

Town of Hamburg
Planning Board Work Session
June 15, 2011
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, June 15, 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 and Karen Rogers.

Others in attendance included Andrew Reilly, Sarah desJardins and Richard Lardo.

Excused: Sasha Yerkovich

Whispering Pines Subdivision

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that minor changes have been made to the plan and an Engineer's Report has been submitted to the Engineering Department for its review. He further stated that a biologist visited the site and has confirmed that the endangered fern referred to by the New York State Department of Environmental Conservation does not exist on the site.

Mr. Gow stated that a note has been added to the plans indicating that the Homeowner Association green space will be dedicated to the Town of Hamburg as an easement so that there can be controls in place regarding encroachment of the green space. He further stated that a sample site layout has been added to the plans, as well.

Mr. Reilly reminded Mr. Gow that the Building Department has recommended that eight feet of open space be provided between every home and the side lot lines.

Mr. Reilly stated that the Engineering Department has indicated that, assuming a sidewalk is required for this subdivision, there would not be enough room for a standard sized vehicle to be parked in a driveway and not encroach on the sidewalk, given the twenty-foot front yard setback proposed by the applicant.

In response to a question from Mr. Reilly, Mr. Lardo stated that his preliminary opinion of the proposed engineering, based on the applicant's submitted Engineering Report, is that it will work.

Board members reviewed Part Two of the applicant's Environmental Assessment Form as follows:

- Impact on land – the project will have an effect on the land, but it does not meet any of the exceedance thresholds.
- Impact on water – there are no designated protected bodies of water on the site and the applicant will meet all State and local storm water standards regarding

ground water quantity and quality.

- Impact on air – there will be a minor impact to air quality.
- Impact on plants and animals – research by the biologist confirmed that the previously mentioned threatened or endangered fern habitat does not exist on the site.
- Impact on agricultural resources – no impact.
- Impact on aesthetics – there will be an impact but the project meets the aesthetic requirements of the cluster law, especially concerning buffer areas and green areas.
- Impact on archeology – no impact.
- Impact on transportation – impacts will be small.
- Impact on noise and odor – impacts will be minor in nature.
- Impact on public health – no impact.
- Impact on growth and character of the neighborhood – the project will change the character of the community and will create additional demands on community resources, but the Board feels there is sufficient capacity to handle this.

Mr. Koenig made a motion, seconded by Mr. McCabe, to issue a SEQRA Negative Declaration based upon the above review of the Environmental Assessment Form. Carried.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to schedule a public hearing for this project to be held on July 6, 2011. Carried.

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to authorize the Planning Department to prepare the necessary paperwork for a possible Preliminary Plat Approval. Carried.

For the record, Mr. Reilly apologized to the applicant for the slight delay, noting that it stems from recent court decisions on issues regarding New York State and not from any mistakes made by the applicant or the Town of Hamburg.

Engineering Department comments have been filed with the Planning Department.

Brookview Apartments (Southwestern Boulevard)

Attorney Sean Hopkins, along with Chris Wood from Carmina Wood Morris, appeared on behalf of the proposed project. Attorney Hopkins stated that he, Mr. Wood and the applicant met with several residents of the Four Seasons subdivision on May 21, 2011. He stated that based upon the results of the meeting and input from the Planning Board, the following changes have been made to the project:

- The rear yard setback for the buildings and parking area has been increased to 75 feet.

- A dumpster that was previously shown at the rear of the project site has been relocated away from the property line shared with the residents of Summerway Lane.
- The conservation area in the rear of the project site will be clearly defined and a deed restriction will be recorded in the Erie County Clerk's office indicating that there will never be any encroachment of this area. Attorney Hopkins stated that this deed restriction will insure that whoever owns this property in the future is bound, as is the applicant, by the restriction.
- The rear 60 feet of the project site will be left exactly as it is today, subject to the Planning Board deciding whether a gated emergency means of egress will be required at Sunway Lane. In addition, Attorney Hopkins stated that there would be some language in the deed restriction allowing the applicant to remove a dead or diseased tree in the 60-foot area.

Chairman Reszka read a memo to the Planning Board from the Conservation Advisory Board regarding this proposed project.

Attorney Hopkins stated that the applicant is aware that a flood plain crosses the site and understands that he will have to work with the Town's flood plain administrator regarding whatever approvals would be needed.

Attorney Hopkins stated that a wetlands delineation has been done on this site and the project does not impact any wetlands with the exception of the driveway crossing.

Chairman Reszka stated that the Traffic Safety Advisory Board (TSAB) is quite adamant that a secondary means of egress be considered in case of a situation where there is flooding on the apartment site.

