

Town of Hamburg
Planning Board Meeting
September 21, 2011
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting on Wednesday, September 21, 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, Sasha Yerkovich, David Bellissimo and Karen Rogers.

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

Public Hearing – Universal Engine

Mr. McCabe read the following public hearing notice:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by Universal Engines to construct a 5,000 sq.ft. building on property located at 3794 Lake Shore Road. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on September 21, 2011 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mrs. desJardins stated that no correspondence had been received by the Planning Department regarding this proposal since the Board's last meeting.

John Schenne, the applicant's engineer, stated that the site plan has been revised slightly and he has corresponded with both the Town Engineering Department and the New York State Department of Transportation. He noted that the area of green space in the front of the site has been increased on the site plan and a curb has been proposed around the green space in that area. He further noted that pilings have been added to the site plan, along with ropes between them, to attempt to display a nautical theme, as requested by the Town's Shoreline Revitalization Committee.

In response to a question from Mr. Reilly, the applicant stated that he needs an area in front of the building to display his equipment (four to six pieces) so that people know he has it for sale and for rent. Mr. Reilly stated that the site plan should show an area designated for equipment display and an area designated for vehicle parking.

It was determined that the property has been cleaned up since the Board's last meeting and that it looks better now. It was further determined that the applicant would like to install an additional sign on the property, if he is allowed.

Mr. Reilly stated that, if the applicant is allowed to install an additional sign on the property, it should be a ground sign and not a sign mounted on a pole.

In response to a question from Mrs. desJardins, Mr. Schenne stated that there will be no need for a dumpster on the site.

Chairman Reszka stated that the Traffic Safety Advisory Board recommends that no loading or unloading of equipment be allowed on Route 5.

Mr. Schenne stated that the green area in front has been increased on the drawing so that there can be no parking within 35 feet of Route 5.

Mr. Reilly stated that, if the Board approves this project, it would have to waive a number of Route 5 Overlay District requirements.

Chairman Reszka declared the public hearing open. No one spoke.

Chairman Reszka declared the public hearing closed.

The applicant indicated on the site plan where he would like to display the equipment for sale and rent. It was determined that the display area would be directly behind the arc of the middle planting and that the applicant's engineer will indicate this location on the revised site plan.

The applicant was directed to indicate on the revised site plan where the proposed ground sign would be located. Mr. Schenne stated that he will propose landscaping around the sign.

Mrs. Rogers noted that this property is located in the Route 5 Overlay District and asked if the Overlay District requirement that windows cover at least 30% of the facade facing the roadway can be met. Mr. Schenne responded that this requirement cannot be met because of the overhead doors that would face Route 5.

Regarding the Route 5 Overlay District requirements, Mr. Reilly stated that it appears that if this project is approved, the Board would be waiving the aesthetic requirements of the building, the location of the building, the installation of sidewalks and possibly other requirements.

Mrs. Rogers asked the applicant to provide colored renderings of the proposed building.

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

Engineering Department comments have been filed with the Planning Department.

Woods at Versailles Subdivision, Part IV

Ms. Leanne Voit from Greenman-Pederson appeared on behalf of the project.

Mr. Reilly stated that he spoke with a representative of the Army Corps of Engineers, (ACOE) who confirmed the history of what is being proposed at this site and indicated that the mitigation plan proposed by this applicant is very good and that it causes minimal disturbance to the property, other than the berm. The ACOE representative also indicated that the property will not look like a wetland area when the mitigation plan is implemented, but rather the area will look like it does now for many years. He further indicated to Mr. Reilly that the existing upland woodland will be preserved by the berm that will be built on its perimeter. The representative also stated that the ACOE prefers that wetland mitigation be done on site and if it must be done off site, it must be in the same watershed as the project site. He further stated that there is no appropriate area in the same watershed where wetland mitigation could be accomplished.

Board members and Ms. Voit discussed possible conditions of re-approval of the Preliminary Plat.

Mr. McCabe stated that he would like to see a written statement from Ms. Voit indicating that the mitigation plan is Mr. Owens' plan (Earth Dimensions), he stands behind the plan and if it does not work for any reason, there will be a remedy to fix whatever problems arise.

Ms. Voit responded that the report that was issued, as well as the ACOE permit, has a lot of Mr. McCabe's proposed verbiage built into it. She further stated that Earth Dimensions is the professional company that created the mitigation report, did the research and coordinated with the ACOE. She noted that the ACOE permit has many conditions associated with it relative to maintenance, etc.

