

Town of Hamburg
Planning Board Meeting Minutes
July 16, 2008

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

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

Excused: Karen Rogers

Public Hearing – Walgreen’s Pharmacy (6185 So. Park Ave. & 406 Buffalo St.)

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 Benderson Development Co., LLC.

The applicant proposes to construct a 13,650 square foot pharmacy on 1.15 acres of land located at the intersection of Legion Drive and Buffalo Street.

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

Attorney Sean Hopkins, Dan Blamowski from FRA Engineering and Kim Fiedler from Benderson Development appeared on behalf of the project. Attorney Hopkins made a presentation regarding the proposed project, indicating the following:

- The proposal is a redevelopment project consisting of a 13,650 sq.ft pharmacy, which is smaller than the prototypical Walgreen’s building, to be located on two parcels of land (1.15 acres) that encompasses the existing Corto’s building and a dentist’s office. Both of the existing buildings on the site will be demolished.
- The parcel is located both in the Town and Village of Hamburg.
- The portion of the project site located in the Town of Hamburg is zoned C-1, which allows this type of use, and is located in the South Park Overlay District. The zoning in place on this parcel allows a wide range of commercial uses.
- The developer plans to remove the pavement adjacent to Dr. Nowak’s property on Legion Drive and install screening in the form of fencing and landscaping in that area to bring it into compliance with the Town’s screening requirements.

- The developer took the design criteria of the South Park Overlay District into consideration when designing the layout for this project and therefore intensive landscaping will be provided, sidewalks will be installed on Legion Drive, Route 62 and Walker Place and the building's appearance will be based on the detailed architectural guidelines of the Overlay District.
- The portion of the project site located in the Village of Hamburg is zoned commercially, which allows this type of use, along with many other commercial uses that mirror the Town's C-1 zoning.
- The project will require site plan approval from both the Town of Hamburg Planning Board and the Village of Hamburg Town Board, as well as variances from the Town and Village Zoning Board of Appeals. The primary reason variances will be required is that the project site lies both in the Town and the Village and the entities do not have the same requirements for front yard setback, for example.
- 45 parking spaces are proposed, which is less than both the Town and Village require.
- An informational meeting was held with interested residents on June 9, 2008 and good feedback was received by the developer. The developer welcomes any additional input from the public.
- The developer proposes to build a residential-style building that will appear to have two floors, contain a decorative copula as the focal point and be constructed of high-quality materials required by the South Park Overlay District. In addition, the developer proposes a masonry wall that will extend close to the round-about, as well as extensive landscaping, to bring out the intersection.
- As part of the site plan application, the developer has submitted Part One of the Long Environmental Assessment Form, architectural sketches, the site plan and a very detailed traffic study prepared by FRA Engineering.
- Regarding SEQR (State Environmental Quality Review Act), the Town of Hamburg Planning Board, as Lead Agency, is required to make decisions that represent a suitable balance of economic, environmental and social factors. The Board must identify relevant areas of environmental concern, take a "hard look" at the information provided and issue a SEQR determination regarding the proposal supported by a reasoned elaboration.
- No wetlands exist on the project site.
- The developer has designed the building to be consistent with the character of the community.
- The biggest potential environmental impact identified to this point is traffic. A detailed traffic impact study was submitted with the site plan approval application and the project is subject to three separate jurisdictions in terms of roadways; Legion Drive is an Erie County highway, Route 62 is a New York highway and Walker Place is a Town roadway. Manual traffic counts were taken on February 23, 2008 and March 4, 2008 and FRA Engineering also looked at background traffic in the vicinity of the project site. An detailed accident analysis was

