

Town of Hamburg
Planning Board Meeting Minutes
April 16, 2008

The Town of Hamburg Planning Board met in regular session on Wednesday, April 16, 2008 at 7:30 p.m. in Room 7B of Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Vice-Chairman David Phillips, Secretary Stephen McCabe and Peter Reszka.

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

Excused: Richard Taber, Karen Rogers and Sasha Yerkovich

Public Hearing – Van Wagner Two-Lot Subdivision

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a two-lot subdivision known as Van Wagner Two-Lot Subdivision to be located on the south side of Schoellkopf Road, approximately 175’ east of Lake Shore Road on April 16, 2008 in Room 7 B of Hamburg Town Hall at 7:30 P.M.”

Ms. Allison Payne appeared on behalf of the applicant.

Mr. Reilly stated that the Van Wagners were attempting to sell this vacant lot but were informed by the Town that it is not a legal building lot. Therefore, they are asking for subdivision approval so they can proceed with the sale of the lot.

Mr. Reilly noted that the lot meets all zoning requirements except for one. Because the lot is located in the Lakeview Overlay District, the lot width at the building line and lot area requirements are increased by 25%. The lot’s area meets the Overlay requirement, but the lot width requirement is 112.5 feet and this lot is approximately 92 feet wide at the building line. Mr. Reilly stated that the Planning Board has the authority to waive the Lakeview Overlay District requirements if it so chooses. Mr. Reilly further stated that he recommends that the Board waive the requirement because the purpose of the Overlay District requirement is to dissuade people from creating strip frontage lots along the road, and the lots in this area of Schoellkopf Road are different shapes and sizes.

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. Phillips made a motion, seconded by Mr. Reszka, to issue a negative declaration, grant Preliminary Approval for this two-lot subdivision, subject to the Engineering Department's comment letter dated April 16, 2008, waive the Lakeview Overlay District lot width at building line requirement and waive the filing of a map cover. Carried.

Engineering Department comments are attached.

Public Hearing – Tim Horton's

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 Tim Horton's.

The applicant proposes to construct a new 12-foot drive-thru lane and modifications to landscaping in efforts to reduce the traffic congestion within the existing parking lot.

In accordance with the new Town of Hamburg site plan ordinance, a Public Hearing will be held on April 16, 2008 at 7:30 p.m. in Room 7B of Hamburg Town Hall."

Bob Bender from Tim Horton's and Robyn Cierniak from William Schutt & Associates appeared on behalf of the proposed project.

Mr. Bender stated that the owners of the adjacent Mobil Station have agreed to sell Tim Horton's a piece of their property so that Tim Horton's can relocate the drive-thru lane outside of the existing parking lot, thereby creating a much safer situation and a longer stacking lane for the drive-thru.

Mr. Reilly stated that the proposal meets all zoning except for the Southwestern Boulevard Overlay requirement of fifty feet of green space along Southwestern Boulevard. He noted that the plan calls for a reduction of the green space to 23 feet and the Planning Board can waive the requirement if it so chooses. He strongly recommended that the Board do so, as the applicant proposes to add landscaping along Southwestern Boulevard and he feels that the public health

and safety issue outweighs the importance of the fifty-foot setback requirement.

Chairman Keonig noted the recommendations of the Traffic Safety Advisory Board, which included the installation of proper directional signage to direct customers around the parking lot through the new drive-thru. Mr. Bender agreed to install such signage.

In response to a question from Mr. McCabe, Mr. Bender stated that the total number of stacked vehicles the new configuration would be able to handle is approximately 17 without impacting access to the parking lot.

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:

- Donald Weiss, 2963 Cloverbank, stated that if stacking becomes a problem and traffic is stopped in Southwestern Boulevard, he would like to see Tim Horton's return to the Planning Board with a mitigation plan to fix the situation.
- Robert Morford, Lakeview, asked about the internal traffic flow of the site once the new drive-thru is installed. Mr. Bender responded that the drive-thru lane will be installed outside of the parking area and therefore open up the parking area. He further stated that signage will be installed directing drive-thru vehicles to yield to vehicles exiting the parking area.

