

Town of Hamburg
Planning Board Work Session
November 2, 2011
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, November 2, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Gerard Koenig, Stephen McCabe, David Bellissimo and Sasha Yerkovich.

Others in attendance included Andrew Reilly and Sarah desJardins.

Excused: Karen Rogers

Public Hearing - Council Opticians of Hamburg (6000 South Park Avenue)

Mr. McCabe read the following public hearing notice:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposed reuse of an existing building, along with a small addition at 6000 South Park Avenue. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on November 2, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mrs. desJardins stated that she and Kurt Allen, Supervisor of Building Inspectors, met with the applicant to discuss the aesthetics of the building. She noted that the proposed aesthetics of the building had been revised and Mr. Allen is very happy with the changes. She further stated that Mrs. Rogers also reviewed the changes and is satisfied with them.

Greg Schneider from Aurora Architectural and Todd Demario (applicant) appeared on behalf of the proposed project. Mr. Schneider stated that Mr. Demario proposes to renovate and occupy the existing 1,860 sq.ft. building and construct a 560 sq.ft. addition on the north side of the building.

Mr. Schneider stated that a new color scheme has been proposed for the building that will distance the new use from the previous use of the building. He explained the plans for the building in terms of the aesthetics, especially on the west side of the building that faces South Park Avenue. He further stated that the amount of green space on the property will be increased from 21% to 26% and noted that this increase will primarily be evident around the building.

Regarding access to South Park Avenue, Mr. Schneider stated that if the Planning Board restricts vehicles from turning left out of the new curb cut onto South Park Avenue, this will make the project unattractive to both Mr. Demario and his partners in the project.

Mr. Demario stated that his business has been located across South Park Avenue from this property for 20 years and it is now time to either renovate the space or relocate. He stated that he initially investigated the former Friendly's restaurant on the east side of South Park Avenue but found that the owner of the building, who also owns the plaza, insisted upon an easement agreement to allow his customers to access South Park Avenue that was non-negotiable and unacceptable. He therefore looked elsewhere and found this building and

would like to renovate and occupy it, noting that it does have the existing access to the plaza parking lot but he would rather not enter into any easement agreement with the owner regarding that access.

Mr. Demario stated that he plans to purchase the building but his partner at Council Opticians will not lease space from him if it involves any agreements with the current owner of the plaza because he has not had good experiences in the past with that entity.

Mr. Demario stated that he feels that the Planning Board would be limiting him if it does not allow vehicles to turn south onto South Park Avenue from his property. He noted that he believes that if vehicles have to turn right, they will simply drive the short distance to the Noco gas station, pull in and then turn left out of that driveway. He further stated that it does not make sense to him that he would be limited to a right-out only when no other businesses on that section of South Park Avenue are restricted in that manner.

In response to a question from Mr. Koenig, Mr. Demario stated that if he does not enter into an agreement with the owner of the plaza regarding the existing access from his property to the plaza parking lot, the owner could potentially block his access with snow or even concrete blocks.

Mr. McCabe stated that the approved site plan for the plaza included the means of ingress and egress on this property's southern property line and if the owner of the plaza were to close that access off, it would be violating the terms of the site plan approval that was granted.

Chairman Reszka stated that the plaza owner cannot make any changes to the approved site plan for the plaza without approval from the Planning Board.

Mr. Demario stated that he likes the idea of having the option for his customers to either exit the site using the access on the southern side of the property or turn left onto South Park Avenue.

Board members discussed whether Mr. Demario would produce enough traffic to warrant limiting him to right-out only onto South Park Avenue. It was determined that this business would generate a small amount of traffic and the customers would have two (2) options for exiting the property and heading south.

Mr. Reilly stated that the Town of Hamburg will be sending the plaza owner a letter indicating that the access from this property to the plaza cannot be blocked for any reason.

