

Town of Hamburg
Planning Board Work Session
April 6, 2011
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, April 6, 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, Karen Rogers and Sasha Yerkovich.

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

Public Hearing – Edu Kids

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 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 April 6, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mr. Reilly stated that this property was recently rezoned by the Hamburg Town Board and that the Planning Board has been reviewing the site plan for a few months. He further stated that the applicant received two (2) variances from the Zoning Board of Appeals (ZBA) on April 5, 2011 and that the purpose of this public hearing is to gather input from the public regarding the proposed site plan for this project.

Victor O'Brien from C & S Engineers, representing the applicant, stated that the project consists of a 7,200 sq.ft. Edu Kids building, along with 22 parking spaces, with access from Cloverbank Road and Glendale Avenue. He further stated that the two (2) variances received from the ZBA were for a parking setback and a rear yard setback. He reviewed the proposed landscaping plan with Board members.

In response to a question from Mr. Reilly, Mr. O'Brien stated that a sidewalk is not planned along Route 5 but is planned along Cloverbank Road. He further stated that he has addressed the comments of the Engineering Department and believes that the Engineering Department is satisfied with the latest drawings submitted.

Mr. Bellissimo stated that he attended the April 5th ZBA meeting and that the ZBA had no problem with the parking setback variance but did have concerns regarding the rear yard setback variance because the most affected neighbor was in attendance. He noted that the neighbor did admit that she was late in voicing her concerns about the Edu Kids building being proposed so close to her home. Mr. Bellissimo further stated that one of the ZBA members indicated at the meeting that he wanted the Planning Board to be aware of the concerns voiced by the neighbor and attempt to make her situation as palatable as possible.

Board members discussed whether a six-foot high fence on the property line shared with the neighbor makes sense, given that the neighbor's home is located six inches from her property line. They also discussed different locations, types and heights of a possible fence that might be agreeable to the neighbor.

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

- Nancy Ware, owner of Edu Kids, stated that she has made many attempts to work with the adjacent neighbor and will continue to do so. She stated that she would much prefer a small white picket fence along the property line shared with the neighbor to a six foot high fence. She further stated that she would like to open this facility in the Fall and asked that she receive approval at this meeting.
- Donald Weiss, resident, urged the Planning Board to approve this project and stated that this is a fine project for the neighborhood and a good use of an abandoned property.

Chairman Reszka declared the public hearing closed.

Chairman Reszka asked Mr. Bellissimo to report on what the adjacent neighbor's concerns were at the April 5th ZBA meeting. Mr. Bellissimo responded that the neighbor has a lattice front porch which affords her a view of Lake Erie and she does not want that obstructed by shrubbery or a fence. He noted that the Planning Board could stipulate that Mrs. Ware work with the neighbor to assure her that nothing will obstruct her view.

Board members discussed whether to approve the project contingent upon the applicant working out the screening issues with the neighbor or to table the project for two weeks to give the applicant more time to try and come to an agreement with the neighbor.

Board members agreed that a four-foot high fence placed 2.5 feet inside the applicant's property might be a solution.

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

1. Up to a four-foot high vinyl-coated or opaque chain link fence will be installed from the northeast corner of the Edu Kids building along the east lot line and will stop at the southeast corner of the Edu Kids building. The fence will be installed two feet inside the Edu Kids property line.
2. Approval is contingent upon the Engineering Department comment letter dated April 6, 2011.
3. The landscaping plan shall be approved by the Planning Department and special attention will be given to the southeast corner of the property near the neighbor's home.
4. Nautical elements will be incorporated as noted on the site plan and on the signage.

Carried.

Engineering Department comments have been filed with the Planning Department.

Bill Ciaravino – 4214 Howard Road

Mr. Reilly reminded Board members that Mr. Ciaravino's project was recently approved by the Planning Board and that at that time the Board waived the required forty feet of green area along South Park Avenue down to twenty feet. He stated that Mr. Ciaravino would like to locate the storage building ten feet from the existing home on the site instead of five (5) feet as previously proposed and noted that this would result in the building infringing on the twenty feet of required green space by less than two (2) feet.

