

Town of Hamburg  
Planning Board Meeting  
May 7, 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, May 7, 2014 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, David Bellissimo, Peter Reszka, Stephen McCabe, Doug Schawel and William Clark.

Others in attendance included Planning Board Attorney Ryan McCann, Andrew Reilly, Town Planner and Richard Lardo, Assistant Municipal Engineer.

Excused: Augie Geraci

**WORK SESSION**

**ARR Holdings (southwest corner of Smith Road and Lakeview Road)**

Attorney Sean Hopkins, representing the applicant (Andrew Romanowski), stated that the applicant wishes to subdivide this four-acre property into two (2) building lots. He stated that the property is located in the South Central Overlay District, and the applicant is requesting relief from the increase in bulk requirements associated with the Overlay District. He further stated that the proposed lots would be two (2) acres in size, which is consistent with the lots in the surrounding vicinity.

It was determined that variances would be required for both lots because the acreage for both is calculated to the centerline of the road, and the Town of Hamburg requires that the right-of-way not be included. Therefore, neither of the lots meets the area requirement of two (2) acres to the property line.

It was determined that one (1) home will face Smith Road, and one (1) home will face Old Lakeview Road.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to schedule a public hearing to be held on June 4, 2014. Carried.

Engineering Department comments have been filed with the Planning Department.

**REGULAR MEETING**

**Public Hearing – South Shore Auto & Detail (3383 Big Tree Road)**

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 South Shore Auto & Detail to operate an automobile repair business at 3383 Big Tree Road. This use requires the issuance of a Special Use Permit. The Public Hearing will be held on May 7, 2014 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Greg Poliseno, applicant, stated that he would like to operate an auto repair and auto detail business at this site. He stated that all business will be conducted inside the building, there will be no outside activities, and no changes are proposed to the building itself.

Mr. Reilly stated that the site plan that was approved for this site by the Planning Board a number of years ago was not adhered to (the property owner is parking vehicles where no parking was to exist). He noted that this is not the fault of Mr. Polisen. He stated that the Supervising Code

Enforcement Official (Kurt Allen) considers the property to be an existing non-conforming situation.

It was determined that the applicant is not to sell cars at this location. He would be approved for auto repair and auto detail only.

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

Chairman O'Connell declared the public hearing closed.

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

"Whereas, the Town of Hamburg Planning Board has received a Special Use Permit and Site Plan Approval application from South Shore Auto & Detail to do automobile repair at the property located at 3383 Big Tree Road; and

Whereas, on May 7, 2014 the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act, has done a thorough review of the project and its potential impacts; and

Whereas, the Hamburg Planning Board, in accordance with SEQRA, has determined that the proposed Special Use Permit and Site Plan Approval will not adversely affect the natural resources of the State or the health, safety and welfare of public and is consistent with the social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the Special Use Permit and Site Plan Approval is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued."

Carried.

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

"Whereas, the Town of Hamburg Planning Board has received a Special Use Permit application from South Shore Auto & Detail to do automobile repair at the property located at 3383 Big Tree Road; and

Whereas, on May 7, 2014 the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board, in reviewing the proposed project (Special Use Permit), has determined, in accordance with Section 280-312 that:

1. The project will be in harmony with the purposes and intention 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 general character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not be otherwise detrimental to the public convenience and welfare.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed Special Use Permit is not anticipated to result in any significant impact on the surrounding uses and therefore a Special Use Permit approval is hereby granted.”

Mr. Bellissimo amended his motion to include the following conditions:

1. The business shall not engage in any auto sales.
2. The parking will be limited to what is shown on the plan that is diagonally drawn on the south corner.

Mr. Reszka seconded the amended motion.

Carried.

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

“Whereas, The Town of Hamburg Planning Board has reviewed the South Shore Auto & Detail project and the associated materials submitted with the site plan application. The project includes conversion of business to include auto repair; and

Based on the review of the South Shore Auto & Detail project, and having completed the SEQR process, the Hamburg Planning Board wishes to approve the project site plan in accordance with the Town of Hamburg Site Plan law.

Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues Site Plan Approval with the following conditions:

1. The business shall not engage in any auto sales.
2. The parking will be limited to what is shown on the plan that is diagonally drawn on the south corner.”

Carried.

Engineering Department comments have been filed with the Planning Department

### **Public Hearing – Brian Bates (Lakeview Road)**

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 three-lot subdivision proposed by Brian Bates to be located on the north side of Lakeview Road between Heltz Road and Southwestern Boulevard. The public hearing will be held on May 7, 2014 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

Mr. Reilly stated that the applicant is requesting approval of a three-lot subdivision. He noted that the applicant plans to build a home on one (1) lot and may decide to sell one (1) or both of the remaining lots.

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

Chairman O'Connell declared the public hearing closed.

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

“Whereas, the Town of Hamburg Planning Board has received a Minor Subdivision application from Brian Bates to subdivide property located at Lakeview Road between Heltz Road and Southwestern Boulevard into three (3) lots; and

Whereas, on May 7, 2014 the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act, has done a thorough review of the project and its potential impacts; and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has determined that the proposed subdivision will not adversely affect the natural resources of the State or the health, safety and welfare of the public and is consistent with the social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed subdivision is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued.”

Carried.

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

““Whereas, the Town of Hamburg Planning Board has received a Minor Subdivision application from Brian Bates to subdivide property located at Lakeview Road between Heltz Road and Southwestern Boulevard into three (3) lots; and

Whereas, the Hamburg Planning Board has received the Preliminary Subdivision Plan and other required materials in accordance with the Hamburg Subdivision Code; and

Whereas, the Hamburg Planning Board received comments from various Town advisory boards and departments; and

Whereas, the Hamburg Planning Board held the required public hearing on the proposed subdivision on May 7, 2014; and

Whereas, the Hamburg Planning Board has determined that the proposed subdivision will not result in any significant effect on the environment and has issued a Negative Declaration.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby approves the Preliminary Plat with the following conditions:

Be It Further Resolved that the Hamburg Planning Board, in accordance with Section 230.22 L,

does not require the installation of sidewalks; and

Be It Finally Resolved, that the Planning Board waives the submission of Final Plat.”

Carried.

Engineering Department comments have been filed with the Planning Department

### **Public Hearing - Rolling Ridge Subdivision**

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 the Rolling Ridge Subdivision. The applicant is requesting approval of the previously approved subdivision. The Public Hearing will be held on May 7, 2014 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Attorney Sean Hopkins, representing the applicant, stated that the applicant is seeking re-approval of the Preliminary Plat. He stated that as a result of the language contained in the subdivision regulations pertaining multi-phased projects, the previously approved Preliminary Plat has expired.

Attorney Hopkins stated that the applicant previously received a variance pertaining to this subdivision from the Town of Orchard Park Zoning Board of Appeals, and the applicant will be reapplying for that variance in the near future.

Attorney Hopkins requested that the Planning Board grant a waiver whereby the Preliminary Plat will not expire at a one-year period. He asked the Planning Board to consider extending the one-year period to five (5) years.

Mr. Lardo stated that the Engineering Department is opposed to extending the one-year period. He noted that there is no reason to extend the time frame, and the Engineering Department would not consider a time frame longer than one (1) year.

Attorney Hopkins stated that with multi-phased projects, it is difficult to guarantee that one (1) phase will be completed per year.

Mike Metzger, engineer for the project, stated that the one-year time frame brings practical difficulties because the construction of phases is market-driven. He stated that he hopes the Town of Hamburg will consider amending the Code to allow for more time for the construction of phases, but in this particular case the applicant is asking for some relief.

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

Chairman O’Connell declared the public hearing closed.

