

Town of Hamburg
Planning Board Meeting
August 20, 2014
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M. on Wednesday, August 20, 2014 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, David Bellissimo, Stephen McCabe, Augie Geraci, Doug Schawel, Peter Reszka and William Clark.

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

Public Hearing - Jeff Nagle Subdivision (Amsdell Road and Pleasant 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 a four-lot subdivision proposed by Jeff Nagel to be located on the south side of Amsdell Road, north side of Pleasant Avenue. The public hearing will be held on August 6, 2014 at 7:00 P.M. in Room 7B of Hamburg Town Hall."

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

- Paul Flowers (3133 Pleasant Avenue), representing his wife and Mr. and Mrs. Armstrong (3121 Pleasant Avenue), raised concerns about drainage, excavation and soil removal, the destruction of vegetation, stripping, grading, filling, the potential for flooding in this area due to the construction of the new homes, wetlands on the site, the possibility that sewers may be constructed in this area due to the subdivision, traffic, green space and sight distances.

Chairman O'Connell declared the public hearing closed.

Mrs. desJardins stated that Mr. Gow will respond in writing to the comments made by Mr. Flowers.

Chairman O'Connell asked Mrs. desJardins to obtain the traffic incident report for Pleasant Avenue between Route 20 and Amsdell Road for the past three (3) years.

It was determined that the Traffic Safety Advisory Board (TSAB) reviewed this proposal and recommended that T- turnaround driveways be required.

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

Engineering Department comments have been filed with the Planning Department.

Golf Carts Unlimited (vacant land, northeast corner of Route 20 and Lakeview Road)

Mr. Frank Wailand, representing the applicant, stated that the applicant took the Planning Board members' comments at the last meeting into consideration and rotated the proposed building 45 degrees. He noted that the milling areas for cart display are now proposed in better locations, and a ground sign is proposed on Lakeview Road. He further stated that a dumpster is not proposed at this location.

In response to a question from Mr. McCabe, Mr. Wailand stated that no detached signage is proposed along Southwestern Boulevard.

Chairman O'Connell informed Mr. Wailand that no lighting will be allowed on the rear of the building.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to schedule a public hearing to be held on September 3, 2014. Carried.

Engineering Department comments have been filed with the Planning Department.

David Lutz (vacant land behind 6262 Smith Road)

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

Whereas, the Town of Hamburg received a special use permit application from David Lutz to construct a barn for nonagricultural storage purposes on vacant land located behind 6262 Smith road; and

Whereas, on August 6, 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 (SEQRA) 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 construction of a barn will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit and barn construction 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. Clark:

Whereas, the Town of Hamburg received a special use permit application from David Lutz to construct a barn for nonagricultural storage purposes on vacant land located behind 6262 Smith road; and

Whereas, on August 6, 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 and 280-319 (Barns for nonagricultural storage purposes) that:

1. The project will be in harmony with the purposes and intent 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 essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be 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 in accordance with the requirements of the Town of Hamburg and therefore a special use permit is hereby issued with the following conditions

1. The barn can only be constructed when a single family home is constructed on the property.
2. The barn shall not be used for commercial purposes and will only be used for the storage of the owner's personal items (no items that would adversely affect public health or safety).

On the question:

Mr. Reszka asked Attorney McCann if the approval resolution should reference the previously issued Negative Declaration. Attorney McCann responded that it is not necessary.

Carried.

Engineering Department comments have been filed with the Planning Board.

Patrick O'Melia – Proposed subdivision on Bayview Road

Mrs. desJardins informed the Board members that a rendering of the proposed signage to be installed on the building lots indicating the presence of wetlands was submitted for the Board's review.

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the proposal is to install one (1) sign on each building lot at the wetland boundary so that the homeowners can see where it is and do not infringe upon it.

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

Whereas, the Town of Hamburg has received a subdivision application from Patrick O'Melia to subdivide property located on the east side of Bayview Road into seven (7) single family home lots; and

Whereas, a Negative Declaration was issued by the Hamburg Planning Board on July 16, 2014; and

Whereas, the Hamburg Planning Board held the required public hearing on July 16, 2014; and

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues Preliminary Subdivision Approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated August 20, 2014.
2. The northernmost portion of the property where the majority of the wetlands are located will be merged with the adjacent parcel the applicant owns.
3. The existing wetland areas shall be delineated for the benefit of the new

homeowners by installing seven (7) permanent signs (as shown in the rendering submitted to the Planning Board on August 20, 2014) depicting the wetlands boundary.

4. The installation of sidewalks is waived.
5. Recreation fees in lieu of land will be required.

Engineering Department comments have been filed with the Planning Department.

