

Town of Hamburg
Planning Board Work Session
September 7, 2011
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, September 7, 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, Sasha Yerkovich and Karen Rogers.

Others in attendance included Andrew Reilly, Sarah desJardins and Attorney Cheryl McFadden- Zak.

Realty USA (3674 Commerce Place) – Requesting Site Plan Approval of a 2,700 sq.ft. building for Quest Diagnostics

Mrs. desJardins stated that the Planning Department received revised site plans from the applicant since the Board's last meeting.

Michael Borowiak from Nussbaumer & Clarke appeared on behalf of the proposed project, stating that the proposed building is 2,700 sq.ft. in size and will be occupied by Quest Diagnostics. He further stated that the overall green space coverage for the project property has been added to the site plan, noting that there will be 35% of green space after the new building is constructed.

It was determined that the existing dumpster on the site will be utilized by Quest Diagnostics and an additional dumpster will not be provided.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to grant Conditional Site Plan Approval for this project with the following conditions:

- Approval is contingent upon the Engineering Department letter dated 9-7-11.
- This is a Type II Action and therefore is not subject to SEQRA.
- The parking bumpers for spaces along the west property line that were to be installed when the existing building on the site was constructed will be installed before a Building Permit is granted for the new building.

Engineering Department comments have been filed with the Planning Department.

Woods at Versailles Subdivision, Part IV

Leanne Voit from Greenman-Pederson and Attorney Jeff Palumbo from Damon Morey appeared on behalf of the developer. Ms. Voit stated that there are two (2) mitigation plans being discussed – one was the subject of a mitigation report in 2008 and the other was within a revised mitigation report in February 2010 that received approval from the United States Army Corps of Engineers (ACOE).

Ms. Voit stated that the first mitigation plan (2008) called for clearing and re-grading of the mitigation area around the pond, along with selective clearing of trees. She further stated that more trees would have been lost than the developer would have liked if this mitigation plan was followed because of the difficulty of only clearing particular trees. She noted that this mitigation plan would have drastically changed the environment in the conservation area from a wooded area next to a wetland that experiences some seasonal wet ground to an area with a large amount of young trees planted to replace the cleared trees. She further noted that the conservation area would be very wet for many months of the year because of the grading that was proposed.

Ms. Voit stated that the other mitigation plan that has been discussed and was approved by the ACOE calls for the installation of a subdued berm and the selective clearing of trees with small equipment. She noted that an eight to ten foot area would be cleared in order to construct the one (1) foot by four (4) foot berm. She stated that Earth Dimension has indicated that when the berm is constructed, someone from their office will be at the site to make sure that the location meets all of their requirements in terms of wetland creation and to select the trees they feel should remain. She noted that this plan will add approximately one (1) month to the amount of time the mitigation area experiences wetness over the course of a year.

Ms. Voit stated that she does agree that there is a change between the existing environment in the conservation area and the proposed mitigation plan from 2010. She further stated that the experts involved in this mitigation plan feel that this is a relatively minor change.

Ms. Voit stated that the Taylor Road site is not in the same watershed as the wetland that will be impacted, so this property would not have qualified as an off-site alternative for mitigation of the wetlands.

Mr. Reilly stated that he contacted the ACOE and was informed that there is nothing in the file regarding an approved mitigation plan for this property. Ms. Voit responded that she has a copy of the ACOE permit dated July 8, 2010 and will provide it to the Planning Board. She further stated that, as far as she is aware, the permit does refer to the mitigation report that was submitted and revised in 2010.

In response to a question from Mr. Reilly, Ms. Voit stated that she is not aware of any approvals from the ACOE of the first mitigation plan discussed.

Mr. Reilly stated that he is very concerned about the constructability of the one-foot berm and how it would occur without more trees being taken down than what is planned. Ms. Voit stated that the plan would be to submit an erosion sediment control plan to the Town that would specifically outline the clearing area. She further noted that construction equipment will not be permitted to go outside the clearing area and into the area to be preserved.

In response to a question from Mr. Reilly, Ms. Voit stated that the material for the berm would probably come from the pond, since the pond will be constructed at the same time as the berm. She stated that a construction fence will be installed around the area to be preserved.

