

Town of Hamburg
Planning Board Meeting
August 6, 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, August 6, 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, Andrew Reilly and Sarah desJardins, Town Planners and Richard Lardo, Assistant Municipal Engineer.

WORK SESSION

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

Mr. Frank Wailand, representing the applicant, stated that the proposal is to construct a 1,200 sq.ft. building on a 1.2-acre parcel for the purpose of selling golf carts. He noted that the applicant plans to preserve as many trees on the heavily wooded site as possible, and two (2) sites with millings are shown on the site plan where golf carts would be displayed. He further noted that the operation would be seasonal.

In response to a question from Mr. Reszka, Mr. Wailand stated that the applicant plans to display four (4) to six (6) golf carts on the areas with millings.

Chairman O'Connell stated that the parcel is located in the Lakeview Overlay District, and the areas with millings are shown too close to both roadways per the requirements of the Overlay District. It was determined that the display areas must be located at least 40 feet from the roadways.

Chairman O'Connell suggested that the building be rotated 45 degrees to better accommodate the display areas.

It was determined that Mr. Wailand will revise the site plan to locate the display areas further from the roadways and show the location of the proposed detached sign.

REGULAR MEETING

Public Hearing - David Lutz (vacant land behind 6262 Smith Road)

Mr. Reilly stated that the applicant will have to construct a primary structure on this parcel in conjunction with the proposed non-agricultural barn.

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 David Lutz to construct a barn for non-agricultural purposes on vacant land located behind 6262 Smith Road. 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. No one spoke.

Chairman O'Connell declared the public hearing closed.

Board members agreed to authorize the Planning Department to put resolutions together for the Board's next meeting.

Mr. McCabe listed the conditions of approval as follows:

- The barn shall not be used for commercial purposes and only will be used for storage of the applicant's personal items.

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

Engineering Department comments have been filed with the Planning Board.

Patrick O'Melia – Proposed subdivision on Bayview Road

Mrs. desJardins stated that the wetlands that are located on the site have been delineated and are shown on the Preliminary Plat.

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the wetlands turned out to be more extensive in the southern portion of the proposed subdivision than he anticipated. He noted that the lots are still large enough to construct a home and a sizeable yard.

Mr. Gow stated that one tenth of one acre of wetland area would be mitigated to make lot # 7 more buildable.

Mr. Gow stated that the northernmost portion of the property where the majority of the wetlands are located will be merged to an adjacent parcel the applicant owns. He stated that he will notate this on the Preliminary Plat.

Board members discussed how the existing wetland areas will be delineated for the benefit of the new homeowners. It was determined that the wetland areas will be delineated by installing permanent signage on the wetlands boundary.

Mr. Gow agreed to submit a rendering of what the markers delineating the wetland areas will look like.

Board members agreed to authorize the Planning Department to put resolutions together for the Board's next meeting.

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

Engineering Department comments have been filed with the Planning Department.

Paul Wodzinski – (Proposed subdivision, Lakeview Road)

Mrs. desJardins stated that the applicant asked to be tabled because the wetland delineation has not been completed.

J & M Home Builders

Chairman O'Connell asked the applicant, John Kalstek, if the outstanding issues with the Building Department have been resolved. Mr. Kalstek replied that he spoke with Mr. Kurt Allen on Wednesday, July 30, 2014 and was informed that the issues have been resolved. Chairman O'Connell stated that he (Mr. O'Connell) was informed by Mr. Kurt Allen that nothing has been resolved.

Chairman O'Connell asked Mr. Kalstek to contact Mr. Allen to resolve these outstanding issues. Mr. Kalstek stated that he did call Mr. Allen, but he did not receive a return phone call.

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

Engineering Department comments have been filed with the Planning Department.

Jeff Nagle Subdivision (Amsdell Road and Pleasant Avenue)

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the proposed Preliminary Plat had not changed since the Board's last meeting.

Mrs. desJardins stated that the Planning Board received a memo regarding this proposed subdivision from the Conservation Advisory Board.

