the traffic in the area has been increasing over the past few years. He stated that there are many vacant apartments in the Town, and townhouses make sense on this property. He is concerned that his taxes will rise as a result of this project. He is concerned about the transient nature of apartment dwellers and is worried about ex-cons, drug dealers, domestic problems, loud music, home invasions, etc. He is concerned about the sewer backing up under his home because of an over-stressed sewer line. He is concerned about class sizes increasing with the influx of additional children, and he is concerned about police and fire protection.
- Karen Aquiline, 3460 Heatherwood Drive, stated that the Roundtree Village roads are deteriorating, and she is worried about what will happen to them with the increase in vehicular traffic, as well as construction vehicles. She stated that she worries about a child getting hurt because of the additional traffic, and the Board should consider the possibility of negligent homicide and manslaughter.
- Maria Eagan, 3660 Heatherwood Drive, stated that Southwestern Boulevard is one of the most dangerous roads in western New York, and adding the extra cars from this project would only add insult to injury.

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- Tim Kruszka, 3807 Howard Road, stated that his main concern is how he will get in and out of his driveway with the added traffic, and he does not think the submitted traffic studies are all they are cracked up to be.

Chairman O'Connell declared the public hearing closed.

Mr. Clark asked Attorney Ricca if the Roundtree Village Neighborhood Association will be able to provide a traffic study in the reasonable future. Attorney Ricca responded that he could not answer the question and that it depends upon a number of factors, including resources.

Mr. Clark asked Attorney Ricca to submit the residents' concerns in writing to the Planning Board. Attorney Ricca stated that he would be happy to do so.

Mr. Bellissimo made a motion, seconded by Chairman O'Connell, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

Pleasant Creek Development Subdivision

Attorney Sean Hopkins, representing the applicant, stated that this project was the subject of an extensive review that included a Coordinated SEQR Review, which was issued by the Town Board when the property was rezoned in 2013. He noted that the currently proposed project is identical to that which was presented to the Town Board at the time of the rezoning request.

Mr. McCabe made the following motion, seconded by Mr. Bellissimo:

"Whereas, the Town of Hamburg has received a subdivision application from Pleasant Creek Development to subdivide the property on the north side of Pleasant Avenue, just west of the New York State Thruway, into 109 single-family home lots and one (1) lot for future development; and

Whereas, the subject development was the subject of a rezoning and SEQR completion by the Town Board, which acted as SEQR Lead Agency and issued a Negative Declaration on March 28, 2013; and

Whereas, the Hamburg Planning Board has reviewed the subdivision against the subdivision requirements of the Town, conditions of the rezoning and the Negative Declaration issued by the Town Board; and

Whereas, the Hamburg Planning Board followed the procedures for subdivision approval, held the required public hearing on December 18, 2013 and received comments from the public; and

Whereas, the Hamburg Planning Board has reviewed the project against the Negative Declaration and determined that the project is in accordance with the SEQR decision and therefore will not adversely affect natural resources of the State and/or the health, safety or welfare of the public and is consistent with social and economic considerations; and

Whereas, the Hamburg Planning Board has found that the proposed subdivision application is in accordance with Town requirements and wishes to approve the Preliminary Subdivision Plan.

Now, therefore, be it resolved that the Town of Hamburg Planning Board hereby issues Preliminary Subdivision Approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated January 22, 2014.
2. The Planning Board has determined that the project will impact recreation in the Town, no additional suitable lands are available at the site, and therefore will require a recreation fee in lieu of dedicating land to the Town.
3. Sidewalks shall be constructed in accordance with the Preliminary Plat received by the Planning Department on November 27, 2013.
4. Transportation system improvements to Pleasant Avenue shall be in accordance with the SEQR documentation approved by the New York State Department of Transportation and installed.
5. A deed restriction, as approved by the Town Attorney's office, shall be placed on the property prohibiting the construction of two-family dwellings on the lands zoned R-2.
6. Green space and open space, as shown on the Preliminary Plat received by the Planning Department on November 27, 2013, prepared by Nussbaumer & Clarke, Inc., shall be preserved, and a permanent conservation easement shall be created in the name of the Town of Hamburg. This easement shall be reviewed and approved by the Town Attorney's office, recorded at the Erie County Clerk's office, and a recorded copy of the Declaration of Restrictions shall be provided to the Town Clerk's office and the Town Attorney's office.
7. The emergency means of egress shall be constructed as shown on the Preliminary Plat received by the Planning Board and shall be maintained by the Homeowners' Association.

Mr. McCabe amended the above motion to change condition # 4 to read as follows: "Transportation system improvements to Pleasant Avenue shall be in accordance with the SEQR documentation approved by **Erie County** and installed." Mr. Bellissimo seconded the amended motion.

As the vote on the motion was six (6) ayes and one (1) abstention (Mr. Clark), the motion carried.

Mr. Reilly stated that if the applicant sells a portion of the property in the conservation easement to adjoining property owners, the restrictions of the conservation easement will be the same.

Mr. Lardo stated that there will be detention ponds within the areas shown on the Preliminary Plat map as conservation easements. He noted that those ponds will be excluded from the conservation easement areas because they must be maintained.

Engineering Department comments have been filed with the Planning Department.

Eddy & Lewin Homes

Mrs. desJardins reminded the Board that it was awaiting correspondence from SHPO (State Historic Preservation Office), as well as the Erie County Highway Department, in order to move forward with a SEQR determination. She stated that a sign-off letter from SHPO was received, as well as a letter from Erie County indicating that the increased traffic generated from this subdivision will not adversely affect the existing conditions on Sowles Road.

