

Town of Hamburg
Planning Board Work Session
August 1, 2007

The Town of Hamburg Planning Board met for a Work Session on Wednesday, August 1, 2007 at 7:30 p.m. in Room 7B of the Hamburg Town Hall, S-6100 South Park Avenue. Those attending included Chairman Gerard Koenig, Steve McCabe, Paul Eustace, Richard Taber, Karen Rogers, Sasha Yerkovich and David Phillips.

Others in attendance included Andrew Reilly, Sarah desJardins and Attorney Donald McKenna.

Absent: Attorney Michael Fruth

Public Hearing - 6310 Southwestern Boulevard

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

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on the re-opening of a restaurant to be located at 6310 Southwestern Boulevard. In accordance with the new Town of Hamburg site plan ordinance, a Public Hearing will be held on August 1, 2007 at 7:30 p.m. in Room 7B of Hamburg Town Hall.”

Mr. David McNeight appeared before the Board on behalf of the project.

Mr. Reilly explained that one of the Board’s outstanding issues to be resolved from the Board’s last meeting was the removal of the parking spaces shown along Southwestern Boulevard, which has been done. He further stated that the remaining issues are relative to engineering concerns, most important of which is whether the septic system is operating correctly.

Mrs. desJardins stated that her understanding is that Mr. McNeight’s engineer spoke to Rick Lardo (Hamburg Engineering Department) and that the Engineering Department is awaiting a revised site plan based on that conversation. Mr. McNeight agreed, noting that he has asked the County to inspect the septic system within the next week and that property lines will be shown on the site plan.

Mr. Reilly stated that the parking area must be paved. Mr. McNeight responded that millings have been placed in the parking area and that it is his understanding

that millings are acceptable as a form of pavement. Mr. Reilly concurred. Mr. McNeight agreed to stripe the parking spaces on the property.

Mrs. Rogers noted that she would like to see the electric meter on the front of the building moved to the side of the building if the applicant is required to change the meter, as it is obtrusive on the front.

In response to a question regarding signage, Mr. McNeight stated that the existing sign will remain and that the wording on the sign will be changed.

Mr. Reilly suggested that the applicant and/or his engineer speak with Rick Lardo and the Building Inspector to ascertain exactly what the Engineering Department and Building Inspection Departments require in order for those departments to be satisfied with the site plan.

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

- Mr. Bob Heil, 5008 Mt. Vernon Boulevard, spoke regarding the existing septic system on the applicant's property. It was determined that this is a legal issue between two private parties and that the Health Department should be contacted in regard to the problem.
- Mr. James Russo, 4220 Lake Avenue, Blasdell, spoke regarding the existing septic system on the applicant's property. It was determined that this is a legal issue between two private parties and that the Health Department should be contacted in regard to the problem.

Chairman Koenig declared the public hearing closed.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table this request to the August 15, 2007 Planning Board meeting. Carried.

Engineering Department comments are attached.

Lucas 14-lot Subdivision

Mr. Frank Russo appeared before the Board on behalf of the project. He explained that he has taken care of the outstanding issue from the Board's previous meeting regarding the location of the detention pond. Chairman Koenig stated that the Board does not have updated plans showing the detention pond, although he remembers seeing the plan at the last meeting. It was determined that the applicant will submit the revised plan to the Planning Department as soon as possible.

Mr. Phillips made a motion, seconded by Mr. Taber, to re-issue the negative declaration the Board previously made, as the plans have not substantially changed, and to grant conditional preliminary plat approval to this subdivision with the following conditions:

- The filing of a map cover is required.
- In lieu of recreation land, a recreation fee of \$1,000 per lot shall be provided.
- The installation of sidewalks shall be required from Tim Tam Trail south to the cul-de-sac.
- Approval is conditional on the Engineering Department's comment letter dated August 1, 2007.

Carried.

Engineering Department comments are attached.

Holiday Inn Express

Mr. Lowell Dewey of C & S Engineering and Mr. Dana Auman of Silvestri Architects appeared before the Board on behalf of the project.

Mr. Dewey stated that the two outstanding issues from the Board's previous meeting were the concern regarding the potential disturbance of the required 25' buffer and the requirement that the traffic counts be submitted to the NYSDOT for its review. He noted that the parking lot adjacent to the buffer has been moved five feet further away from the buffer and a temporary fence is shown on the site plan to insure there is no disturbance of the buffer area. He also noted that the anticipated traffic counts were submitted to the NYSDOT and he and the Planning Department received correspondence from the NYSDOT that no further study of the traffic counts is necessary.

Mr. Reilly noted that there are no specific requirements in this section of Hamburg regarding landscaping. He stated that the proposed pylon sign is not prohibited, as this parcel is not located in the Camp Road Overlay, and that the Thruway may provide input on the size and scale of the proposed pylon sign.

Mr. Reilly stated that, because this property is owned by Benderson Development, the applicant will have to approve the layout of the proposed roadway and cul-de-sac. He further noted that representatives of Benderson Development have advised him that a deed restriction exists on this property that

prohibits the development of a “budget hotel”. He noted that the Town of Hamburg does not enforce deed restrictions.