Ms. Voit stated that the developer would be willing to shift the berm four or five feet further south in order to increase the buffer for the properties on Fox Chase.

In response to a question from Chairman Reszka, Attorney Palumbo stated that, in the event that the berm settles and needs maintenance in the first five (5) years, the developer would be responsible for that maintenance. He noted that after five (5) years, it would be the responsibility of the Homeowners' Association.

In response to a question from Chairman Reszka, Attorney Palumbo stated that he does not believe that there is anything in the ACOE permit that addresses the scenario where water from the mitigation area breaches the berm and damages nearby properties. He further stated that there is a bond in the permit in the event that the mitigation fails and the developer is no longer in the area to fix whatever problems might arise.

Mr. Bellissimo stated that he would like to see a stronger retention system installed on the south side of the berm along the Fox Chase properties so that if there is any excessive water, the berm will not be breached.

Mr. Bellissimo stated that the Planning Board must know that someone from Earth Dimensions will be at the site to supervise the construction and location of the berm. He further stated that it is very important to the Board that no more than eight to ten feet of trees are removed to install the berm.

Mrs. Yerkovich stated that she believes that part of the problem stems from the misinterpretation of the original mitigation plan that leads one to believe that the change was so much more enormous that it actually was. She further stated that the potential existence of a letter from the ACOE with the later mitigation plan attached indicating that the plan was approved leads her to believe that this mitigation plan is the best one. She noted that the berm would protect the Fox Chase residents better than the original mitigation plan would have.

Mrs. Yerkovich stated that she does not have the same reservations now that she had four weeks ago. She noted that she believes that Planning Board members are somewhat dissatisfied because the original verbiage presented to them was not the reality of the situation.

Mr. McCabe stated that if the members of the public had heard the reality of the proposed mitigation during the public hearing in August, they might not have had any great reservations and there would not have been the misconceptions.

Mrs. Rogers stated that her main concern is the clearing of the trees. She further stated that she is very concerned that there will be more clearing than what is proposed.

Mr. Reilly stated that some towns have as a condition of approval the requirement that, if a developer clears more trees than what the town was told would be cleared, the developer must replace the trees that should not have been cleared with large trees (10' to 12' tall).

Mrs. Rogers stated that she would like the Town of Hamburg Town Board to consider adding something like this to the Town Code to reduce the number of times that more trees are cleared than what is expected.

Ms. Voit stated that she will produce an image that demonstrates the entire berm area moved further to the south (so that it would be located on the northern property line of the new homes on the southern side of the conservation area) for the Board's consideration.

Board members made it very clear to Ms. Voit and Attorney Palumbo that there is to be no clearing of trees beyond what has been proposed.

Board members agreed to authorize the Planning Department and Attorney McFaddon-Zak to prepare a resolution for the Board's next meeting and they discussed possible conditions to be attached to that resolution.

Board members discussed the developer's request that sidewalks not be required in the areas in front of the conservation area where there are no homes.

Mr. Koenig stated that he is opposed to any waiving of the sidewalk requirement. The rest of the Board members concurred.

Ms. Voit asked if the sidewalks in front of the conservation area can be built when the homes on either side of it are constructed. Board members agreed to allow this.

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

Universal Equipment – 3794 Lake Shore Road

John Schenne, engineer, appeared on behalf of the proposed project, stating that the applicant proposes to construct an industrial building to remanufacture heavy equipment. He further stated that the applicant currently remanufactures the equipment in a small building on the site.

Mr. Reilly stated that the Building Inspector previously allowed the applicant to move in to this site because he determined that the applicant's use was similar to what was done on the site before. He further stated that currently there is a lot of heavy equipment on the site.

Mr. Reilly stated that this property is located in an Overlay District and there are several design requirements to be considered. He noted that he would really like the applicant to clean up the site. He stated that the Overlay District encourages applicants to locate the building closer to the road and have the equipment screened behind the building and noted that if the Planning Board waives any of the design requirements of the Overlay District, it would ask for mitigation in the form of limiting the amount of equipment left outside.

In response to a question from Chairman Reszka, Mr. Schenne stated that the applicant wishes to keep the equipment in front of the building because he rents it and wants to display it. He further stated that the applicant derives quite a bit of income from the rentals. He noted that this is an industrial area and landscaping is proposed.

