

Town of Hamburg
Planning Board Meeting
February 17, 2016
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, February 17, 2016 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, Vice-Chairman David Bellissimo, Doug Schawel, Al Monaco and Robert Mahoney.

Others in attendance included Town Planner Andrew Reilly, Principal Engineer Rick Lardo and Attorney Ryan McCann.

Excused: William Clark

WORK SESSION

Towne Chrysler Dodge Jeep – Requesting Site Plan Approval of a parking area that was installed without approvals at 5130 Camp Road

Jim Stewart, General Manager of Towne Chrysler Dodge Jeep, stated that there was a large pile of dirt and debris on the property, as well as an old drainage ditch that did not work properly. He stated that he decided to level out or remove the dirt and fix the drainage ditch so that it worked properly, and in the process an area for overflow parking was created.

In response to a question from Chairman O'Connell, Mr. Stewart stated that the area that was disturbed is approximately $\frac{3}{4}$ acre in size, and the area created for parking is approximately $\frac{2}{10}$ acre in size.

Chairman O'Connell informed Mr. Stewart that the Planning Board does not like that the applicant disturbed the property without permission. Mr. Stewart stated that he did not know he needed permits to clean up the property, and some of the disturbed area already had millings on it. He further stated that he did bring additional millings in to improve the area that had millings on it already.

Mr. Lardo stated that millings are acceptable only for static parking areas.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on March 2, 2016. Carried.

Engineering Department comments have been filed with the Planning Department.

Upstate Cellular Network d/b/a/ Verizon Wireless – Requesting a Special Use Permit and Site Plan Approval to construct a 75’ wireless communications tower at 5820 South Park Avenue

Attorney Jared Lusk from Nixon, Peabody, representing Upstate Cellular Network d/b/a Verizon Wireless, stated that Verizon Wireless is experiencing a radio frequency problem in its Erie County Fairgrounds cell and the surrounding area. He stated that the surrounding cellular sites have reached their maximum capacity, and Verizon Wireless needs a tower at this site to be able to handle the traffic and provide direct 4G service.

In response to a question from Mr. Reilly, Attorney Lusk stated that if the tower is placed on property owned by the Town of Hamburg (6100 South Park Avenue), it would not provide the coverage necessary in the area of the Fairgrounds property.

Attorney Lusk stated that Verizon Wireless has an access easement from the Fairgrounds to access the site and use a 30’ X40’ lease area in an existing parking lot. He stated that the tower would be 75 feet tall and would be placed near tall trees that would minimize the tower’s visibility.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on March 2, 2016. Carried.

Engineering Department comments have been filed with the Planning Department.

Hanania Family Partnership – Requesting Site Plan Approval of a new apartment community on vacant land located at 4819 Southwestern Boulevard

Attorney Sean Hopkins, representing the applicant, stated that the rear nine (9) acres of this property was rezoned to R-3 by the Town Board in November 2015, and the front portion remains zoned commercial. He stated that the applicant proposes to construct an upscale multi-family project, and the layout as proposed is exactly the same as what was associated with the rezoning application.

Attorney Hopkins stated that as part of the rezoning, the Town Board issued a Negative Declaration, and therefore he does not feel there is any reason to conduct an additional environmental review of the project.

Attorney Hopkins stated that a conservation area is proposed along three (3) sides of the site, and a detailed landscaping plan has been submitted for the Board’s review.

Attorney Hopkins stated that the applicant is considering either small scale retail/office buildings or mixed-use buildings for the front portion of the site.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on March 16, 2016. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING**Public Hearing – 7:00 P.M., Upstate Tower – Requesting Site Plan Approval of a new cellular tower to be erected at 6100 South Park Avenue**

Chairman O'Connell stated that the Board would discuss the above two (2) projects simultaneously.

Don Carpenter from the Carpenter Consulting Group, representing the applicant, submitted plans showing a revised sewer easement. He stated that a tower is proposed at this location on behalf of Blue Wireless and also at the request of the Town of Hamburg Emergency Services, which would like the opportunity to consolidate the equipment on the two (2) existing towers at Town Hall.

Mr. Carpenter stated that the proposed tower is considerably taller than the two (2) existing towers at Town Hall, and the last approximately 20 feet of the tower (at the top) will be reserved for Town equipment. He stated that there will also be space for future co-locaters.

In response to a question from Mr. Bellissimo, Mr. Carpenter stated that Blue Wireless will not be charging the Town to locate its equipment on the tower, and it will be paying the Town rent to locate the tower on the property.

Mr. Bellissimo 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 Upstate Tower to construct a cellular tower on property located at 6100 South Park Avenue. The public hearing will be held on February 17, 2016 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

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

- Tom Taylor, Senior Dispatcher for the Town of Hamburg, stated that this tower would help Emergency Services greatly by doubling the existing tower height and enabling Emergency Services to consolidate its radios.
- Sean Crotty, Emergency Manager for the Town of Hamburg, stated that he reached out to Mr. Carpenter in the hopes of utilizing a tower that better serves Emergency Services' customers. He stated that this would give them the ability to use a more reliable network.

