

Town of Hamburg
Planning Board Meeting
May 18, 2011
Minutes

The Town of Hamburg Planning Board met in regular session on Wednesday, May 18, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Sasha Yerkovich, Karen Rogers, Gerard Koenig, Stephen McCabe and David Bellissimo.

Others in attendance included Sarah desJardins and Andrew Reilly, Planning Consultants and Richard Lardo, Assistant Municipal Engineer.

Excused: Chairman Peter Reszka

Because Chairman Reszka was unable to attend the meeting, Sasha Yerkovich was the Acting Chairperson.

Public Hearing – Whispering Pines Subdivision

Mr. McCabe read the following public hearing notice:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a 28-lot subdivision known as Whispering Pines Subdivision to be located east of Dorchester Road, west of Brompton Parkway on May 18, 2011 in Room 7 B of Hamburg Town Hall at 7:00 P.M. The property is described as follows: SBL # 160.15-1-48.11 et. al.

Andy Gow from Nussbaumer & Clarke appeared on behalf of the proposed project with the applicant, David Burke. Mr. Gow stated that the project consists of 28 single-family units and an 800-foot public road. He stated that the project site is 15 acres in size and zoned R-2. He further stated that the applicant proposes to leave approximately eight (8) acres of land as green space that would be maintained by a Homeowners’ Association. He noted that the applicant proposes to abandon a small portion of a few existing paper streets and is aware that he will have to request the abandonment from the Town of Hamburg Town Board.

Mr. Reilly stated that the Planning Board authorized the use of cluster in order to consolidate the lots and preserve green space. He further stated that the Coordinated Review was begun and that the Planning Board should declare itself Lead Agency under SEQRA.

Mrs. desJardins read a letter received from the New York State Department of Environmental Conservation (NYSDEC) that was written in response to the SEQRA Coordinated Review. The letter, in part, referenced a threatened plant species (the Blunt-lobe Grape Fern) that was last sighted in 1931 and recommended that a professional botanist or landscape architect undertake a survey of the available information in the New York State Natural Heritage Program databases to determine if the proposed project site contains habitats favoring this threatened species.

Mr. Reilly suggested that the applicant get a botanist to survey whether the habitat that favors the plant species exists on the project site.

Mr. Reilly stated that he would like to see the green areas that will be maintained by the Homeowners’ Association placed in a Conservation Easement so that the Town can make sure that the green space remains undeveloped.

Acting Chairperson Yerkovich declared the public hearing open. The following people spoke:

- Laura Podkulski, 4332 McKinley Parkway, asked if a traffic study has been done

regarding the intersection of Brompton Parkway and McKinley Parkway, noting that it seems that the number of accidents in this area is increasing. Mr. Gow responded that a traffic study has not been done on this intersection because the New York State Department of Transportation (NYSDOT) has not asked for one. He further stated that the proposed development is not large enough to warrant a traffic study.

Mr. Reilly stated that the Planning Department will ask the Traffic Safety Advisory Board (TSAB) to look at this intersection at its June meeting.

Acting Chairperson Yerkovich declared the public hearing closed.

Mr. Reilly stated that the applicant must submit to the Planning Board an engineering report showing that the proposed drainage plan for the site will work, a plan depicting three adjacent lots and how the homes would fit on each lot and a plan for demarcating the areas to be placed in the Conservation Easement.

Mr. Koenig stated that the applicant should also have a botanist survey the project site for the plant species' habitat. Mr. Reilly stated that the Planning Board would accept a letter from a botanist or landscape architect indicating that the habitat does not exist on the project site and noted that the applicant should also check with the NYSDEC to make sure the letter meets its criteria.

Mr. McCabe made a motion, seconded by Mr. Koenig, that the Planning Board declared itself Lead Agency under SEQRA. Carried.

Mr. McCabe made a motion, seconded by Mr. Koenig, to table this project until the Board's June 1, 2011 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Eckel Subdivision (Taylor Road)

Mr. Eckel, applicant, stated that he would like to split off a building lot for his son.

Mrs. desJardins stated that Mr. Eckel will submit revised plans before the Planning Board holds the public hearing that will number the two (2) lots and indicate the location of the existing gas line that crosses the parcel Mr. Eckel will retain.

Mr. Reilly stated that the Planning Department has reviewed the submitted Short Environmental Assessment Form (EAF) for this two-lot subdivision and recommends that the Planning Board issue a Negative Declaration.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to issue a Negative Declaration for this subdivision. Carried.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to schedule a public hearing for this subdivision to be held on June 1, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

Wanakah Grill

Jim Rath and Jim Healy, applicants, appeared on behalf of the proposed project. Mr. Rath stated that they would like to re-open the restaurant and expand the parking area on the site.

Mr. Reilly stated that, although the Planning Board normally does not review parking lot expansions, it is seeing this project because the applicants require a variance to provide fewer parking spaces than what is required by the Town Code. He further stated that the Town Code requires that any project requiring a variance must receive Site Plan review.

Mrs. desJardins stated that the Planning Board can hold the required public hearing for this proposal on June 1, 2011 and at that time forward a recommendation to the Zoning Board of Appeals (ZBA) on the requested variance. She noted that the applicants would then go to the ZBA on June 7, 2011.

In response to a question from Mr. Bellissimo, Mr. Rath stated that they plan to install a light pole in the rear of the property that would be directed toward the parking lot and the side of the building. Mr. Reilly stated that he would prefer a shielded light to ensure that it does not adversely affect the adjoining residences.

The applicants stated that they plan to install a solid wood fence along the property's northern boundary. They further agreed that there will be no outside speaker system.