Chairman Koenig declared the public hearings closed.

Mr. Phillips made a motion, seconded by Mr. McCabe, to approve the Tim Horton's site plan dated April 9, 2008 subject to the following conditions:

1. This is a Type II Action under SEQRA and therefore a determination of significance is not required.
2. The Planning Board hereby waives the 50-foot setback requirement of the Southwestern Boulevard Overlay District in the interest of public safety.
3. Appropriate signage shall be installed to direct customers around the existing parking lot to the new drive-thru.
4. Approval is subject to the conditions of the Engineering Department's comment letter dated April 16, 2008.

Carried.

Engineering Department comments are attached.

Public Hearing – Oakwood Grove Subdivision

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a proposed 11-lot subdivision known as Oakwood Grove Subdivision to be located on the south side of Oakwood Avenue, east of South Park Avenue on April 16, 2008 in Room 7 B of Hamburg Town Hall at 7:30 P.M.

The project includes the construction of zero-lot line duplexes on ten of the subdivision lots on Oakwood Avenue. Sub lot #11, which has frontage on Lake Avenue, is proposed to be developed into a multi-family site plan in the future.”

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed project. He stated that five two-family dwellings are proposed on the south side of Oakwood Avenue. He noted that the project involves the extension of a sanitary sewer, the homes would be served by public water that exists along Oakwood Avenue and storm water drainage would be provided. He further stated that this project is zoning compliant and would not require any variances.

Mr. Gow stated that they did confer with Wilson Environmental to determine that there are no wetland issues on the site and they are awaiting comments from the State Historic Preservation Office.

In response to a question from Mr. Phillips regarding ownership of the land for the access to Lake Avenue (on sub lot #11), Mr. Gow stated that they confirmed with the NYS Department of Transportation that that land was granted with access to Lake Avenue and a copy of the official survey indicating that fact will be submitted to the Board.

In response to a question from Chairman Koenig, Mrs. desJardins stated that the Planning Department has not yet heard from the Conservation Advisory Board regarding its opinion of the trees on the south side of Oakwood Avenue.

Mr. Reilly noted that the Board is holding a public hearing to gather input from the public and is also awaiting input from various agencies. He further stated that there will be no action at this time on the subdivision request and that the Board will continue to gather documentation so that it knows what all of the relevant issues are concerning this request. He reiterated the fact that this property is zoned correctly for this type of development and the Board must

make sure that the development is done within the rules of the Town and that there are no environmental issues that cannot be mitigated.

Mr. Reilly stated that whatever development is proposed in the future for sub lot #11 will require its own Site Plan Approval and public hearing.

It was determined that water service and sewer would come from the Village of Blasdell. Mr. Gow stated that pressure flows were performed and there is sufficient capacity for this number of units.

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 residents spoke:

1. Angel Slisz, 4324 Elmwood, presented a petition to the Board signed by nearby residents who are opposed to the proposed subdivision. She noted concerns regarding the loss of open space, the fact that there are no sidewalks on Oakwood Avenue, the loss of recreation area for the neighborhood children, the safety of the neighborhood children, traffic safety and access from Lake Avenue. She stated that she opposes the proposal.
2. Sandra Vaccaro, 4332 Oakwood Avenue, stated that she is concerned about the possibility of heavy machinery damaging her septic system, as well as the increase in traffic generated from this project.
3. Raymond Haines, 4247 Elmwood Avenue, stated that his primary concern has to do with access off of Lake Avenue. He is worried that there would be access from Lake Avenue to Oakwood Avenue, thereby creating a cut-through for traffic heading west on Lake Avenue intending to travel north on South Park Avenue.

Mr. Phillips stated that the developer's plan does not show access from Lake Avenue to Oakwood Avenue.