Chairman O'Connell declared the public hearing closed.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to authorize the Planning Department to put resolutions together for the Board's March 2, 2016 meeting. Carried.

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

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Upstate Tower – Requesting Site Plan Approval of a new cellular tower to be erected at 2720 Lakeview Road

Don Carpenter from the Carpenter Consulting Group, representing the applicant, stated that this tower is proposed on Town of Hamburg Department of Public Works property on Lakeview Road. He stated that the tower would be 175 feet high, and the applicant would be providing space for future co-locaters.

Mr. Bellissimo 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 Upstate Tower to construct a cellular tower on property located at 2720 Lakeview Road. The public hearing will be held on February 17, 2016 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

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

- Tom Taylor, Senior Dispatcher for the Town of Hamburg, stated that this tower would help Emergency Services enhance its services.
- Sean Crotty, Emergency Manager for the Town of Hamburg, stated that this tower will help Emergency Services better serve the Lakeview corridor.

Chairman O’Connell declared the public hearing closed.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to authorize the Planning Department to put resolutions together for the Board’s March 2, 2016 meeting. Carried.

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

Engineering Department comments have been filed with the Planning Department.

Michael Schmidt (5139 Southwestern Boulevard) – Requesting a Special Use Permit and Site Plan Approval of two (2) new self-storage buildings totaling 13,900 sq.ft.

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the site plan was revised to indicate which part of the property is used for outside vehicle storage. He stated that the area indicated is the only area of the property that will be used for outside vehicle storage.

Mr. Reilly stated that he is concerned because one should not be able to see the outside vehicle storage from Southwestern Boulevard, and he is concerned about the existing berm that should screen that area from the road. He stated that he would like to see an enhanced landscaping plan to make sure that area is not visible.

In response to a question from Chairman O’Connell, Mr. Gow stated that the existing berm is approximately four (4) feet high. Mr. Reilly stated that he would like the berm to be filled in more to screen the outside storage.

Mr. Bellissimo made the following motion, seconded by Mr. Schawel, regarding SEQRA:

“Based on information submitted on behalf of Michael Schmidt for the addition of two (2) self-storage units to an existing facility, which requires the issuance of a Special Use

Permit in accordance with Article XLVI of the Hamburg Zoning Code, as well as the Environmental Assessment Form, the Planning Board has determined that the proposal to construct two (2) new self-storage buildings on land located at 5139 Southwestern Boulevard, which is an Unlisted Action under SEQRA, will not result in any significant adverse environmental impact, and a Negative Declaration is hereby issued.” Carried.

Mr. Bellissimo made the following motion, seconded by Mr. Schawel, regarding the requested Special Use Permit:

“The Planning Board, in its review of the proposed Special Use Permit application and Site Plan, has determined that, in accordance with Section 280-312 (General provisions) and Sections 280-326.1 and 280-326.2 (Private rental storage; outdoor storage) that:

- A: The proposed two (2) units and the operation of the existing facility will be in harmony with the general purposes and intent of this chapter.
- B. It will not create a hazard to the health, safety or the general welfare.
- C. It will not alter the existing character of the neighborhood, commercial and industrial, and will not be detrimental to any residents, as there are no residential uses adjoining the site.
- D. It will not be detrimental to the public convenience and welfare.

Regarding Section 280-326.1:

- A. Outdoor storage as depicted on the plan will be at least 200 feet from any road right-of-way, and there will be no residential zoning or uses that need screening or buffering.

Regarding Section 280-326.2:

- A. There are no proposed or existing storage units within 100 feet of residential zoning districts or residential uses.
- B. The proposed mini-storage units are set back over 300 feet from Southwestern Boulevard and will be screened from the road.
- C. The project is a proposed expansion of an existing public storage facility, which grandfathers their use along Southwestern Boulevard.

Therefore, based on the SEQRA Negative Declaration issued and through thorough review of the project, the Planning Board approves the issuance of a Special Use Permit for the existing facility and the proposed expansion including outdoor storage with the following conditions:

1. The outdoor storage will be allowed in those areas depicted on the plan dated 2/9/2016.
2. No storage or other uses are allowed in the front area of the proposed zoned C-2 without proper approvals from the Planning Board.” Carried.

Mr. Bellissimo made the following motion, seconded by Mr. Schawel, regarding Site Plan Approval:

“The Planning Board hereby issues Site Plan Approval for two (2) new self-storage units totaling 13,900 sq.ft. with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated February 17, 2016.
2. The landscaping plan will be reviewed and approved by the Planning Department.
3. Clearing will not occur outside the clearing areas shown on the plan.”

Carried.

Mr. Reilly stated that there is to be no storage or any use of the front area of the site along Southwestern Boulevard unless the applicant returns to the Planning Board for approval of said use or storage.

