

**Town of Hamburg**  
**Planning Board Meeting Minutes**  
**June 18, 2008**

The Town of Hamburg Planning Board met in regular session on Wednesday, June 18, 2008 at 7:30 p.m. in Room 7B of Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Secretary Stephen McCabe, Richard Taber, Karen Rogers and Sasha Yerkovich.

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

Excused: Vice-Chairman Phillips, Peter Reszka

**Public Hearing – Hamburg Floor Covering (4340 South Park Avenue)**

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by Hamburg Floor Covering.

The applicant proposes to construct a 2,000 sq.ft. inventory storage building on property located at 4340 South Park Avenue.

In accordance with the new Town of Hamburg site plan ordinance, a public hearing will be held on June 18, 2008 at 7:30 P.M. in Room 7B of Hamburg Town Hall.”

David Sutton from Dean Sutton Architects appeared on behalf of the project, stating that the applicant is proposing to construct a 2,000 sq.ft. inventory storage building to be located adjacent to the existing store on South Park Avenue. He further stated that Mrs. Rogers visited him at the site to discuss the aesthetics of the proposed building and that as a result he is proposing a new façade. He handed out renderings of the proposed building to the Board members and showed them samples of some of the proposed materials to be used for the façade, as well as the proposed lighting for the building front.

Chairman Koenig stated that he is pleased with the new look of the proposed building. Mr. McCabe concurred.

In response to a question from Chairman Koenig, Mr. Sutton stated that delivery vehicles will be directed to enter and exit the site from South Park Avenue.

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:

Patricia Hover, 4166 Walker Place, stated that she is pleased that no delivery vehicles will enter or exit from the side street.

Chairman Koenig declared the public hearing closed.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to grant Conditional Site Plan Approval for this project, subject to the conditions of the Engineering Department's comment letter dated June 18, 2008. The installation of sidewalks is waived. This is a Type II Action under SEQR and as such a Determination of Significance is not required. Carried.

Mrs. Rogers stated that she is very concerned about the business located adjacent to this property and feels it needs to be cleaned up. She would like the Building Inspector to investigate that and see what can be done to make the property look better.

Engineering Department comments are attached.

### **Mead Two-Lot Subdivision (4808 Lakeshore Road)**

Attorney Jay Pohlman appeared on behalf of the proposed project, stating that the applicant is requesting approval of a two-lot subdivision for a zero-lot line duplex so that each half of the existing duplex can be sold individually on its own lot of record. He further stated that deed restrictions would be filed to maintain the integrity of the building and that the driveway onto Lakeshore Road would be shared, along with the plowing and maintenance of same. He also noted that the two utilities that still require separation would be separated for the individual duplexes.

Attorney Pohlman stated that the building was built with a firewall between the two duplexes.

Mr. McCabe confirmed with Attorney Pohlman that the building in the front of Lot #1 would remain and as such the applicant will be creating a non-conforming lot because one of the lots would contain half of a duplex and a single-family home, which is not allowed in the R-2 zone, and that a variance would be sought from the Zoning Board of Appeals.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to forward a positive recommendation to the Zoning Board of Appeals regarding the applicant's request for two residences on one parcel, as the property will look no different than it looks now.

Carried.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to grant Preliminary Approval to this minor two-lot subdivision, subject to the conditions of the Engineering Department comment letter dated June 18, 2008. The requirement to install sidewalks is waived, as is the requirement to file a map cover. Carried.

Engineering Department comments are attached.

### **Oakwood Grove Subdivision**

Mr. Reilly stated that the applicant asked to be tabled to the Board's next meeting.

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

Engineering Department comments are attached.

### **Sherwood Meadows Subdivision**

Mr. Reilly stated that at its previous meeting, the applicant's engineer advised the Board that the applicant would rather not install the approved trail from the subdivision to the Town-owned recreation area because of its high cost. He noted that the applicant has amended the approved plan to show a privately owned 40' X 40' tot lot on the existing development site for the residents of the subdivision.

It was agreed that the Board would not waive the \$1,000 per lot recreation fee for this project, as the tot lot would not meet the Town's requirement of 10% recreation lands.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to approve the amended subdivision plan that was last revised on June 16, 2008. Recreation fees will not be waived and the tot lot will be under private ownership (homeowners' association). Carried.