Mr. Reilly stated that if the Planning Board decides to approve this subdivision, it can make a condition of approval be that there no access from Lake Avenue to Oakwood Avenue will be allowed.

4. Kathleen Malysza, 4331 Elmwood Avenue, stated that she is concerned about the possibility that taxes on existing homes in the neighborhood will increase due to this project.

5. Theodore Tomasik, 4277 Elmwood Avenue, stated that the developer should locate this project in Buffalo, rather than in Hamburg, since Buffalo needs to be cleaned up.

Mr. Phillips stated that the Planning Board follows the laws of the country, the state and the Town of Hamburg. He further stated that the developer owns the property and has a right under the Constitution to develop it.

6. Paul Rosolowski, 4292 Oakwood Avenue, stated that he feels that Oakwood Avenue is not wide enough to accommodate this proposal and he is concerned about the increase in traffic congestion. He asked how far back from Oakwood Avenue the homes would be located and Mr. Reilly responded that the homes have to be built at least 35 feet back from the right-of-way. Mr. Rosolowski is concerned that no trees will be planted behind the homes. He asked what the price will be for the homes and Mr. Gow responded that each duplex will be worth between \$140,000 and \$180,000 and that they will be owner-occupied.
7. Marilyn Pohwat Ruhland, 4277 Oakwood Avenue, stated that she has concerns regarding the capacity of the existing sewer system to handle additional flow and does not believe that the land in this area perks well. She also voiced concerns regarding storm water runoff and Mr. Reilly explained that the developer will be required to build a detention pond behind the homes to collect the storm water runoff. She asked how much of the road would be dug up to install the sewers. Mr. Gow responded that there is an existing line running along the north side of Oakwood Avenue and the developer would be required to bring the sewer line across in just one area of Oakwood Avenue and then bring the sewer down the south side of the road.
8. Richard Pohwat, 4277 Oakwood Avenue, stated that one of his concerns is whether the existing infrastructure is able to handle this project. He further stated that he is concerned that the developer plans to attempt to acquire additional land and/or the paper street at the end of Oakwood Avenue in order to develop even more that what is currently proposed. He stated that the residents want studies done to determine where the sewers will go and whether or not the existing water pressure and flows are sufficient to handle additional development in this area. He stated that he has concerns about the bridge on Lake Avenue and what would happen to the traffic in that area if the developer does tie the property on Lake Avenue to Oakwood Avenue. He stated that he feels that the developer should put a packet together with all of the engineering studies and information requested for the affected residents to review. He stated

that he feels this area may be a cancer cluster, since many area residents have died of cancer, and he would like that investigated by the developer.

9. Pam McDonald, 12 Gilbert, stated that she is concerned about the increase in potential accidents at the intersection of South Park Avenue and Lake Avenue.
10. Richard Pukalo, 4302 Oakwood Avenue, stated that he feels the project is much too aggressive for the area and that he is concerned about potential traffic problems and storm water flooding. He asked why the developer is not proposing single-family homes instead of duplexes and stated that he would like to see the traffic and engineering studies.

Chairman Koenig declared the public hearing closed.

Chairman Koenig stated that the developer will be required to address all of the issues raised by the public this evening.

Mr. Reilly stated that this project will be back before the Planning Board in May and in the mean time the Board will gather information and input from different agencies.

Mr. Phillips made a motion, seconded by Mr. Reszka, to table this proposal. Carried.

Engineering Department comments are attached.

Holiday Inn Express

Mr. Reilly stated that the Board conditionally approved the Holiday Inn Express on Camp Road in August 2007. The applicant received a height variance from the Zoning Board of Appeals before appearing before the Planning Board, which is not how the process is designed to work. Because variances are only in effect for a period of six (6) months, the applicant recently asked the ZBA for an extension of the variance because the project has not yet commenced. The ZBA denied the extension request and referred the applicant back to the Planning Board to get the Board's recommendation on the requested variance.