- performed by FRA based on information received from the Town of Hamburg Police Department, as well as the Village of Hamburg Traffic Safety Committee.
- It is expected that the completion of the round-about project by the New York State Department of Transportation will reduce accident rates, allow traffic to travel more easily through the intersection and reduce the severity of any accidents that do occur. In order to respond to the concern of the Village Traffic Safety Committee that these expectations are based on projections, FRA Engineering researched an existing Walgreen's pharmacy in the Town of West Seneca that is located on the corner of two roadways with similar traffic volumes to the proposed Hamburg site. FRA found that the actual conditions, once the Walgreen's is constructed, are very similar to the projections obtained in the FRA traffic report.
 - No stacking is anticipated in the drive-thru lane at the proposed Walgreen's.
 - The trip generation rates for the proposed use compared to the existing uses on the site were studied by FRA Engineering and it was found that the traffic rates will be higher for the proposed pharmacy than they are for the two existing businesses there now. The site as it is currently zoned allows uses that would generate much higher traffic rates than the proposed pharmacy.
 - A detailed evaluation of truck access and deliveries by Walgreen's and other vendors was submitted to the Planning Board for its review.
 - Based upon input from both the New York State DOT and the Erie County Department of Public Works the applicant made modifications to the site plan, including making the access onto Buffalo Street a right-in, right-out only to eliminate any left-hand turns into or out of the site, as well as extending the splitter island on Buffalo Street further north to provide a physical barrier to anyone considering a left turn into or out of the site. The Hamburg Town Board issued a resolution asking the NYSDOT to implement this extension as part of the reconstruction project and the project sponsor will be asking the Village Board of Trustees to do the same.
 - The applicant has maximized the distance between the proposed curb cut on to Legion Drive and the round about currently under construction. In addition, a slight modification has been made to the access to Walker Place to better accommodate tractor trailers leaving the site.
 - Regarding how tractor trailers and vendor delivery vehicles will enter and exit the site, the applicant envisions that they will access the site via Legion Drive, pull into the loading area and then leave by backing up and turn right onto Walker Place. The applicant does not feel that there is any other way for these vehicles to exit the site because, in order to exit the site via Legion Drive, they would have to back up from the loading area onto Walker Place, which could cause safety problems. The applicant feels confident that the Walgreen's trucks can be regulated and make sure that any time they exit the site, they do so by turning right onto Walker Place and traveling to Route 62.
 - Letters have been provided from NYSDOT and Erie County Department of

- Public Works indicating that they agree with the detailed traffic analysis done by FRA Engineering, as well as the project modifications proposed by the applicant.
- The applicant welcomes the opportunity to meet with representatives of the School District regarding this proposal and hopes to meet before the Planning Board's next regular meeting in August.
 - The applicant has provided the Planning Board with very substantial evidence regarding the potential traffic impacts and understands that they will have to respond to comments received as a result of the meeting held July 10 with the Town and Village Traffic Safety Boards, as well as from this public hearing.
 - Regarding the Planning Board's requirements pursuant to SEQR, the applicant feels that the Planning Board has enough information to insure that it has taken the required "hard look" at the traffic impacts of this project. As a result of the requirements of SEQR, numerous substantial project modifications have been made and once the Board is comfortable that it has received enough information regarding the potential environmental impacts of this project, it will be required to issue a SEQR determination and then a decision on the proposal.
 - This is a redevelopment project and as a result of the DOT's reconstruction project on Buffalo Street, additional redevelopment projects may be proposed along that commercial corridor, which the applicant feels is a good thing for the Town and Village.
 - The applicant will continue to solicit input from residents and would ask that the Board look at the criteria contained in the Town of Hamburg Zoning Code and New York State Town Law when making a decision on this project, as the applicant feels that if these criteria are applied, it will ultimately support a decision to support the proposed site plan.

Mr. Reilly stated that the Planning Board has received and will continue to receive input from the residents, various committees and agencies under the SEQR review process, as well as various studies and reports from the applicant. He noted that at the Board's next meeting, it should identify what it has learned so far, what the major impacts of the proposal are and whether they have been mitigated and whether any additional information is needed in order to issue a SEQR determination. He noted that the Town and Village Planning Boards should hold a joint meeting in August to review this proposal and discuss the potential impacts associated with it.

Mrs. Yerkovich stated that economic competition is not a criterion the Board can use when looking at the environmental impacts of a project under the SEQR law.

Mr. Taber asked how the Town can ensure that the NYSDOT will install the proposed extended splitter island along Buffalo Street. Attorney Hopkins responded that the NYSDOT has indicated to the applicant that before it implements a change to the reconstruction project already underway, it requires input from the Town and Village. The Town has issued a resolution that it supports the change and the

applicant is hoping the Village will follow suit.

