

Town of Hamburg  
Planning Board Meeting  
February 5, 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, February 5, 2014 in Hamburg Town Hall, 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 Councilwoman Cheryl Potter-Juda, Andrew Reilly and Sarah desJardins, Town Planners, and Richard Lardo, Assistant Municipal Engineer.

## **WORK SESSION**

### **Brian Bates – Vacant land, Lakeview Road**

Mrs. desJardins stated that Mr. Bates recently purchased this property, which is zoned C-2, and is requesting that it be rezoned to R-A in order to construct a single family home for his family.

Mrs. desJardins stated that all of the properties inside the triangle consisting of Heltz Road, Southwestern Boulevard and Lakeview Road are zoned C-2, although the uses on them are residential in nature, and therefore the Code Review Committee is researching whether to rezone this entire area to R-A. She noted that Mr. Bates would rather not wait for the Town to rezone the other properties and would rather have his property rezoned at this time so he can construct his home.

Mr. Brian Bates, applicant, stated that he would like to locate his driveway on Heltz Road.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to recommend a Negative Declaration to the Town Board for this requested rezoning. Carried.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to forward a positive recommendation to the Town Board regarding Mr. Bates' request to rezone his property from C-2 to R-A. Carried.

### **John Kuebler – 5050 Fairgrounds Road**

Mrs. desJardins stated that the applicant owns this property on Fairgrounds Road that has a home on it, and he would like to subdivide the property so that a second home can be constructed on it. She noted that the subdivision meets all zoning requirements.

Mr. Lardo stated that the applicant must specify on the subdivision map what type of home (single-family or duplex) is planned for the vacant lot.

In response to a question from Mrs. desJardins, John Kalstek, prospective purchaser of the vacant lot, stated that he plans to construct a standard duplex on the property.

In response to a question from Mr. McCabe, Mr. John Kuebler, applicant, stated that there are duplexes in the vicinity of this property.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to schedule a public hearing on this matter to be held on February 19, 2014. Carried.

Engineering Department comments have been filed with the Planning Department.

## **REGULAR MEETING**

### **Public Hearing – WNY Recovery & Towing**

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 WNY Recovery & Towing to operate an auto repair and towing business at 5085 Southwestern Boulevard. The public hearing will be held on February 5, 2014 in Room 7B of Hamburg Town Hall.”

Mrs. desJardins stated that the applicant has shown on his survey where the towed vehicles will be stored behind the building. She noted that the area will be enclosed by an eight-foot high stockade fence, and millings are proposed for the surface of the storage area, as required by the Town Engineering Department.

Chairman O’Connell declared the public hearing open. No one spoke.

Chairman O’Connell declared the public hearing closed.

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

“Based on the information submitted for the Special Use Permit and site visits, the Planning Board has determined that the proposed project (existing business operation adding automotive repair and vehicle towing, both of which require a Special Use Permit) will not result in any significant adverse environmental impacts, and a Negative Declaration is hereby issued.” Carried.

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

“The Planning Board, in reviewing the proposed project and Special Use Permit, has determined, in accordance with Section 280-312, that:

1. The project will be in harmony with the purposes and intent of Section 280-312 (Special Use Permits).
2. The project will not create a hazard to health, safety and general welfare.
3. The project will not alter the essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.

The Planning Board has further determined that the project is in accordance with the special requirements for an automotive repair facility and towing facility as follows:

1. The use is not within 200 feet of any residential district boundary.
2. The Building Inspector shall make periodic inspections of the facility to ensure the proper maintenance of structures and the adequate clean-up of litter.

3. The size, location and materials used have been determined to be adequate by the Planning Board.

Based on the SEQR Negative Declaration, the information submitted and the Special Use Permit discussion, the Planning Board approves the issuance of a Special Use Permit with the following conditions:

1. All towed vehicles will be stored in the fenced-in area (eight-foot stockade fence) adjoining the building in the rear.
2. Landscaping along the road will be approved by the Planning Board.”

Carried.

Engineering Department comments have been filed with the Planning Department

### **Public Hearing – Eddy & Lewin Homes**

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a public hearing on a proposed 29-lot subdivision to be known as the Carnegie Subdivision and located south of Sowles Road and west of Harvard Street and Yale Avenue. The public hearing will be held on February 5, 2014 in Room 7B of Hamburg Town Hall.”