Mr. Reilly noted that this property is heavily wooded, and it drops off quite a bit from Pleasant Avenue. He stated that in order to develop these properties, a lot of filling will have to be done.

Mr. Reilly stated that he would like the Preliminary Plat to indicate what areas of this wooded site might be saved and what areas cannot be saved.

It was determined that turn-around driveways would be required.

Mr. Reszka stated that the lot areas should not be calculated to the centerline of the road.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to issue a Negative Declaration on this project. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Reszka, to schedule a public hearing on this project to be held on August 20, 2014. 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)

Mr. Reilly stated that this is a rezoning request, so the ultimate decision rests with the Town Board, and the Planning Board must issue a recommendation on the request.

Mr. Reilly stated that during the review process, the Town Board can begin the SEQR (State Environmental Quality Review) process and refer the proposal to the Erie County Department of Environment & Planning. He stated that the Planning Board should wait until it is relatively certain that the plan will not drastically change before recommending that the Town Board begin the SEQR process.

Mr. Reilly stated that when a property is rezoned to PRD (Planned Residential District), the rezoning is based on a specific layout, which is beneficial because the plan presented during the rezoning process is the only plan the applicant can move forward with without starting the rezoning process all over again.

Attorney Sean Hopkins, representing the applicant, stated that the applicant is proposing to construct 57 patio homes, and the project would be based on his current patio home community (Stonebridge) on the east side of McKinley Parkway, north of this project site.

Attorney Hopkins stated that based on input received from the nearby residents at the informational meeting that was held in early July, the applicant decided to move the roadway connection to the community to a location on Newton Road, although there would be a gated emergency access located on McKinley Parkway for fire access only. He further stated that the amount of permanent open space would be approximately 46% of the site, and the applicant proposes to preserve the frontage on the corners of Route 391 and McKinley Parkway, as well as McKinley Parkway and Newton Road.

Attorney Hopkins stated that the applicant has retained the services of a traffic engineering firm to prepare a traffic study, which is underway and will be submitted to the Town for review.

Attorney Hopkins stated that the applicant is well aware, based on the informational meeting with the neighbors, that there are existing drainage issues associated with off-site locations. He noted that the applicant's engineer will be working on a preliminary drainage plan.

Attorney Hopkins stated that the applicant is comfortable enough with the layout as presented that the Town Board could begin the SEQR process.

Richard Lawrence, 4548 Newton Road, stated that he is concerned about the proposed entrance to the subdivision on Newton Road. He stated that he would rather see homes on two-acre lots, as the current zoning allows.

Mike Welch, 4437 Valley View, stated that Mr. Wetzl and Attorney Hopkins both have great reputations, and this proposal is significantly better than the last one that was presented for this property. He stated that the current owner knew this property was zoned R-A when he purchased it. He stated that many people purchased homes on Valley View and Grandview knowing that this property is zoned R-A. He stated that the revised plan still does not address the issues of flooding, disruption of the existing neighborhood, poor lighting, poorly paved roads, the absence of sidewalks, and infrastructure that cannot support an additional 60 homes, etc.

Terry Vacanti, 4493 Valley View, stated that the Town's Comprehensive Plan indicates that open space preservation and visual character should be considered when development is proposed in this area. He stated that he opposes the project and wants the property to remain zoned R-A.

Jane Johnson, 6411 Boston State Road, stated that her home was flooded in 2009, and she has serious drainage problems. She stated that her property often floods, and she is worried about adding 57 more homes to the area.

Kaitlin McCormack, 302 East Main Street, stated that she agrees with the people who spoke previously. She stated that the requested rezoning is not in conformance with the Town's Comprehensive Plan, and she does not agree that this project would be similar to Mr. Wetzl's other project (Stone Bridge) because there are many more lots proposed now than he built in Stone Bridge. She stated that the area to be preserved is on the back side of the parcel, and the project as proposed would change the view shed of the nearby residents.

Judith Gay, 4491 Grandview, asked how long this project would be under construction if it is approved.

Elizabeth Winkowski, 4642 Newton Road, stated that the drainage in this area is quite problematic.