Chairman Koenig asked Attorney Hopkins if the applicant has ever considered installing an exit onto Buffalo Place just north of the proposed building that could be utilized by tractor trailers and delivery vehicles only so that they would not have to access Walker Place. He noted that it could be a gated exit controlled by Walgreen's. Attorney Hopkins responded that it is an interesting idea that the applicant has not considered before and that it can be investigated by the applicant.

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:

- Dr. Kathleen Nowack, 4176 Legion Drive, stated that one of her concerns is that Walgreen's would be leasing the property from Benderson and asked what the length of the lease would be. She also asked what will happen if Walgreen's goes out of business. She stated that another concern has to do with the safety of school children walking in the area on "open campus" from the high school, given the increased traffic that would be generated from this business, as well as the increase of garbage in the area from the business. She further stated that increased traffic in the area is a big concern on all three streets that this business would front and she worries about cut-through traffic between South Park Avenue and Division Street and the increase in traffic on Division Street as a result of people trying to avoid the round-about. She stated that she does not feel that the West Seneca Walgreen's Attorney Hopkins referred to is similar to the proposed store because of the configuration and width of the roadways in the area and there is no school near the West Seneca store. She also has concerns about traffic in the area of the proposed building when the fair is going on, as well as the fact that there are residents in the area with COPD who would be adversely affected by this project.
- Patricia Hover, 4166 Walker Place, stated that her biggest concern is safety of school children walking in the area. She is also concerned about the proximity of the school to this site, as well as the high volume of traffic on the three streets affected by the project. She feels that the School Board should be represented in this discussion. She stated that she is concerned about the traffic generated by the pharmacy and the prospect of the round-about and Walgreen's going in during the same time period, as well as commercial trucks using Walker Place. She feels that this is the wrong place and wrong time for this project.
- Peter Danforth, Chairman of the Village Traffic Safety Committee, 72 Parkside Avenue, stated that, although he agrees with the applicant that traffic in the area probably will not increase much as a result of the proposed pharmacy, he is

concerned that Benderson owns a great deal of property adjacent to this site and when those additional properties are developed, it will bring in more traffic. He stated that he received correspondence from the School District expressing concern about the safety of the school children crossing Legion Drive and he is also concerned about school buses on Legion Drive and in the round-about. He reiterated that the Village Safety Committee feels very strongly about a level playing field where the NYSDOT construction is completed and then have a period of six months when the committee can reassess the traffic load and the behavioral aspects of children using the crosswalks and make sure a situation similar to the Tim Horton's is not created.

- Bryce Link, 4163 Colonial Place, asked if the redevelopment project will be subsidized by any government funds such as the Empire State Fund, Hamburg Industrial Development Agency, etc. He asked what the rationale, other than market competition, is for four similar businesses being located in a two-mile area. He asked what the impact of this project would have on the neighborhood property values and assessments. He stated that he is concerned about the vacant buildings Benderson already owns in Hamburg and asked how long Walgreen's lease would be.
- Jeanie Brown, 4172 Legion Drive, asked how the applicant's traffic studies could be considered complete without the completion of the round-about. She stated that she is concerned about the traffic on Legion Drive, as well as the safety of the children.
- Gene Nowicki, member of the Village Traffic Safety Committee, 29 Torry, stated that he is concerned about the proximity of the proposed driveway onto Buffalo Street to the round-about and the pedestrian crossing and worries about a vehicle turning right out of the site coming upon the pedestrian crossing almost immediately. He also stated he has concerns about the proposed brick wall around the perimeter of Legion Drive and Buffalo Street and asked if it meets the NYSDOT standards for deadly fixed objects from the edge of pavement to the brick wall.
- Jack Lee, 4161 Legion Drive, stated that he is concerned about the number of pharmacies already in the area, the large vehicular traffic that a Walgreen's would generate (personal vehicles, garbage trucks, vendor trucks, tractor trailers, etc) and the internal traffic pattern of the proposed project (vehicles wishing to park or utilize the drive-thru would be confronted with the trucks in the parking area). He stated that he does not think that a Walgreen's employee would be qualified to help a tractor trailer safely back up in the parking area.
- Barbara Schmitt, 1904 Cain Road, North Collins, stated that she is concerned

about the traffic in the round-about combined with the traffic from the pharmacy and the tractor trailers entering and exiting the site. She is also concerned about the potential air pollution, as there are many people in the area who are elderly and susceptible to sickness from carbon monoxide. She stated that she feels the applicant should find a better location for the pharmacy that can handle the potential traffic from this type of business.