Jerry Giglio, Traffic Safety Advisory Board (TSAB) Coordinator, stated that the TSAB has recommended that the Planning Board not allow left turns onto South Park Avenue from this property because it wants to avoid congestion as much as possible. He noted that the TSAB has acquiesced and allowed a curb cut onto South Park Avenue with full access into the site and the ability to turn right out of the site. He further stated that the TSAB recommends that "No Left Turn" signs be posted at the exit and a diversion island be constructed to ensure that no left turns are made.

Mr. Giglio stated that the TSAB would be willing to reevaluate its position on this issue in the future if a problem arises with the owner of the plaza. He noted, however, that until there is a definite problem, the TSAB's position will not change.

Mr. Giglio stated that he worked with the New York State Department of Transportation for 35 years in the area of maintenance, traffic safety and things of that nature.

In response to a question from Mrs. Yerkovich, Mr. Demario stated that his business is open from 9:30 A.M. until 8:00 P.M. on Mondays and Thursdays, from 9:00 A.M. until 5:30 P.M. on Tuesdays and Fridays and from 9:00 A.M. until 2:00 P.M. on Saturdays. He further stated that on business afternoons he has approximately three or four patients per hour.

Mrs. Yerkovich stated that she feels that the potential for issues with the plaza owner regarding an easement agreement regarding the access to the plaza parking lot is more troubling to her than the three or four customers per hour who will be exiting this property.

Mr. McCabe stated that the uncertainty of the access to the plaza could hinder Mr. Demario if he attempts to secure financing for the project.

Mr. Bellissimo stated that it might be helpful if Mr. Demario makes his patients aware that they have two (2) options if they plan to head south when leaving his business.

Chairman Reszka declared the public hearing open. The following people spoke:

- Joshua Bartlett asked who the plaza owner, Benderson Development, is.

Chairman Reszka declared the public hearing closed.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to issue a Negative Declaration for this project, noting that this project is a borderline Type II Action under SEQR. Carried.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to grant Conditional Site Plan Approval for this project with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated November 2, 2011 with the exception of item # 5.

On the question:

Mr. Giglio stated that, if the Planning Board does approve a full access curb cut (both ingress and egress), he would suggest that the Board require that the applicant install a double yellow line at the curb cut to segregate the traffic entering and exiting the site.

Mr. Koenig amended his motion to include the following additional conditions:

1. The applicant shall install a double yellow line at the ingress/egress point of the new curb cut onto South Park Avenue in order to ease any traffic congestion.
2. The applicant shall provide information to the customers of the business indicating that they will have two (2) alternatives to choose from when heading south out of the site (they can exit at the curb cut or exit through the access into the plaza parking lot and utilize the existing traffic light).
3. The cross access on the southern side of the property will be maintained and will not be closed.

Carried.

Mr. McCabe commended the applicant and his architect on the revisions to the aesthetics of the building.

Engineering Department comments have been filed with the Planning Department.

Yoviene Subdivision (Vacant land, south side of Taylor Road)

Mr. Reilly stated that approximately six (6) months ago the Planning Board authorized the use of cluster for this property and approved the number of lots that will be developed. He further stated that the applicant is now requesting Preliminary Plat Approval of the subdivision.

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed subdivision. He stated that he has provided the Engineering Department with a full drainage report and is working with that department on engineering issues regarding the Preliminary Plat. He further stated that the applicant has hired a firm to test downstream at several points to make sure that there is downstream capacity. He noted that the applicant will have to present this information to the Erie County Division of Sewerage Management and demonstrate that there is downstream capacity before receiving that department's approval.

In response to a question from Chairman Reszka, Mr. Gow stated that the detention basin in the southeast corner of the property will capture all of the drainage from the site. He further stated that the drainage will be stored there, attenuated and released at a pre-development rate. He noted that the drainage will be piped underground over the gas line.

Mr. Reilly stated that the Town Board will decide whether to take ownership of the land that is proposed to be dedicated to the Town of Hamburg. In response to a question from Mr. Reilly, Mr. Gow stated that it will not be a problem if the Town Board decides not to take ownership and the land has to be owned and maintained by a Homeowners' Association.

In response to a question from Chairman Reszka, Mr. Gow stated that the existing gas line is not located on any of the lots that will back up to it, noting that the fact that the gas line is there will be indicated on the Map Cover and there are markers indicating its location.