Larry Best – proposed apartment project on South Park Avenue

Mr. Joshua Best, applicant, appeared on behalf of the proposed project with his surveyor, Howard Mandell.

Chairman O'Connell stated that the contour lines on the applicant's site plan make the plan very difficult to understand. He asked the applicant to remove them for the Planning Board members' review. He further stated that the Board would like to see dimensions from the property lines to the proposed buildings, as well as between buildings and from the building to the parking areas and roadway. He reminded the applicant that one of the conditions of the rezoning granted by the Town Board was that the existing trees be preserved along the west and north property lines as a buffer for the existing homes in the area.

Mrs. desJardins read the condition regarding buffering in the Town Board resolution granting the rezoning as follows:

“Appropriate buffering and screening to the adjoining residential units to the west and north.”

Mr. Best stated that he is planning on keeping all vegetation on the west and north side of the property.

Mr. Lardo stated that the proposed berm and swale on the northwest corner of the property is not acceptable to the Engineering Department.

Mrs. desJardins stated that this property is located in the South Park Overlay District, and as such the applicant will be required to submit a Landscape Plan prepared by a Registered Landscape Architect. She noted that the Landscape Plan must include at least one (1) new tree along South Park Avenue for every 30 feet of road frontage, and three (3) concept architectural sketches must be presented to the Planning Board for its review.

In response to a question from Mrs. desJardins, Mr. Best stated that the existing driveway for the delicatessen on Bayview Road would be eliminated.

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

Engineering Department comments have been filed with the Planning Department.

Glenn Wetzl (vacant land on the northeast corner of Route 391 and McKinley Parkway)

Attorney Sean Hopkins, representing the applicant, stated that the applicant is requesting that the Planning Board recommend that the Town Board initiate the SEQR Coordinated Review process at this time. He noted that the benefit of the Coordinated Review is that the Town will solicit comments from a wide assortment of outside agencies, and these comments would be received before the Planning Board forwards a recommendation to the Town Board on this rezoning request.

Attorney Hopkins stated that a traffic study will be ready for submission within the next few days.

Chairman O'Connell stated that he is concerned about the recommendations in the Comprehensive Plan regarding this part of the Town. He stated that although the Comprehensive Plan does state that cluster development may be appropriate, it also recommends that development be limited to a density of between $\frac{3}{4}$ acre and one (1) acre per lot. He noted that the proposed project would result in a much higher density than that. He stated that he believes that this project is too dense for this area.

Attorney Hopkins stated that the applicant believes that a clustered layout with smaller lots but a much larger amount of permanent green space set aside is a preferable plan. He noted that if the Planning Board decides that it would rather see larger lots where the green space is owned by individual lot owners, it is something the applicant would consider.

Mr. McCabe stated that nowhere in the Comprehensive Plan does it recommend increasing the density almost by four (4).

Attorney Hopkins stated that if a development's average density on this property was $\frac{3}{4}$ acre per lot, there would be approximately forty lots.

Mrs. desJardins asked Board members to express their feelings about this proposal. She stated that unless the applicant plans to revise the layout based on Board members' feelings, the Board probably should recommend that the SEQR process be initiated. She further noted that the SEQR process should not be initiated until the Board is fairly certain that the proposed layout will not dramatically change.

Attorney Hopkins acknowledged that at no point in time will the applicant increase the density of this proposal. He noted that from a SEQR perspective, municipalities are encouraged to look at the maximum impact of a project.

Mr. Clark stated that his major concern is the density of the project.

Mr. Reszka stated that he feels that the project is too dense. He stated that although the applicant proposes to preserve the large amount of open space, it does not seem to include the areas of the site where the existing trees are now. He stated that he would be more comfortable with fewer lots, and instead of preserving areas of wide open spaces he would rather see the existing trees on the property preserved.

Mr. Bellissimo stated that he agrees with Mr. Reszka and would rather see the areas of existing trees preserved. He stated that he would rather see $\frac{3}{4}$ to one acre lots.

Mr. McCabe stated that the Town's Comprehensive Plan specifically denotes this area for its view shed and for the open nature of the view-scape. He stated that in reading the letters received from the surrounding residents and the Town's Comprehensive Plan, he does not see any way to support this project as proposed.

Mr. Schawel stated that rezoning this property would be problematic, and he believes the project is too dense. He stated that the lots should be larger.

Attorney Hopkins stated that the reason why the applicant is requesting the PRD zoning is that if a project is approved on this site, the Town will have the protection of it being based on a specific layout.

Mr. Geraci stated that he likes development in the Town, but he agrees with the other Board members that this project is too dense. He noted that the project is very attractive, but the number of lots is too high for this area.