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

Engineering Department comments have been filed with the Planning Department

**Public Hearing – Waterford Pines Subdivision**

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 the Waterford Pines Subdivision. The applicant is requesting approval of the previously approved subdivision. The Public Hearing will be held on May 7, 2014 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Attorney Sean Hopkins, representing the applicant, stated that the applicant is seeking re-approval of the Preliminary Plat. He stated that as a result of the language contained in the subdivision regulations pertaining multi-phased projects, the previously approved Preliminary Plat has expired.

Attorney Hopkins stated that this is a cluster subdivision, and the applicant has found that the required preservation area does not give the lots in Phase One that back up to it enough room to build decks, patios, porches, etc. He noted that in 2002 when this cluster subdivision was approved, the plans showed 10.82 acres of permanent open space even though the Code required 9 acres. He stated that the applicant is requesting that the permanent open space be reduced to 9.08 acres, which would allow the developable portion of the lots that back up to it to be increased by 18 feet to allow for such amenities as porches, decks, etc.

Attorney Hopkins requested that the Planning Board grant a waiver whereby the Preliminary Plat will not expire at a one-year period. He asked the Planning Board to consider extending the one-year period to five (5) years.

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

Chairman O’Connell declared the public hearing closed.

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

Engineering Department comments have been filed with the Planning Department

**Public Hearing – Frank Russo Subdivision (Niles Avenue)**

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 the Niles Avenue Subdivision. The applicant is requesting approval of the previously approved subdivision. The Public Hearing will be held on May 7, 2014 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mr. Reilly stated that this subdivision received Preliminary Plat Approval a number of years ago, but the applicant could not resolve certain sewer problems at that time. He noted that Final Plat Approval was never received and the Preliminary Approval expired, but the sewer issue has been resolved and the applicant is asking for Preliminary Plat Approval at this time.

Keith Marquis, engineer, representing the applicant, stated that this project has been on hold since 2007, but the County’s infiltration and inflow problems have been resolved in this area,

and the applicant would now like to resurrect this project.

In response to a question from Mr. McCabe regarding the original wetland delineation for Lots # 1, 2 and 3, Mr. Marquis stated that the U.S. Army Corps of Engineers plans to meet Don Owens at the site to verify that the original delineation is still accurate. He noted that he does not know if that meeting has yet to happen.

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

- A resident from 3584 Abbott Road stated that the applicant's entire property is wet, and she is worried that if a subdivision is built there, her property will become flooded. She asked how this problem will be handled. Mr. Lardo responded that a detention pond will be required.
- A resident from 3584 Abbott Road stated that the NYSDEC has caught people hunting on this property. He stated that this property is the last piece of green space in this area. The extension of Niles Avenue will mean that the new road will run quite close to a woman's door step.
- Charlie Gray asked if the retained water will stay on the applicant's property. He was informed that the retained water will stay on the applicant's property and will slowly dissipate to the creek.

Chairman O'Connell declared the public hearing closed.

Mr. Reilly stated that the detention pond will have to be owned by a Homeowners' Association.

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

Engineering Department comments have been filed with the Planning Department.

**Public Hearing – Sherwood Meadows Apartments**  
**Public Hearing – Sherwood Meadows Subdivision**

Chairman O'Connell stated that these public hearings would be held simultaneously.

Mr. McCabe read the following notices of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by DATO Development to construct 116 apartments on vacant land located east of Heatherwood Drive. The Public Hearing will be held on May 7, 2014 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by DATO Development to construct a 31-lot subdivision on vacant land located northeast of Howard Road. The Public Hearing will be held on May 7, 2014 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Attorney Sean Hopkins, representing the applicant, stated that the Site Plan and Subdivision Preliminary Plat presented to the Planning Board at its last meeting showed 116 apartments and 31 single-family homes. He stated that the applicant has reached an agreement with the neighborhood association, and the Planning Board received a copy of that agreement.

Attorney Hopkins stated that the site plan has been modified slightly in that the number of apartments has been reduced to 110, the sixteen-unit buildings have been eliminated in favor of eight- and ten-unit buildings, and additional attached garages are provided.

