

**Town of Hamburg
Planning Board Meeting
May 16, 2007**

The Town of Hamburg Planning Board met in regular session on Wednesday, May 16, 2007 at 7:30 p.m. in Room 7B of the Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Secretary Paul Eustace, Sasha Yerkovich, Steve McCabe, Paul Eustace, Richard Taber, Karen Rogers and David Phillips.

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

Absent: Attorney Michael Fruth

Public Hearing - Bigaj Two-Lot Subdivision

Mr. Eustace read the following Legal 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 Bigaj Two-Lot Subdivision to be located on Lakecrest Drive on May 16, 2007 in Room 7B of the Hamburg Town Hall at 7:30 P.M. The property description is described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie, State of New York, being part of Lot 48, Township 9, Range 8 of the Holland Land Company’s survey, being more particularly described as follows:

Beginning at the southwest corner of lands conveyed to Frederick M. and Linda L. Occhino by deed recorded in Liber 9602 of Deeds at Page 654 and re-recorded in Liber 9931 of Deeds at Page 84; thence northeasterly along the south line of aforementioned line of Occhino a distance of 103.66 feet to the southeast corner thereof; thence southeasterly along the southwest line of lands conveyed to Michael I. Mary Theresa Hanley by deed recorded in Liber 10056 of Deeds at Page 131 a distance of 50.00 feet to the southwest corner of said Hanley; thence northeasterly along the south line of said Hanley a distance of 122 feet (122.01 feet measured) to the southeast corner of said Hanley; thence southeasterly along the southwest line of lands conveyed to John T. and Karen M. Gartelman by deed recorded in Liber 9395 of Deeds at Page 360 along a radial line a distance of 375.43 feet to a point on the northwest line of Lakecrest Drive; thence southwesterly along the northwest line of Lakecrest Drive along a curve to the left having a radius of 1121.787 feet, an arc length of 165.36 feet (163.35 feet measured) to the southwest line of lands conveyed to Edward B. Holmes by Liber 1968 of Deeds at Page 102 (Parcel 2) and the southwesterly line of lands conveyed to Dennis & Susan J. Bigaj by deed recorded in Liber 9358 of Deeds at Page 344 and re-recorded in deed recorded in Liber 9931 of Deeds at Page 82; thence northwesterly along the previously described line and radial to the curve described along Lakecrest Drive a distance of 444.82 feet to the point of beginning, being 1.835 acres, more or less.”

Mr. Michael Borowiak of Nussbaumer & Clarke, Inc. appeared on behalf of the project. Mr. Borowiak explained that the two lots under review are located on Lakecrest Drive and were an exception to the original Hillsboro Subdivision that was constructed within the past ten years. The lots conform to the current R-1 zoning, and they have larger setbacks that allow the required lot width at the building line to be achieved. The applicant will still need to obtain an easement from the adjacent John Gartelman parcel to cross the property in order to extend the sanitary sewer. They will also be required by the Engineering Department to donate a 5' strip of property so that Lakecrest Drive will become a 70' wide public highway at that section.

In response to a question from Chairman Koenig Mr. Borowiak clarified that this proposal would indeed be a major subdivision because of the sanitary sewer extension that is required. Mr. Phillips verified with Mr. Borowiak that sidewalks do exist in this area and will be required.

Mr. Reilly noted that this subdivision would be in the Lakeview Overlay District and the back of the properties are fairly wooded. He wondered if the applicant would be willing to preserve some of the trees on the back of the property. He also noted that correspondence was received regarding this project from the Conservation Advisory Board, which did not have any concerns from an environmental standpoint.

Mr. Koenig mentioned that there were no adverse comments received from the Traffic Safety Advisory Board regarding this project.

Mr. Koenig noted that, because of the width of lot # 2, the home cannot be placed closer than 130' from the road. He asked Mr. Borowiak if the purchaser of the lot's intentions are to build that far back, or would they be looking for a variance. Mr. Borowiak responded that as far as he knows they would be required to build at the 130' setback.

Mr. Reilly stated that the purchaser of the lot could also ask for a variance, which the Board would not be adverse to.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak for or against the proposal.

Mrs. Karen Gartelman, 5887 Old Lake Shore Rd, questioned if the buffer zone of the trees in the back of the lots would be stipulated on the plan. Her concern is after losing so many trees during the October storm, would they be losing more with the development of this project.

Mr. Reilly stated that the Board could make the buffer zone a stipulation for lots 1 & 2. The Lakeview Overlay District states that as many trees should be preserved as possible in subdivisions, and it is up to the Planning Board to give the applicant direction regarding what that should entail.

