

Town of Hamburg  
Planning Board Meeting  
March 16, 2011

Minutes

The Town of Hamburg Planning Board met in regular session on Wednesday, March 16, 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, Sasha Yerkovich, Karen Rogers and David Bellissimo.

Others in attendance included Sarah desJardins, Andrew Reilly, Richard Lardo and Attorney Cheryl McFaddon-Zak.

Mr. Koenig asked for a moment of silence in honor of Lois Crandall, wife of former long-time Planning Board Chairman Richard Crandall.

**Public Hearing – Edu Kids, southeast corner of Lake Shore Road and Cloverbank Road**

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 proposal by Edu-Kids. The applicant proposes to demolish the existing Cloverbank Hotel and residence on the property and construct a day care facility. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on March 16, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mr. Reilly stated that the Engineering Department has indicated that it would like the sidewalk reconfigured at the corner of Lake Shore Road and Cloverbank Road. He further stated that the Town Code requires that the sidewalk along the rear of the building be located no closer than five (5) feet from the adjacent property line, noting that this would be a fairly large variance request if the sidewalk is not relocated.

Regarding the proposed Landscape Plan, Mr. Reilly suggested that the applicant contact a Registered Landscape Architect to determine what type of tree would have the best chance of survival along Lake Shore Road, given the amount of wind and salt spray they would encounter.

Mr. Reilly stated that the biggest issue from a planning perspective is the distance of the proposed building from the adjacent home.

Attorney Corey Auerbach from Damon Morey, representing the applicant, stated that the applicant believes that making a profitable use of what has become a dilapidated structure is in keeping with the general intent of the Town Code. He further stated that the Neighborhood Commercial District’s intent is to provide a commercial zoning district that meets the needs of residential neighborhoods without affecting the character of the residential area in which it is located. He noted that he had recently met with the adjoining resident on Glendale Avenue, Brooke Kaczmarek, and is confident any concerns she has about the project will be addressed to her satisfaction.

Attorney Auerbach stated that the project will not create a hazard to health, safety or general welfare of the community, noting that the entrances were moved as far as possible from Lake Shore Road and that a sidewalk will be installed along Cloverbank Road. He stated that this project will be a great benefit to the nearby residents, as it will provide a high level of day care

and education for children.

Attorney Auerbach stated that the project is in conformance with Section 280-315, which outlines additional requirements for day care centers. He noted that Edu Kids will be licensed by the State of New York, an average of 100 square feet per child of outdoor play space will be provided and more than adequate parking will be provided.

In response to a question from Mrs. Yerkovich, Attorney Auerbach stated that Mrs. Kaczmarek's primary concern is that she does not want to look out her bay window and see a building and that she wants to continue to be able to see Lake Erie from that window. He further stated that he does not believe she will actually see the building from her window because the applicant is prepared to be creative with buffering and screening. He noted that he plans to meet with her next week.

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

- Donald Weiss, Cloverbank Road resident, stated that he would like the Planning Board to place restrictions on access to Lake Shore Road and Orchard Avenue when approving the project. He further stated that he is concerned about the demolition of the existing structure on the property and the proper handling of the asbestos in the building, as well as the existing gas tanks on the site. He stated that he would like to see an independent observation of the demolition by a representative of the Town. He stated that he is also concerned that the six-foot fence proposed between the rear of the building and the existing home on Glendale Avenue might be removed, which would allow access to the building by unknown people. He stated that he would like to see the building as far away from Cloverbank Road as possible because of the possible danger of traffic on Cloverbank Road.

Chairman Reszka declared the public hearing closed.

Mr. Reilly stated that the Town does not have asbestos inspectors and therefore would not provide independent inspectors of the asbestos removal, as it would be taking on a liability it would not be responsible for. He further noted that both the removal of the asbestos and any existing gas tanks would be Department of Environmental Conservation matters.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to grant a Special Use Permit for the EduKids project with the following conditions:

1. Access to Route 5, as well as Orchard Avenue, shall be permanently restricted.
2. Proper buffering and adequate screening to the adjoining residential properties on Glendale Avenue will be required during Site Plan Approval.
3. All other conditions and criteria for Special Use Permit have been met.

Carried.

Board members discussed the two (2) variances that will be sought by the applicant. Mrs. desJardins explained that one variance is for the rear yard setback (30 feet is required and 10 feet is proposed) and the parking setback from Lake Shore Road (35 feet is required and 29 feet is proposed).

Mrs. Yerkovich stated that it is difficult to recommend to the Zoning Board of Appeals (ZBA) on the rear yard setback variance request because the Planning Board at this point does not know what arrangements will be worked out with the adjoining resident regarding buffering.