- Bev Halligan, 4157 Colonial Place, stated that she is concerned about the round-about and what will happen at that intersection once it is completed. She feels that the Town and Village should wait until the round-about is completed and functioning and then assess the situation realistically. She also is concerned about what will happen to the site if Walgreen's fails and a big empty building remains.
- Harlan Moses, 4158 Walker Place, stated that he is concerned about traffic on Division Street and the safety of the children walking, noting that there is no cross walk at the corner of Walker Place and Division Street. He also asked who would be responsible for plowing the sidewalks installed by the developer.
- Tom Borzelleri, 5406 Maelou Drive, stated that he would like to see traffic counts on Route 62 near Quinby Drive. He stated that he is concerned about semi trucks traveling on Route 62 turning onto Legion Drive and then entering the proposed site and causing a problem for vehicles exiting the site onto Legion Drive.
- Tim Ellis, Chairman of the Town Traffic Safety Advisory Board, stated that he feels that the Town of Hamburg Highway Superintendent, James Connelly, should be brought into the discussion regarding this project in general and specifically which entity would plow the new sidewalks. He asked for the specifications on the proposed splitter island on Buffalo Street. He stated that he feels that the Chairman's idea regarding a gated exit to Buffalo Street for tractor trailers and delivery vehicles is a good one that should be explored. He feels that he is skeptical about tractor trailers being managed by store employees in the parking area.
- Patrick Fultz, 45 North Street, submitted a petition to the Planning Board in opposition to the construction of a Walgreen's pharmacy at this site.

Chairman Koenig declared the public hearing closed.

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

Engineering Department comments are attached.

Woods at Versailles Subdivision, Part IV

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 53-lot subdivision known as Woods at Versailles Subdivision, Part IV to be located on 27.6 +/- acres of vacant land on Shadow Lane. The Public Hearing will be held on July 16, 2008 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Leanne Voit from Greenman-Pederson, Travis Morse from Earth Dimensions and Jennifer Rodgers from Damon & Morey, attorneys appeared on behalf of the proposed project.

Ms. Rodgers stated that the wetlands and the conservation area are the two biggest issues that have come up regarding this project and that the applicant has removed the previously proposed cul-de-sac on the western side of the subdivision. She further stated that a homeowners' association will be established that will be responsible for the maintenance of the conservation area including the proposed pond. Regarding the mitigation of the wetlands, Ms. Rodgers stated that the applicant submitted a permit request to the Army Corps of Engineers for the mitigation plan, which includes a thirty-foot forested buffer of existing trees on the northern end of the area and plantings to create an additional buffer area. She noted that the Army Corps of Engineers has provided the applicant with a preliminary approval of the mitigation plan.

Mr. Reilly stated that the homeowners' association would own and maintain the conservation area and a conservation easement would be required in the name of the Town of Hamburg so that it can enforce any violations of the removal of trees in the conservation area.

Mr. Reilly stated that correspondence has been received from the Conservation Board indicating that it still would like to see twenty to thirty-foot tree preservation areas in many of the rear yards.

Mr. Phillips stated that clear cutting of trees in subdivision lots is prohibited in accordance with the Town of Hamburg Tree Preservation Law and as such the applicant's plans must clearly delineate the vegetated areas of the site that will be preserved and the areas that will be disturbed for construction of home sites. Ms. Voit stated that there is only so much the developer can do to ensure that the builder will not

clear more trees than the Board allows and that this will be examined when the applicant gets to the engineering phase of the project.