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 it was his understanding that the purpose of this meeting was to review the draft resolutions for consideration by the Planning Board. He stated that he is hopeful that the Planning Board will be in a position to issue decisions on these projects at its August 20, 2014 meeting.

Attorney Hopkins stated that he submitted draft Declaration of Restrictions that deal with both projects.

In response to a question from Chairman O'Connell, Mr. Lardo stated that the submitted Site Plan for the apartment project still lacks quite a bit of detail.

Attorney McCann stated that while he has no legal objection to any of the restrictions that were set forth in the agreement between the applicant and the neighbors, he is concerned about specifically incorporating that agreement into any decision the Planning Board renders. Regarding the submitted Declaration of Restrictions, he stated that he is concerned about the affirmative obligations that are placed on the Town, specifically the obligation of the Town to notify all property owners within 600 feet if this project is reviewed by the Planning Board again.

Attorney Hopkins stated that the language Attorney McCann referred to was requested by the neighbors and their attorney in the event that in the future there is a request to modify any of the conditions in the agreement, so that the neighbors are made aware of the request.

Mr. Reszka stated that it might be more appropriate for Attorney Hopkins and the neighbors' attorney to notify the neighbors. Attorney Hopkins agreed to speak to the neighbors' attorney about the applicant being responsible for notifying the neighbors.

Mr. Reilly stated that Board members are concerned about the condition in the agreement between the applicant and the neighbors that no construction trucks will utilize the Roundtree neighborhood to access the construction site. He noted that the Code Enforcement Officer has indicated that his department does not enforce construction routes.

Attorney Hopkins responded that, while he understands that this condition would be difficult for the Town to enforce, he does feel that it would be an appropriate condition. He further stated that this condition is part and parcel of the applicant's discussion with the neighbors.

Mr. Reszka stated that if the Town cannot enforce the construction route, then the condition referring to the construction route should not be part of the Planning Board's resolution. Board members concurred with Mr. Reszka.

Mr. David Burke, applicant, stated that it makes good common sense for the construction trucks to use the route preferred by the neighbors because it is easier and quicker.

Charles Cox, nearby resident, stated that he does not understand why the Town cannot enforce the condition that construction trucks are not allowed in the residential neighborhood. He stated that the neighbors fought this project for two (2) years, and they cannot catch a break.

Chairman O'Connell stated that the agreement between the applicant and the neighbors is between them, and the Planning Board should not get involved in issues it cannot enforce.

Mr. Cox asked Attorney McCann what the basis of his objection to the Planning Board attaching the agreement between the applicant and the neighbors to the approval resolution is. Attorney McCann responded that the Planning Board is not party to the agreement and does not want to be a party to the agreement.

Mr. Reilly reviewed the possible conditions of approval of the subdivision as follows:

- An appropriate deed restriction will be placed on the site limiting development of each of the 31 single-family lots to one (1) detached single-family home as shown on the Preliminary Subdivision Plat.
- The roadway to be construction for this 31-lot subdivision will be offered for dedication to the Town of Hamburg.

Mr. Reilly stated that the Town Board has the power not to accept a highway, although he is sure it will take dedication of the roadway.

Attorney Hopkins stated that he disagrees with the above statement by Mr. Reilly. He stated that the Town has to accept dedication of the roadway.

- The new roadway connection to Howard Road shall be constructed prior to more than 56 multi-family units in the multi-family section of the project being constructed.
- Approval is contingent upon the Engineering Department comment letter.
- Recreation fees in lieu of land will be required.
- Sidewalks will be required in the subdivision.

Mr. Lardo stated that he is still waiting for information regarding site distances on Howard Road, and he has not seen the updated traffic study.

Mr. Reilly stated that a condition of approval of the Site Plan would be that the new roadway connection to Howard Road will be constructed before the construction of more than 56 multi-family units. He further noted that the requirement that sidewalks be installed will be waived.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to table this proposal. 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 July 16, 2014. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 7:40 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board

Date: August 13, 2014