

Town of Hamburg
Planning Board Meeting

April 20, 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, April 20, 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, William Clark, Augie Geraci, Robert Mahoney and Al Monaco.

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

WORK SESSION

Charley Kumet – Requesting Site Plan Approval of a 3,200 sq.ft. pole barn at 5407 Maelou Drive

Charley Kumet, applicant, stated that his property is located on the south side of Maelou Drive behind the First Niagara Bank building.

Mrs. desJardins stated that the applicant owns two (2) parcels on Maelou Drive. She noted that the parcel where his home is located is zoned residential, and the vacant parcel behind that is zoned commercial.

In response to a question from Mrs. desJardins, Mr. Kumet stated that the items he plans to store in the pole barn include several vehicles, two (2) wood splitters, miscellaneous tools and a small camper.

In response to a question from Chairman O'Connell, Mr. Kumet stated that he does not plan to rent any of the pole barn to anyone, and it would strictly be used for personal storage.

In response to a question from Mrs. desJardins, Mr. Kumet stated that he would probably install a dirt driveway on the property to access to pole barn

The applicant agreed to investigate combining the two (2) parcels.

Mr. Lardo stated that unless the two (2) parcels are combined now, the rear parcel would have to be treated as a commercial parcel.

Mr. Bellissimo made a motion, seconded by Mr. Clark, to schedule a public hearing to be held on May 4, 2016. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING**Public Hearing – 7:00 P.M., Gullo’s Garden Center (4767 Southwestern Boulevard)**

Dave Derkacz, senior designer for Gullo’s Garden Center, stated that Gullo’s would like to operate a Farmers’ Market on a portion of the existing parking lot. He stated that Gullo’s feels that this would be a natural extension of what it already does. He noted that Gullo’s transactions on Sundays after the month of June drop off dramatically, and they are looking to utilize the parking area and also generate some tie-in sales.

In response to a question from Chairman O’Connell, Mr. Derkacz stated that Evenhouse Printing (adjacent business) is not open on Sundays, and Gullo’s has permission to use the Evenhouse Printing parking area for overflow parking.

Mr. Clark 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 Gullo’s Garden Center to amend the existing Special Use Permit to allow a farmers’ market to be held on Sundays from July to October at 4767 Southwestern Boulevard. The Public Hearing will be held on April 20, 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:

- Kim Koscielnik, 3584 Abbott Road, stated that this is a great idea.
- Donald Weiss, 2964 Cloverbank Road, stated that the Hamburg Taxpayers’ Association is in favor of the proposed Farmers’ Market.

Chairman O’Connell declared the public hearing closed.

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

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the request from Gullo’s Garden Center, located at 4767 Southwestern Boulevard, to amend the existing Special Use Permit to allow a Farmers’ Market on Sundays between July and October. The project is a Type 2 action under SEQR and will not have a significant impact on the environment. Therefore, a SEQR determination is not required and SEQR review is completed.”

Carried.

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

“Based on the review of the Gullo’s Garden Center proposal to amend the existing Special Use Permit to allow a Farmers’ Market on a portion of the existing parking lot on Sundays between July and October and having completed the SEQR process, the Hamburg Planning Board hereby issues Site Plan Approval for the proposal.”

Carried.

Public Hearing – 7:00 P.M., Lucia’s Restaurant (4151 Lakeshore Road)

Daryl Martin, architect, representing the applicant, stated that variances were granted for the overall lot coverage and to reduce the distance of the new parking area to ten (10) feet from the LaSalle Avenue right-of-way.

Mr. Martin stated that the dumpster location has been changed from the originally approved site plan to be more accessible to the kitchen.

Mr. Clark 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 Lucia’s Restaurant to amend the approved Site Plan to include a parking lot extension at 4151 Lakeshore Road. The Public Hearing will be held on April 20, 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:

- Donald Weiss, 2963 Cloverbank Road, stated that he believes that at least one (1) of the three (3) parking spaces along Route 5 should be removed.

Chairman O’Connell declared the public hearing closed.

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

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the revised Lucia’s restaurant project, located at 4151 Lakeshore Road. This is a Type 2 action under SEQR and will not have a significant impact on the environment. Therefore, a SEQR determination is not required and SEQR review is completed.” Carried.