Mr. Reilly stated that the Planning Board does not need to re-approve the site plan but does need to recommend on the requested variances. He also discussed the fact that the height restriction placed on the rezoning for Commerce Park only applies to lots along the residential subdivision.

Mr. Phillips made a motion, seconded by Mr. McCabe, to send a positive recommendation to the Zoning Board of Appeals on the requested height variance. Carried.

Engineering Department comments are attached.

Walgreen's

Tony Battista and James Rumsey from Benderson Development, and Dan Blamowski from FRA Engineering, appeared on behalf of the proposed project.

Mr. Reilly stated that application has been made both to the Town and Village of Hamburg, as the proposed project is located in both communities. He further noted that both entities must approve this project and that neither can usurp the other. However, only one community can act as Lead Agency under SEQRA and the Town Planning Board has asked to serve in that capacity, as it will have the guidance of Mr. Reilly and others.

Mr. Reilly noted that joint meetings will be held between the Town and Village Planning Boards, probably in May, because there are several issues that must be addressed, since the Village and Town have different regulations regarding setbacks, aesthetics, parking requirements, etc. He further stated that the property is zoned correctly in the Village and the Town for this proposed use and that several variances would be required from both entities' Zoning Board of Appeals.

Mr. Reilly stated that under SEQR the Planning Board will be soliciting input from various agencies, most notably the NYS Department of Transportation, the County, the Village and other agencies.

Mr. Rumsey stated that the 13,600 square foot proposed building is not a prototypical Walgreen's building and would be constructed of brick and decorative trim, with masonry cornices and fabric awnings. He further stated that a drive-thru from Walker Place is proposed and the building would be located right up to Buffalo Street. In addition, the site would be heavily landscaped.

Mr. Rumsey noted that access to this property is proposed from Legion Drive, Buffalo Street and Walker Place. He further stated that heavy landscaping, a brick wall and benches are proposed for the traffic circle area.

Chairman Koenig read the minutes from the Town Traffic Safety Advisory Committee (TSAB) regarding this proposal, which indicate that the TSAB has the following concerns:

1. Traffic from the drive-thru exiting and entering from Walker Place, a

small residential road

2. Entering and exiting in the proximity of the new round-about with no traffic history to determine how this round-about will work at this location, even without the driveways on South Park Avenue and Legion Drive
3. The pedestrian traffic to and from the Hamburg schools
4. Deliveries from Walker Place, seeing that this Town road has a weight limit and was not built for trucks and has no sidewalks to protect walkers
5. Proper stacking room available for the drive-thru
6. The TSAB is not in favor of this site for a large retail business.

Regarding the drive-thru location on Walker Place, Mr. Blamowski stated that the maximum stacking he would expect at a site such as this would be one to two vehicles, and he does not feel that the drive-thru would affect the traffic on Walker Place. He further noted that typically pharmacies do not encounter problems with stacking.

Mr. Reilly noted that the Village Traffic Safety Advisory Board has also met on April 10, 2008 regarding this proposal and the Planning Board members were given a copy of the minutes from that meeting.

Mr. Blamowski stated that a pharmacy is a low traffic generator compared to other uses that could go at this location. He also stated that the applicant has had meetings with the NYS Department of Transportation regarding entering and exiting the location near the round-about and will continue to discuss this further. He noted that new sidewalks are proposed along Legion Drive all the way through to the round-about crosswalks and also along Buffalo Street. He added that, although there are no existing sidewalks on Walker Place, the applicant would install new sidewalks there if the Town and Village request it.

Mr. Battista noted that there would be no open dumpsters on the site, as the compactors would be self-contained.

Chairman Koenig asked how a Traffic Impact Study can be performed on a round-about that does not exist. Mr. Blamowski responded that as part of the traffic study, the engineers did a model of the round-about, which has been submitted to the NYS Department of Transportation and the County Highway Department, and the applicant plans to continue discussing this with these agencies.

