

Town of Hamburg
Planning Board Meeting

July 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, July 20, 2016 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, Vice-Chairman William Clark, Doug Schawel, Augie Geraci, Al Monaco, Robert Mahoney and Dennis Chapman.

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

WORK SESSION

5272 South Park Avenue LLC – Requesting rezoning of property located at 5272 South Park Avenue from R-3 to PUD (Planned Unit Development)

Attorney Sean Hopkins, representing the applicant, stated that the project would be a mixed use redevelopment. He stated that the existing building on the property would probably remain, townhomes would be proposed along Sowles Road and mixed use would be proposed along South Park Avenue. He stated that a roundabout is being constructed on the corner of South Park Avenue and Sowles Road, and that is being taken into consideration relative to the layout of this project.

Attorney Hopkins stated that the applicant is requesting that at its next meeting the Planning Board recommend that the Town Board begin the SEQR review process.

Attorney Hopkins stated that the project does not include housing for Hilbert College. He further stated that the townhomes would be single story with basements, and they would probably be built first.

Attorney Hopkins stated that perhaps the front part of the existing building on the property could be used for senior housing. He further stated that the property is approximately 18 acres in size.

Mr. Reilly stated that the biggest issue with this project is going to be determining what buildings 4 and 5 on the concept plan are going to look like and what type of business will go there.

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

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Public Hearing – 7:00 P.M., Boston State Holdings Company, LLC – Requesting Site Plan Approval of outdoor storage at 4233 Lake Avenue

Attorney Sean Hopkins, representing the applicant, stated that the applicant received a variance to allow outdoor storage at this location. He stated that the outdoor storage would be enclosed on all four (4) sides, and screening would be provided on the south side of the outdoor storage area. He further stated that the applicant has indicated that he would be willing to plant five (5) trees along Lake Avenue.

In response to a question from Chairman O’Connell, Mrs. desJardins stated that this project was referred to the Village of Blasdell, and no response was received.

Mr. Schawel 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 Boston State Holdings Company, LLC to allow outdoor storage at 4233 Lake Avenue. The public hearing will be held on July 20, 2016 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

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

Chairman O’Connell declared the public hearing closed.

Mr. Clark 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 proposal by Boston State Holdings Company, LLC, which involves outdoor storage of furniture from January 1 until May 31 at 4233 Lake Avenue, and held the required public hearing on July 20, 2016. The project meets the criteria established in the SEQR Law as a Type II Action and therefore does not require the completion of the SEQR process.

The Planning Board hereby grants Conditional Site Plan Approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated July 20, 2016.
2. Outdoor storage will be allowed between January 1 and May 31 only.
3. A minimum of five (5) trees from the approved tree planting list will be planted along Lake Avenue.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Elderwood at Hamburg Skilled Nursing Facility (5775 Maelou Drive) – Requesting Site Plan Approval of a three-story addition for 28 skilled nursing beds

Lowell Dewey from C & S Engineers, representing the applicant, stated that the New York State Department of Environmental Conservation (NYSDEC) wetland area, along with the corresponding 100-foot buffer area, has been shown on the Site Plan.

In response to a question from Chairman O’Connell, Mr. Dewey stated that he spoke with the owners and operators of this facility, and they indicated that they feel that the parking is under control administratively, and they are aware that shift changes are the times where adequate parking is important. He stated that the facility owners have settled on where the staff parks, where visitors park and where new staff coming in park.

Chairman O’Connell stated that he has visited the site several times and has noted that people have to park on the grass because there are no available parking spaces.

A member of the facility administration stated that the number of beds would remain the same with the addition because some rooms are being changed from semi-private to private. He stated that the number of beds will remain at 166 after the addition is complete.

It was determined that four (4) additional employees will be required as a result of the addition.

It was further determined that the Village of Hamburg was notified about this project and has asked for additional time to review it because of concerns involving the amount of parking provided.

Mr. Geraci stated that he is at this site three (3) times per week and has trouble finding a place to park. He noted that the employees do park in the back of the building.

Dave Gardner, architect, representing the applicant, stated that given the bed count at the facility, the project complies with the Town’s parking requirements.

Chairman O’Connell stated that unless the facility has off-site parking and a shuttle service, the problem will not get any better. He stated that since construction activities would be going on with the addition, this would be a good time to take care of the parking problems. He stated that he does not believe that shift changes are the only times when people cannot find a place to park at the facility.

Mr. Reilly informed Mr. Garner that the Town does not have a required number of parking spaces anymore, but rather the applicant must prove that the number being provided is adequate. He stated that the Planning Board decides whether the parking provided is adequate.

It was determined that the staging area for the construction vehicles would be located at the end of the existing paved area, and when construction is complete, the area would be seeded and returned to grass.

It was determined that Mr. Gardner will be meeting with the Supervising Code Enforcement Official, Kurt Allen, to review the project's compliance with the New York State fire codes.

Mr. Schawel read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will hold a public hearing on a proposal by Elderwood at Hamburg Skilled Nursing Facility to construct a three-story building addition for 28 skilled nursing beds at 5775 Maelou Drive. The public hearing will be held on July 20, 2016 at 7:00 P.M. in Room 7B of Hamburg Town Hall."

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

Chairman O'Connell declared the public hearing closed.

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

Engineering Department comments have been filed with the Planning Department.

Zak Management – Amended request to rezone of a portion of 4090 Jeffrey Boulevard from M-1 and M-2 to PR (Park/Recreation Lands District)

Attorney Sean Hopkins, representing the applicant, stated that the applicant is no longer requesting rezoning of the entire site, but rather the request now is to rezone part of the property zoned M-1 and M-2 to PR. He stated that the applicant may decide to reduce the amount of land to be rezoned so that he can accommodate any future growth of his primary business on the site. He noted that if the rezoning proposal is reduced, an updated plan will be submitted to the Planning Board for its review.