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

“Based on the review of the amended Site Plan for the Lucia’s restaurant project and having completed the SEQR process, the Hamburg Planning Board hereby issues Site Plan Approval of the amended plan for the Lucia’s restaurant project, located at 4151 Lakeshore Road, with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated 4-20-16.
- The landscaping plan shall be reviewed and approved by the Planning Department.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Glenn Wetzl – Requesting Sketch Plan Direction on a proposed senior apartment project on Southwestern Boulevard in front of the Brookview Apartment complex

Attorney Sean Hopkins, representing the applicant, stated that subsequent to receiving preliminary input from the Planning Board' at its last meeting, he and Chris Wood, engineer, met with Kurt Allen, Rick Lardo and Sarah desJardins to discuss the layout of the proposed project. He stated that as a result of that meeting, one of the buildings was reoriented to allow access to the site from the existing driveway for the Brookview Apartments development. He noted that the new layout also reduces the impact to the existing federal wetlands on the site.

Attorney Hopkins stated that a wetland delineation will be performed on this site, and the report will be submitted to the Planning Board for its review.

Attorney Hopkins stated that a variance will be required for one (1) corner of the site where the building is closer than the required 50 feet from the property line shared with the Brookview Apartments development, which is owned by Mr. Wetzl.

Attorney Hopkins stated that when the Site Plan application is submitted for this project, a request for a Minor Subdivision will also be submitted.

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

Engineering Department comments have been filed with the Planning Department.

Clifton Heights Apartments

Attorney Sean Hopkins, representing the applicant, stated that he and Chris Wood, engineer for the project, met with Mr. Lardo and Supervising Code Enforcement Official Kurt Allen regarding fire access around the proposed building in the southwest corner of the site. He noted that it was determined that in order to comply with the New York State Fire Code, vehicular access has been added behind this building. He stated that this resulted in 25 feet of the 50-foot conservation easement area being impacted behind this building.

Attorney Hopkins asked Board members to approve the site plan for this project subject to a condition that the Town Board would have to approve a request to modify the conservation area as shown on the plan to allow the fire access around the building in the southwest corner of the site. He further asked Board members to forward a positive recommendation to the Town Board regarding amending the condition of rezoning.

Attorney Hopkins reminded Board members that the conservation area was offered by the applicant and was not originally required by the Town Board. He further noted that there will be no harm to adjoining property owners, as the distance from the edge of the conservation area to the nearest home would be 732 feet.

Chairman O'Connell stated that at its last meeting, Board members indicated that they were willing to conditionally approve the project and forward a positive recommendation to the Town Board regarding the change to the condition relative to the conservation area.

Mr. Reilly stated that what the applicant is asking the Board to do is not typically done, although it is not illegal.

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

“Whereas, on April 11, 2016 the Hamburg Town Board received a request from the Hanania Family Partnership LP to modify Condition “b” in connection with its approval on November 23, 2015 of the rezoning of approximately 9.5 acres of property located at 4819 Southwestern Boulevard) from C-1 (Local Retail Business District) to R-3 (Multifamily District); and

Whereas, Condition “b” in the resolution adopted by the Town Board on November 23, 2015 required a conservation easement to be provided as depicted on the Concept Plan for the project prepared by Carmina Wood Morris DPC dated November 19, 2015; and

Whereas, the Hanania Family Partnership LP is requesting that Condition “b” be modified to accommodate a reduction of the width of a portion of the conservation easement area from 50 feet to 25 feet as depicted on the Overall Site Plan prepared by Carmina Wood Morris dated April 18, 2016 in order to accommodate an internal driveway needed for emergency access purposes on the south side of the proposed multifamily building on the southwestern portion of 4819 Southwestern Boulevard.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby forwards a positive recommendation to the Town Board regarding the requested amendment to Condition “b”. The Planning Board further recommends that the Town Board issue a Negative Declaration in connection with its decision to amend Condition “b”.”

Carried.

Chairman O’Connell stated that the Planning Board is not trying to muscle the Town Board, but rather the Planning Board understands the timing issue the applicant has.

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

“Whereas, in accordance with the New York State SEQR Law, the Hamburg Town Board, acting as Lead Agency for the rezoning of approximately 9.5 acres of property located at 4819 Southwestern Boulevard) from C-1 (Local Retail Business District) to R-3 (Multifamily District) for the development of a 130-unit apartment complex, determined that the rezoning and proposed project would not result in any significant adverse environmental impacts and a Negative Declaration was issued; and

Whereas, the Town Board approved the rezoning with the following conditions:

- a. “The only access to Southwestern Boulevard from these lands will be the new access road (no additional curb cuts will be allowed).
- b. Conservation easements as shown on the above referenced plan shall be provided to the Town of Hamburg.”; and

Whereas, the Town Planning Board has received a site plan application for the development of 130 units of apartments on the property that was rezoned as discussed previously; and

Whereas, the Planning Board has reviewed this proposal and held the required public hearing.

