

Town of Hamburg
Planning Board Meeting Minutes
February 18, 2009

The Town of Hamburg Planning Board met in regular session on Wednesday, February 18, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Stephen McCabe, Karen Rogers and Peter Reszka.

Others in attendance included Andrew Reilly, Sarah desJardins, Richard Lardo, Attorney Don McKenna and Attorney Cheryl McFaddon Zak.

Excused: David Phillips, Sasha Yerkovich and Richard Taber

Public Hearing - 7:30 P.M., Northeastern Transparts Company, Inc. (5727 South Park 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 proposal by Northeast Transparts Company, Inc. to operate a transmission distribution and rebuilding business in an existing building located at 5727 South Park Avenue. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on February 18, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Wendy Gutkowski, applicant, appeared on behalf of the proposed project, stating that the business is a wholesale distributor of transmission parts and they also manufacture and install transmissions. In response to a question from Chairman Koenig, Ms. Gutkowski stated that changes are planned for the appearance of the outside of the building. She further noted that she plans to re-stripe the parking area, install two new overhead doors and extensively renovate the inside of the building.

Mrs. desJardins stated that the Building Inspector has determined that the number of existing parking spaces is adequate for this company’s planned use of the building, per the Town Code.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak in favor of or in opposition to the proposal. The following people spoke:

- Mr. Borzelleri, 5406 Maelou Drive, stated that he would like to ensure that the paved area along and parallel to South Park Avenue remains a “no parking” area and would like it striped as such.

Chairman Koenig declared the public hearing closed.

Mrs. Rogers made a motion, seconded by Mr. Reszka, to issue a Negative Declaration and grant a Special Use Permit and Conditional Approval for this project, subject to the Engineering Department comment letter dated February 18, 2009. Carried.

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Engineering Department comments have been filed with the Planning Department.

Public Hearing - 7:30 P.M., Erie County Agricultural Society (5600 McKinley Parkway)

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 the Erie County Agricultural Society, owner of property located at 5600 McKinley Parkway. The applicant proposes to construct a new show arena for livestock. In accordance with the new Town of Hamburg site plan ordinance, a Public Hearing will be held on February 18, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Denny Lang, CEO of the Erie County Agricultural Society, appeared on behalf of the proposed project, stating that the Fairgrounds would like to construct a livestock complex to support the livestock during the Erie County Fair. He noted that the building would be located just west of McKinley Parkway, south of Quinby Drive. In response to a question from Chairman Koenig, Mr. Lang stated that this building would not be replacing any other existing structures.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak in favor of or in opposition to the proposal. The following people spoke:

- Mr. Borzelleri, 5406 Maelou Drive, asked if the Fairgrounds would be paying taxes on the new building. Chairman Koenig responded that this question has no bearing on the Planning Board’s approval and therefore not a question the Board can entertain.

Chairman Koenig declared the public hearing closed.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to issue a Negative Declaration and grant Conditional Site Plan Approval for this project, subject to the Engineering Department comment letter dated February 18, 2009. Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:30 P.M., Hamburg Motors (4090 St. Francis Drive)

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 Hamburg Motors to operate an automotive service department at its location at 4090 St. Francis Drive. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on February 18, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Chairman Koenig stated that no changes are proposed to this site and the applicant is requesting a Special Use Permit so he can repair vehicles.

In response to a question from Mr. McCabe, Mr. Lardo stated that the existing bay that was
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originally approved for washing vehicles would be used to service vehicles.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak in favor of or in opposition to the proposal. No one spoke.

Chairman Koenig declared the public hearing closed.

Mr. McCabe made a motion, seconded by Mr. Reszka, to issue a Negative Declaration, approve a Special Use Permit and grant Conditional Site Plan Approval for this project, subject to the Engineering Department comment letter dated February 18, 2009. Carried.

Engineering Department comments have been filed with the Planning Department.

Penn Dixie Paleontological and Outdoor Education Center (vacant land, east side of Jeffrey Boulevard)

Mr. Reilly stated that Penn Dixie recently acquired a parcel located on the east side of Jeffrey Boulevard, adjacent to the Penn Dixie site, and requests that the parcel be rezoned from M-2 to PR (Parks/Recreation). He further stated that the Planning Board will forward a recommendation to the Town Board regarding this rezoning request and the Town Board will hold a public hearing to gather public input.

Chairman Koenig noted that it is his understanding that in the future this property will be used as the main entrance to the Penn Dixie site, thereby alleviating traffic on Bristol Road.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to forward a positive recommendation to the Town Board regarding this rezoning request, as this will facilitate the continued growth of the facility. Carried.

Engineering Department comments have been filed with the Planning Department.

E.F. Burke Realty (southwest corner of South Park Avenue & Bayview Road)

Mrs. desJardins stated that the applicant asked to be tabled because the applicant recently met with representatives of the New York State Department of Transportation, who have indicated that further meetings may be necessary.