Mr. Bellissimo made a motion, seconded by Mr. Koenig, to waive the South Park Overlay District green space requirement of twenty feet by a distance of 1.9 feet and approve the amended site plan. Carried.

Engineering Department comments have been filed with the Planning Department.

Whispering Pines Subdivision

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the Planning Board previously authorized the use of cluster and approved the number of lots to be developed. He further stated that a Preliminary Plat has been submitted for the Board's review.

Mr. Reilly stated that more engineering detail is required on the Preliminary Plat, noting that an Engineering Report is required. He further noted that the applicant must also demonstrate how the proposed homes will fit on the lots by depicting three adjacent lots and the homes situated on them. He stated that a side yard setback of at least eight (8) feet must be provided for each lot.

In response to a question from Mr. Reilly, Mr. Gow stated that, although the road is proposed to be public, a Homeowners' Association would be formed. He further confirmed that the Homeowners' Association would maintain the open areas in the subdivision and that a Conservation Easement would be placed on the open areas.

Mr. Reilly stated that the applicant should consider how to demarcate the areas to be placed in the Conservation Easement so that residents are aware of its boundaries.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to initiate the SEQR Coordinated Review process and request Lead Agency status and to schedule a public hearing for May 18, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Gina Barrett (4904 Lakeshore Road)

Chairman Reszka stated that, on advice from counsel, he would recuse himself from any discussion of this project, as he is an acquaintance of the applicant's husband.

Jim Bammel, architect, representing the applicant, stated that Gina Barrett has made contact with the property owner across Route 5 from her property, who has agreed to allow her yoga studio employees to park in six (6) of his parking spaces. Mr. Bammel noted that Mrs. Barrett can provide fifteen (15) spaces on her own property for her yoga studio clients. Mr. Bammel further stated that he has provided a letter to the Planning Department from the property owner across the street indicating that he will allow Mrs. Barrett the use of six (6) spaces along Route 5.

Board members discussed the proposed layout of the parking to be provided on Mrs. Barrett's property and had concerns regarding whether the layout would actually work in reality.

Mr. Reilly stated that the consensus of the individuals who attended the Staff Meeting earlier in the day was that the idea of encouraging anyone to cross Route 5 to park is problematic. He further stated that he understands that Mrs. Barrett is attempting to locate another business on the site but that he does not see how the proposed parking on her property would work and is concerned about people crossing Route 5. He noted that the parking spaces allocated for the employees across the street appear to be located in the Route 5 right-of-way and are situated such that people would have to back out onto Route 5 to exit the spaces.

Mrs. Yerkovich stated that Route 5 is a principal arterial roadway and she cannot imagine the Planning Board approving employee parking across Route 5 from the building in which they would work.

Mr. McCabe stated that this is a public safety issue.

Mr. Reilly stated that the Town welcomes new businesses but this is a difficult spot to deal with.

Mr. Bammel stated that this is not an easy situation and that perhaps the applicant has greater aspirations than what the Planning Board is comfortable allowing.

Engineering Department comments have been filed with the Planning Department.

Glenn Wetzl – Southwestern Boulevard

Attorney Sean Hopkins, representing the applicant, stated that a concept plan was previously presented to the Board that consisted of 172 apartment units and an

attached senior housing building. He noted that the applicant has decided not to pursue the senior housing project at this time and is now focused solely on the rear portion of the site, on which he is proposing to construct 168 apartment units.

Attorney Hopkins stated that changes that have been made to the layout of the apartment buildings include the elimination of the previously shown emergency access to the existing stub street at the rear of the site and pulling the development away from the rear property line in order to give the existing homes more room between their homes and the apartment buildings. He further stated that the fifty foot area along the rear lot line does contain large trees that will be preserved if at all possible.

In response to a question from Mr. Koenig, Attorney Hopkins stated that there is a creek that runs through the property and the applicant will defer to the Town's expertise regarding whether an emergency access should be provided or not.

