

Town of Hamburg  
Planning Board Meeting

June 17, 2009

Minutes

The Town of Hamburg Planning Board met in regular session on Wednesday, June 17, 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, Peter Reszka, David Phillips, Steve McCabe and Richard Taber.

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

**Public Hearing - Old Time Baptist Church**

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 proposed new church facility to be located on vacant land on the northwest corner of Gowanda State Road and Hickox Road. The project consists of a new +/- 28,000 sq.ft. church facility. In accordance with the Town of Hamburg site plan ordinance, a Public Hearing will be held on June 17, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Lowell Dewey from C & S Engineers, Inc. appeared on behalf of the proposed project, stating that the church intends to build a +/- 24,000 sq.ft. church on this 3.8-acre site and that a potential 4,000 sq.ft. addition is also shown on the proposed site plan. Mr. Dewey noted that, since the first public hearing on this project in May, the applicant has applied for various permits, including from the New York State Department of Transportation (NYSDOT) and the New York State Department of Environmental Conservation (NYSDEC), and has spoken to the Town of Hamburg Highway Superintendent about the project.

Mr. Dewey stated that the NYSDOT has asked the applicant to deal with the 24” culvert that currently crosses Gowanda State Road and the Town Highway Superintendent has asked the applicant to install storm sewers along Hickox Road from Gowanda State Road to a point just west of Mr. Rickie Los’s property. He further stated that the proposed septic system design was submitted to Erie County and the applicant has not received final approval yet.

Mr. Dewey stated that a storm water treatment pond is proposed in the northwest corner of the site, as it is the lowest area of the property, and the storm water will be pumped from the pond south to the storm sewer that will be installed by the applicant along Hickox Road. He further noted that a storm water detention pond is also proposed on the western side of the property, which will be dry between storms.

Mr. Dewey stated that all of the trees over six inches in caliper on the west side of the property that may be impacted by the project have been located, noting that these trees have been identified on the landscape plan. He further stated that the church does plan to buffer all properties that border this site as much as possible with pine trees and foundation plantings.

Mr. Dewey stated that an easement from the pastor who owns the property to the north of the project site to the church is now shown on the site plan.

Mr. Reilly stated that the Planning Department received a letter from the NYSDEC indicating that the project may lie within the 100 foot buffer area and asked Mr. Dewey if the site plan has been amended accordingly. Mr. Dewey responded that the applicant has applied to the NYSDEC for a permit to disturb the 100 foot buffer.

In response to a question from Mr. Reilly, Mr. Dewey stated that the NYSDOT did not oppose the proposed driveway location on Gowanda State Road. Mr. Reilly stated that the Town must receive correspondence from the NYSDOT that the proposed driveway location is the best from a site distance point.

Mr. Reilly advised the audience that the Planning Board would be taking comments from the public at this meeting and providing input to the applicant from Board members. He noted that, when the Board is satisfied that all of the issues raised have been adequately addressed, it will make a rational decision regarding this proposal.

Chairman Koenig stated that he received a letter at his home from Mr. Peter Henry, which will be part of the minutes and will need to be addressed. He further stated that the Planning Board has received input from the Town of Eden Highway Superintendent indicating that he reviewed the proposed plans and does not have any concerns regarding the project.

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:

1. Attorney Jay Pohlman, 3990 McKinley Parkway, stated that he represents the immediately impacted neighbors (Mr. Funke, Mr. Los and Mr. Henry) and has compiled a list of ten issues of concern, any one of which would be enough for the Planning Board to require that an Environmental Impact Statement be prepared. He stated that he feels this project is too large for the size lot the applicant has to work with. He reviewed the ten issues in his letter, which included the requirements and intent of the South Central Overlay District, the size of the proposed building (including the potential addition) and the potential for the church community to grow, the proposed parking in front of the building and whether that meets the requirements of the Town Code, traffic concerns, downstream drainage concerns, buffering requirements and the fact that the 100 foot buffer would be disturbed. Attorney Pohlman stated that the SEQR process suggests that the applicant look at alternate sites and indicate why they would not be suitable. He noted that there is property for sale nearby that is larger than this project site that might be more suitable for the church's needs. He stated that the applicant indicates on the Long Environmental Assessment Form that this project is in consistent with the surrounding land uses and noted that he does not agree with that statement.
2. Keith Funke, 6968 Gowanda State Road, stated that Attorney Pohlman represents himself, Mr. Los and Mr. Henry, but he feels that Attorney Pohlman also represents the surrounding neighbors in the area.