Mr. Reilly stated that the Town Code does not allow cul-de-sacs longer than 500 feet and the Planning Board would have to waive that requirement when approving this subdivision.

Mr. Gow stated that the proposed building setback is 35 feet.

Mr. Reilly stated that he would like to see some landscaping features at the intersection of the new road and Taylor Road so that the rural nature of the existing road is preserved.

In response to a question from Mr. Giglio, Mr. Gow stated that the entrance to this subdivision will be at a section of Taylor Road that is curved, but it is a fairly large radius curve and drivers exiting the subdivision will be able to see several hundred feet down the road in either direction. He further noted that the speed limit on Taylor Road in this area is 30 mph.

Mr. Gow agreed to provide the site distance information to the Planning Department.

Mr. Giglio asked Mr. Gow if there will be any street lighting at the intersection of Taylor Road and the entrance to the subdivision. Mr. Gow responded that typically the plans are submitted to the utility company and they provide a street lighting layout for the applicant. He further stated that typically a light near the entrance is installed.

Mr. McCabe made a motion, seconded by Mrs. Yerkovich, to authorize the Planning Department to initiate the SEQR process and request Lead Agency status. Carried.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to schedule a public hearing on this proposed subdivision to be held on December 21, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Mast Two-Lot Subdivision (3469 Alsace Place)

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed subdivision. He stated that the applicant wishes to subdivide her property in order to sell her existing home, as well as a vacant lot. He noted that the proposed subdivision is compliant with the requirements of the Town Code.

Mr. McCabe made a motion, seconded by Mrs. Yerkovich, to schedule a public hearing for this subdivision to be held on November 16, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Long's Floor Care (vacant land, west side of Southwestern Boulevard north of Heltz Road)

Frank Wailand appeared on behalf of the proposed project, stating that the applicant proposes to construct a 40' X 60' pre-engineered building on vacant land on Southwestern Boulevard that would be used strictly for warehousing his products associated with his business. He further stated that the building would not have a public retail area and would only be used for his business.

Mr. Wailand stated that the property is heavily wooded and the applicant proposes to locate the building 200 feet from the road with a centered driveway going back to the building. He further stated that the applicant proposes to leave the undisturbed woods in their natural state.

Mr. Wailand stated that the applicant is looking for sketch plan direction at this point.

Chairman Reszka asked why the proposed building is not classified as a storage building, which is prohibited without a principal building on the property. Mr. Reilly explained that Kurt

Allen, Supervisor of Building Inspectors, has determined that this proposed use is warehousing.

Mrs. desJardins asked the applicant, Mr. Long, where he would be conducting his business if this building is used strictly for warehousing his product, equipment, etc. Mr. Long responded that his office is located in his residence, which is not adjacent to this property.

In response to a question from Mr. Bellissimo, Mr. Long stated that the equipment would be maintained and cleaned in this new building. Mr. Bellissimo asked Mr. Long if the residue and chemicals from the cleaning products that are used by the equipment will be drained into some sort of system, noting that public sanitary sewers are not available in this area.

Chairman Reszka asked Mr. Long where the equipment would be cleaned after use, noting that Mr. Long does not propose to have access to water at the site. Mr. Long stated that the equipment would be flushed and cleaned at the job site before the equipment leaves the job site.

Mr. McCabe stated that it appears to him that the applicant is planning to use this building for storage of equipment and products. Mr. Long confirmed that he does not plan to have an office in this building, nor does he plan on having customers coming to the site.

Mr. Long stated that his employees would come to this site to pick up the equipment and product and then go to the job site.

In response to a question from Mr. Koenig, Mr. Long stated that the parking provided would be for his employees. He further stated that he may have one or two business vehicles parked on the site.

Mr. Reilly stated that the Planning Board would need assurances that the wooded areas on the site that are not in the area of the proposed driveway and building will be preserved.

Mr. Reilly stated that the Town of Hamburg does not allow a storage building on a site without a business there, noting that storage buildings are considered accessory structures.