Mrs. Gartelman also questioned if the plans for the sewer easement would be sent to her. Mr. Borowiak responded that the legal team on the project would have to contact her to make sure everything was signed by both parties.

Chairman Koenig declared the public hearing closed.

Chairman Koenig stated that he would like to get an agreement on the preservation of the trees. Mr. Phillips stated that he would like to include in his motion to approve the subdivision the requirement that a minimum of 50 feet of trees be preserved at the rear of the lots. Chairman Koenig asked Mr. Borowiak if there would be any objection to that stipulation. Mr. Borowiak

stated that the lots are deep enough that he does not feel the prospective buyers will have a problem with this stipulation.

Mr. Lardo noted that in order to ensure that the trees will be preserved, a conservation easement should be granted to the Town of Hamburg in order for the Town to have any enforcement power.

Chairman Koenig re-opened the public hearing in order to hear from another property owner in the area.

Mr. Michael Wasik, 5867 Old Lake Shore Road, voiced a concern also for preserving the trees in the back of the property. He would like to have at least 50' of woodland between his property and the new development.

Chairman Koenig re-closed the hearing.

Mr. Phillips made a motion, seconded by Mr. Eustace, to approve the Bigaj Two-Lot Subdivision on Lakecrest Drive, issue a negative declaration, sidewalks will be required, subject to the Engineering Department letter dated 5/16/07 and a 100 foot conservation easement is required in the back of lot 1, as well as a 50 foot conservation easement area in the back of lot 2 where there will no cutting of trees. Carried

Engineering Department comments are attached.

Public Hearing - Sherwood Meadows Townhome Project

Mr. Eustace read the following Legal Notice of Public Hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a 58-lot townhome project known as Sherwood Meadows to be located east of Heatherwood Drive on May 16, 2007 in Room 7B of the Hamburg Town Hall at 7:30 P.M. The property description is described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Hamburg, County of Erie, State of New York being part of Lots 14 & 6, Township 9, Range 8 of the Holland Land Company's Survey, being more particularly described as follows:

BEGINNING at a point in the north line of Lot 14 at the northeast corner of Sublot 39 as shown on map filed in the Erie County Clerk's Office under Map Cover 2374; thence N89°18'22"E along the north line of Lot 14 a distance of 1426.87 feet to the northwest corner of lands of the Town of Hamburg; thence S12°43'00"E and along the west line of lands of the Town of Hamburg a distance of 358.60 feet; thence S49°06'00"E and continuing along lands of the Town of Hamburg a distance of 419.20 feet; thence S35°36'00"E and continuing along lands of the Town of Hamburg a distance of 623.19 feet; thence S63°04'00"W a distance of 853.70 feet to the southeast corner of lands conveyed to Our Lady of Charity Refuge by deed recorded in the Erie County Clerk's Office by Liber 9586 of Deeds at Page 180; thence along the boundary of the said lands of Our Lady of Charity Refuge the following seven (7) courses and distances;

N24°38'18"W a distance of 465.02 feet; thence
 N05°00'00"W a distance of 300 feet; thence
 N45°16'00"W a distance of 207.83 feet; thence
 S51°29'00" W a distance of 198.00 feet; thence
 S11°24'00"W a distance of 278.34 feet; thence
 S40°21'00"W a distance of 511.18 feet; thence
 S56°30'00"W a distance of 761.66 feet to the east line of Howard

Road; thence N33°30'00"W and along the east line of Howard Road a distance of 466.17 feet to the southeast corner of Map Cover 2374; thence N00°26'00"W and along the east line of Map Cover 2374 a distance of 1450.00 feet to the point of beginning, being 56.00 acres of land."

Mr. Michael Borowiak of Nussbaumer & Clarke, Inc. and Mr. David Burke (applicant) appeared on behalf of the project. Mr. Borowiak explained that a private road as an extension of Heatherwood Drive is proposed to service the 56-unit townhome community. He further stated that the site has wetlands that have been mapped and delineated and that there will be a disturbance permit for up to the .1 acre that protrudes into one of the units. There is also a flood plain in the most easterly portion of the property that will not be encroached upon. Mr. Borowiak further explained that the roads will be standard town roads that can handle the capacity of traffic coming out from the development.

Mr. Borowiak noted that there will be no recreation area provided, although there will be a trail system provided that connects the residents to the Town parkland off of Buckingham Road that will satisfy the recreation requirements. The developer will pay the recreation fees per unit. Mr. Borowiak stated that a buffer area was also added to the plans behind the existing homes along Breckenridge. A raised berm with landscaping is proposed. The applicant is required to provide a secondary emergency egress onto Hopevale's private road system and Mr. Borowiak stated that the developer has obtained Hopevale's permission to use the egress in the case of an emergency only. It will be a gated exit.