3. Rick Los, 3480 Hickox Road, stated that he wanted to reiterate the fact that there is no way he is giving permission for any water from the church to end up on his land. He further stated that the wetlands on his property are primarily in the rear and he is concerned that when the church dumps its storm water into storm sewers on Hickox Road, he will end up with wetlands throughout his acreage.
4. Doug Williams, 5559 McKinley Parkway, stated that he is a senior construction manager and that he feels the church is adhering to all New York State building codes, as well as to all Hamburg requirements. He stated that the NYSDOT has been contacted, the Town of Eden does not have concerns regarding this project and the church is attempting to address the drainage needs of the area. He further stated that he is a member of the church and that the church intends to follow all codes and adhere to all regulations.
5. Rick Walton, 4042 Towers Place, stated that he is President of Hamburg Rod & Gun Club (3434 Hickox Road) and that he feels that, if this project does go forward, an escrow account should be established for a minimum of two years to cover any flooding problems that may occur because of this project. He further stated that in 1995 President Clinton signed into law a 1,000-foot gun-free zone for all school properties and the church property is less than 1,000 feet from the Hamburg Rod & Gun Club property. He stated that if any portion of this building will be used for classrooms, the Rod & Gun Club would be barred from having any firearms on its property and he feels this is unfair, because the Rod & Gun Club was established first. He stated that, in addition, anyone who might drive past the school with a firearm in his vehicle would be breaking the law. He asked the Board to consider this issue, noting that he feels the church should not be allowed to operate a school on the site because the Rod & Gun Club was there first.
6. Tim Wallmeyer, 6927 Gowanda State Road, stated that his concern revolves around traffic and distributed photos to Board members showing the traffic on Gowanda State Road. He stated that traffic problems currently exist on Gowanda State Road and that if this project is approved and two more driveways are installed in this area, it could be putting the area residents in harm's way.
7. Jeff Regan, 3606 Bonnie Lane, stated that he concurs with everything said by Mr. Wallmeyer and feels that, as a parent, his biggest concern is traffic. He stated that none of the neighbors is opposed to the church, but rather are concerned about the potential traffic problems the church would bring. He further stated that the traffic is especially bad in the summer with motorcycles, etc. "opening it up" on the highway. He stated that the church's location further north on Gowanda State Road is already a problem because parishioners park along Gowanda State Road, which causes problems for motorists, and worries that this location will exacerbate an already bad situation. He stated that he would like to see the church research alternate sites for the sake of public safety.
8. Walter Henry, 7185 Sisson Highway, Eden, stated that he is concerned about the Town preserving its rural atmosphere in this area of Hamburg and feels that this proposal is

inconsistent with Hamburg's desire to maintain the rural character of this neighborhood. He stated that he thinks the project is too large for the size of the site, especially if the church congregation grows in the future. He stated that this type of development adjacent to a farm puts pressure on the farm and makes it more difficult for the farmer to continue to profitably farm the land.

9. Gary Reed, 3444 Old Lakeview Road, stated that he is a member of the church and his children attend the school. He stated that he loves the church and his family has benefited greatly from being a part of it. He further stated that he hopes the Board allows the church to move forward so that it can expand so that it will have a larger base to reach the rest of the community.
10. Maureen Gregoire, 3205 Hickox Road, asked if the questions posed by the public will be addressed by the church representatives and, if so, how the answers will be provided to the public. She further asked if the applicant has taken into account the snow drifts that exist in the winter months at the corner of Hickox Road and Gowanda State Road, as well as the grade at that intersection, when considering the location of the driveways.
11. Tom Wallen, 3383 Hickox Road, stated that he has witnessed flooding on Hickox Road many times and is concerned that, if this project is built and the storm sewer is constructed just part way west on Hickox Road, his farmland will be flooded.

Chairman Koenig declared the public hearing closed.

Chairman Koenig noted that the comments received have been recorded and the applicant will receive a copy of the minutes, at which time the comments are to be addressed.

Mr. Phillips made a motion, seconded by Mr. Reszka, to table this project to give the applicant time to answer the questions that have come to the Planning Board. Carried.

Engineering Department comments have been filed with the Planning Department.