Mr. Reilly stated that a Coordinated Review was conducted and correspondence was received from the New York State Department of Environmental Conservation, the Erie County Department of Environment & Planning and the Erie County Division of Sewerage Management.

Attorney Hopkins stated that the applicant has agreed that if the Town requires an emergency means of egress onto Sunway Lane, it will never become a public roadway. He further stated that this would also be subject to a deed restriction.

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to direct the Planning Department to ask for input on this project from the Fire Department and the Town's Emergency Management Committee. Carried.

A member of the public stated that he is concerned about the environment and asked why the developer cannot put an apartment complex on property with vacant land.

Rose Glenn, Summerway Lane, stated that she is concerned that the residents of the apartment project will enter the Four Seasons subdivision to walk their dogs, play in the playground, etc. She also stated that her subdivision has never needed an emergency means of egress to this point and she is not in favor of a gated access now.

Chairman Reszka stated that the Town does not have any requirement to buffer

residential uses from other residential uses.

William McAllister stated that he is concerned about the wildlife that reside on the property to be developed, noting that he considers development to be habitat destruction.

A member of the public asked why the Town would allow the construction of an apartment complex when it appears that the existing apartment complexes in Town have vacancies. Attorney Hopkins responded that the applicant did have a market study done that found that there is a need for new high quality apartments. He further stated that this project would be constructed in phases based on the demand.

Chairman Reszka stated that this property is properly zoned for apartments.

Mrs. Rogers read a letter received from Jessica Borchert, 3938 Summerway Lane. Board members discussed Ms. Borchert's questions with Attorney Hopkins.

Attorney Hopkins stated that the Board has not discussed when it would require the construction of a gated emergency access (assuming the Board does require this) to be completed. He further stated that the deed restrictions would be put into effect the day the applicant closes on the property.

In response to a question from a member of the public, Attorney Hopkins stated that the applicant does not want to construct a second means of egress onto Southwestern Boulevard because that would mean that the wetland area would have to be crossed twice.

Miriam Winokur, member of the public, stated that she has lived on Summerway Lane for approximately forty years and there has never been a concern voiced about the safety of the many residents of the Four Seasons subdivision. She asked the Board if the residents of Four Seasons will be given advance notice if an emergency means of egress is ultimately required.

Chairman Reszka stated that all decisions made regarding this project will be made in an open forum by the members of the Planning Board.

Mr. Reilly stated that if an emergency means of egress is required, the applicant would be required to add it to the drawings that are ultimately approved.

Mrs. Winokur stated that there is a very grave concern about drainage in the area. She noted that these concerns were discussed with the applicant and his engineer at the meeting in May.

Mr. Wood stated that all of the water associated with any area that is impacted must be collected on site, conveyed to the pond and discharged to the creek. He further stated that, because of the topography of the project site, once the project is fully developed the amount of water that flows towards Summerway Lane will be less than what it is currently.

Mr. Bellissimo made a motion, seconded by Mrs. Rogers, to schedule a public hearing to be held on July 20, 2011. Carried.

Mr. Reilly stated that the Planning Board will decide on whether an emergency means of egress will be required.

Attorney Hopkins stated that he and the applicant are willing to meet again with the

neighbors and are appreciative that the neighbors took time out of their schedules to meet in May. He further stated that anything the applicant submits to the Town regarding this proposal, (plans, letter, etc.) will also be given to the neighbors.

Mr. Russ Gullo, member of the public, asked who would maintain an emergency means of egress if it is ultimately required. Mr. Reilly responded that the applicant would have to maintain the area on his property and the Town would have to maintain the area on Sunway Lane.

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

Engineering Department comments have been filed with the Planning Department.

Gullo's Garden Center (4767 Southwestern Boulevard)

Russ Gullo from Gullo's Garden Center appeared on behalf of the proposed rezoning.

Mr. Reilly stated that when the Town rezoned this property to R-A several years ago, there were no conditions attached to the rezoning decision. He further stated that at the time of the rezoning to R-A, the Comprehensive Plan did not allow for further commercial expansion of this area of Southwestern Boulevard. He noted, however, that the Comprehensive Plan was revised a few years ago to allow for commercial expansion in this area.

Mr. Koenig stated that the parcel Mr. Gullo would like to rezone does not have frontage on Southwestern Boulevard.

Mr. McCabe stated that he would be more comfortable considering a rezoning of this parcel if and when someone comes to the Board with a rezoning request for a particular commercial use for this parcel.

Mr. Reilly stated that when this parcel was rezoned to R-A, it was not considered spot zoning because spot zoning is when a property is rezoned to a district that is not in accordance with the Comprehensive Plan.