In response to a question from Mrs. Yerkovich, the applicant stated that the equipment he displays is not junk, noting that it is worth a lot of money. He stated that he tries to keep everything in good shape and he feels that he has improved the site. He stated that the new facility will serve to allow him more space to work on the equipment inside. He noted that he has to have equipment outside so people are aware of what he has to offer.

Mr. Bellissimo stated that he is very familiar with the site and asked the applicant where the equipment would be displayed. The applicant responded that there will have to be a spot where the equipment is displayed outside and he would prefer to keep it in front of the building because of vandalism and for visibility.

In response to a question from Mr. Bellissimo, Mr. Schenne stated that the building would be 22 feet high.

Mr. Koenig stated that when the applicant first moved to this site several years ago and received Planning Board approval, he remembers that the applicant was renting the building from the owner. The applicant responded that he now owns the property, had an environmental study done and the property has very minimal contamination from gasoline. He confirmed that the tanks have been sealed with Department of Environmental Conservation permits.

In response to a question from Chairman Reszka, the applicant stated that originally his plan was to demolish the small building on the site but he is now thinking about keeping it for additional storage of the equipment.

In response to a question from Mrs. Rogers, the applicant stated that he would be remanufacturing the equipment in the new building.

Mr. Schenne stated that only a few parking spaces are shown because the applicant would only have at most three (3) employees other than himself at the site. He further stated that the applicant only expects one or two customers at a time at the site.

In response to a question from Mr. McCabe, the applicant stated that he will show on the site plan where the equipment display areas would be on the site.

Mrs. Rogers stated that she does not want to see overhead doors facing Lake Shore Road.

Mr. Schenne stated that the proposed building would be painted metal. He further stated that the applicant proposes to leave the brush along Hoover Road to serve as a buffer for the residences on that street.

Chairman Reszka stated that most of the requirements of the Overlay District will be a problem for the applicant to comply with. Mr. Schenne responded that this is an industrial area and the applicant's use fits into the character of the surrounding neighborhood.

Mrs. Rogers stated that, although this is an industrial area, an Overlay District does exist for that road and she would like the site to have more appeal than it has now.

Mr. Reilly stated that the Board recognizes that this is an industrial area and will probably waive or modify some of the Overlay District requirements but noted that the Board does want to improve the aesthetics of the site.

In response to a question from Mrs. desJardins, Mr. Schenne stated that he will address as many of the comments from the Engineering Department as possible before the Board's next meeting.

Mr. Bellissimo stated that he wants the equipment staging area to be appealing and asked the applicant to strongly consider Mrs. Rogers's concerns regarding the aesthetics of the building.

Mr. Reilly stated that the outdoor storage area should be clearly delineated on the site plan.

It was determined that the applicant will not be required to install sidewalks.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to schedule a public hearing on this proposal for September 21, 2011. Carried.

Engineering Department comments have been filed with the Planning Department.

M/ILE Sports (3100 Lakeshore Road)

Mrs. desJardins stated that nothing has been submitted by the applicant to the Planning Department.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to table this proposal. Carried.

Engineering Department comments have been filed with the Planning Department.

Armor Inn Tap Room

Mrs. desJardins stated that the applicant has withdrawn the request.

Engineering Department comments have been filed with the Planning Department.

Planning Board to provide input to the Town Board regarding several proposed amendments to the Town Code

Mr. Reilly explained several proposed amendments to the Code regarding the parking regulations, college as an allowable use in the R-3 District, day care centers in the M-1 District, definition of garden centers, garden centers as an allowable use in the C-1 District with a Special Use Permit and other miscellaneous changes.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to forward a positive recommendation to the Town Board regarding the proposed amendments to the Town Code. Carried.

Mr. Reilly stated that Lalaine Podkulski, 4332 McKinley Parkway, has requested that the property transferred to her from Benderson Development be rezoned from C-2 to R-1. He noted that the Planning Board will not be asked to recommend on this request because it was a condition of the rezoning granted for the Tops Seven Corners property.

Mr. Koenig made a motion, seconded by Mr. McCabe, to approve the minutes of August 17, 2011. Carried.

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

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board