Chairman Koenig mentioned that the only issue that the Traffic Safety Advisory Board had was the lack of an emergency exit. Since that has now been provided, they had no other adverse comments on the project.

Mr. Reilly noted that after the previous meeting, SEQRA Lead Agency letters were sent out to various regulatory agencies and the only comments received were from the DEC. Mr. Reilly stated that he feels the Board needs more time to hear from the other agencies that were contacted.

Mr. Reilly noted that the Big Tree Volunteer Fire Department is still concerned about the placement of the fire hydrants, as well as the length of the dead end road, which leaves limited access in the event of a fire. The Planning Department will advise the fire company that this issue has been addressed by the applicant. Mr. Reilly also noted that the project was re-reviewed by the Conservation Advisory Board, which believes that there is a larger area of wetlands on the property and would like to see the Army Corps of Engineers complete its review of the wetlands delineation. Mr. Borowiak responded that Don Wilson is to follow up with the Army Corps of Engineers this week.

Mr. Reilly reiterated his opinion that the Board should table the project until further comments are received from other regulatory agencies, and until further details are provided regarding the berm.

Chairman Koenig stated that he feels the Board needs more information regarding the width of the proposed trail, the access agreement for the road connection with Hopevale, additional

parking for mail pick-up, and a detailed drawing of the proposed landscaped berm. Mr. Burke stated that he does have a letter of agreement from Hopevale's counsel that gives him permission for the gated egress. Chairman Koenig specified that the Board and Engineering Department will want to see details about what the gated egress is going to look like.

Chairman Koenig asked Mr. Borowiak to verify what school district the subdivision is going to be in (Hopevale vs. Frontier). Mr. Borowiak stated that he did contact Mr. Richard Binner in the Business Office, and Mr. Binner stated that he is following the process by applying through BOCES II and does not see that there will be a problem.

Mr. Taber stated that he would like to see what the gated egress is specifically going to look like. He asked whether the residents on Breckenridge could plant more vegetation in the berm area if they felt the density of the landscaping was insufficient. Mr. Reilly responded that the residents would have to get permission from the Homeowners' Association in order to plant anything on that property since it would be owned by the Homeowners' Association. Mr. Reilly also stated that if the Board makes the berm a condition of approval then future homeowners in the townhome development could not remove the existing berm. Part of the condition could also be that the Homeowners' Association would have to maintain the berm and landscaping.

Chairman Koenig declared the public hearing open. He then asked if anyone in the audience wished to speak for or against the proposal.

Mr. Daniel Kuczarski, 3715 Breckenridge Road, had a concern regarding the berm and would like to know exactly what it will look like, as well as the proposed dimensions of the berm. Mr. Kuczarski further stated that right now he has about 50' of woodland, and would like to know if he would lose that. Mr. Kuczarski also stated that he had about 150' of woodland at one time, and that after the October storm about 100' of those trees were removed. Mr. Kuczarski also inquired about the cost per unit.

Mr. Reilly suggested that Mr. Borowiak & Mr. Burke get together with the neighbors on an agreeable plan of action for the berm.

Mr. Joe Kozak, 3717 Breckenridge Road, also has concerns about the berm. He would like to know if debris from the berm is going to end up in his pool every time it rains. He thinks that the trees that were already removed should give the applicant sufficient room to build, and that more trees should not be removed.

He also commented on the baseball diamond at Hopevale. He stated that Hopevale has a P.A. system and lights that can be seen and heard by some neighbors. He suggested to Mr. Burke that the last unit be swung around to provide some privacy from the school.

Chairman Koenig declared the public hearing closed.

Mr. Phillips made a motion, seconded by Mr. McCabe, to table this project until the Board's next

meeting. Carried.

Engineering comments are attached.

Stonebridge Subdivision

Attorney Sean Hopkins, along with Carl Calarco, engineer, appeared on behalf of the proposed subdivision.

Chairman Koenig stated that there were only two issues from the previous meeting that were outstanding. The first issue was the letter from National Fuel Gas Company and the second issue was the fact that the Board had to give the other involved agencies more time to comment.

Mr. Reilly stated that the time limit has passed for comments, and that no further comments have been received regarding this project.