Mr. Reilly noted that the Town and Village would have to approve the locations of

the driveways for the project and the DOT would then issue permits for curb cuts. If the Town and Village do not approve the locations of the driveways, the DOT will not issue permits for those curb cuts.

In response to a question from Mr. Phillips regarding buffering the neighboring properties on Walker Place and Legion Drive, Mr. Rumsey stated that a new eight-foot fence is proposed, which would require a variance from the Zoning Board of Appeals, along with additional landscaping.

Mr. Battista stated that the applicant will install whatever type of landscaping the adjoining residents feel is appropriate.

In response to a question from Mr. Phillips, Mr. Battista stated that access to Walker Place is necessary for circulation for tractor trailer deliveries, as well as for the drive-thru.

Mr. Reszka expressed concerns with a tractor trailer making the turn onto Walker Place from South Park Avenue and then immediately turning into the project site. He further noted that Walker Place is an undersized street and was not built for trucks and he asked if the trucks could access the site from the major roads and stay off of Walker Place. Mr. Battista responded that in trying to take into consideration the concerns of both the Town and the Village, the site plan presented is the one he thinks will work best. However, he agreed to take another look at the Walker Place access and discuss it with Walgreen's.

Mr. Phillips stated that he has a problem with putting that kind of traffic on Walker Place.

Mr. Peter Danforth, Chairman of the Village Traffic Safety Committee, stated that the Committee met with the applicant and nearby residents on April 10, 2008. He voiced concern regarding the traffic congestion and number of accidents in this area of the Village, and he noted that the Hamburg School Board is concerned about this proposal because of Middle School and High School children having to cross in this area. He further noted that Fisher Bus Company has indicated to him that it may have to execute a major re-routing of school buses due to this project. Mr. Danforth stated that he is concerned about the

Metro buses stopping to let riders off just north of the round-about on South Park Avenue and noted that it could cause traffic delays near the project's proposed access on South Park Avenue. He noted that he believes this access on South Park Avenue is not a good idea from a safety standpoint.

Mr. Danforth stated that, although the applicant's submitted Traffic Impact Study is quite thorough, one of the days the traffic counts were taken was during the school's week of vacation and therefore there would have been a drastic drop in school bus activity and general traffic. He noted that the figures generated in the

applicant's study are lower than the Village Traffic Safety Committee's figures (based on a 2003 traffic report given to the Committee by the NYS Department of Transportation) and the Committee has requested updated figures from the NYSDOT.

Mr. Danforth stated that the Committee had hoped to alleviate the carbon monoxide and fumes problems at this intersection, as well as the congestion and traffic accidents, with the installation of the round-about. His concern is that Hamburg could lose that edge with the potential increase in traffic generated by this project, as well as business development on the south side of the intersection.

Mr. Danforth concluded by stating that the Village Traffic Safety Committee looks forward to working with the Town Traffic Safety Advisory Board and the applicant to attempt to make some changes to the plan.

Chairman Koenig invited members of the public to voice constructive questions. The following people spoke and had the following concerns:

- Warren Joseph, 3670 Pleasant Avenue, voiced concerns regarding the proposed access to Walker Place and its ability to handle large trucks.
- Patricia Hover, 4166 Walker Place, voiced concerns regarding the increase in traffic and congestion, the safety of the children who walk on Walker Place to school, the fact that there are no sidewalks on Walker Place and the high levels of carbon dioxide in the area.
- Dr. Kathleen Nowak, 4176 Legion Drive, voiced concerns regarding the fact that traffic counts were taken on a day when school was not in session and then on another day during a snowstorm. She is also concerned about increased traffic in the area due to this project and does not approve of a big-box user at that location.
- Ray Waterman, 56 East Union Street, stated that this location is a village setting and he is concerned about the lack of sidewalks and the safety of the school children in the area (especially in the winter months). He questioned the location of the proposed compactors, who would be responsible for maintaining the green space in front of the pharmacy and who would be responsible for removing the piled-up snow in the parking area.
- Bonnie Meyer, 131 Huntington Court, stated that when the applicant performs additional traffic studies she would like them to acknowledge that Corto's is a low traffic generator, while Walgreen's is a high traffic generator.