It was determined that the Penn Dixie site on Jeffrey Boulevard is currently zoned PR.

Attorney Hopkins stated that if one looks at the wide range of highly intensive uses permitted in the M-1 and M-2 districts, a rezoning to PR would be considered a down-zoning.

Board members agreed that they would like to see accurate traffic counts for the peak hours

Mr. Reilly stated that he will contact New York State Department of Transportation to obtain information from that department on traffic counts in this area.

In response to a question from Chairman O'Connell, Jeffrey Kryszak, applicant, stated that the bar/restaurant would be only open during events.

Attorney Hopkins stated that the applicant is not asking to rezone his existing building to PR because this would cause problems with his lender in that the building would be

located in a zoning district in which it is not permitted. He further stated that if the applicant decides to seek bank financing for the recreational component of the project, he may create a subdivision at that time.

Board members discussed whether restricting hours of operation is something that could be enforced. Attorney McCann agreed to research this.

Attorney Hopkins stated that there is considerable case law that says that towns do not have broad abilities to restrict hours of operation for commercial enterprises.

Attorney Hopkins stated that the Town of Hamburg does have a noise ordinance in place.

Mr. Monaco stated that if the Board could get a commitment from the applicant on the scheduling of events and the hours of operation, many problems would be alleviated.

In response to a question from Mr. Mahoney, Mr. Kryszak stated that he will look into the possibility of having some sort of security at the site during events to deal with crowds and/or intoxicated patrons.

Attorney McCann stated that the SLA (State Liquor Authority) deals with many of Mr. Mahoney's concerns regarding consumption, etc.

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

Engineering Department comments have been filed with the Planning Department.

David Homes – Requesting an amended the approved Site Plan for the Villas at Brierwood (Southwestern Boulevard)

Kevin Curry, representing the applicant, stated that David Stapleton, developer of the Villas at Brierwood, has strong feelings about the sidewalks that were required when this project was originally approved. He stated that Mr. Stapleton would like to realign one of the roads in the development in order to save some of the existing tree line that would be adversely impacted by the construction of the next phase of homes. He stated that if the road is realigned slightly (20 feet) away from the tree line, the homes will be able to be constructed further from the tree line. He stated that this would allow the developer to use the land more wisely.

Chairman O'Connell stated that the applicant's request to realign the road has nothing to do with the installation of the required sidewalks.

Chairman O'Connell made a motion, seconded by Mr. Monaco, to table this project. As the motion was four (4) ayes (Chairman O'Connell, Mr. Chapman, Mr. Monaco and Mr. Geraci) and three (3) nays (Mr. Mahoney, Mr. Clark and Mr. Schawel), the motion carried.

Chairman O'Connell stated that if the sidewalks were complete, he would be happy to discuss the applicant's request to realign the road.

Chairman O'Connell stated that previously he was under the impression that Mr. Stapleton told the Planning Board that if it wants the sidewalks installed, they will be built. He stated that after reviewing the audio tapes of the meeting in question, he found that it was actually Mr. Curry who made that statement. Mr. Curry stated that he told the Board what he was instructed to say.

After a lengthy discussion regarding the location of the sidewalks that were required when this project was originally approved, Mr. Curry offered to install the sidewalks from Southwestern Boulevard to the entrance to the future commercial parcel

Mr. Reilly suggested that the applicant submit a letter signed by Mr. Stapleton indicating that he is willing to install the sidewalks in the area described by Mr. Curry.

Board members agreed to remove the project from the table at its next meeting and consider the road realignment and the installation of the sidewalks in the area described by Mr. Curry as long as Mr. Stapleton submits a letter agreeing to the sidewalks being installed.

Chairman O'Connell stated that the Villas at Brierwood is a closed community, and he was not worried about safety inside the development. He stated that the safety concern he had was the commercial component of the project, and he knows that when Southwestern Boulevard is rebuilt, sidewalks will be installed.

Engineering Department comments have been filed with the Planning Department.

Waterford Pines, LLC – Requesting Preliminary Approval of the previously approved Waterford Pines Cluster Subdivision, Phase II (vacant land as an extension of Waterford Lane)

Mr. Lardo stated that this subdivision was granted Preliminary Approval in 2003, and the engineering plans have expired. He stated that the applicant has proposed some changes to the previously approved Preliminary Plat.

Attorney Sean Hopkins, representing the applicant, stated that the jurisdictional determination issued by the U.S. Army Corps of Engineers expired after five (5) years, and therefore the applicant obtained an updated jurisdictional determination. He stated that that document was submitted to the Planning Department.

Kevin Curry, representing the applicant, stated that he learned during Phase I that the size of the lots is a bit too small for the residents. He stated that the developer (David Stapleton) would like to increase the rear yards of the lots in the subdivision by approximately 18 feet, which would mean a slight reduction in the acreage of the Waterford Preserve (the green space associated with the subdivision). He further stated that the "closes" that were previously proposed have been eliminated on the advice of the Engineering Department.

Mr. Curry stated that the proposed changes to the Preliminary Plat would result in the loss of a few lots.

Mr. Curry stated that the provided green space still meets the requirements of the Town Code relative to cluster subdivisions. He further stated that the amended plan allows for at least 15 feet between homes.

It was determined that the applicant will submit the revised Preliminary Plat for review.

Mr. Clark made a motion, seconded by Mr. Geraci, to schedule a public hearing to be held on August 3, 2016. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Clark made a motion, seconded by Mr. Schawel, to approve the minutes of July 6, 2016 with one (1) correction. Carried.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 8:30 P.M.

Respectfully submitted,

Doug Schawel, Secretary

Planning Board

Date: July 22, 2016