Board members discussed the difference between a storage building and a warehouse. Mr. Reilly stated that if a storage building has toilet facilities or an office in it, it would then be considered a warehouse.

Chairman Reszka asked if it would be possible to turn the building sideways and move the driveway further south so that the building would be tucked in behind the trees. Mr. Long stated that he may want to add an office in the future and would probably rather have the building the way it is currently shown on the sketch plan.

Mr. McCabe suggested that the applicant might want to consider moving the building closer to the road to avoid the cost of installing and maintaining 200 feet of driveway.

Mr. Reilly stated that the Planning Board will want to see what the proposed building would look like.

Mr. Wailand stated that the width of the driveway could be reduced, noting that it is shown on the sketch plan as being 24 feet wide. He agreed to research the possibility of reducing the width of the driveway to 15 feet.

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

Engineering Department comments have been filed with the Planning Department.

M/ILE Sports – 3100 Lakeshore Road

Mr. Reilly stated that the applicant wishes to use a portion of the existing building on the property for an indoor sports center. He further stated that the applicant received a use variance from the Zoning Board of Appeals for this particular business because the property is located in an industrial zone, which does not allow this use.

Mr. Reilly stated that the biggest concern regarding this proposal is traffic safety, as this area of Hamburg is industrial. He further stated that a POD business exists in a portion of this building and POD trucks are entering and exiting the site.

Mr. Reilly stated that the applicant is proposing a new access road to be constructed on the property so that truck traffic and people entering the sports complex do not coincide.

Mrs. desJardins stated that the applicant is requesting Site Plan Approval of Phase One, which encompasses 44,000 sq.ft. of the existing building. She further stated that at this time the building does not have a sprinkler protection system and if/when the applicant includes an area for people to view the sports teams (observation area), a sprinkler protection system will be required, per the New York State Building Code.

Mrs. desJardins stated that the applicant has indicated that Phase One will only include adult leagues (practice sessions only) and will not include a viewing area so that the sprinkler protection system is not required. It was determined that the Building Inspection Department will have to enforce this.

Mr. Reilly stated that he would be most concerned about getting people in and out of this building safely.

Chairman Reszka asked what assurances the Board would have that the proposed new access road is built, noting that a note on the Site Plan indicates that the access road is not in the contract between the applicant and the owner of the building. Mr. Reilly responded that the Planning Board can make the construction of the access road a condition of approval.

Mr. Reilly stated that the issue of the sprinkler protection system is an issue for the Building Inspection Department and its issuing of a Certificate of Occupancy is how that department will deal with it.

Board members agreed to forward a list of questions and concerns to be answered by the applicant before the Board's next meeting. The list of questions and concerns is as follows:

1. Why is there not an area in the parking lot designated for bus parking?
2. Remove the "N.I.C." note from the Site Plan.
3. How will the applicant make sure that vehicles only travel north on the existing access road that is close to the building?
4. How will the applicant ensure that the users of this building do not wander around this site?

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to schedule a public hearing for this project to be held on November 16, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Bayview Road/Route 5 Business Park Pre-Permitted Site Incentive Concept Application

Mr. Reilly stated that the Town of Hamburg has passed a Pre-Permitted Site Incentive Law to attempt to be competitive in New York State and in the country. He noted that this new law applies to land that is currently zoned industrial and is designed to promote economic development through Business and Industrial Parks in certain parts of the Town.

Mr. Reilly stated that the Hamburg New York Land Development Corporation (HNYLDC), owner of a large tract of industrial land along Route 5, has applied for the Pre-Permitted Site designation for this property. He further stated that this property is zoned correctly (M-3), was approved as a Business Park in 1994 and was the subject of an Environmental Impact Statement (EIS) at that time. He further stated that if this property had been developed, the Planning Board would have reviewed the proposed project as part of the Site Plan Review process. He noted that the difference here is that, in order to designate this property as a Pre-Permitted Site, the Planning Board will prepare a Supplemental EIS (SEIS) to address issues that may have changed since 1994, such as wetlands laws and storm water regulations. He stated that the Planning Board will also compile a list of requirements that must be met by any prospective user of any portion of this property and these requirements will be included in the SEIS Findings.