Engineering Department comments have been filed with the Planning Department.

Michael Jablonski – Requesting a Special Use Permit to erect a residential wind energy conversion system on property located at 3134 Old Lakeview Road

Chairman O’Connell stated that this project would not be discussed at the request of the applicant.

Engineering Department comments have been filed with the Planning Department.

Oscar Williams – Requesting a Change in Use and Site Plan Approval of an ice cream store to be located at 4187 Lakeshore Road

Oscar Williams, applicant, stated that the suggestion by the New York State Department of Transportation (NYSDOT) to close off Lakeshore Road except for the access closest to Rodney’s is a good one, in his opinion. He stated that he does not understand the comments in the Engineering Department comment letter regarding sewer and water.

Mr. Reilly stated that Mr. Williams must revise the site plan to reflect the comments of the NYSDOT, and he reminded Mr. Williams that some of the parking spaces are shown less than ten (10) feet from the right-of-way, which is not acceptable. He noted that the Zoning Board of Appeals cannot grant a variance for a parking space to be less than ten (10) feet from a right-of-way.

Mr. Williams stated that the paving on this property has been there for many years. He stated that if he wanted to re-open the gas station that was previously there, he would not be having these problems with parking spaces being too close to the road. He noted that if he moves the problematic spaces ten (10) feet in from the road, he will have a problem with the traffic flow in the parking lot.

Mr. Williams stated that if he has to eliminate parking, people will end up parking on Camp Road, which will not be safe.

Mr. Williams agreed to move parking space # 6 at least ten (10) feet from the right-of-way. He indicated concern about parking spaces # 7 through 10, noting that that pavement is existing and he should be able to use that for motorcycles.

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

OTHER BUSINESS

Chairman O'Connell stated that at the Board's February 3, 2016 meeting there were some accusations made by an applicant about Mrs. desJardins that she contacted people about a Zoning Board of Appeals application, and the applicant did not think that was legal. Chairman O'Connell stated that Attorney Andrew Leja was in attendance this evening to discuss the accusations made regarding Mrs. desJardins.

Attorney Leja from Barclay Damon, special counsel to National Grid and Niagara Mohawk, stated that it was brought to his attention by one of Niagara Mohawk's in-house attorneys that there was an application pending in the Town of Hamburg from Michael Jablonski for a wind turbine that would be approximate to a transmission tower system that National Grid operates. He stated that having had some experience in the Town of Hamburg, he (Attorney Leja) was familiar with Mrs. desJardins, and he contacted her to find out what was going on. He stated that she informed him as to what had transpired relative to the application at both the Planning Board and Zoning Board meetings, and she informed him that Mr. Jablonski's proposal was being reviewed for one (1) tower at this time because only one (1) is allowed by the Town Code.

Attorney Leja stated that the second tower Mr. Jablonski is proposing is 185 feet from National Grid's property and it is less than the required 1.5 times the height of the tower away from the property line. He stated that National Grid is concerned about the 44-foot disparity between what is required by the Town Code and what is proposed.

Attorney Leja discussed the letter he submitted to the Planning Board for its February 3, 2016 meeting.

Attorney Leja stated that after he submitted the letter on February 3, 2016, he learned that Mr. Jablonski appeared before the Planning Board on that night and made a statement to the effect that National Grid was withdrawing its letter that he (Attorney Leja) submitted that same day. Attorney Leja stated that the Planning Board can be assured that this is not the case. He stated that National Grid continues to have serious reservations and objections to the location of Mr. Jablonski's second tower.

In response to a question from Chairman O'Connell, Attorney Leja confirmed that at no time did Mrs. desJardins or Mr. Reilly contact him, and the reason why he (Attorney Leja) was in attendance this evening was to set the record straight and to assure the Planning Board that the letter of objection submitted on February 3, 2016 is factual and has not been withdrawn.

Attorney Leja stated that Mrs. desJardins did not reach out to him, but rather he contacted her. He further stated that on February 3, 2016 he did contact Mr. Jablonski to introduce himself and to get additional information. He noted that Mr. Jablonski referred him to Mr. Keith DeGraff from United Wind, with whom Attorney Leja then spoke, who informed him that a letter from New York State Department Agriculture and Markets (Ag & Markets) was forthcoming that would declare this to be a wind turbine use for a farm agricultural use and as such, under Section 305 A of the Ag & Markets law, As & Markets has the right to step in and negate any local laws that are seen as unduly burdening to a farm operation in the opinion of Ag & Markets.

Attorney Leja stated that after hearing that a letter was forthcoming from Ag & Markets, he contacted someone from Ag & Markets who has been there a very long time, and that person informed him (Attorney Leja) that he is aware of Mr. Jablonski's proposal and there is no letter forthcoming from Ag & Markets.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to approve the minutes of February 3, 2016. Carried.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 7:40 P.M.

Respectfully submitted,

William Clark, Secretary

Planning Board

Date: March 10, 2016