

Town of Hamburg
Planning Board Meeting Minutes
January 16, 2008

The Town of Hamburg Planning Board met in regular session on Wednesday, January 16, 2008 at 7:30 p.m. in Room 7B of the Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Steve McCabe, Karen Rogers, Richard Taber, Sasha Yerkovich and Peter Rezska.

Others in attendance included Andrew Reilly, Richard Lardo, Attorney Don McKenna, Attorney Timothy Quinlivan and Councilman Kevin Smardz.

Excused: David Phillips

Chairman Koenig introduced the Board's newest member, Peter Rezska.

Chairman Koenig made a motion, seconded by Mr. McCabe, to retain Dave Phillips as Vice-Chairman of the Planning Board for 2008. Carried.

Chairman Koenig made a motion, seconded by Mrs. Yerkovich, to name Steve McCabe as Secretary of the Planning Board for 2008. Carried.

John Kuebler – McKinley Parkway - request for sketch plan direction

Mr. Reilly stated that the applicant has submitted a sketch plan for a project to be located in the HC zone. He further noted that one of the problems associated with this proposal is the fact that the HC zone limits the size of buildings to 6,000 sq.ft. and Mr. Kuebler is proposing an 8,600 sq.ft. building. Mr. Reilly stated that the applicant has submitted a sketch plan showing that two buildings could be placed on the site (one 6,000 sq.ft. retail building and one 4,000 sq.ft. storage/warehouse building), although the original sketch plan showing one building is what the applicant would prefer to build.

Mr. Reilly noted that the Building Inspector has determined that the applicant's use is allowable in the HC zone and that 21 parking spaces are required. He further noted that the applicant is looking for a recommendation from the Planning Board to the Zoning Board of Appeals regarding the variance that would be required in order to build the single, larger building.

Chairman Koenig confirmed with Mr. Reilly that, if the applicant does get a variance, the project would come back before the Planning Board for site plan approval and a public hearing.

Mr. John Kuebler, applicant, appeared on behalf of the project proposed on McKinley Parkway, south of Dorchester.

Regarding the sketch plan showing the single building, Mr. McCabe asked the applicant if the parking spaces along the rear lot line could be eliminated, as that would probably make the residential neighbors behind this parcel happier. Mr. Kuebler responded in the affirmative, as there are more spaces shown on the sketch plan than are required.

Mr. Reilly explained that the applicant's argument for a larger building than what is allowed in the HC zone is that his parcel has 200' of frontage and only 150' is required. Therefore, since the parcel is 33% larger than what is required, the applicant believes he should be able to place a building on his parcel that is 33% larger than what is allowed. However, Mr. Reilly further stated that the Town placed this restriction on the HC zone because there are residences behind these parcels and the Town wanted to discourage strip plaza development in this area.

Mr. Kuebler stated that his business would not be open during the winter months, thus eliminating traffic onto McKinley Parkway during the busy holiday period.

Mrs. Yerkovich asked the applicant if he could reduce the size of the accessory building. Mr. Kuebler responded that he submitted the sketch plan showing the two buildings to show the Board that he can put two buildings on the site that total 10,000 sq.ft. without a variance. He feels that he is compromising by proposing the single building at 8,600 sq.ft. and he reiterated that the single building is his preference.

In response to a question from Chairman Koenig, Mr. Kuebler stated that he owns a swimming pool service and supply company. He further stated that he wishes to expand his business to include retail sales of above ground pools.

Mr. Reilly stated, for the record, that there will be no outdoor display of inventory allowed. Mr. Kuebler acknowledged this fact.

Chairman Koenig stated that at this point he does not want to support one or the other proposal before the Board because he would like to wait for the public hearing to hear any concerns the residents in the area have.

Mr. Taber agreed with the Chairman, stating that he is concerned about what the reaction of the area residents will be.

Mr. McCabe concurred as well, advising the applicant to maintain as much buffer in the rear of the property as possible.

Mrs. Rogers stated that at this time she has no preference between the two plans shown and feels that she needs more time to research the alternatives.

Mrs. Yerkovich stated that she would like to see less building on the parcel and feels that, although the applicant showed the Board two buildings totaling 10,000 sq.ft., he does not need all the space and probably would never build it. She further stated that she does not feel that the single 8,600 sq.ft. building is as much of a compromise as the applicant said because that building is what the applicant needs, as opposed to the 10,000 sq.ft. Mrs. Yerkovich noted that the applicant's use would be ideal in that it would generate little traffic and would not be open during the winter months. She further stated that she would like to support the plan with the single building, but the residents' reaction is very important to her.

Mr. Reilly noted that, regardless of which layout the applicant chooses to go with, at the site plan approval stage the Planning Board will insist on cross-access agreements so that if/when the properties on either side of the applicant's are developed, the properties will be connected.

Mr. Reilly reminded the Board that it can send a positive recommendation, a negative recommendation or no recommendation to the Zoning Board of Appeals regarding the area variance the applicant will be asking for.

Chairman Koenig stated that he is inclined to send no recommendation to the Zoning Board of Appeals because he would like to hear what the public has to say at the public hearing.