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

Engineering Department comments have been filed with the Planning Department.

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The Villages at Mission Hills (east side of Camp Road, adjacent to the Norfolk & Western Railroad)

Mr. Reilly reminded the Board that this site was the subject of an Environmental Impact Statement a number of years ago, but the project never went forward. He noted that subsequently there have been different proposals for this site and that now this applicant proposes a residential development involving patio homes and apartments. He stated that a Supplemental Environmental Impact Statement (SEIS) will be required for this project to fully answer all of the environmental issues associated with the site.

Mrs. Rogers made the following motion, seconded by Mr. Reszka:

WHEREAS, the Town of Hamburg Planning Board has received an application for site plan review from Mission Hill Development for the development of a mixed senior residential development of +/- 348 units called The Villages at Mission Hills; and,

WHEREAS, the subject parcel consists of 93.28 +/- acres of land in the Town of Hamburg, Erie County, New York; and,

WHEREAS, the subject property had an EIS completed in 1994 for its development into a mobile home park but that project was never constructed; and

WHEREAS, over the years there have been different types of projects proposed for this site, none of which moved forward but included scoping for a SEIS in accordance with SEQR; and

WHEREAS, the Town of Hamburg Planning Board declared its intent to reestablish itself as lead agency on January 9, 2009, pursuant to Part 617.6 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), and conducted a coordinated review of the project; and,

WHEREAS, no objections to the Planning Board acting as Lead Agency were received; and

WHEREAS, the Planning Board has acknowledged the fact that much of the information in the original EIS is out of date and does not reflect the current project;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg Planning Board acting as Lead Agency determines that this project may result in significant environmental impacts as identified in the attached Positive Declaration and Part II of the Environmental Assessment Form; and,

BE IT FURTHER RESOLVED, that that Planning Board has decided that a Determination of Significance be made for a Positive Declaration; and,

BE IT FURTHER RESOLVED, that the applicant, Mission Hill Development shall prepare a Supplemental Environmental Impact Statement (SEIS) in conformance with the SEQR regulations and the scoping issues identified over the past few years for previous projects, to fully evaluate the potential impacts associated with this proposed project; and,

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BE IT FURTHER RESOLVED, that the Planning Board authorizes the Town of Hamburg Planning Department to complete the appropriate paperwork and filing requirements.

Carried.

Mr. Reilly noted that, once the SEIS is determined to be complete, it will be available for public review and comment, and a public hearing will be held on the document.

Engineering Department comments have been filed with the Planning Department.

John Kuebler (vacant land, east side of McKinley Parkway, south of Dorchester)

Terry Myers from LBM Construction appeared on behalf of the proposed project, stating that three parking spaces in front of the unloading area and overhead door have been removed from the sketch plan. She further noted that 14 parking spaces are proposed, which meets the parking requirement as determined by the Building Inspector. She stated that the applicant is looking for a recommendation from the Planning Board regarding the variance he will be requesting from the Zoning Board of Appeals for a reduced parking setback from McKinley Parkway.

In response to a question from Mr. Reilly, Ms. Myers stated that she does not know which half of Mr. Kuebler's site he plans on building the pool supply business on. Mr. Reilly responded that Mr. Kuebler must decide which half of the site he wants to build on before he appears before the Zoning Board of Appeals, as that Board will not grant a variance on property that is not proposed for development at this time.

Mr. Reilly stated that the Engineering Department has indicated that the detention pond for this project will be located along McKinley Parkway and it is not known at this time whether the detention pond will fit in the twenty feet of green space the applicant proposes to provide in front of the parking area. He noted that if the Zoning Board of Appeals grants a variance, it might grant a variance for a maximum of fifteen feet (which is what the applicant is requesting) in case the parking needs to be moved further away from McKinley Parkway in order to accommodate the detention pond.

Ms. Myers stated that the applicant has authorized the hiring of C & S Engineering to do a preliminary detention calculation so that he can get an idea of the volume of detention that will be required.

Board members discussed whether they would be comfortable forwarding a recommendation to the Zoning Board of Appeals on a parking setback for just one side of the site, understanding that Mr. Kuebler at this point does not know which side he plans to build on. Mrs. desJardins stated that, as she has been involved in conversations with the Building Inspector regarding this project, she feels that the Building Inspector would probably not be comfortable placing a request for a variance on the Zoning Board of Appeals' agenda that does not specify which side of the site the applicant is requesting relief for.

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It was the consensus of the Board members present that they are not comfortable recommending on a variance without knowing which side of the property is being proposed for development.

Ms. Myers stated that she would state, on behalf of the applicant, that he proposes the pool supply business on the northern half of the site. Board members agreed that they could forward a recommendation on the applicant's variance request on the northern half of the site and Ms. Myers was reminded that if the applicant changes his mind regarding which side he wants to build on, the Planning Board's recommendation would not apply.