Board members agreed that they would prefer to wait until the night of the public hearing to forward a recommendation to the ZBA regarding the applicant's request for a variance.

Mr. Koenig made a motion, seconded by Mr. McCabe, to issue a Negative Declaration for this project. Carried.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to schedule a public hearing for this project to be held on June 1, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

1. Mrs. desJardins stated that the owner of Council Opticians is considering purchasing the former Fasttrack oil change building located at 6000 South Park Avenue. She further stated that the prospective owner requests that the Planning Board consider allowing him a curb cut onto South Park Avenue so that his customers do not have to drive through the plaza parking lot to access the building.

Mr. Koenig stated that he remembers that several years ago the Planning Board resolved that the owner of that building could not have a curb cut onto South Park Avenue because the Board was attempting to cut down on the number of curb cuts in that area.

Board members discussed the prospective owner's request and it was determined that the TSAB will be asked to review this request at its June meeting. The consensus of the Board was that a compromise would be a right-in, right-out only access, which would be beneficial to the prospective owner's customers, assuming the TSAB agrees.

Mr. Richard Podkulski, member of the audience, asked who would be required to install the signage indicating the right-in, right-out only requirement. He stated that if the applicant would be required to install the signage, he or she should be made aware of this fact.

2. Mr. Reilly stated that he is reviewing the revised landscaping plan for the approved Edu-Kids project on Cloverbank Road, noting that there is no landscaping proposed for the area between the eastern side of the building and the adjacent home. He further stated that the April 2011 ZBA meeting minutes indicate that the owner of Edu-Kids stated that she would be amenable to installing a white picket fence along the property line shared with the adjacent home. He noted that the owner of Edu-Kids also made that statement at the April Planning Board meeting. He further stated, however, that one of the conditions of the Planning Board's resolution to approve the Edu-Kids project included the requirement that a vinyl-coated chain link fence be installed.

Mr. Reilly stated that he needs direction from the Planning Board because the only thing proposed between the commercial building and the existing home ten (10) feet away is a chain link fence.

Acting Chairperson Yerkovich stated that the whole point behind the chain link fence was to open up the view for the adjacent homeowner. She further stated that she remembers Mrs. Ware stating that she did not want an open fence or a picket fence.

Mr. Reilly stated that if the Planning Board is going to allow the installation of a chain link fence, he feels strongly that Edu-Kids should be required to install some sort of landscaping in the area between the building and the adjacent home. Board members agreed that additional landscaping should be installed in that area that will not block the adjacent homeowner's view and will not require maintenance.

Mr. Bellissimo stated that steel white picket fences are available and Board members indicated that Edu-Kids should investigate this possibility.

3. Mr. Richard Podkulski was present to discuss problems his family is having with the construction of the Tops expansion at the corner of McKinley Parkway and Southwestern Boulevard.

Acting Chairperson Yerkovich stated that she understands that Mr. Podkulski has some problems with the Tops site and she assumes he knows that the Planning Board has absolutely no power or ability to deal with these issues, as they are issues best dealt with by the Building Inspection department.

Mr. Podkulski stated that he has gone to the Building Inspection department with his problems and noted that he and his family want the Planning Board to know that there are open issues relative to the Board's approval of the Tops project in February 2011. He submitted photographs to Board members of his family's property before the construction began, digging that has been done on the 66-foot parcel to be transferred to his family that they were not aware was going to be done, the view the family has of the construction (with no fence in place), and water and mud flowing over his property from the construction site.

Mr. Podkulski stated that the 66-foot strip of land that was to be deeded to his family had not been deeded as of the meeting date, nor had the required fence been installed.

Mr. Podkulski stated that the applicant was to install the landscaping between the project site and his family's property once the rough grading was complete. Mr. Lardo stated that the rough

grading has not been completed yet.

Laura Podkulski stated that they have asked Benderson to install a temporary fence in the area of the family's pool but no one at Benderson has been willing to help them.

Mr. Podkulski asked when the Planning Board plans to visit the site to inspect the stand of trees that were left undisturbed on the project site to determine whether these trees should come down or not per the Board's approval resolution in February 2011. He stated that his family is opposed to these trees coming down, now that they have seen the construction work at the site. He further stated that his family would like to participate when the Board walks the site to inspect the stand of trees.

Mr. Reilly stated that he will find out from Benderson when the rough grading is scheduled to be finished.

Mr. Bellissimo stated that Board members will inspect the stand of trees when they are advised that the rough grading work is complete.

Mr. Podkulski discussed the issues that have arisen with Benderson regarding the 66-foot strip of land to be transferred to the family.

Acting Chairperson Yerkovich stated that some of the problems encountered by the Podkulskis seem to be a result of miscommunication. She further stated that the Planning Board may be able to help research why the fence has not been installed and why the area adjacent to his family's property has been disturbed.

Mr. Reilly stated that he will research the issues that have been raised about the temporary fence, etc. He further stated that he will have a report for the Board at its next meeting.

The Podkulski family asked that they be better informed about what to expect with each subsequent phase of construction at the project site.

Mr. Bellissimo stated that perhaps Councilman Collins, as the Planning Board Liaison, could strongly encourage the Building Inspection department to look at the Podkulski's problems more closely.

Mr. Podkulski stated that there was never any discussion during Planning Board meetings of the 66-foot strip of land to be deeded to his family in terms of what could or could not be done on that land once his family owns it. Mr. Reilly responded that that was because the deeding of the land was a condition of the rezoning approval by the Town Board.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to approve the minutes of May 4, 2011. Carried.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to adjourn the meeting. Carried.

The meeting was adjourned at 8:25 PM.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