Engineering Department comments are attached.

### **Walgreen's**

Attorney Sean Hopkins, Tony Battista from Benderson Development and Dan Blamowski from FRA Engineering appeared on behalf of the proposed project.

Attorney Hopkins handed out a project update to the Board members, stating that the

applicants met with the Hamburg Village Traffic Safety Committee approximately one week ago and received additional input from that committee, and that they plan to meet with the Town of Hamburg Traffic Safety Advisory Board on July 10, 2008. He further noted that instead of a full access driveway onto Buffalo Street, the applicant now proposes a right-in right-out driveway at that location. Attorney Hopkins stated that a letter has been received from the New York State Department of Transportation indicating its determination that this project will not have a significant adverse impact on the state highway system.

Attorney Hopkins stated that the round-about currently under construction at the intersection of Legion Drive and Buffalo Street was originally designed with two travel lanes all the way around it, but it has now been modified so that it will be a single lane all the way around. Included in the design is a splitter island on Buffalo Street, north of the round-about, which will serve to encourage drivers to make only right turns in and out of the Walgreen's driveway on Buffalo Street. Attorney Hopkins stated that the applicant proposes to extend this splitter island further north on Buffalo Street to prevent left turns completely into the Buffalo Street entrance. He noted that the New York State D.O.T. has indicated it would like to incorporate this extension of the splitter island into its project at this time but that it would like input on this issue from both the Town of Hamburg and the Village of Hamburg.

Attorney Hopkins stated that, based on input from the Erie County Highway Division, the applicant has moved the proposed driveway onto Legion Drive as far away from the round-about as possible. He further noted that Erie County Highway has indicated that this project will not have a major impact on the County highway system.

Regarding the proposed access to Walker Place, Attorney Hopkins stated that a truck routing plan has been proposed by the applicant that would allow trucks to enter the site from Legion Drive, proceed to the loading area and exit onto Walker Place. He further stated that the applicant can assure the neighbors (through signage and zoning conditions) that tractor trailers will absolutely never have the ability to turn left onto Walker Place when exiting the site. Attorney Hopkins noted that if Walker Place cannot handle tractor trailers, the applicant will have to make enhancements to Walker Place. He further stated that the applicant needs access to Walker Place and has determined that there is no way that this site can be redeveloped as a Walgreen's without all three proposed curb cuts.

Attorney Hopkins noted that the applicant anticipates one to two tractor trailer deliveries per week, the tractor trailers would belong to Walgreen's and would be sized appropriately for this site, and Walgreen's can control the hours deliveries are made. He further stated that the applicant has agreed to investigate what other types of vendors would be coming to the site, how often they would be coming, what types of vehicles would be used and how they can be routed through the site. He indicated that this information will be submitted to the Town and the Village.

Attorney Hopkins stated that a comparison between the traffic generated by the two existing businesses on the site and the anticipated traffic generated by the proposed Walgreen's has been submitted to the Board for its review. He noted that the proposed Walgreen's would generate more traffic than the existing businesses on the site, but that there are a wide assortment of commercial uses allowed in this zoning district that would be much more intensive in terms of traffic generation.

Attorney Hopkins stated that Benderson Development is committed to purchasing this property and its preference is to redevelop this site as a Walgreen's, but if the Town and Village of Hamburg determine that Walgreen's cannot be built, Benderson Development will have to find another suitable tenant.

Attorney Hopkins stated that the applicant is proposing new sidewalks on all three street frontages.

Attorney Hopkins stated that an informational meeting was held on June 9, 2008 at a local restaurant, approximately 12 to 15 residents attended and the applicant obtained some useful input from the residents that will be taken into consideration.

Regarding the previous suggestion by Board member Peter Reszka to close off Walker Place at its eastern end, Mr. Battista stated that there was a concern from the Highway Department about its vehicles (and emergency vehicles) having to turn around. Attorney Hopkins stated that the applicant will have to defer to those Town departments with jurisdiction over those types of decisions.