Mr. McCabe asked Ms. Voit what recourse the residents will have if the mitigation plan does not work or if they hit a vein of water, which ends up making the area perennially wet. Ms. Voit responded that the ACOE will monitor the wetland site for a period of five (5) years.

Attorney Corey Auerbach from Damon Morey, representing the developer, stated that the permit conditions clearly state that the developer must maintain the activity authorized by the permit in conformance with the terms and conditions thereof.

Ms. Voit stated that after five (5) years, the Homeowners' Association would be responsible for maintenance of the wetland area.

Mrs. Yerkovich stated that a short summary of what Earth Dimensions plans to do at the site regarding the wetland mitigation should be submitted to the Planning Department for placement in the file. Ms. Voit agreed to this request.

Board members discussed different methods of ensuring that only approved clearing of trees occurs and that additional trees are not removed by the developer or contractors.

It was determined that recreation fees will be required for each proposed lot in this phase of the subdivision.

Regarding the installation of sidewalks, Mr. Lardo stated that, although the Board indicated to Ms. Voit at its last meeting that the sidewalks in front of the conservation

area could be installed when the homes on the adjacent lots are built, this is not possible unless the developer submits a performance bond. He noted that sidewalks are installed under a Public Improvement Permit, which is taken out before homes are built.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to acknowledge that the previous SEQR decision on this subdivision is still valid and nothing about this project has changed that would impact the environment. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to re-approve the Woods at Versailles Subdivision, Phase Four Preliminary Plat with the following conditions:

1. The Pond and Wetland Mitigation area is to be constructed in accordance with the Plan dated September 14, 2011.
2. Areas of disturbance for the pond and the berm will be demarcated in the field prior to construction. Representatives of the Town will review the demarcation prior to any construction moving forward.
3. The location of the berm along the northern side of the site will be a minimum of 30 feet from the property line and will meander so as to avoid as many of the significant trees as possible. The final location of the berm will be determined by Mr. Don Owens from Earth Dimensions, Inc. in the field and confirmed by Town representatives (trees to be removed and those to be saved will be flagged appropriately). With the flagging in place, this site will be photographed for Town records.
4. The applicant agrees to the following mitigations if, during the construction of the pond and the wetland mitigation area, trees are removed outside of the allowable disturbance area:
 - a. The Town (with input from the applicant) shall determine the extent of the violation and document the area of “over disturbance” and the trees that have been removed.
 - b. For each tree removed that was not to be removed, an appropriate evergreen tree of 10 to 15 feet in height or an appropriate deciduous tree of 3 to 5 inches in diameter (10 to 15 feet in height) will be planted as a replacement.
 - c. A plan of this “re-planting” shall be submitted to and approved by the Town Planning Board with input from the Conservation Board before the replanting begins.
5. The berm shall include small markers to indicate the beginning of the wetlands / conservation area. These markers shall be located at appropriate intervals

along the berm and the plan for these markers (design of the markers and location) shall be approved by the Town Planning Department.

6. A plan shall be submitted for a stronger retention system on the south side wall of the northern part of the berm that includes a concentration of taller grasses or wildflower seed plantings.
7. Re-approval is contingent upon Engineering Approval.
8. A letter shall be submitted from Earth Dimension, Inc. and Greenman-Pederson that outlines the mitigation plan as described at the September 7, 2011 Planning Board meeting.

Carried.

Brookview Apartments

Attorney Sean Hopkins appeared on behalf of the proposed project, along with Mr. Glenn Wetzl, applicant.

Mr. Reilly stated that if the Planning Board approves this project, it would approve the entire project and the applicant would then construct it in phases. He further stated that the phasing lines provided by the applicant are approximate.

Mr. Reilly stated that the Planning Board will have to determine during which phase of construction the emergency means of egress to be located on Sunway Lane is to be constructed.

Attorney Hopkins stated that the applicant is looking for direction from the Planning Board regarding the timing of the installation of the emergency means of egress. He further stated that the applicant is aware of the fact that the residents of the Four Seasons Subdivision would rather it be constructed later rather than sooner.

Attorney Hopkins stated that the applicant is fairly comfortable with respect to what will be Phase One but the configuration of the remaining phases is conceptual and will depend upon market demand, among other factors.

Mr. Reilly stated that his opinion is that, as the phases are currently proposed, the emergency means of egress should be constructed in conjunction with Phase Three.

Board members discussed the proposed phasing plan with the applicant. Attorney Hopkins stated that before the Board's next meeting, he and the applicant will meet with the applicant's engineer to ensure that he coordinates with the Town Engineering Department regarding the proposed phasing.