Attorney Hopkins described the agreement with the neighbors as follows:

- All previously filed Site Plan applications have been withdrawn. The current Site Plan and Subdivision plans are dated April 22, 2014.
- The maximum density of the multi-family component of the project will be 110 units, and the maximum density of the subdivision component will be 31 lots.
- Three (3) apartment buildings on the west side of the cul-de-sac that were previously proposed as larger two-story buildings will be single-story two-family units instead.
- The building on the east side of the cul-de-sac will be an eight-unit building with only a driveway for two (2) of the units being provided onto the cul-de-sac. The driveways for the other six (6) units will face other directions.
- Each subdivision lots will only contain one (1) single-family home.
- No more than 56 multi-family units will be constructed prior to the construction of the public roadway connection to the Heatherwood Drive extension.
- The applicant will request that the Town of Hamburg accept dedication of the Heatherwood Drive extension to Howard Road, as well as the existing cul-de-sac, that were built to private specifications. He noted, however, that the Town Engineering Department has indicated that the Town will not accept dedication of that roadway.
- If there is any litigation relative to the project commenced by those opposed to it, the agreement will become null and void.
- No construction traffic whatsoever will be allowed to utilize Heatherwood Drive either for Phase One or for future phases of the project.

Attorney Hopkins asked the Planning Board to keep the public hearing open because the Site Plan was amended on April 22, 2014. He further asked the Board to direct the Planning Department to put resolutions together so that a decision may be made at the Board's next meeting regarding the Site Plan portion of the project.

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

Paul D'Orlando, 4597 Drayton Parkway, asked what will be required of the developer regarding the wetland delineation and sewer capacity, and when the next public hearing will be held. Mr. Reilly responded that the public hearing on the subdivision will be held after a SEQR determination is made.

Andy Gow, from Nussbaumer & Clarke, agreed to submit a memo detailing where the applicant stands regarding sewer capacity and wetland delineation.

Mr. D'Orlando stated that the neighbors are not arguing about the construction of 56 units, since a 56-unit project was previously approved by the Planning Board. He stated that transportation and the character of the neighborhood are the main issues now. He stated that even with the new roadway to Howard Road, a lot of traffic will be using the Roundtree neighborhood to access the apartments. He urged the Planning Board to issue a Positive Declaration based on the level of anticipated traffic in the Roundtree neighborhood. He stated that he would like a gate erected like the one required for the apartment project on Southwestern Boulevard that backs up to the Summerway/Winterway neighborhood so that the integrity of the Roundtree neighborhood can be kept intact.

Terri Schelter, 3691 Breckenridge Road, stated that her family does not support any type of plan that would allow this many apartments to exist within what was a very desirable and thriving family development. She stated that she appreciates green space and a quiet community, and does not appreciate the anticipated congestion and traffic in her back yard. She stated that if the Planning Board does not protect the integrity of Hamburg's neighborhoods, the tax base will be lost because people will be moving out of Hamburg.

Chairman O'Connell stated that the public hearing would be left open.

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

Engineering Department comments have been filed with the Planning Department.

### **Russo Development (3710 Milestrip Road)**

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the swale has been revised so that it runs around the back side of the property to the north side of the parking area to discharge directly to the County right-of-way ditch. He stated that vegetation will be saved, and this is a more direct way to discharge the drainage.

Elizabeth Reszka, Lake Avenue, asked if the swale will be re-dug and deepened. Mr. Gow responded that the swale is just a depression.

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

"In accordance with the SEQR Law, the Town of Hamburg Planning Board has reviewed the Russo Development project and the associated materials submitted with the Site Plan application, including the Short Form EAF. Although the project, which includes the construction of a new equipment storage area, is very close to being a Type II Action under SEQR, the Planning Board has conservatively reviewed the action as an Unlisted Action and has completed Part II of the Short Form EAF. The applicant, based on input from the Planning Board, has revised the plan and addressed the issues raised by the Planning Board. Therefore, the Planning Board has concluded that the project's environmental impacts have been avoided or mitigated to the maximum extent practicable. Therefore, the Planning Board has determined that the proposed Russo Development project is not anticipated to result in any significant

adverse environmental impact and a Negative Declaration is hereby issued and in doing so authorizes the Chairman to sign the EAF.”