Now, Therefore, Be It Resolved that the Planning Board finds the project in substantial conformance with the SEQR Negative Declaration issued by the Town Board and therefore does not need to re-open SEQR, and

Be It Further Resolved that the Planning Board finds the project in accordance with the rezoning conditions, except as noted below, and therefore issues Conditional Site Plan Approval of this project with following conditions:

- Approval is contingent upon the Engineering Department comment letter dated April 20, 2016.
- The landscaping plan shall be reviewed and approved by the Planning Department.
- Approval is contingent upon the Town Board amending rezoning condition “b” concerning the conservation easement area.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Frank Russo – Requesting Preliminary Approval of a 14-lot subdivision as an extension of Niles Avenue

Keith Marquis, engineer, representing the applicant, stated that since the Board’s last meeting, the applicant met with his wetlands delineator, and it was determined that one (1) of the three (3) lots impacted by existing wetlands can be built on (Lot # 1). He noted that the applicant would like to treat the other two (2) unbuildable lots as an “exception” and treat this as a 12-lot subdivision.

Mr. Marquis stated that if, in the future, the “exception” area can be built upon, the applicant would return to the Planning Board for approval.

Mr. Reilly stated that his concern is that the applicant would in the future stop paying taxes on the “exception” property if he cannot build on it.

Kim Koscielnik, nearby resident, asked where the wetlands are on the site and asked if anything is proposed in the flood plain.

Board members discussed how the extension of Niles Avenue might affect the resident at 3580 Niles Avenue, whose driveway is across the street from the proposed Lot # 6.

Mr. Marquis was informed that the Board will want to see the written proof of the status of the wetlands on the site.

Mr. Bellissimo made a motion, seconded by Mr. Geraci, to authorize the Planning Department to put approval resolutions together for the Board's next meeting, and also to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

David Homes – Requesting an amendment to an approved Site Plan for the Villas at Brierwood on Southwestern Boulevard

Kevin Curry with David Homes, representing the applicant, submitted the following correspondence from David Stapleton from David Homes:

“I am writing to you about the sidewalk requirement at the Villas at Brierwood. You have my full understanding and attention that the sidewalks are a requirement of our past site plan approvals. Currently we are seeking a minor modification of our site plan which will allow us to save some trees and better allocate our greenspace. We believe this minor modification is a win for everyone. You have my assurance that David Homes will install sidewalks this construction season, presuming the requirement is not withdrawn or allowed to be delayed by your Board. I will not bore you with the reasoning for our requests in this letter, but I assure you we will respect and abide by the decision of your Board. I am simply asking that you provide Kevin Curry the opportunity to present this evening his thoughts on both the sidewalk issue and the minor modification issue. Sincerely, David Stapleton.”

Chairman O'Connell stated that five (5) years ago when the Villas at Brierwood was approved by the Planning Board, the sidewalks from Southwestern Boulevard into the development was required. He noted that before the Board discusses anything else with the applicant, that sidewalks must be constructed.

Mr. Curry stated that the applicant recently had a meeting with the New York State Department of Transportation (NYSDOT) relative to some concerns about the traffic lanes. He stated that the studies currently being done by NYSDOT relative to the traffic lanes concerns may have an impact on whether or not the sidewalks should go in.

Mr. Curry stated that when the front part of the site earmarked for commercial development is developed, the sidewalks would definitely be constructed. He further stated that he does not know why the sidewalk was proposed on one side of the entrance to the development and then crosses to the other side. He noted that it may make more sense to keep the sidewalk on one (1) side of the entrance.

Mr. Curry stated that the applicant is concerned that sidewalks in this location would be leading to nowhere. He further stated that the residents of the development have not asked that the sidewalks be constructed.

Mr. Curry stated that the applicant is concerned about seniors wandering away from the development using the sidewalks, since they lead to a State Highway without sidewalks.

Mr. Curry stated that if the Board requires the sidewalks be constructed, the applicant will do so, and the applicant does respect the Board's authority.

Chairman O'Connell made a motion, seconded by Mr. Bellissimo, to table this project until the sidewalk issue is resolved. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Chairman O'Connell noted that Board members received correspondence from the Conservation Advisory Board regarding the cellular tower that was approved by the Planning Board

Mr. Clark made a motion, seconded by Mr. Schawel, to approve the minutes of April 6, 2016. Carried.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 8:00 P.M.

Respectfully submitted,

William Clark, Secretary

Planning Board

Date: April 27, 2016