

Town of Hamburg  
Planning Board Meeting

April 15, 2009

Minutes

The Town of Hamburg Planning Board met in regular session on Wednesday, April 15, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Gerard Koenig, Karen Rogers, Sasha Yerkovich and Peter Reszka.

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

Excused: David Phillips, Steve McCabe and Richard Taber

**Public Hearing - Hamburg Motors (4090 St. Francis Drive)**

Mrs. Yerkovich 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 construct an addition to the existing building in order 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 April 15, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

David Chaplin and Russ Sparcino appeared on behalf of the proposed project. Mr. Chaplin stated that they would like to add a service department to their business.

Mrs. desJardins stated that the Planning Department received site plans today for this project and that the Engineering Department’s comment letter does not address the site plan submitted.

Mr. Reilly stated that the applicant must obtain a flood plain development permit from the Building Inspection Department. Mr. Chaplin acknowledged this.

It was determined that the applicants propose to add one additional bay to the facility, increasing the number of bays from two to three. It was further determined that, because the Building Inspector was under the impression that no additional bays were proposed, he advised the Planning Department that no additional parking spaces were needed. It was agreed that the Building Inspector will be asked to reevaluate the project to determine if additional spaces are required.

Mr. Reilly stated that, if additional spaces are deemed necessary, the applicants will have to demarcate fewer spaces for automotive display and more spaces for customer repair.

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. Lardo stated that, if the Board felt comfortable approving the project, he would ask the applicant to contact the Engineering Department to address a few minor issues.

Mr. Reilly stated that this is an existing operation, the change requested is minor in nature and there is no public controversy.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to issue a Negative Declaration for this proposal. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Reszka, to amend the existing Special Use Permit to allow automotive repair to include three bays. Carried.

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

1. Approval is subject to the Engineering Department comments and letter dated April 15, 2009.
2. The Building Inspector will determine whether additional parking spaces are needed.
3. A flood plain permit shall be obtained from the Building Inspection Department.

Carried.

Engineering Department comments have been filed with the Planning Department.

### **Franciscan Sister of St. Joseph (South Park Avenue)**

Patricia Bittar from William Schutt & Associates appeared on behalf of the proposed project, stating that the project involves the construction of a new 72-unit motherhouse on South Park Avenue across the street from their existing residence. She further stated that a wetland delineation was performed on the site that approximately 2.1 acres of the site is wetlands. She noted that this wetland area will not be disturbed.

Ms. Bittar stated that, due to the parcel layout, environmental constraints and the desire to configure the building to meet the needs of the sisters, the applicant will be requesting a variance from the Zoning Board of Appeals regarding the side yard setbacks.

Mr. Reilly stated that he would rather the applicant not appear before the Zoning Board of Appeals until after the SEQR Coordinated Review is completed and input is received from the Involved Agencies. It was determined that the sisters have spoken to the property owner to the north regarding the requested variance.

Mrs. Yerkovich made a motion, seconded by Mr. Reszka, to authorize the Planning Department to initiate the SEQR Coordinated Review and seek Lead Agency status. Carried.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to set a public hearing for this project for May 20, 2009. Carried.

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

Engineering Department comments have been filed with the Planning Department.

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

Mrs. desJardins stated that the applicant is out of town but is asking the Planning Board to forward a recommendation to the Zoning Board of Appeals regarding his request for a variance to locate the parking area in front of the proposed building closer to McKinley Parkway than what is required in the Town Code.

It was determined that the applicant will have to provide a ten-foot landscaped buffer along the rear lot line as a condition of the rezoning to C-2.

Mr. Reilly stated that when an applicant is allowed to provide less than the required green space along the road, an outstanding improved landscape plan for the green area must be submitted.

Mrs. Yerkovich made a motion, seconded by Ms. Reszka, to forward a positive recommendation to the Zoning Board of Appeals regarding the applicant's request for a variance to locate the parking closer to McKinley Parkway than what is required with the following conditions:

1. The parking area shall not be located any closer than twenty feet from McKinley Parkway.
2. The detention area for this site is not to be located in the reduced setback area.
3. A landscape plan is to be submitted to and approved by the Planning Department showing enhanced landscaping in the green area between McKinley Parkway and the parking area.

Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **Old Time Baptist Church**

Chairman Koenig stated that the Planning Board members received a detailed letter from concerned residents in the area of the proposed church. Board members indicated that they had read the letter. It was determined that the Planning Board will want the issues brought up by the neighbors in the letter addressed.

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Lowell Dewey from C & S Engineers and Louis Guadagno, assistant pastor of Old Time Baptist Church, appeared on behalf of the proposed project. Mr. Dewey stated that the applicant hopes

to not need any variances for this project and that a complete set of engineering documents has been prepared so that the project can continue to move forward in the approval process.