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the Preliminary Subdivision Plan has been revised to include a second storm water detention area to be located on Lot # 1, and the number of lots will therefore be reduced to 28.

In response to a question from Ms. Potter-Juda, Mr. Gow stated that the retention pond on Lot # 1 would be located as far south as possible, would be as small as possible, and any land that is left over would be used as a buffer for the existing home on Sowles Road that adjoins Lot #1 to the north.

It was determined that a Homeowners' Association would be required to own both lots on which the retention ponds are placed.

In response to a question from Mr. Reilly, Mr. Gow stated that the retention ponds would be shallow (five to six feet deep), and he noted that the retention pond on Lot # 1 would be approximately 25 to 30 feet from the back of the adjoining property to the north.

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

- Pam Hauser, 3683 Sowles Road, stated that she is concerned about the planned detention pond behind her home, and she would like a buffer between her home and the new road for the subdivision. She noted that there is only 19 feet between her garage and her western property line.
- A member of the public who resides at 3683 Sowles Road, stated that the area where the road is proposed into the subdivision floods when it rains. He stated that he is concerned about how big the retention pond behind his home would be and how much water will lay there.

Chairman O'Connell declared the public hearing closed.

In response to a question from Mr. Bellissimo, Mr. Gow stated that the developer's goal would be to retain as much of the existing vegetation in the area of the retention ponds as possible.

Mr. Bellissimo asked if "No Trespassing" signage would be erected in the area of the retention ponds. Mr. Lardo responded that the property would be owned by the Homeowners' Association, and it can do what it wants in that regard.

In response to a question from Mr. Geraci, Mr. Gow stated that the Homeowners' Association would be responsible for the liability of the retention ponds.

It was determined that the applicant will submit a schematic design of the retention pond area behind Ms. Hauser's home and a landscaping plan for the new entrance to the subdivision on Sowles Road.

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

"The Planning Board, in reviewing this proposed project, has determined that the project has fewer impacts and addresses good planning principles if it receives the variances requested. The requested variances and the reasons for them are as follows:

1. Front yard setback from 35 feet to 25 feet for all 28 lots – Because of the existing road network established by the previously constructed adjacent subdivision, the lots have established depths. To accommodate larger rear yards and a more neo-urban design, the homes need to be placed closer to the road.
2. To accommodate the request from the Planning Board to provide a larger buffer area to the existing commercial properties to the west of this subdivision, the applicant shortened the roadway to allow deeper lots for lots # 8 through 11. In shortening the roadway, the other lots (1 -5, 14 -21 and 24 -27) are reduced in area below the required 10,000 sq.ft. The developer could lose lots, but it is the Planning Board's opinion that these smaller lots are in character with the area. In modern planning terms, there is less infrastructure to maintain and a dense pattern of development to bear the costs of this infrastructure.

The Planning Board believes that the proposed subdivision with the requested variances fits in to the character of the area, matches the existing lots in the neighborhood, includes a better buffer to the existing commercial area, and allows a subdivision that does not increase the density allowed under the current zoning. Therefore, the Planning Board recommends approval of these variances." Carried.

Engineering Department comments have been filed with the Planning Department

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

Ms. Elizabeth Buscaglia, representing the applicant, showed Board members the proposed site plan for a new Arby's Restaurant, as well as elevations of the proposed building and an overlay she prepared for the New York State Department of Transportation (NYSDOT) showing the existing driveways to the north and south of this site. She stated that the applicant has received a verbal approval from the NYSDOT regarding the width and location of the proposed new curb cut pending the complete engineering of the site.

It was determined that the Traffic Safety Advisory Board has not reviewed this site plan to date.

Mr. Reszka stated that he recalls that the Town discourages pylon signs in this area of Camp Road. It was determined that the Camp Road Overlay does not allow new pylon signs and therefore a monument sign would be required.

Ms. Buscaglia agreed to submit some signage designs and correspondence from the NYSDOT at the Board's next meeting.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to schedule a public hearing on this matter to be held on February 19, 2014. 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 the alternate plan the developer would like to proceed with has been revised. He noted that the proposed flag lot on the northern end of the parcel has been moved so that its driveway is now located between two (2) frontage lots. He stated that in doing this, the stand of trees on the northern edge of the parcel can be retained as a buffer to the adjoining property.

Mr. Gow stated that a conservation area, including a detention area, has also been added to the subdivision plan in the rear of the parcel.

It was determined that the existing trees on the northern end of the parcel will be preserved, and this will be indicated on the subdivision plan.