Mr. Calarco stated that he spoke to the fire chief on concerns the fire company had regarding fire trucks driving into the second cul-de-sac in an emergency situation and having to back up to exit the cul-de-sac. He explained that he pointed out an area where a pull-off is planned near the gazebo that fire trucks could use to turn around if necessary.

Attorney Hopkins was questioned about providing a conservation area. He said that he does not feel the Town would be interested in owning the areas directly adjacent to the clustered lots. Mr. Reilly responded that the applicant would have to recommend to the Town Board areas of land he would like to dedicate to the Town. The Town would then decide whether to accept the land as Town property or have it placed in a conservation easement in the name of the Town.

Attorney Hopkins stated that he will prepare a conservation easement based on the geographic boundary the Town recommends and will provide a copy to the Engineering Department and the Town Attorney for review. In addition, he stated that the conservation easement area will be shown on the final plat before it is recorded.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to approve the Stonebridge Subdivision based on the review of the plan, the environmental assessment and the comments from the Board, and issue a negative declaration with the following conditions:

1. There shall be no further subdivision of this parcel beyond the 38 lots approved.
2. The applicant shall provide the Town of Hamburg a Recreation fee of \$1,000.00 per lot in lieu of providing a recreation area for the subdivision.
3. The applicant shall deed restrict the +/- 16 acres of open space on the parcel located south of the private drive and in the northeast corner as a permanent easement area in order to assure the Town that this land will remain permanent

open space and will never be developed (conservation easement in the name of the Town of Hamburg).

4. An Encroachment Agreement shall be executed between the applicant and National Fuel Gas Supply Corporation regarding the applicant's encroaching over and across National Fuel Gas's right of way on the parcel to be developed.

Carried.

Engineering Department comments are attached.

North Forest Office Providers

Mr. Andy Gow of Nussbaumer & Clarke, Inc. appeared on behalf of the project.

Mr. Reilly noted that some of the outstanding issues from the previous meeting included the dead end parking areas, access to the adjoining property and the location of the fire hydrants. Mr. Lardo will be working out the details of the fire hydrant locations with the applicant. Chairman Koenig noted that the Board also wanted a cross access agreement between the applicant and the owner of the adjoining property. Mr. Gow responded that a copy of the agreement was delivered to the Planning Department and Mrs. desJardins confirmed that it was received.

Attorney McKenna stated that he was given a copy of the cross-access agreement but he had not had a chance to review it.

Mr. Reilly stated that the applicant is asking for conditional approval, if the Board is satisfied. Mr. Lardo and Mr. McKenna would need to make sure that the cross access agreement to the joint property works and that the joint property owner has agreed to the plan, and that the adjacent property owner will not have any parking in the area of the cross-access.

Chairman Koenig stated that if the applicant agrees to accept what Mr. Lardo and the Fire Department ask for in regards to the fire hydrants, the Board does not see a problem moving forward with this project.

Mr. Reilly stated that the Town Board, in rezoning this property, did complete the SEQR process and issue a negative declaration based on the rezoning and development of this property, and the two cannot be segmented or separated. Since changes have been made to the original plans, Mr. Reilly stated that he would like to see the Board reissue the negative declaration stating that changes were made to the plan but they are in conformance with the Town Board's rezoning approval and did not create any environmental impacts.

Mr. Phillips made a motion, seconded by Mr. Eustace, to approve the preliminary site plans with the following conditions:

1. The office buildings will have a residential look to them, as proposed by the applicant and presented to the Board. (Final Architectural Review by the Building Inspector is required.)
2. As shown of the submitted landscape plan received on 5/16/07, the required buffer area between this project and the Maplewood Apartments adjacent to this parcel shall be maintained. Additionally, if any trees in the buffer area are damaged or removed during construction, they will be replaced.
3. An executed cross-access agreement between North Forest and Sean Hanley to allow shared access between their adjacent parcels shall be obtained, prior to the issuance of a building permit. (Details shall be provided for this connection.)
4. This parcel's boundary with the New York State Thruway Authority shall be fenced.
5. A variance of approximately 55 parking spaces shall be pursued by the applicant to allow a reduction in the number of parking spaces provided.
6. This approval is contingent upon the applicant satisfying the Engineering Departments comments in its letter dated 5/16/07.
7. The Planning Board has reviewed the preliminary plan and with the changes to the plan the SEQR Negative Declaration is still enforced and the project will not impact the environment.

Carried.

Engineering Department comments are attached.

Oakwood Avenue 11 - Lot Subdivision

Mr. Reilly explained that the applicant asked to be tabled for this week's meeting, as he has decided to appeal the interpretation of the Building Department and the Planning Department and ask the Zoning Board of Appeals for an interpretation of the Zoning Law.