Mr. Dewey stated that the proposal is for the storm water to flow to the northwest, as that is the lowest area of the site. He further noted that a meeting was held with the neighbors to discuss this project and that as a result of that meeting a list of concerns was created. He stated that he believes that headway is being made in answering the neighbors' concerns.

Mr. Dewey stated that a wetland delineation was performed on the site and no federal wetlands exist on the site. However, there is a New York State wetland area adjacent to the northwest corner of the site and the applicant has asked the New York State Department of Environmental Conservation to delineate that area. He further noted that the proposed plans have been forwarded to the New York State Department of Transportation for its review.

Mr. Dewey stated that the roadway connecting the two parking areas crosses a corner of the parcel to the north of the church site, which is owned by the church parson. He noted that an easement is now shown at this corner. He further stated that the location of the septic system for the house on the parcel to the north of the church site is now shown on the site plan. He noted that the well on the property to the west of the church site has been located and indicated that the proposed septic system for the church is located further than 100 feet from the existing well on the neighbor's property.

Mrs. desJardins stated that the Building Inspector has indicated that all of the parking spaces intended for the church must be located on the church property and that therefore the spaces proposed on the property to the north will not be counted toward the total required for the church. She further stated that the Building Inspector would like the applicant to merge the two properties.

It was determined that if the church does not agree to merge the two parcels, it will either have to find space on the church lot for the five parking spaces currently proposed in front of the parson's house or reduce the number of seats in the sanctuary so that the number of required spaces is reduced.

Regarding the annual revival held by the church, Assistant Pastor Guadagno stated that it has always been an outdoor event held on the church's vacant lot and that, once the church is built, it may have to change quite a bit if it is to be an outdoor event. He further stated that it is obvious that the church will not be able to accommodate the tents, etc. that they have had in the past in the open field. He noted that the church may decide to just set up one tent for the outdoor meetings and stated that this all would be subject to whatever the church decides to do at the time. He stated that he would like to have an outdoor meeting once a year but is willing to work with the Building Inspector to make sure that whatever they do there is going to be acceptable to the Town.

Mr. Reilly stated that the Planning Board may place restrictions on the church's annual outdoor event if the site gets developed.

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In response to a question from Mrs. desJardins, Assistant Pastor Guadagno stated that, other than the usual church services on Sundays, the church runs a small Christian school with approximately 18 students. He stated that there is a church service on Wednesday evenings

that is smaller than the Sunday service, as well as small events going on during the week such as a teen night, ladies' meetings, etc.

In response to another question from Mrs. desJardins, Assistant Pastor Guadagno stated that he did attend the meeting with the neighbors and noted that the biggest issue discussed was the water runoff from the church property.

Mr. Dewey stated that Mr. Lardo had suggested that the church consider an easement for off-site drainage onto the parcel located to the west of the site (owned by Mr. Rickie Los). He noted that he disagreed with Mr. Lardo. Mr. Lardo stated that the church must receive permission from Mr. Los in order to discharge the water onto his property and indicated that he would not change his mind on this issue.

Mr. Reilly reminded the applicant that the church parcel lies in the Erie County Agricultural District and as such, the Erie County Agricultural and Farmland Protection Board (as well as property owners within 500 feet of the site) must be advised by the church of its intent to build on the parcel. Assistant Pastor Guadagno stated that he believes that the architect has already done this. Mr. Reilly responded that, if this is the case, the Planning Department will need a copy for the record.

Assistant Pastor Guadagno was given a copy of the letter submitted to the Planning Board by the residents in the area. It was determined that the Planning Department and the applicant will attempt to respond to each concern raised in the letter.

Mrs. Yerkovich made a motion, seconded by Mr. Reszka, to authorize the Planning Department to initiate the SEQR Coordinated Review and seek Lead Agency status. Carried.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to set a public hearing for this proposal for May 20, 2009. Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **Avanti Mansion**

Laurie Clark appeared on behalf of the proposed project, stating that a site plan has been submitted showing the proposed building, parking area and detention area. She further noted that the parking area is now proposed in front of the proposed building.

Chairman Koenig noted that the parking area will be very visible from South Park Avenue and asked Ms. Clark how she plans to conceal it from the road. Ms. Clark responded that she does not plan to landscape the area along South Park Avenue to block motorists' view of the parking area. She stated that the history of the property has most of the landscaping along the

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driveway and that a previous owner of the property destroyed the trees in that area. She further stated that she is trying to make the property look like it did before all the driveway trees were removed and noted that, once the driveway is widened, she will begin planting trees along the

driveway. She stated that she does not think that plantings along South Park Avenue create the enhancement she is looking for.