Joan Lowe, 4576 Newton Road, stated that she believes that this project as proposed contains 3.73 units per acre. She stated that she believes that locating the entrance to the development on McKinley Parkway is better than locating it on Newton Road because she believes that many of the residents would be headed towards Route 219.

Charles Hausmann, 16 Sharon Avenue, stated that he believes that the site presents a number of design challenges because it fronts a non-accessible State highway, steep topography, current sheet drainage, wetlands, etc. He stated that the cluster development idea is a creative solution to a number of design challenges that the applicant has. He stated that the density of the development is too great. He stated that the Town's Comprehensive Plan recommends that projects in this area avoid cul-de-sac layouts and extend existing neighborhoods. He feels that the granting of this rezoning could set precedence for future rezoning requests. He stated that this property will undoubtedly be developed, but he would like the Town to wait for a design that works.

Chris Luther stated that she was speaking on behalf of her mother, who resides at 4464 Newton Road. She stated that her mother's house is quite close to where the proposed entrance to the development would be located, and traffic on Newton Road is already problematic. She stated that it is difficult to get out of her mother's driveway, and motorists travel at a high rate of speed in that area. She is concerned that the added traffic from the new development will just make things worse.

Mr. Reszka stated that the Planning Board should not recommend that the Town Board initiate the SEQR review process when Board members do not appear to be comfortable with the proposal. Chairman O'Connell concurred, stating that he does not like only one (1) entrance to the development on Newton Road. He stated that having one (1) entrance only would be cumbersome, problematic and dangerous.

Mrs. desJardins reminded the Board that recommending that the SEQR review process be initiated does not mean the Board members necessarily like the project at this point.

In response to a question from Mr. Bellissimo, Attorney Hopkins stated that the SEQR regulations state that the Coordinated Review should be initiated as early as possible.

In response to a question from Mrs. desJardins, Attorney Hopkins stated that the applicant has heard comments and understands that the residents have concerns that he will take a further look at, but he (Attorney Hopkins) is comfortable that the submitted layout represents the maximum impacts that would be involved.

Mr. Bellissimo made a motion to recommend to the Town Board that the SEQR Coordinated Review process be initiated. The motion did not receive a second.

Attorney Hopkins stated that the applicant would like to get comments from the involved and interested agencies before he takes a look at where he proceeds next.

Attorney Hopkins stated that the applicant will take another look at the layout and return to the Board at a later date.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to table this proposal. Carried.

Engineering Department comments have been filed with the Planning Department.

Sherwood Meadows Apartment project**Sherwood Meadows Subdivision**

Chairman O'Connell stated that these two (2) projects would be discussed together.

Attorney Sean Hopkins, representing the applicant, stated that there was one (1) condition of approval regarding construction vehicles using the adjacent neighborhood that he and the neighborhood association were hoping would be a part of the Planning Board's approval resolution. He stated that because that condition is not a part of the proposed resolutions, the private agreement between the applicant and the neighborhood association has been amended to include this condition.

Chairman O'Connell stated that a copy of the private agreement between the DATO Development and the neighborhood association restricting construction access will be placed in the file.

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

Whereas, the Town of Hamburg has received a subdivision application from DATO Development to subdivide the property located near Heatherwood Drive into up to, but not more than, thirty-one (31) single family home lots, as depicted on the attached preliminary plat prepared by Nussbaumer & Clarke, Inc. dated 04/22/14 – last revised 8/1/14, (the "Subdivision"); and

Whereas, the overall project includes not only the thirty-one (31) single family lots, but also includes the development of adjoining lands into a 110-unit apartment complex, as depicted on the attached site plan dated 4/22/14 (last revised 8/12/14); and

Whereas, the Planning Board, in accordance with the New York SEQR law and the SEQR Regulations contained in 6 NYCRR Part 617, issued a Negative Declaration on 6/4/14 for this project (subdivision and site plan); and

Whereas, the Hamburg Planning Board has reviewed the Subdivision Application against the subdivision requirements of the Town, the overall development plan, the input received from various agencies and the public, and the Negative Declaration that was issued; and

Whereas, the Hamburg Planning Board, following the Town of Hamburg procedures for subdivision approval has held several public hearings, including the latest required public hearings on January 22, 2014, and on May 7, 2014, and received comments from the public; and

Whereas, the Hamburg Planning Board, based on these reviews and revisions made throughout the project review, has found that the proposed Subdivision is in accordance with Town Subdivision requirements and the purposes of Chapter 230 of Hamburg Town Code, and therefore wishes to approve the preliminary subdivision plan.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues Preliminary Subdivision Approval in accordance with Chapter 230, with the following conditions:

1. The project will address the comments in the Town Engineering Department memo dated 8/20/2014.
2. The Planning Board has determined that the subdivision will impact recreation in the Town but no additional suitable lands are available at the site and therefore will require a recreation fee in lieu of dedicating land to the Town.
3. In accordance with Town Subdivision requirements, sidewalks shall be

constructed along the proposed public roadway.