Mr. Reilly noted that the Board can simply send the Zoning Board of Appeals the minutes of the meeting's discussion. The consensus of the Board was to send no recommendation, along with tonight's meeting minutes, to the Zoning Board of Appeals.

The Board discussed the rear yard setback and whether or not it must include a landscaped buffer.

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

Engineering Department comments are attached.

Lowe's Home Improvement Store

Jay Pohlman, attorney, appeared on behalf of the proposed project, along with Ron Bronstein and Douglas Morris from Paradigm Development, Taylor McDermott from Lowe's and Russ Porter from Costich Engineering.

Attorney Pohlman stated that the property has been rezoned to C-2 and the applicant is requesting subdivision approval, a Special Use Permit and Site Plan Approval. He submitted a site plan showing just the Lowe's site developed (no out parcels), as well as a subdivision map showing the two proposed lots (Lot #1 being the Lowe's site and Lot #2 being the out parcel(s) site).

Attorney Pohlman discussed the architectural aspects of the proposed building, noting that the Town Board indicated it does not want the building to resemble the Lowe's in Orchard Park. He stated that Lowe's representatives met with the Town Board and some of the Planning Board members on January 14, 2008 to discuss the look of the building. He stated that the building proposed by Lowe's will be 1,000 feet from Southwestern Boulevard and Lowe's plans to add architectural extras to break up the "big box" front that the Town Board objected to. He added that the proposed signage and the peaks of the building will be lowered so that the highest point of the building will only be 45' at the very top of the large Lowe's sign over the center entrance. Additionally, Lowe's has committed to making the front look very attractive and plans to pick up the coloring and some of the architectural details of the medical building being constructed on Camp Road.

Attorney Pohlman stated that the garden center will be fenced on three sides, and the front will have black tubular fencing with the break up of brick fronts and the canopies will be white. Regarding the detention pond, Attorney Pohlman stated that there will be a three-foot high split rail fence with a wire fence behind it (as opposed to a chain link fence) around the pond so that the pond area will fit in nicely with the rest of the property.

Attorney Pohlman noted that, assuming the Planning Board finds the proposed subdivision acceptable, the legal description of the property, as well as the proposed landscape plan, will be drafted by January 25th.

In response to a question from Mr. Reilly, Mr. Bronstein stated that the landscaping shown on Lot #2 will be implemented by Lowe's at the time the Lowe's building is built as part of the Lowe's landscape plan. He further noted that the lot will be graded and seeded with landscaping.

Mr. Reilly stated that during the environmental review of this project, the New York State Department of Environmental Conservation raised questions about

the final design of the front area meeting flood plain and drainage regulations. The Town felt comfortable enough to issue findings in favor of the project with the understanding that the Town does not have final design for the front lots yet and when it does, the Town will make sure that all DEC requirements regarding flood plain and drainage are met.

Attorney Pohlman noted that the Building Inspector has determined that this project will be considered a regional shopping center and as such, 697 parking spaces will be required. He further stated that Lowe's does not want or need that many parking spaces and will be requesting a variance from the Zoning Board of Appeals for a 10% reduction in the number of provided spaces.

Mr. Reilly stated that, as the Town Planner, he highly recommends the granting of that variance because it has been shown that home improvement stores generate a lot less traffic than standard retail and are typically over parked.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to send a positive recommendation to the Zoning Board of Appeals for at least a 10% reduction in the number of parking spaces required. Carried.

Attorney Pohlman stated that Lowe's is committed to keeping 17 acres of the site green and plans to put a conservation easement in place for those 17 acres in the name of the Town of Hamburg and owned by Lowe's. He added that Lowe's will have to disturb the conservation easement area in order to construct the detention ponds and will have a provision in the easement that Lowe's will be able to clean out the ponds and check the piping, etc.

Mr. Reilly noted that there must be a note on the site plan clearly demarcating the non-disturbance areas during construction. He indicated that fencing or signage could be used to make it clear to contractors where the non-disturbance areas are.

The question of who polices the conservation area for non-compliance was discussed and it was learned that it is the responsibility of the Building Department.

Mr. Reilly stated that he is concerned about the grading that is proposed that would be right up to an adjacent resident's property (Marc and Mary Rose Whittman.) He advised Attorney Pohlman to contact them to see if they have any problems with that and if they would like some kind of buffering along the lot line.

It was determined that Lowe's does reduce the parking lot lighting after hours using a central timing device.

Mr. Taber asked if Lowe's ever has problems with people parking their RVs in the parking lot overnight. Mr. Reilly stated that, unlike Wal-Mart, Lowe's is not open 24 hours a day and it is highly unlikely that Lowe's would allow parking of RVs in its lot overnight. This was confirmed by Mr. Bronstein.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to set three public hearings for this project to be held on February 20, 2008 (Subdivision approval, Special Use Permit and Site Plan Approval). Carried.

It was determined that three separate public hearing notices will be published but the public hearings will be held concurrently.

Mr. Taber made a motion, seconded by Mrs. Rogers, to table this project until February 20, 2008. Carried.

Engineering Department comments are attached.

Regarding the minutes from January 2, 2008, Attorney McKenna stated that on page 5 the last three words ("on the deed") should be removed.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to approve the minutes of January 2, 2008 as amended. Carried.

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board