- Don Levulis, 4171 Walker Place, voiced concern regarding the lack of sidewalks on Walker Place, as well as the high traffic volume on Walker Place and South Park Avenue. He asked the applicant to perform the traffic study during 3:00 PM and 3:30 PM during a school day.

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

Engineering Department comments are attached.

Omni Pain & Wellness Center

Doug Hutter from Zaxis Architectural and Colby Smith from the McGuire Group appeared on behalf of the proposed project.

Chairman Koenig stated that the applicants met with the Traffic Safety Advisory Board on April 3, 2008 and the Board again highly recommended that the parking lots be connected in the rear, that additional parking be constructed behind the existing medical building and that a sidewalk be constructed between the two buildings for pedestrian safety.

Mr. Hutter stated that the developer is very concerned about installing a sidewalk between the two buildings because there is a 5 ½ foot difference in elevation between the two buildings and stairs would have to be installed in that area to make it work. He further stated that the developer has agreed to look into installing additional parking behind the existing building, as recommended, but the developer does not want to connect the two parking lots in the rear because they do not want to lose parking spots. He added that the developer feels they have accommodated the fire department's concerns with the circulation around the buildings and adequate fire hydrant on the site.

In response to a question from Attorney Quinlivan, Mr. Smith stated the doctors will contract with a collection service to dispose of biohazard material.

Chairman Koenig stated that if the Planning Board asks the developer to install additional parking behind the existing building, it should not then ask the developer to remove parking in order to connect the two parking lots in the rear. He noted that he does not feel the connection is necessary. Mr. Phillips concurred.

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

Carried.

Engineering Department comments are attached

Benderson Development – Brierwood Plaza

Tony Battista and James Rumsey from Benderson Development, appeared on behalf of the project.

Mr. Reilly stated that at the last meeting, the applicant addressed the comments made at the public hearing and that the biggest issue raised was where to locate sidewalks on the site. He further noted that the Planning Board has the authority to waive or modify the installation of sidewalks.

Mr. Lardo stated that the Engineering checked the site to determine if public sidewalks could be installed along Rogers Road from the driveway south to the property line. It was determined that installation in this area is possible, as long as the adjacent existing road ditch is piped by the developer.

Mr. Reilly noted that the developer has agreed to install sidewalks from the entrance off Rogers Road north to the property line, as well as internal sidewalks throughout the development.

Mr. Battista stated that, based on the input provided by Mr. Lardo, Benderson would acquiesce and pipe the ditch and install the sidewalks south to the property line if the Town and County Engineering Departments do not see a problem with it. However, he has a concern regarding ADA standards for the slope and therefore side landings may have to be constructed. Additionally, Benderson would eliminate the internal sidewalks along the Wal-Mart property, although the connection of the internal crosswalks and sidewalks would remain.

Chairman Koenig stated that he feels that the value of the sidewalk is much higher running through the plaza than along Rogers Road where there is no access to the buildings in the development.

In response to a question from Mr. Reszka, Mr. Battista stated that all of the internal sidewalks would be maintained twelve months a year.

All four Planning Board members present indicated that they are satisfied with internal sidewalks throughout the development instead of the sidewalk being installed from the entrance on Rogers Road south to the property line.

It was determined that the project requires a public hearing for Special Use Permit, which was not held previously, and therefore one should be held before the Board acts on the request. The Board determined that the public hearing will

be scheduled for May 7, 2008.

Mr. Donald Weiss, member of the public, stated that he spoke with the County engineers and was told that they have no problem with placing sidewalks on Rogers Road. He further noted that the owner of the liquor store at the corner of Rogers Road and Southwestern Boulevard has indicated his desire to see sidewalks installed along Rogers Road south to his property line. Mr. Weiss indicated that he is strongly in favor of the developer installing sidewalks along the entire property line on Rogers Road.