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

Lowell Dewey from C & S Engineers, Inc. appeared on behalf of the proposed project, stating that the ice cream store and the pool supply business are now indicated on the site plan and that "outdoor display" on the southern half of the site has been removed from the site plan. He further noted that the plans have been submitted to Erie County Highway Department and that department has no concerns regarding the curb cut.

Chairman Koenig stated that the applicant has made the revisions to the site plan that were requested of him at the Planning Board's last meeting.

Mrs. Yerkovich reminded Mr. Dewey that the applicant cannot change the use of this building once the Board grants approval of the project. Mr. Dewey acknowledged this.

Mr. Reilly stated that the applicant is asking the Planning Board to waive the required forty foot green area along McKinley Parkway per the McKinley Parkway Overlay District and has

submitted an “enhanced” landscape plan to offset the fact that the parking area would be only twenty feet from the road.

Mr. Phillips made a motion, seconded by Mr. Reszka, to issue a Negative Declaration and grant Conditional Site Plan Approval to this project, subject to the Engineering Department comment letter dated June 17, 2009, waive the installation of sidewalks. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Avanti Mansion (4409 South Park Avenue)**

Laurie Clark, applicant, appeared on behalf of the proposed project, stating that the Engineering Department concerns have been addressed and the site plan has been resubmitted.

Mr. Reilly stated that Mr. Lardo indicated that the proposed diagonal parking spaces will not work in the parking area and larger drive aisles are required. He further stated that the applicant is asking the Planning Board to waive three requirements of the South Park Overlay District, specifically the requirement that the forty-foot area along South Park Avenue be landscaped, the requirement that the landscape plan must be prepared by a Registered Landscape Architect and the requirement that landscaped islands must be installed in the parking area. He noted that the Planning Board can waive or modify these requirements if it so chooses.

Mr. Reilly advised Ms. Clark that if she plans to install a new sign, it must be a ground sign. He further advised her that the Town would prefer the lights to be dimmed after 11:00 P.M.

Mr. Phillips made a motion, seconded by Mrs. Rogers, to issue a Negative Declaration and grant Conditional Site Plan Approval for this project with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated June 17, 2009.
2. The South Park Overlay District requirements that are discussed above shall be waived.
3. The aisles in the parking area shall be enlarged by three feet per aisle.

Carried.

Engineering Department comments have been filed with the Planning Department.

### **Hamburg Senior (vacant land, west of Briercliff Drive) unit independent living apartment community**

Chairman Koenig stated that the Planning Department received correspondence from the applicant asking that the Board table this project.

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

Engineering Department comments have been filed with the Planning Department.

### **Villages at Mission Hills**

Mr. Reilly stated that the applicant has submitted a draft Supplemental Environmental Impact Statement (SEIS), as well as a complete Site Plan application with engineering reports, etc. He further stated that, if the Planning Board accepts the SEIS as complete, a public hearing will be set for the Board's July 15, 2009 meeting for Site Plan Approval and for SEQR.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, that in accordance with the submitted resolution, the Planning Board accepts the draft SEIS as complete, schedules a public hearing for July 15, 2009 regarding the draft SEIS and Site Plan Approval and authorizes the Planning Department to complete the required mailings. Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **Arthur Court Subdivision**

Mr. Reilly advised the Planning Board that a public hearing was held on this proposal in August 2008; the applicant asked to be tabled at that time and now would like to complete the approval process. He further stated that the applicant is requesting to be placed on the Board's July 1, 2009 agenda. He also noted that the applicant will have to repay the review fees, as Town Code requires that 50% of the fees be repaid if an applicant is tabled for more than six months.

Mr. Reilly noted that the applicant had the wetlands on the site redelineated and some of the site's wetlands are now considered non-jurisdictional.

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

Mr. McCabe made a motion, seconded by Mr. Phillips, to approve the minutes of May 20, 2009. Carried.

Mr. McCabe made a motion, seconded by Mr. Phillips, to approve the minutes of June 3, 2009. Carried.

Mr. Phillips made a motion, seconded by Mr. Reszka, to adjourn to Executive Session. Carried.

Following the Executive Session, Mr. Phillips made a motion, seconded by Mr. Taber, to adjourn the meeting.

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The meeting was adjourned at 9:20 P.M.

Respectfully submitted,  
Stephen J. McCabe, Secretary  
Planning Board