Mr. Reilly stated that if a prospective user of a portion of this site meets all of the criteria outlined in the SEIS, the applicant will be allowed to apply for permits without the project being reviewed by the Planning Board. He further stated that this is very important to potential users because it reduces the time involved in getting a project built, the potential for litigation, etc.

Mr. Reilly stated that Engineering Department review will still be required if a project is proposed in a Pre-Permitted Site.

Mr. Reilly stated that the Pre-Permitted Site designation process will be as follows:

1. A property owner appears before the Planning Board with a request for Pre-Permitted Site designation and a concept for industrial development of the site. The Planning Board then decides whether the project applies in general to the Pre-Permitted Site Law and whether the Town Board should entertain the request for Pre-Permitted Site designation.
2. The Town Board will initiate the SEQR process and require that a SEIS be prepared. During that period, comments will be accepted from various involved and interested agencies regarding which issues the SEIS should address. In addition, Planning Board members will be discussing what site plan issues they will want addressed and will arrive at a point where they have a list of conditions to be incorporated in the SEIS Findings. Hopefully the Board at that stage will feel comfortable with the Town assigning the Pre-Permitted Site designation to the property in question with the knowledge that all of the conditions and criteria the Board addressed in the SEIS Findings will be met.
3. The Town Board issues Pre-Permitted Site designation.

Mr. Reilly stated that the HNYLDC property is located on the east side of Route 5 and both the north and south sides of Bayview Road, which makes it a complicated site. He further stated that the Planning Board will have to determine how the site could be developed and what the conditions of Site Plan Approval would be.

Mr. Reilly stated that, because this property is located in the Route 5 Overlay District, the Planning Board will be concerned about what the buildings that face Route 5 will look like, how far they should be set back from Route 5, what type of landscaping should be required, etc. These are examples of some of the conditions the Board will include in the SEIS Findings. He further stated that a more difficult issue to resolve revolves around traffic, noting that the New York State Department of Transportation (NYSDOT), Erie County and the Town of Hamburg will have to collaborate to find a solution that allows development on this site in the short term that does not interfere with the long term solution, which probably will be access out to Route 5.

Chairman Reszka asked Mr. Reilly if a user who does not want to adhere to the conditions associated with the Pre-Permitted Site will have the ability to ask the Zoning Board of Appeals (ZBA) to waive them. Mr. Reilly responded that that will not be an option because the ZBA has no power over either Findings in the SEQR Law or a Town Board decision.

Mr. Reilly stated that the difficult part of this process is the fact that the Planning Board is looking at issues generically because there is no user at the time the Pre-Permitted Site designation is requested.

Mr. Koenig stated that the Planning Board will be doing the hard work up front in order to make it easier for applicants to receive approval later.

In response to a question from Mr. McCabe, Mr. Reilly stated that a SEIS will not be required for each project that is proposed for the Pre-Permitted Site. He further stated, however, that in the SEIS prepared for the Pre-Permitted Site, the Planning Board can stipulate a threshold that, if exceeded, will require the applicant to return to the Planning Board with an amended plan.

Mr. Koenig made a motion, seconded by Mrs. Yerkovich, that this project is in general conformance with the requirements of the Pre-Permitted Site Incentive Law and can proceed to full application. Carried.

OTHER BUSINESS

Mrs. desJardins stated that a letter was received from the engineer and wetlands consultant for the Woods at Versailles Subdivision, as required by the Planning Board when it granted Preliminary Approval earlier this year. She asked Board members to review the letter to determine if the information provided is consistent with what the Planning Board asked for.

Board members discussed the proposed markers at the Wood at Versailles Subdivision that will demarcate the location of the conservation area.

Mr. Bellissimo made a motion, seconded by Mr. Koenig, to approve the minutes of October 19, 2011. Carried.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to adjourn the meeting. The meeting was adjourned at 9:00 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board