Mr. McCabe stated that there have been a lot of problems with previous phases of this subdivision regarding clear cutting of trees, the Town Board has been the brunt of much criticism because of it and the Planning Board does not want a repeat of those problems to occur in this phase.

There was a discussion regarding the issue of whether the applicant can restrict the size of homes in order to reduce the impacts to the smaller lots. The Planning Board attorney stated that the problem would be easily solved by the recording of a Declaration of Restrictions, which would set forth the allowed maximum size of the homes to be built on the lots involved.

In response to a question from Mr. Taber, Ms. Voit stated that it is her understanding that there will probably be only one builder for the subdivision.

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:

- Robert Morford, 2296 Hobblebush, asked if the requirement for a tree cutting permit could be imposed on the developer. He asked if the developer and builder could be restricted from starting construction before 8:00 AM, as the construction creates a lot of noise and pollution, as well as safety concerns for the children in the area. He asked if contractors could be required to operate their equipment (especially tree grinders) as far away from existing homes as possible. He also asked if contractors could be required to access the construction sites from Shadow Lane, using the shortest route possible to the sites. He asked for a phone number that residents can call if a problem arises and they want to issue a complaint.

Chairman Koenig declared the public hearing closed.

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

Engineering Department comments are attached.

Oakwood Grove Subdivision

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed subdivision, stating that the applicant is still waiting for a response from the New York

State Office of Parks, Recreation & Historic Preservation regarding archeology. He further stated that the applicant is working with the Engineering Department on drainage issues.

Mr. Reilly stated that if the Planning Department does not receive correspondence soon from Erie County regarding the sewer capacity in the area, he will call and authorize the County to give that information to the applicant, as the Planning Board may want to issue a SEQR determination in the near future.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to table this project. Carried.
Engineering Department comments are attached.

Arthur Court Development

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposed development, stating that he was re-introducing the project to the Board. He noted that this project was proposed a few years ago and the only major change to the project now is that the wetlands that exist at the rear of the property are considered non-jurisdictional by the Army Corps of Engineers. He stated that an additional four units are now proposed because of the change in status of the wetland area.

Mr. Reilly stated that a Coordinated SEQR review was sent out recently by the Planning Department.

In response to a question from Chairman Koenig, Mr. Gow stated that the developer is considering extending the existing public road (King Arthur Court) rather than reconstructing a private road. Mr. Lardo stated that a provision of the Town Code allows the Town to require that a public road be extended. It was determined that in that case the Planning Board would have to waive the length of the cul-de-sac requirement.

Mr. Phillips made a motion, seconded by Mr. Reszka, to set a public hearing for this project for August 20, 2008. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Phillips, to table this project. Carried.
Engineering Department comments are attached.

Hamburg Self Storage

Mr. Michael Schmidt, applicant, appeared on behalf of the proposal.

In response to a question from Mr. Reilly, Mr. Schmidt stated that his proposal is to store boats and RVs in the back of the vacant parcel adjacent to his existing self-storage facility. He further stated that the area is already stoned and an earthen berm with trees exists that separates the back of the property from the front.

Mr. Reilly stated that the Building Inspector has determined that as long as Mr. Schmidt breaks the back of the vacant parcel off and attaches it to his existing parcel that houses the self-storage units, he would allow the storage of outdoor units as an accessory use to the existing industrial use (self storage).

Chairman Koenig confirmed with the applicant that the only means of access to the storage area would be from the existing self storage facility.

Mr. Reilly stated that the plan should show that the rear of the vacant parcel will be attached to the parcel housing the self storage facility. He further stated that it should indicate where and how vehicles would be stored.

Mr. Reilly stated that the Engineering Department requires that the surface where the vehicles are to be stored be paved and recommended that the applicant work with that department regarding that regulation. Mr. Schmidt responded that he would like to know what other similar businesses are required to do relative to paving.

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

Engineering Department comments are attached.

Stonebridge Subdivision

Mr. Reilly stated that the applicant was not present due to an illness in his family.

Mr. Phillips made a motion, seconded by Mr. Reszka, to approve the applicant's request . Carried.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to approve the minutes of July 2, 2008. Carried.

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

The meeting was adjourned at 9:45 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board