Mr. Reilly stated that typically when the Planning Board recommends a variance request to reduce the parking setback in the front yard, it also requires that the applicant provide much more enhanced landscaping in the green area to mitigate the fact that the parking is closer to the road. He stated that the applicant may have difficulty, assuming he gets a variance for the parking setback, fitting the detention pond and the required additional landscaping in the twenty feet of green area along McKinley Parkway.

Mr. Reilly noted that the applicant should be aware of the fact that, because he will be providing only 14 parking spaces on the site, if he ever decides to sell the building to another user, he will be somewhat limited in the kind of use that can occupy the building and have enough parking to support the use.

Attorney McKenna stated that he recently received a copy of the applicant's proposed Declaration of Building Restrictions, which, along with language for cross-access, was a condition of the Town Board's approval of the rezoning of this property to C-2. He further stated that the Declaration of Building Restrictions is not acceptable because it does not run with the land and does not bind the title. Additionally, he noted that there is no provision for enforcement.

Mr. Reilly noted that the project before the Planning Board will be a mute point if the Declaration of Restrictions and the language for cross-access are filed with and accepted by the Town of Hamburg and the Department of State. He further stated that the rezoning to C-2 will become null and void if the applicant does not meet the conditions of the rezoning approved by the Town Board. It was determined that the cross-access language has not been submitted to the Town of Hamburg yet.

Mr. Reilly stated for the record that no one can ever accuse the Town of Hamburg of not trying to help applicants.

Attorney McFaddon-Zak stated that, having worked with the Zoning Board of Appeals in the past, she does not think that Board will grant a variance on property that was the subject of a rezoning but whose zoning has not yet been changed, as the legalities are not yet in place. She further stated that if the applicant is frustrated, it is because of his own inaction.

Board members agreed that it is premature to recommend on a variance for this site, given the fact that the applicant cannot tell the Town which side of the property he plans to build on and the site has not been officially rezoned to C-2.

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

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Engineering Department comments have been filed with the Planning Department.

Autumnview Healthcare Facility (4650 Southwestern Boulevard)

Leanne Voit from Greenman-Pederson appeared on behalf of the proposed project, stating that the applicant hopes to be able to move forward with the site engineering so that the Planning Board has more information with which to make a decision on this proposal. She further stated that one of the outstanding issues from the Board's last meeting was the Board's desire to receive input from the Big Tree Fire Chief regarding fire safety issues to be resolved at the site. She noted that the Planning Department did receive an email from Ron Klimowicz stating that representatives from Autumnview and he have agreed to a plan to remedy the outstanding fire safety concerns of the Fire Company.

Ms. Voit stated that the other outstanding issue from the Board's last meeting had to do with whether or not a full perimeter fire apparatus access road is required by New York State law at this location. She noted that the Building Inspector has determined that the access road is not required. Mrs. desJardins confirmed this information. Ms. Voit further stated that the applicant proposes to widen all of the sidewalks that run around the majority of the exterior of the addition to make them more accessible to the fire department, as well as install an additional fire hydrant at the rear entrance of the building. She noted that the Fire Company has agreed to these proposed measures.

Mrs. desJardins stated that, in response to a question posed by Mrs. Yerkovich at the Board's last meeting, the Building Inspector has determined that any outstanding fire safety issues from previous additions to this facility will be remedied before a Building Permit is issued for this latest addition.

In response to a question from Mr. McCabe, Attorney McKenna stated that he has not received a copy of the previous settlement between Autumnview and the residents on Nottingham Terrace as requested. Ms. Voit responded that she has made the applicant aware of Attorney McKenna's request and that she will continue to request that the applicant provide that to him.

Mr. Reilly stated that the applicant must submit a good grading plan showing which areas will be disturbed and which areas will not be disturbed. He further stated that the Planning Board is considering the entire site and noted that there may be some improvements, such as additional landscaping, required in areas of the site that were associated with previous additions.

Mr. Reilly suggested that Ms. Voit provide to the Board a line of sight drawing, showing how the addition would look from the surrounding areas.

Mrs. Rogers made a motion, seconded by Mr. McCabe, to table this project. Carried.
Engineering Department comments have been filed with the Planning Department.

Oakwood Grove Subdivision (Oakwood Avenue)

Chairman Koenig stated that the applicant asked to be tabled.

Mrs. desJardins stated that one of the neighboring residents asked if the Board would not vote
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on this project at its work session, but rather at a regular meeting. Board members agreed.

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

Engineering Department comments have been filed with the Planning Department.

Regarding the minutes of February 4, 2009, Attorney McKenna stated that there is an error on page three regarding his statement during the Autumnview project discussion regarding fire safety issues. He submitted corrected language to Mrs. desJardins for her use in revising the minutes.

Mr. Reszka made a motion, seconded by Mrs. Rogers, to approve the minutes of February 4, 2009 as amended. Carried.

Mrs. Rogers made a motion, seconded by Mr. McCabe, to adjourn the meeting. Carried.

The meeting was adjourned at 8:35 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board