Mr. Gow stated that the subdivision layout that meets the Lakeview Overlay District requirements provides lots with 135 feet of frontage and 22,500 sq.ft. of area. He noted that this plan is similar in layout to the alternate plan the developer has proposed, but in order to achieve the density the developer wants, there would have to be two (2) flag lots in the back.

It was determined that the plan that meets the requirements of the Lakeview Overlay District would consist of six (6) lots, and the alternate plan would consist of seven (7) lots.

It was further determined that the applicant would have to pay a fee per lot in lieu of providing recreation land.

Mr. McCabe referenced a memo from the Conservation Advisory Board regarding this proposal that recommends the preservation of an many of the beautiful old Silver Maple trees in the fifty-foot strip along the west side of Burke Road. He noted that the trees appear to have been planted in staggered rows thirty feet apart.

Mr. Bellissimo stated that he prefers the developer's alternate plan with seven (7) lots. Mr. Clark, Mr. Schawel and Mr. Geraci concurred.

Mr. Reszka stated that he prefers the plan that meets the requirements of the Lakeview Overlay District (six lots).

Chairman O'Connell stated that he has not decided yet which plan he prefers. Mr. McCabe concurred, noting that the Board should hear what the neighbors have to say at the public hearing.

Mr. Clark asked if the depth of the new frontage lot homes could be staggered. Mr. Gow responded it is possible that the new homeowners would prefer that. He noted that the homes must be at least 35 feet from the road, but some people prefer to be further back.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to schedule a public hearing on the proposed seven-lot subdivision layout to be held on February 19, 2014. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Sharma Development**

Chairman O'Connell stated that the applicant had asked for the project to remain tabled.

### **Jolie Mandell (5401 Lakeshore Road)**

Ms. Jolie Mandell, applicant, stated that since the Board's last meeting she and her family have met with the New York State Department of Environmental Conservation (NYSDEC) and the NYSDOT regarding her proposal, and she has revised her plan to reflect those discussions.

The applicant's father, Jim Mandell, stated that the representative of the NYSDOT he met with indicated that the NYSDOT frowns upon public use of the NYSDOT right-of-way and that if it is used, the NYSDOT charges a rental fee for that use. Mr. Mandell further stated that the representative of the NYSDOT also informed him that if a curb cut on Lakeshore Road is eliminated, the curbing must be restored to NYSDOT standards.

Mr. Mandell stated that he believes that the distance from the existing curb on Lakeshore Road to the property line is approximately eight (8) feet. He further stated that Ms. Mandell has retained an attorney who is working with the seller's attorney to order an updated survey of this property.

Mr. Mandell stated that the current plan would be for ingress and egress to be provided from Pleasant Avenue. He noted that two (2) parking spaces would be provided on the Pleasant Avenue side of the building, and four (4) parking spaces would be provided at a 90-degree angle to Pleasant Avenue.

Mr. Bellissimo asked how an emergency vehicle could maneuver the site. Mr. Mandell responded that he is still working on that issue and will be speaking with the NYSDOT engineers about that.

Board members expressed concern about the proximity of the two (2) parking spaces to Pleasant Avenue.

Ms. Mandell stated that she contacted the NYSDOT about any future plans for Lakeshore Road at this site, and she was told that there are no plans for this intersection but there are plans to do culvert work in the Wanakah area.

Mr. McCabe stated that the TSAB should review this project.

Board members agreed that the applicant must get the updated survey before the Board can consider this project.

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

### **OTHER BUSINESS**

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to approve the minutes of January 22, 2014. Carried.

Mr. Reilly stated that the Planning Board approved the Willow Woods subdivision with the condition that he would come up with an acceptable sign for the perimeter of the former landfill on the site. He noted that the signage design is acceptable, and he asked for input regarding where the signs should be placed.

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Mr. Reilly stated that if the signs are placed approximately 50 feet apart, approximately 18 signs would be required. He further stated that signage does not need to be placed on the far side of the landfill because people walking from the subdivision will see the signs on the other three (3) sides first.

Mr. Reilly stated that someone from the Town of Hamburg (possibly a Conservation Advisory Board member) will have to help the developer place the signs in appropriate locations around the former landfill.

It was determined that the signs will be placed as close to the former landfill area as possible. Mr. McCabe stated that it will be important to place signage near the swale where the mercury contamination was found.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 8:25 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: February 14, 2014