The Planning Board authorized the Planning Department to prepare resolutions for its next meeting.

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

Engineering Department comments are attached.

Benderson Development – 5334 Southwestern Boulevard (First Niagara Bank)

Tony Battista and James Rumsey, of Benderson Development, appeared on behalf of the proposed project.

Mr. Phillips made a motion, seconded by Mr. McCabe, to issue a negative declaration for this project. Carried.

Mr. Phillips made a motion, seconded by Mr. Reszka, to grant conditional site plan approval with the following conditions:

1. The site landscaping plan shall be approved by the Planning Department.
2. A cross-access agreement with Wal-Mart is required and it shall be reviewed and approved by the Planning Board Attorney.
3. A future cross-access to the property to the north of this parcel shall be indicated on the site plan and shall be installed in the event the Town considers it necessary (agreement to allow cross access.)
4. Appropriate signage shall be installed to control the internal and external traffic flow in the area of the entrance to Southwestern Boulevard and shall be approved by the Traffic Safety Advisory Board.

5. The Planning Board hereby waives the 50-foot setback requirement of the Southwestern Boulevard Overlay District and will allow a reduction of the setback area to 35 feet, as the extra landscaping proposed makes up for the reduction in green space provided and meets the intent of the regulations.
6. Approval is subject to the conditions of the Engineering Department's comment letter dated April 16, 2008.
7. Sidewalks are not required, as they already exist along Southwestern Boulevard.

Carried.

Engineering Department comments are attached.

Woods at Versailles Subdivision, Part IV

Leanne Voit from Greenman-Pederson, Inc. and Attorney Jeffrey Palumbo, representing the developer, appeared on behalf of the proposed project.

Mr. Reilly stated that at its last meeting, the Planning Board gave the applicant direction regarding issues such as wetlands filling and problems the Town has had with clear cutting in previous phases. He further noted that, because the Lakeview Overlay District suggests that creativity be utilized to try to preserve important features of the property, the Planning Board has some flexibility.

Attorney Palumbo stated that there are wetland areas on the site they do not intend to disturb. He further stated that the applicant looked at ways to shorten the cul-de-sac so as to avoid the wetland areas, but he feels that the vast majority of the wetland is being avoided. He noted that the developer is trying to maintain the look of the existing Woods at Versailles subdivision in this last phase and feels that the developer is complying with the Lakeview Overlay District by providing the conservation area.

Mr. Phillips asked how the Planning Board can be guaranteed that the land will not be clear cut, as it was in the previous phase. Mr. Reilly responded that once the developer clears for the right-of-way and utilities, he will sell lots to a builder and at that point the builder would be responsible for what happens to the trees on the lots.

Attorney McKenna reminded the Board that at its last meeting he suggested that before a building permit is granted for a lot, the Building Inspector could insure that the Planning Board's restrictions regarding trees are met.

Ms. Voit agreed to recheck the square footages on some of the lots that appear to be under sized and understands that every lot in the subdivision must meet the 10,000 square foot minimum lot size requirement.

Mr. Reilly stated that when the Planning Board holds the public hearing for this subdivision, the residents from the Pine Lake Subdivision that backs up to this property are not going to be told that there will trees in the back yards when this subdivision is built. He further stated that if the current layout of this subdivision is approved, there will be no trees between the new homes and the existing homes behind them.

Mr. McCabe stated that the Planning Board always looks for ways to preserve important natural features and is not comfortable with sub lots 127, 128, 142, 143,144, 149 and 150 encroaching in the wetland areas. Chairman Koenig concurred. Attorney Palumbo responded that the problem with eliminating those lots is that this would create a long stretch of road without any rate of return for the developer. He further noted that he believes it would be a minor intrusion into the overall percentage of wetland area.