In response to a question from Mr. McCabe, Attorney Hopkins stated that the applicant would not install all of the paving and parking areas initially, but rather the paving and parking areas for each phase will be installed when the corresponding buildings are constructed.

Mr. Lardo suggested that the emergency means of egress be installed when the project construction gets within approximately 200 feet of the exit location at Sunway Lane.

Attorney Hopkins stated that conditions of approval that he envisions would be the requirement that the conservation easement be created and that either/or a wetland permit and a floodway permit be obtained, depending upon whether the creek can be spanned.

In response to a question from Chairman Reszka, Attorney Hopkins stated that the proposed entrance to the project site on Southwestern Boulevard is now directly opposite Buckingham Lane.

Mr. Reilly stated that the Planning Board will be very concerned about clearing limits.

Chairman Reszka stated that a resident of the Four Seasons subdivision asked that the Board contact the Scranton Volunteer Fire Company for input on the project, since the Four Seasons subdivision is located in Scranton's jurisdiction and if there was an emergency in the apartment complex and Scranton was asked to respond, their trucks would travel through the subdivision to get there via the emergency means of egress. Chairman Reszka stated that the Board will not be contacting Scranton because the apartment complex is not located in Scranton's area of responsibility.

Bob Gee, 3960 Summerway Lane, stated that the emergency means of egress would be adjacent to his property. He stated that he spoke with the Scranton Chief, who indicated to him that the fire department's main concern is where the fire hydrants are and how many hydrants will be available to supply the water to fight any potential fires. He asked why there could not be an emergency means of egress to the New York State Department of Transportation (NYSDOT) property to the west of the project site.

Mr. Bellissimo stated that the possibility of putting the emergency means of egress in the area of the NYSDOT property was explored and it was determined that it was not an option because of the elevation difference between the two properties.

Mr. Gee stated that there are several very large trees in the area where the emergency means of egress would be constructed and noted that he would rather see the egress elsewhere on the property so that these trees can be saved.

It was determined that no sidewalks would be constructed along the paved roadway that would serve as the emergency means of egress. It was further determined that the roadway would only have to be one lane and that it could be fifteen feet wide.

Attorney Hopkins stated that the paved roadway for the emergency access will be reduced from approximately 24 feet to 15 feet wide, which would serve to preserve additional trees.

It was determined that the Town Highway Department will plow the emergency access road up to the gate on the Four Seasons side and the applicant will be responsible for plowing the road on the apartment complex side of the gate.

Mr. Reilly stated that the Town usually asks that apartment complexes provide some area for recreation for the residents. Attorney Hopkins stated that the revised site plan will show a recreation area, probably in the area of the community center.

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

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Board members discussed the previously proposed Burgwardt Subdivision on McKinley Parkway and the fact that Mr. Burgwardt has attempted to sell the proposed new lot to Mr. Notaro without Planning Board approval of the subdivision.

Mrs. desJardins stated that the applicant for Whispering Pines Subdivision (previously approved by the Board) will be returning to the Planning Board to discuss remedies for the unauthorized clearing of trees in the conservation area. She further stated that the Engineering Department will not issue Final Plat Approval until this issue is resolved with the Planning Board.

Mr. Reilly stated that Mrs. Rogers has suggested that the Town of Hamburg create a strict new law to address the unauthorized clearing of trees.

Mrs. desJardins stated that Benderson Development's attorney, James Boglioli, requested that the Planning Board review a minor change to the Southwestern Boulevard entrance to the Tops plaza at Seven Corners. She stated that Tops has had several complaints about this entrance and would like to increase the radius of the entrance, which would result in the loss of three (3) parking spaces. She further stated that Benderson has reduced the size of the future retail building on the south side of the plaza by 600 square feet to offset the loss of the parking spaces. Board members agreed that this is a good idea and they have no problem with this minor change.

Board members discussed the remaining stand of trees at the Tops plaza at Seven Corners. Mrs. desJardins stated that Attorney Boglioli has indicated that it would be impossible to bring fill in and grade the south and east sides of the stand of trees to improve the aesthetics of the area and preserve the trees' roots. He did note, however, that it may be possible to bring fill in and grade the west and north sides of the stand of trees and that Benderson will do that if it is indeed possible.

Board members agreed that Benderson should grade the two (2) sides of the stand of trees that can be graded and leave the other two (2) sides as they are. Board members were adamant that no additional trees be removed.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to approve the minutes of September 7, 2011. Carried.

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

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board