Carried.

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

“Based on the review of the Russo Development project and having completed the SEQR process, the Hamburg Planning Board wishes to approve the project Site Plan in accordance with the Town of Hamburg Site Plan Law. Therefore, be it resolved, that the Hamburg Planning Board hereby issues Site Plan Approval for the Russo Development project located at 3710 Milestrip Road with the following conditions:

1. Disturbance areas will be delineated on the plan and marked in the field.
2. The only use approved on the new site is the storage of equipment.
3. Approval is contingent upon the Engineering Department comment letter dated May 7, 2014.”

Carried.

Engineering Department comments have been filed with the Planning Department.

### **Larry Best (South Park Avenue)**

Howard Mandell, representing the applicant, stated that the plans have been revised to include access to South Park Avenue because the previously proposed access to Bayview Road would have a 7% grade, which would be dangerous in the winter months. He further stated a berm is proposed to direct all storm water to the detention basin.

Mr. Mandell confirmed that he is a land surveyor who is grandfathered to practice engineering.

It was determined that the access to South Park Avenue would be right-in, right-out and left-in only (no left-out). It was further determined that the shared access with the delicatessen on Bayview Road is still proposed.

Chuck Ziemba, president of Berkeley Place Association, asked if the access to South Park Avenue is the reason why one (1) of the buildings has been moved. Mr. Mandell responded in the affirmative.

Ed Bukowski, president of Berkeley Square Homeowners' Association, stated that the applicant's property is quite a bit higher than the properties in his development, and that is a concern of his. He stated that drainage is another concern, and he wants assurances that the proposed swales will be capable of handling the run-off coming from the parking areas. He stated that he is concerned that the detention basin is large enough to handle the flow of run-off. He also noted that the privacy of the townhouse residents is a big concern, since their properties are lower than the proposed apartments. He stated that traffic is also a big concern.

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

Engineering Department comments have been filed with the Planning Department.

**Eddy & Lewin Homes**

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the applicant did not receive the requested variances from the Zoning Board of Appeals, so the applicant is proposing the original plan presented to the Planning Board with one (1) fewer lot because of the need for storm water detention in the northeast corner of the site.

Mr. Gow stated that sewer capacity has been reviewed, and there is no problem with capacity for this project.

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

Engineering Department comments have been filed with the Planning Department.

**Sgroi Two-Lot Subdivision**

Attorney Sean Hopkins, representing the applicant, stated that the applicant proposes to construct a single-family home on two (2) acres, and leave the remainder of the property open at this time. He noted that variances were received from the Zoning Board of Appeals to allow reduced road frontages for both lots with the condition that all required wetland permits are obtained.

Attorney Hopkins stated that a permit has been received from the Army Corps of Engineers, and the applicant is awaiting a permit from the NYSDEC.

In response to a question from Chairman O'Connell, Attorney Hopkins stated that the majority of the remaining land is wetland.

Mr. Reszka stated that the Conservation Advisory Board is adamantly opposed to the Planning Board approving a lot that they believe is all wetlands.

Mr. Lardo stated that there should not be separate driveways for these two (2) lots.

Mr. Bellissimo made a motion, seconded by Mr. Clark, to authorize the Planning Department to put resolutions together. As the motion was six (6) ayes and one (1) nay, the motion carried.

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

Engineering Department comments have been filed with the Planning Department.

**OTHER BUSINESS**

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to approve the minutes of April 2, 2014. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 9:05 P.M.

Respectfully submitted,  
Stephen J. McCabe, Secretary

Planning Board

Date: May 16, 2014