Ms. Voit asked the Board members what type of flexibility they would be willing to accept within the presented plan if the developer pulls out of the wetlands areas. Mr. McCabe responded that they are willing to accept the wetland filling near Stout Lane that is necessary to install the road but would like to see the cul-de-sac shortened so the wetland areas there are not disturbed. He further stated that the concession the Board would be looking for is a fewer number of lots. He further noted that he feels there are too many proposed lots.

It was determined that the wetlands on the property are federal wetlands and that the developer will be required to create twice as much wetland area as is disturbed.

In response to a question from Mr. Phillips regarding recreation area, Mr. Reilly stated that in all likelihood the developer will be required to provide the \$1,000.00 per lot open space recreation fee, as the open space that currently exists in the previous phases of this subdivision is dedicated to those phases only. He further stated that the developer will receive confirmation of this.

Chairman Koenig stated that the Planning Board should create specific guidelines regarding what it wants to happen with the green space in this subdivision.

Attorney Palumbo summarized the developer's position by stating that in exchange for filling the wetland areas in the seven sub lots previously discussed, he is willing to not disturb the upland areas so that a full buffer area is provided. He further stated that the developer does not intend to change the sketch plan submitted.

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

Engineering Department comments are attached.

Izzo Rezoning Request (Camp Road)

Richard J. Izzo, Richard R. Izzo and Nicholas Izzo appeared on behalf of the rezoning request.

Mr. Reilly stated that the property in question is located on Camp Road behind Superior Auto Sales and adjacent to the Thruway, that it is zoned R-A and that he does not believe it should be zoned R-A, as it is located in a commercial area and the Comprehensive Plan states that that area should be zoned commercially.

Mr. Reilly noted that approximately nine years ago the applicants approached the Town to rezone this land to a commercial zone, and the problem of logistics that existed then still exists now. The location and access of this property are the logistical problems to be dealt with. The access problem exists because the property is located between the two Thruway entrances. The location problem is that the residents who live near this property on Dartmouth were of the understanding that there would never be access from this property on to Dartmouth and that substantial buffers would be provided if this property ever is developed.

Mr. Reilly stated that Councilwoman Kessner has asked that the residents of Dartmouth be notified that the Planning Board is discussing this request so the Planning Board can receive input from those residents.

In response to a question from Chairman Koenig, the applicants stated that they have no plan at this time for the property because they have had difficulty marketing the property as commercial, since it is zoned residentially.

Mr. Reilly stated that the Board will have to have an idea of how the property will be developed if it is to recommend rezoning. Additionally, if it does recommend rezoning, it will recommend conditions that accompany the rezoning. He further stated that the Planning Board will have to work with the Thruway Authority and the NYS Department of Transportation regarding the access issue.

Mr. Izzo stated that they would like to get the property rezoned so that they can attract some interest in it. Mr. Reilly responded that he understands the applicants' dilemma but that the Town will have to have enough information to address the issues regarding this property.

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

OTHER BUSINESS

Mr. Reilly reported on the status of the request the Planning Board made of the Building Inspector for a report regarding Carubba Collision on Camp Road. He stated that Enterprise Rental Car does operate in the building but only to service clients of Carubba Collision.

Mr. Reilly stated that a possible solution to the problem would be to amend the Special Use Permit to allow a limited number of rental vehicles to be parked at the site short term. He recommended that the owner of Carubba Collision be asked to detail how many rental cars would be parked at the site during the day or overnight, as well as confirm that Enterprise Rental Car is not running a business at the location. Additionally, the rental car spaces could be striped to that effect.

Mr. Reilly informed the Board that he will be expecting members' input regarding the Hamburg Crossing DEIS at the Board's May 7th work session.

Mr. McCabe made a motion, seconded by Mr. Phillips, to approve the minutes of April 2, 2008. Carried.

Mr. Phillips made a motion, seconded by Mr. Reszka, to adjourn the meeting at 10:45 P.M.. Carried.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