4. The appropriate deed restriction shall be placed on the site and recorded at the Erie County Clerk's office, limiting development and use of each of the 31 single family lots to one detached single family home per each such lot shown in the Subdivision Application and on the preliminary plat.
5. The roadway to be constructed for this 31 lot subdivision, as depicted on the preliminary plat, shall be a public road and will be offered for dedication to the Town of Hamburg.
6. The new roadway connection to Howard Road, depicted in the Subdivision Application and the Site Plan, shall be constructed prior to the construction of more than fifty-six (56) multi-family units in the multi-family section of the project.
7. In accordance with the Town's subdivision regulations, all required traffic signage shall be installed at the cost of the developer, utilities shall be underground and two street trees per lot shall be planted.

Be It Further Resolved, that the Hamburg Planning Board Chairman is authorized to sign the Preliminary Plat, once the Town Engineer signs off on the Plat.

Carried.

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

Whereas, the Town of Hamburg has received a site plan application from DATO Development to develop the property located at the end of Heatherwood Drive into a 110-unit apartment complex, as depicted on the attached site plan dated 4/22/14 (last revised 8/12/14) as prepared by Nussbaumer & Clarke, Inc. (the "Site Plan"); and

Whereas, the overall project includes not only the development of a 110 unit apartment complex but also includes an application from DATO Development to subdivide the property located near Heatherwood Drive into up to, but not more than, thirty-one (31) single family lots, as depicted in the attached preliminary plat dated 4/22/14 and last revised 8/1/14 (the "Subdivision"); and

Whereas, the Planning Board, in accordance with the New York SEQR law and SEQR Regulations contained in 6 NYCRR Part 617, issued a Negative Declaration on 6/4/14 for the entire project (subdivision and site plan); and

Whereas, the Hamburg Planning Board has reviewed the Site Plan application against the site plan requirements of the Town of Hamburg found in Chapter 280 of the Town Code, the overall development plan, the input received from various agencies and the public and the Negative Declaration that was issued; and

Whereas, the Hamburg Planning Board, following the Town of Hamburg procedures for site plan approval, has held several public hearings, including the latest required public hearings on January 22, 2014, and on May 7, 2014, and received comments from the public; and

Whereas, the Hamburg Planning Board, based on these reviews and revisions made to the Site Plan throughout the project review, has found that the proposed site plan application is in accordance with Town Site Plan requirements and the purposes of Chapter 280 of Hamburg

Town Code, and therefore wishes to approve the site plan.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues Conditional Site Plan Approval in accordance with Chapter 280, with the following conditions:

1. The project will address the comments in the Town Engineering Department memo dated 8/20/2014.
2. In accordance with the Town's Site Plan regulations, sidewalks are required along existing street frontages, and since there are no street frontages requiring sidewalks, the Planning Board hereby waives the requirement for sidewalks.
3. The appropriate deed restriction shall be placed on the site and recorded at the Erie County Clerk's office limiting the development of this site to a maximum of 114 apartment units, including the four (4) existing units, as depicted on the Site Plan.
4. The new roadway connection to Howard Road, depicted on the Site Plan, shall be a private roadway.
5. The appropriate deed restriction shall be placed on the site and recorded at the Erie County Clerk's office requiring that the new roadway connection to Howard Road shall be constructed prior to the construction of more than fifty-six (56) multi-family units in the multi-family section of the project.
6. The Planning Department will review and approve the final landscape plan.
7. The federal wetlands, not to be impacted on the site, will be permanently demarcated in accordance with a methodology to be established and approved by the Town.

Be It Further Resolved, that the Hamburg Planning Board Chairman is authorized to sign the Site Plan, once other regulatory approvals are received and the Town Engineer signs off on the Site Plan.

Carried.

Planning Board review of proposed revisions to the Town Code

Mrs. desJardins stated that the Board will review the proposed revision at its next meeting so that Mr. Reilly can explain the proposed changes to the Overlay Districts. She noted that Board members just received the proposed new signage law, and that will be discussed at the Board's next meeting, as well.

Mr. McCabe asked that Mr. Reilly send Board members a redline version of the Overlay Districts so that members are able to see what the changes would be more easily.

OTHER BUSINESS

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to approve the minutes of August 6, 2014. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board

Date: August 30, 2014