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that Erie County asked his firm to look at the impacts of the proposed development as it would exit onto Sowles Road, as well as whether the additional traffic would have any adverse impacts on other adjacent neighborhoods in the

area. He noted that the results were that there would not be any adverse effects on the surrounding neighborhoods.

Mr. Gow showed Board members a revised subdivision layout that included shortening the roadway and narrowing some of the lots. He stated that the number of proposed lots is the same as the previous layout, but the revised plan creates more of a buffer between the future owners of the lots on the west side of the subdivision and the existing business. He further stated that the revised layout still meets the Town's requirement in terms of lot frontage, but the area requirement on approximately 15 lots is less than the Zoning Code allows. He noted that the applicant would therefore be requesting a variance for each of those undersized lots.

Mr. Gow stated that the applicant will also be requesting a variance to allow a 25-foot setback, rather than the required 35-foot setback, from the right-of-way in order to keep the homes a bit closer to the road and thereby provide more separation from the new homes and the existing adjacent properties. He further stated that there still would be enough of a driveway provided to pull vehicles off the road.

Mr. Bellissimo made the following motion, seconded by Mr. Reszka:

"Whereas, the Town of Hamburg received a subdivision application from Eddy & Lewin homes to subdivide vacant property located south of Sowles Road, at the end of Bradford Street and west of Yale Street to construct a 29-lot subdivision with new roadways and infrastructure; and

Whereas, the Town Planning Board, having completed a SEQR Coordinated Review, has established itself as the SEQR Lead Agency; and

Whereas, on November 20, 2013, the Hamburg Planning Board held a public hearing to receive comments from the public; and

Whereas, the Hamburg Planning Board has received a subdivision application and Part One of the EAF and has completed Part Two of the EAF; and

Whereas, the Hamburg Planning Board has, based on these reviews and comments received from other involved agencies, determined that additional information was needed to complete its environmental review; and

Whereas, the Hamburg Planning Board has reviewed additional information concerning potential archeological and traffic issues and a new plan illustrating additional buffering; and

Whereas, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQR), has determined that the proposed project will not adversely affect the natural resources of the State or the health, safety or welfare of the public and is consistent with social and economic considerations, based on information provided by the applicant and other involved and interested agencies and completion of Parts One, Two and Three of a Full EAF.

Now, therefore, be it resolved that the Town of Hamburg Planning Board hereby determines that the proposed project is not anticipated to result in any significant adverse environmental impacts and issues a Negative Declaration authorizing the attached Full EAF to act as the SEQR Negative Declaration in accordance with the recent SEQR amendments, and the Planning Board Chairman is authorized to sign the EAF."

As the vote on the motion was six (6) ayes and one (1) abstention (Mr. Clark), the motion carried.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to schedule a public hearing on this project to be held on February 5, 2014. Carried.

Engineering Department comments have been filed with the Planning Department.

Sharma Development (Pleasant Avenue)

Attorney Sean Hopkins, representing the applicant, stated the project will be pursued in phases because it is so large. He noted that the first phase will consist of the completion of an addition to the applicant's existing office, as well as some attached medical buildings.

Attorney Hopkins stated that a large wetland area exists on the site, and although there will be minor impacts to the New York State 100-foot adjacent area, there will be no impacts to the jurisdictional wetlands themselves.

Mr. Reilly stated that, for purposes of SEQR, the Planning Board will be considering the whole action. He further stated that typically the Planning Board approves an entire project, and then the applicant can construct it in phases as he prefers.

In response to a question from Mr. McCabe, Attorney Hopkins stated that in order to get sanitary sewer service to this site, a sanitary sewer line must be run through property owned by the Town of Hamburg. He further stated that the granting of an easement to allow this requires an alienation of parkland to be approved by the New York State Legislature, which was done in 2013. He noted that the sewer line will be located underground and will be bored under the Town property.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Jolie Mandell (5401 Lakeshore Road)

Jolie Mandell, applicant, stated that she has modified the parking layout for the site, and six (6) parking spaces are proposed. She further stated that the site would be laid out so as to not allow anyone to access the site from Lakeshore Road, and all traffic would access the site from Pleasant Avenue. She noted that in this way, four (4) vehicles could parallel park in front of the building along Lakeshore Road.

In response to a question from Mr. McCabe, Ms. Mandell stated that cars that are parked in front of the building and are facing south would be able to continue south and turn around before heading north to exit the site on to Pleasant Avenue. She noted that it might require a three-point turn, but it can be done. She further stated that there is an area on the southern end of the site that has a mound of dirt on it presently, and she could remove the dirt so that turning around would be easier.

Ms. Mandell stated that she would use signage, striping, planters, temporary curbing, etc. to make sure no one accesses Lakeshore Road.

Mr. Reilly stated that a variance would be required in order to place parking spaces within 35 feet of the property line along Lakeshore Road, and the Zoning Board of Appeals cannot by law grant a variance that allows parking within ten (10) feet of the property line. He recommended that the applicant speak to the local New York State Department of Transportation (NYSDOT) representative to see if there are any plans to do work in this area of Lakeshore Road.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Reilly stated that the Planning Department received correspondence from the New York State Dormitory Authority indicating that it intends to be the SEQR Lead Agency on a proposal to subdivide the Hopevale property. He stated that the Randolph School intends to purchase a portion of the site.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to allow the New York State Dormitory Authority to be the SEQR Lead Agency in the planned purchasing and subdividing of the Hopevale property. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to approve the minutes of December 18, 2013. As there were six (6) ayes and one (1) abstention (Mr. Clark), the motion carried.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 9:30 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: January 29, 2014