Mr. Reilly stated that, because this property is located in the South Park Avenue Overlay District, forty feet of green area is required along the road and should be landscaped to shield parking areas from passing motorists. He noted that the Planning Board would have to waive this requirement if Ms. Clark does not intend to plant anything in that green area along South Park Avenue. He further stated that it appears that Ms. Clark also does not intend to install green islands in the parking area to break up the monotony of pavement and that, also, is a requirement of the South Park Avenue Overlay District that would have to be waived by the Planning Board.

Mr. Reilly stated that the Planning Board would have to have justifiable reasons for waiving the requirements of the Overlay District.

Mr. Reilly stated that this property was specifically rezoned to PUD (Planned Unit Development) many years ago to allow for the reuse of the existing building, a single family home and 5,000 to 6,000 sq. ft. of offices. He further stated that the Town Board will have to either amend the existing PUD or rule that this proposed use is generally in conformance with the existing PUD. He noted that he will make sure this issue is dealt with at the Town Board's next regular meeting.

Mrs. Yerkovich made a motion, seconded by Mr. Reszka, to forward a positive recommendation to the Town Board regarding this proposed use of the property and suggest that the Town either amend the existing PUD or cite conformance with the existing PUD. Carried.

Mr. Lardo stated that topsoil is not to be stockpiled along South Park Avenue.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to schedule a public hearing for this project for May 20, 2009. Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **Hamburg Senior**

Christopher Dirr, development partner from NRP Group, appeared on behalf of the proposed project, stating that the proposed project involves the construction of a single-story 72-unit affordable multi-family housing development geared toward senior citizens. He further stated that a community clubhouse is also proposed. He noted that the units are proposed as far away from the railroad tracks as possible and that the closest unit to the tracks is approximately 95 feet away. Mr. Dirr stated that the Heart Trail runs parallel to the railroad tracks on this property and that the trail is reflected on the sketch plan, although he is not exactly sure at this time where the trail is supposed to be. However, he noted that he is interested in working with

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the Town to locate the trail where it was intended to be and that he intends to incorporate the trail in the design of the project. He further stated that a sidewalk is proposed out to Cloverbank Road.

Mr. Reilly stated that this property lies in a PUD and has always been slated to be for multi-family development and therefore is in conformance with the existing PUD. He further noted that this property was the subject of an Environmental Impact Statement (EIS) and the Planning Department will review the project to make sure it is in conformance with the EIS that was previously done.

Chairman Koenig stated that correspondence has been received from the Conservation Advisory Board indicating its concern regarding the proximity of some of the proposed buildings to the railroad tracks. Mr. Reilly stated that it is impossible to determine what a safe distance would be from the railroad tracks.

Mr. Dirr stated that when E.F. Burke was contemplating a previous project for this site, a study was commissioned that Mr. Dirr considered when designing the location of the buildings and that this is why the buildings are proposed as far away as possible from the tracks.

It was determined that the distance of the buildings from the tracks will be clarified, as the developer and the Conservation Advisory Board have different interpretations of the distances.

Chairman Koenig stated that he feels this is a good project and he likes the fact that it is less dense than the project previously proposed on this site.

Board members discussed the proposed elevations of the buildings.

Mrs. Yerkovich made a motion, seconded by Mr. Reszka, to set a public hearing for this project for May 20, 2009. Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **E.F. Burke Realty (southwest corner of Bayview Road and South Park Avenue)**

Michael Borowiak from Nussbaumer & Clarke appeared on behalf of the proposed project, stating that the applicant attempted to apply for a variance regarding the parking setback along South Park Avenue but was advised by the Building Department that, because the Planning Board did not forward a positive recommendation on the variance, he could not be heard by the Zoning Board of Appeals. He further stated that, as a result, the applicant has removed the parking along South Park Avenue, located it south of the building on adjacent property owned by the applicant and an easement will be put in place. He noted that the project now complies with the parking requirements and does not require any variances.

It was determined that the applicant does not know where the front of the building would be, although the assumption was that the front door would be located on the north side of the building.

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The Board discussed the fact that only one drive-thru window is proposed and discussed the ramifications of such.

Mr. Reilly stated that the landscape plan should be improved in the area along South Park Avenue.

Mr. Reilly advised the Board that a SEQR decision, as well as a site plan approval decision, is the next step in the process for this project. He further stated that if the Board is not comfortable approving the site plan, it should issue a Positive Declaration and require an Environmental Impact Statement. He noted that if the Board is comfortable approving the project, it should issue a Negative Declaration and approve the project with conditions, if applicable.

Chairman Koenig stated that, until the New York State Department of Transportation issued its letter regarding the right-in right-out scenario on South Park Avenue, the Board could not approve this project. When that issue was cleared up, the only outstanding problem was the parking setback along South Park Avenue and, now that the applicant has moved the parking to the area south of the building, the Board can make a decision on the project.