Regarding the timing of this project, Attorney Hopkins stated that it is his understanding that the New York State Department of Transportation hopes to complete the round-about some time in September. He stated that he can assure the Board and residents that, if approved, construction of this project would not start until the D.O.T. project is completed.

Mr. Reilly stated that the minutes from the last Village Traffic Safety Committee meeting indicate that the applicant agreed to hold off on the project until six months after the D.O.T. project is complete in order to allow additional studies to be done regarding this location's traffic flow and the environmental data to be restudied. He asked Attorney Hopkins to explain the applicant's intentions. Attorney Hopkins responded that there must have been a miscommunication with the Village Traffic Safety Committee.

Mr. Peter Danforth, Chairman of the Village Traffic Safety Committee, stated that since this project has been proposed, the Committee's major concern has been the entire Buffalo Street corridor. He further stated that, based on the Committee's concern for Buffalo Street, they would like six months to do a thorough study of the area after the D.O.T. construction is completed. In addition, they would like to get direction from the

School Board as to its feelings about this project and the traffic it might generate.

Chairman Koenig stated that he feels it is too much to ask of the applicant to ask them to hold off on the project for six months.

Attorney Hopkins stated that no one knows what additional projects may be proposed along the Buffalo Street corridor and that any additional projects will also require an environmental review, as well as approvals from the Village or Town or both. He further stated that any additional project sponsors will have to consider the traffic impacts from the Walgreen's project when coming before the municipal Boards.

Mrs. Rogers stated that it makes sense to her to wait a while after the round-about is installed to see how the traffic flows in the area. She further stated that her primary concern is for the school buses and the children walking to and from the area schools. Attorney Hopkins responded that the D.O.T. has submitted a letter to the Town indicating its position that the project will not have a significant adverse impact.

Mr. Battista stated that Benderson Development does not want to be hampered or precluded from moving forward, but is willing to listen to all received feedback.

Mrs. Yerkovich stated that she feels that the Planning Board has the obligation to act on this application regardless of what it may or may not know about additional projects planned for the area.

Mr. Danforth stated that he feels a joint meeting should be held regarding this project that would include the Town Planning Board, the Village Planning Commission, the County and the D.O.T. so that all input can be collected. Mr. Reilly responded that he will attempt to arrange a meeting like this, but noted that the D.O.T. may not feel there is a need to meet, as it does not think this project will adversely impact the area.

Mr. Reilly stated that one of his primary concerns regarding this project is the safety of pedestrians in the area.

Mr. Taber noted that he is very concerned about the School Board's input on this project as it relates to the school children walking to and from the high school and middle school. He further stated that he feels that the idea of a splitter island on Buffalo Street is a very good one, although he worries that north-bound drivers who cannot make a left turn into the site might turn left on to Walker Place instead to access the pharmacy.

Mr. Taber stated that he feels it is disingenuous for the applicant to say that if Walgreen's is not approved, the Town and Village may get a project that will have a lot more traffic. He further stated that he would rather not hear comments like this anymore. Mr. Battista responded that his reputation is important to him and he does

not want any Board member or anyone in the public to think that he is feeding them anything. He confirmed that there is interest from a national fast food chain for this site but that Benderson Development has indicated that this Walgreen's project is its preference.

In response to a question from Mrs. Yerkovich, Attorney Hopkins stated that it is his understanding that the Walgreen's store would be open between the hours of 9:00 AM and either 9:00 PM or 10:00 PM. Mr. Reilly stated that, although it is fine for Walgreen's to state this, the Town cannot regulate hours of operation and could not assure that the business would only be open these hours in the future.

Mr. Reilly stated that the D.O.T. would like the Town's and Village's input regarding the applicant's proposal to extend the splitter island on Buffalo Street as soon as possible. He further stated that as the Town Planner, he would recommend that the Town approve the idea of extending of the splitter island and noted that the Town would have to make clear that this approval would not have anything to do with the approval of the proposed Walgreen's or any proposed use at this site.

The consensus of the Board was that the members are in favor of extending the splitter island and feel that it makes sense.