In response to a question from Mr. Reilly, Attorney Hopkins stated that he believes that securing approval from the New York State Department of Transportation (NYSDOT) to provide an emergency access onto its adjacent property would be extremely difficult.

Attorney Hopkins stated that the applicant has attempted to add some character to the layout of the apartment buildings, noting that approximately 575 trees and bushes are proposed in order to soften the feel of the project. He further stated that setback variances will be sought on the east and west sides of the project, noting that no setback variances will be sought for any buildings in the rear of the site. He stated that before the applicant incurs costs to have the project engineered as proposed, he is requesting that the Planning Board forward a recommendation on the requested variances to the ZBA so that the applicant can find out if the variances can be obtained.

It was determined that the variances requested would be to reduce the required distance of the apartment buildings from the property lines (fifty feet is required).

Attorney Hopkins stated that a market study has been done that demonstrates a demand for apartments.

Mr. McCabe stated that he is somewhat skeptical about the clearing limits shown at the rear of the site, noting that the Planning Board has never seen buildings of this size where those kind of clearing limits were able to be maintained. Glenn Wetzl, applicant, responded that he can maintain the clearing limits shown, noting that it is more expensive and takes more time but he can do it.

Mr. Reilly stated that when this project gets to the site plan phase, the Board will pay close attention to the rear of the site and noted that if the Board tells the public that trees will be saved in that area, they will be saved. He asked Mr. Wetzl to have his engineer look closely at the grading in the rear of the site to make sure that the trees in that area will not have to be disturbed.

Mr. Robert Gee, 3960 Summerway Lane, stated that he has owned his home for over six years and is concerned about a plan to place any type of structure fifty feet from his property. He stated that this project would add noise, vehicles and smog to a quiet environment and would lower the value of his property. He further stated that this project would hurt his neighborhood. Mr. Gee asked why the developer could not leave the last 200 feet of the site open to give the existing residents some space between the project and their homes.

Mr. Reilly stated that the Planning Board will take into consideration, as much as possible, the fact that there are existing residential homes adjacent to this site and will protect the existing neighbors environmentally as much as possible. He noted, however, that the property is zoned R-3, which allows this type of development.

Attorney Hopkins stated that he and Mr. Wetzl welcome the opportunity to meet with the neighbors and discuss landscaping, screening, berms, etc.

Mrs. Yerkovich stated that the Planning Board cannot, by law, deny a property owner's right to develop his property if what he proposes meets the requirements of the Town's laws.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to forward a positive recommendation to the ZBA regarding the requested side yard setback variances on the east and west sides of the project, as well as the requested side yard setback variances from the proposed new property line. The sketch plan received on April 1, 2011 references the individual setback variance requests. Carried.

Chairman Reszka asked the applicant to relocate the two (2) dumpsters proposed at the rear of the site to locations as far away as possible from the existing homes on Summerway Lane.

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

Engineering Department comments have been filed with the Planning Department.

Tecumseh Two-Lot Subdivision

Mr. Reilly stated that the Town is purchasing the old Lake Erie Industrial Park located on the east side of Route 5 between Bayview Road and Big Tree Road. He further stated that the seller of the property would like to retain a small portion of the site and is requesting a two-lot subdivision so that the property to be retained is a legal sub lot.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to schedule a public hearing for this subdivision for April 20, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Rezoning proposal – 2873 Cloverbank Road

Mr. Reilly stated that the property located on the corner of Cloverbank Road and Briercliff Drive was incorrectly rezoned to PUD when the Briercliff PUD was developed. He further stated that the property owner has requested that the Town Board rezone his property to R-1, which is what it was zoned prior to the Briercliff PUD being developed.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to forward a positive recommendation to the Town Board regarding rezoning the property located at 2873 Cloverbank Road from PUD to R-1. Carried.

OTHER BUSINESS

Mr. Reilly reported that Wegman's plans to construct a small eating area on the east side of the building along McKinley Parkway. Board members concurred that a Site Plan Waiver is appropriate.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to approve the minutes of March 16, 2011. Carried.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to adjourn the meeting. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board