Chairman Koenig noted that the Traffic Safety Advisory Board recommends that there be no entrance onto Lake Avenue due to proximity of the grade to the Thruway bridge and site problems. Additionally, the Board recommends that entrances be on Oakwood Avenue and possibly Glenwood Avenue, which is a paper street.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table the project. Carried.

Engineering Department comments are attached.

Verizon Wireless Tower

Mr. Reilly explained that the applicant asked to be tabled for this meeting. He stated that at its previous meeting the Board asked the applicant to investigate additional properties for the location of the proposed cell tower. The applicant requested that Mr. Reilly write a memo with other suggestions for tower locations. Some of the suggestions Mr. Reilly mentioned were Tops, Wal-Mart and the ECC property.

Mr. Taber stated that he does not think that anyone from the Town of Hamburg should be helping the applicant find locations for their tower. Mr. Reilly responded that when the applicant proposed the location on McKinley Parkway, the Planning Board was not enthusiastic about it and asked if the applicant had investigated every alternative property. The applicant's response at that time was that they did feel they had looked at all other sites and asked the Board if there are any other properties the applicant has not thought of to be investigated.

Mrs. Rogers stated that her preference would be for the applicant to co-locate on an existing tower.

Mr. Phillips made a motion, seconded by Karen Rogers, to table the project. Carried.

Engineering Department comments are attached.

Benderson Development Retail Project

Mr. James Rumsey, a representative of Benderson Development, appeared on behalf of the proposed project to be located on the southwest corner of McKinley Parkway and East Highland Avenue. He explained that the applicant went to the Zoning Board of Appeals in early May for a variance for a reduction in the number of parking spaces. Unfortunately, the ZBA was missing the Planning Board's recommendation so they did not act that evening. Mr. Reilly responded that the ZBA now has the Planning Board's recommendation on the variance request.

Mr. Rumsey stated that the applicant also received comments from the Engineering Department that will be addressed on the engineering plans within the next couple of days.

Mr. Phillips made a motion, seconded by Mrs. Rogers to set a public hearing for June 20, 2007 and table the project. Carried.

Engineering Department comments are attached.

Camp Road Development (Medical Building & Carubba Collision)

Mr. Doug Hutter, of Zaxis Architectural, appeared on behalf of the proposed project.

Mr. Reilly stated the applicant will have three applications for the Board to review: Subdivision of property, site plan approval for the medical building, and Site Plan Approval and Special Use

Permit for the collision shop.

Mr. Hutter stated that what has been submitted to the Board is an updated drawing of the proposed medical building. He noted that the applicant has submitted the building elevations, a topographic survey has just been completed, further research is being done regarding the drainage designs and the detention pond will be designed to accommodate both the medical center and the collision shop. He further noted that the required number of parking spaces for the medical building have been provided on the site plan. Additionally, a row of evergreen trees is proposed between the medical building and the collision shop.

Chairman Koenig inquired why the plans for the collision shop were not shown. Mr. Hutter stated he did not bring the plans for the collision shop because they are not ready to present them to the Board at this time.

Mr. Reilly inquired who the current property owners are. Mr. Hutter stated that Boston State Holding currently owns the property and that Maguire Development is in the process of purchasing the property.

Mr. Reilly stated that the only issue that came up regarding the overall development of the project in the Board's previous meeting was access to Camp Road. He volunteered to contact the Department of Transportation to let them know the applicant is actively before the Board. Chairman Koenig noted that the Traffic Safety Advisory Board has recommended one entrance to the medical building and a cross access to the collision shop. Mr. Hutter explained that the applicant did add a cross-access to the plans in the front of the properties.

Chairman Koenig stated that a public hearing could be scheduled for the third week of June, for both the subdivision of the property and site plan approval for the medical center. He further stated that Carubba Collision would be on its own course of seeking approval for a Special Use Permit and approval of the site plans.

Mr. Reilly clarified that the Board will set a public hearing for this project at the next work session. He also informed the applicant that he has until Monday May 21, 2007 to submit his Subdivision Application.

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

Mr. Eustace made a motion, seconded by Mrs. Rogers, to approve the minutes of April 4, 2007. Carried.

Mr. Taber made a motion, seconded by Mrs. Rogers, to approve the minutes of April 18, 2007. Carried.

Mr. Phillips made a motion, seconded by Mrs. Rogers, to adjourn the meeting. The meeting was adjourned at 9:15 P.M.

Respectfully submitted,
Paul Eustace, Secretary
Planning Board