Attorney Auerbach stated that, when the Edu Kids project was first proposed, the Planning Board indicated that if the building were moved further away from Cloverbank Road and turned to face Lake Shore Road, it would support a variance request for relief from the rear yard setback

requirement.

Mr. Bellissimo responded that the Planning Board made that suggestion without knowing the details of the proposed location of the building relative to the existing home on Glendale Avenue.

Board members agreed that they were comfortable making a recommendation on the parking setback variance, but not on the rear yard setback variance.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to forward a positive recommendation to the ZBA regarding Edu Kids' request for a variance for the parking setback from Lake Shore Road (35 feet is required; 29 is proposed). Carried.

Mr. Bellissimo made a motion, seconded by Mr. Koenig, to schedule a public hearing for Site Plan Approval to be held on April 6, 2011. Carried.

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

Attorney Zak stated for the record that the ZBA and the Planning Board are independent Boards. Engineering Department comments have been filed with the Planning Department.

### **Whispering Pines Subdivision**

Mr. Reilly stated that at its last meeting the Board asked the applicant to provide a regular R-2 layout, as the proposed cluster layout has been modified. He noted that this is important because it would allow the Planning Board to determine the lot count allowed for the new cluster layout.

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the proposed lot width of the lots in the cluster development has been increased from fifty to sixty feet and the depth has been increased to 125 feet.

It was determined that the Planning Board authorized the use of cluster development at a previous meeting but did not authorize the number of lots allowed at that time.

Mr. Gow stated that a sketch has been done showing how the proposed homes would fit on the lots. He noted that 60 foot wide lots would leave the builder with 7.5 feet on either side of the home. Mr. Reilly responded that the Building Inspection Department has indicated that allowing for eight feet on either side of the homes would be preferable.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to re-authorize the use of cluster development for the Whispering Pines Subdivision. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to authorize 28 lots for the Whispering Pines Subdivision. Carried.

The consensus of the Board members was that they are in favor of waiving the requirement that dead-end streets be no longer than 500 feet. (The proposed dead-end street is 800 feet in length.)

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

Engineering Department comments have been filed with the Planning Department.

### **Yoviene Subdivision**

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the existing gas line on the site was recently relocated further south in order to make the property more developable. He further stated that the applicant had planned to further relocate the gas line but, after researching the idea, decided that it would be too costly and as a result all of the lots were shifted to the east side of the gas line.

Mr. Gow stated that an estate-size lot has been proposed south of the cluster development lots and that three lots fronting Taylor Road are proposed. He acknowledged that the Planning Board had previously indicated that it would prefer a green area along Taylor Road instead of building lots but noted that, when he researched the existing homes along Taylor Road in this area, he found that continuing the homes along the road so that they fit in with the surrounding area might provide a better buffer to the subdivision from the road.

Mr. Reilly stated that once the Planning Board approves the sketch plan, he will speak to the Town Board about whether they are interested in owning the land that the applicant is proposing to dedicate to the Town.

Mr. Gow stated that the applicant's intent is for the ponds and the undeveloped land to remain natural, whether it is owned by a homeowners' association or by the Town of Hamburg.

In response to a question from Mr. Koenig, Mr. Gow stated that the ponds would be wet.

In response to a question from Mr. Reilly, Mr. Gow stated that the total acreage of the site is approximately 146 acres.

In response to a question from Chairman Reszka, Mr. Gow stated that if the Town were to take ownership of the undeveloped land, the applicant would probably provide some sort of access for the public. Mr. Lardo stated that access would also have to be provided for access to the ponds for maintenance.

Dan Duggan and John Mumbach, residents of Taylor Road, asked where the homes would be located in relation to their homes.

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

Engineering Department comments have been filed with the Planning Department.

### **Rosewood Hotel**

Mrs. desJardins stated that the applicant asked to be tabled.

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

Engineering Department comments have been filed with the Planning Department.

**Gina Barrett (Lake Shore Road)**

Mrs. desJardins stated that the applicant asked to be tabled.

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

Engineering Department comments have been filed with the Planning Department.

**OTHER BUSINESS**

Mr. Reilly stated that Mr. Ciaravino (4214 Howard Road) received Site Plan Approval in 2010 for a storage building. He further stated that Mr. Ciaravino would like to revise the size of the building by reducing the width by five (5) feet and increasing the length by four (4) feet. This would result in the building's northwest corner infringing upon the twenty-foot green area along South Park Avenue slightly.

Board members agreed that this will be placed on the April 6, 2011 agenda so that the Board can review the request for a slight reduction in the amount of green area provided along South Park Avenue.

Mr. Bellissimo made a motion, seconded by Mr. Koenig, to approve the minutes of February 2, 2011. Carried.

Mr. Bellissimo made a motion, seconded by Mrs. Yerkovich, to adjourn the meeting. Carried. The meeting was adjourned at 8:15 PM.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board