Mr. Reilly suggested that the Planning Board, as Lead Agency, schedule the public hearing for this proposal for July 16, 2008 to hear from the public on this proposal. He further stated that he would like members of the Town Planning Board to attend the next meeting of the Village Planning Board if the proposed Walgreen's project is to be discussed.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to schedule a public hearing for this proposal for July 16, 2008. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to forward a positive recommendation to the Town Board regarding extending the splitter island on the northern edge of the round-about along Buffalo Street to prevent left turns into any potential development on this site. Carried.

Mr. Reilly stated that pedestrian safety is the biggest issue in his mind and feels it should be look at very closely by the Planning Board.

Patricia Hover, 4166 Walker Place, stated that she attended the last Village Traffic Safety Committee meeting and remembers the applicants agreeing to hold up on the project until six months after the round-about is in and a traffic study can be completed.

Attorney Hopkins responded that he is not attending different Board meetings and saying different things and he does not intend to argue the point.

Mrs. Yerkovich confirmed with Attorney Hopkins that the position of the applicant is that, if approved, construction of the Walgreen's will not commence until the construction of the round-about is completed.

Attorney Hopkins stated that there may be a need in the future for a supplemental traffic study to be done after the store is built, and if that is the case the applicant would consider that. He further stated that if he had stated that the applicant will not go forward with the project at all until six months after the round-about is completed, he and Mr. Battista would not have appeared before the Board this evening.

Nancy Connell, 62 North Street, stated that approximately twelve school buses drive down North Street three times per day and that once the round-about is completed, those buses will no longer travel on North Street because it will be closed off. She wanted the Board members aware of the fact that those buses will have to travel on other roadways in the area.

Mrs. Yerkovich stated that she finds it hard to understand how Walgreen's is responsible for the existing traffic problems in the area and that the Board needs input from the School Board regarding how this might affect bus routes, etc. She further stated that the round-about has been in the planning and construction stages for quite a while and it is a coincidence that its construction is dove-tailing with this proposal being considered by the Board.

Carol Connelly, 45 North Street, stated that she feels this is a traffic issue and not a round-about issue and that she did not expect, when the round-about was begun, that "big box" stores would be proposed that would generate traffic in a school area.

Mr. Reilly responded that Walgreen's is not a "big box" store and that from a traffic standpoint this is not a big generator of traffic. He further stated that if the round-about did not exist, a traffic study would not even have been required.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to table this project until the Board's July regular meeting.

Engineering Department comments are attached.

### **Charles Backus (Gowanda State Road)**

Mr. Reilly stated that the applicant was not present.

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

Engineering Department comments are attached.

**Woods at Versailles Subdivision**

Attorney Jeff Palumbo, along with Cliff Krum from Greenman-Pederson, appeared on behalf of the applicant.

Mr. Reilly stated that the applicant previously received sketch plan direction and now is at the Preliminary Plat stage. He asked Mr. Krum if a fifteen-foot drainage easement would need to be installed in the back of the southerly lots. Mr. Krum responded that the applicant is obligated to put something in there but that if there is a system there that is adequate and the Engineering Department tells them to tie into that system, they will do so.

Mr. Reilly stated that the applicant will be required to submit a proposal for delineating the conservation area so that homeowners do not encroach on that area. He further stated that it should be a permanent form of delineation.

Attorney McKenna suggested that a short low brick wall be constructed in the center of the area between the back of the properties and the conservation area.

Mr. McCabe confirmed with Mr. Krum that the .60 acre wetland treatment pond will work by putting the surface water drainage through a sediment chamber to remove the particulates and then sending it through the pond to be treated for suspended petroleum from automobiles, etc. Mr. Krum also stated that the Corps of Engineers is reviewing the applicant's proposal for wetlands mitigation at this time.

Mr. Krum stated that the applicant would rather not create a homeowners' association to own and maintain the conservation area, but will do so if required by the Town of Hamburg. It was determined that the Board will require the applicant to create a homeowners' association, as the Town is not interested in owning and maintaining that area.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to schedule a public hearing for this proposal for July 16, 2008. Carried.

Engineering Department comments are attached.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to approve the minutes of June 4, 2008. Carried.

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

The meeting was adjourned at 9:03 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board