Mrs. Rogers stated that she knows how hard the applicant has worked on this project, but she could not vote in favor of it because of safety reasons. She further stated that she has visited the site three different times and feels that it would be very difficult at times to make a left into the site from Bayview Road. She noted that she is not comfortable with the project and stated that perhaps this location would be better suited for a law office, real estate office, etc.

Mr. Reilly stated that, although the NYSDOT required that the entrance onto Bayview Road be moved as far west as possible, this does not mean that traffic will not stack up in that area at certain times of the day.

Chairman Koenig stated that, because there was one dissenting vote on the Board and there were only four members present (four votes are required to pass a motion), the Board could not approve the project.

It was determined that the project will be placed on the Board's May 6, 2009 work session so that the Board can vote on it at that time.

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

Engineering Department comments have been filed with the Planning Department.

### **Stonebridge Subdivision**

Mr. Reilly stated that this subdivision previously received Planning Board approval and that the applicant wishes to make some minor revisions to the lot sizes, which requires the issuing of a re-approval by the Planning Board. He further stated that the applicant has submitted information indicating that the required forty percent of green space is still being provided.

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Carl Calarco, engineer, and Glenn Wetzl, applicant, appeared on behalf of the proposed project. Mr. Calarco stated that, due to the current sales climate, the applicant would like to increase the

depth of some of the lots to provide an additional 12 feet of buildable area. He noted that the lots affected would be lots 9 and 10, lots 17 through 19 and lots 30 through 38.

Mr. Calarco stated that the total square footage to be added to the site is .56 acres and that the amount of green space would be reduced from 16.7 acres to 16.14 acres in addition to the four acres of wooded area on the site.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to re-issue Preliminary Plat Approval, as the requested change is not substantial and it meets all zoning requirements. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Tops Fueling Facility**

Mike Bieler and Lou Terragnoli from Tops Market, as well as Chuck Norris, general contractor and Jim Palumbo from Carmina Wood Morris appeared on behalf of the proposed project.

Mr. Bieler stated that Tops is proposing to install fuel pumps in front of its location on South Park Avenue and that the project is currently being considered by the Village of Hamburg. Mr. Reilly noted that the Village has requested input from the Town of Hamburg Planning Board regarding this request.

Mr. Bieler stated that the applicant has been working with the Village for approximately one year and that all of the input received from the Village over that time is incorporated into the current proposed site plan. He further noted that the current site plan represents what the Village thinks is the best format given the site constraints, etc. It was noted that some of the changes made as result of input received are an extra drive lane added to the signalized entrance, a smaller kiosk and extended internal islands. Additionally, 59 parking spaces would be lost due to the new construction and, if the project is approved, Tops/Value would still be providing 51 spaces more than what is required by Village Code.

Mr. Terragnoli stated that presently between Tops and Value there are close to 600 parking spaces and that a traffic count was performed on the busiest days that found that, at the highest peak, approximately 300 parking spaces were occupied. He further stated that, because snow removal and snow stacking are concerns of the Village, Tops has agreed to deal with the snow in whatever manner the Village deems best.

Chairman Koenig stated that he believes that taking parking spaces away from this site should not be done.

Mrs. Yerkovich asked the applicant how Tops would accommodate customers on the busiest shopping days such as Christmas Eve, etc. Mr. Bieler responded that Tops is trying to compete in the market with stores such as Wal-Mart and noted that typically when a Super Wal-Mart is introduced to an area, Tops initially loses approximately 30% of its business. He further noted that, as a result, a year from now 30% of the cars seen at Tops now will not be there. He

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stated that Tops feels that it needs the fuel pumps to operate and that it will be an advantage to Tops.

Mr. Reilly stated that, in his opinion, the location Tops has chosen on the site for the fuel pumps is the prime activity point on the site. He further noted that aesthetics is very important and that the Village and the Town are very concerned about upgrading the image of this area. He stated that public health and safety, as well as image, are the two biggest issues to be dealt with. He stated that he thinks Tops can do a better job of designing the canopy.

Mr. Bieler stated that Tops had a traffic study performed at the Tops site in Orchard Park, which found that during peak hours 16% of traffic that would come to the site would be new, while the remaining 84% would be traffic that is already on the roadway system.

Mrs. Yerkovich stated that the Planning Board is concerned about how this project would negatively affect the aesthetics of the South Park Avenue corridor, as well as about the removal of parking spaces on the site and traffic. She further stated that snow removal and stacking is another concern, although if Tops comes up with an agreement to deal with this issue, that would alleviate the Board's concern.

Mrs. Rogers stated that she is very concerned about the traffic on South Park Avenue, as well as the internal traffic on the site.

Mr. Reszka made a motion, seconded by Mrs. Rogers, to approve the minutes of April 1, 2009. Carried.

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

The meeting was adjourned at 10:20 P.M.

Respectfully submitted,  
Stephen J. McCabe, Secretary  
Planning Board