Mrs. Rogers stated that there is no hardship associated with this request to rezone this parcel. Mr. Gullo agreed with this statement.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to issue no recommendation to the Town Board regarding Mr. Gullo's request to rezone this property to C-1.
Carried.

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

Granite Shop (South Park Avenue)

Daryl Martin, architect, appeared on behalf of the proposed project. He stated that

the applicant proposes to construct a 6,000 sq.ft. metal building for a granite counter top business. He further stated that the first twenty feet of the building would be used for office, restrooms, mechanical space and a small showroom. He noted that the rear portion of the building (4,800 sq.ft.) would be the manufacturing area.

Mr. Reilly stated that this parcel is zoned C-2 and the properties to the north of this site are zoned N-C.

Mrs. desJardins stated that the applicant has agreed to eliminate the parking space closest to South Park Avenue, as it is located in the required forty-foot green area of the South Park Overlay District.

Board members discussed with Mr. Martin the list of questions and concerns generated from the last Board meeting:

1. What type and size of trucks would be used to deliver the granite, etc.? Mr. Martin responded that the applicant would receive deliveries of product via a double-axle truck (similar to a flat bed truck). He stated that 18-wheelers would not be used for deliveries.
2. Can the size of the building be reduced? Mr. Martin responded that he does not think the applicant would be in favor of a reduction in size.
3. What kind of equipment would be used in the manufacturing of the granite countertops, etc? Board members are concerned about the noise. Mr. Martin responded that he would use saws with water. He noted that the operation would not be any louder than a lumberyard operation would be and the garage doors would face the Thruway.
4. What would the hours of operation be? Mr. Martin responded that he believes the business would be open between 7:00 AM and 6:00 PM.
5. Board members have concerns about sight lines if semi-trailers are used for deliveries. Mr. Martin responded that semi-trailers would not be used for deliveries.
6. Would dust be created on site? Mr. Martin responded that the water dampens the dust and therefore there would not be an excessive amount of dust generated. He noted that no fumes would be generated.
7. How would the storage area in back not damage the septic system, given the weight of granite? Mr. Martin responded that the storage area would not be located over the septic system.
8. Is the storage area large enough for his needs? Mr. Martin responded that the storage area is large enough for the applicant's needs.
9. Is there a snowmobile trail that runs through the property? Mrs. desJardins stated that the applicant indicated that he is not aware of any snowmobile trail in that area.
10. How many employees are anticipated? Mr. Martin responded that the applicant plans to employ approximately four people at the most.

11. What would the size of the pylon sign be? Board members are concerned that it might obstruct sight lines along South Park Avenue. Mr. Reilly stated that pylon signs are not allowed in the South Park Overlay District and that a sign would have to be a ground sign.
12. The appearance of the building is unacceptable. Board members reviewed the submitted rendering of the proposed building. Mr. Reilly stated that, because this property is located in the South Park Overlay District, the Planning Board can ask for three different sketches of the proposed building.
13. What is proposed relative to lighting on the site? Mr. Martin responded that lighting will be mounted on the building and will be downward facing.
14. Because an oil and grit trap is proposed, information is requested regarding what type of oil and grit is anticipated, as well as the anticipated amount. Mr. Martin responded that an oil and grit separator is installed in a building of this nature whether a septic system is proposed or not based on the nature of trucks going in and out of the building.
15. How much water will be travelling through the septic system, given the nature of the business? Mr. Martin responded that he anticipates a flow of between 300 and 400 gallons of water per day.
16. Does the applicant own the property at this time? Mr. Martin responded that the applicant has a contingent contract of sale.

Mr. McCabe made a motion, seconded by Mr. Koenig, to seek Lead Agency Status and initiate a Coordinated Review for this proposal. Carried.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to schedule a public hearing to be held on July 20, 2011. Carried.

Mr. Bellissimo 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)

Gina Barrett, applicant, stated that she would like to purchase 4900 Lake Shore Road, as well as the property north of 4900 Lake Shore Road, and construct a 3,000 sq.ft. yoga studio there.

In response to a question from Chairman Reszka, Mrs. Barrett stated that she intends to share access to Route 5 with the 4900 Lake Shore Road property and therefore no new curb cut would be proposed.

Mrs. desJardins stated that the first row of proposed parking on the vacant site is probably too close to the road, noting that new parking must be located at least 35 feet from the road. She further stated that this property is located in the Route 5 Overlay District and is zoned N-C.

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Board members concurred that they are comfortable with Mrs. Barrett's new idea for the yoga studio.

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

Engineering Department comments have been filed with the Planning Department.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to approve the minutes of June 1, 2011. As there were five (5) ayes and one (1) abstention (Mrs. Rogers) the motion carried.

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

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board