Mr. Phillips made a motion, seconded by Mrs. Rogers, to grant conditional approval for the Holiday Inn Express with the following conditions:

- The applicant shall provide correspondence from Benderson Development approving the location of the proposed roadway serving the Holiday Inn Express, as well as the turn-around.
- The site landscaping plan must be approved by the Planning Department.
- The building’s appearance shall conform to the building elevations provided to the Planning Board on July 18, 2007.
- Approval is subject to the conditions of the Engineering Department’s comment letter dated August 1, 2007.
- The conservation area will be identified, marked and preserved.
- This property was the subject of an Environmental Impact Statement and this project is in conformance with that Environmental Impact Statement.

Engineering Department comments are attached.

Carubba Collision

Mr. Reilly informed the Board that the site plan for this proposal has been revised subsequent to the Board’s last meeting. He explained that the number of parking spaces has been increased to meet the requirements of the Town Code and a berm and landscaping have been added along Camp Road.

Mr. McCabe made a motion, seconded by Mr. Eustace, to schedule a public hearing for a Special Use Permit and Site Plan Approval for August 15, 2007. Carried.

Engineering Department comments are attached.

Monckton Drive Commercial Building

Mr. Harold Monckton, owner of the property to be subdivided, and Mr. Scott Nunweiler, applicant appeared before the Board on behalf of the proposed project. Mr. Monckton stated that he has met with the Town Highway

Superintendent and they have agreed that a concrete turn-around will be constructed and deeded to the Town of Hamburg.

Mr. Reilly stated that public hearings will be held for both subdivision approval and site plan approval on August 15, 2007.

In response to a question regarding the proposed use of the building, Mr. Nunweiler stated that he would use the building for storage.

Mr. Reilly informed the applicant that, at some time during the approval process, the wetlands must be located on the site plan. Mr. Nunweiler responded that the Department of Environmental Conservation will be performing the delineation soon.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to table the project until the Board's August 15, 2007 meeting.

Engineering Department comments are attached.

Villas at Brierwood

Mr. Reilly stated that the Town Board is almost done with the environmental review process for this proposal and will issue a rezoning of the property on August 6, 2007. He noted that the applicant is hoping to move forward with subdivision approval and site plan approval of the project.

Paul Case of Metzger Civil Engineering and Erik Krull of David Homes appeared on behalf of the project. Mr. Krull described the project to the Board, noting that landscaping buffers and a walking path have been incorporated into the plan. Mr. Reilly stated that there is a sewer easement on a portion of the walking path and asked Mr. Krull if the applicant plans to combine the easement and the walking path in order to limit the disturbance of that area. Mr. Krull responded that the applicant will combine them if the Town prefers.

Mr. Reilly strongly urged the applicant to provide a high level of detail on the site plan, as well as the landscaping plan. As an example, he noted that, because this property is located in the Southwestern Boulevard Overlay District, the landscaping in front of the commercial portion of the project must meet the

requirements of the Overlay District. He further stressed the importance of the aesthetics of the entrance area, the faux bridge, etc.

Chairman Koenig stated that the Engineering Department's comment letter indicates that some of the condominium units are encroaching on the buffer area. Mr. Case stated that the site plan will be revised to address this error.

Mr. Phillips made a motion, seconded by Mr. Eustace, to schedule public hearings for the subdivision request and for site plan approval for August 15, 2007. Carried.

Engineering Department comments are attached.

South Park Woods

Mr. Reilly informed the Board that the applicant has asked to be tabled until further notice.

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

Engineering Department comments are attached.

Wal-Mart

Mr. Reilly explained to the Board that condition #12 of the Findings Statement issued by the Planning Board in December 2006 when approving Wal-Mart stated that a left turn lane on Rogers Road would be installed when the Wal-Mart is built. However, the County does not want the left turn lane installed until the Benderson project on the balance of the property is known. The County has asked that the Planning Board rescind condition #12 at this time.

Mr. Steve Cleason of APD Engineering explained that the County's concern is that there is an access point for the Country Club across Rogers Road from the planned Wal-Mart and the County wants to make sure that the location of the left turn lane, when it is incorporated into the final plans, is located in such a way that the left turn movements do not interfere with the Country Club's access. Mr. Cleason further stated that the County wants to wait until the nature of the Benderson development is known so that the left turn lane can be installed in the correct location.

Mr. Cleason stated that Wal-Mart is waiting for a jurisdictional letter and permit regarding the isolated wetlands from the Army Corps of Engineers. He further noted that a retaining wall has been added as part of the mitigation for the Army Corps of Engineers to reduce some of the impacts of the wetlands. Additionally, he showed the Board slightly revised elevations of the building.

Mr. Taber stated that he would like the residents of Hamburg to be aware of the fact that it is the County, and not the Planning Board, that is omitting the installation of the left turn lane from Rogers Road at this time.

Fadale Two-Lot Subdivision

Elizabeth Fadale appeared before the Board on behalf of the proposed subdivision.

Mr. Reilly stated that the applicant is requesting approval of a two-lot subdivision on Heltz Road and that she will be asking the Board for a recommendation for one or more variances from the Zoning Board of Appeals because, as the subdivision plat shows currently, neither lot meets the Town Code requirement for lot area in the R-A zone. He further stated that the R-A zoning district requires two acre lots and that the applicant proposes to subdivide a three-acre parcel into two lots. He advised the applicant that she must decide whether to ask for a variance for both lots (as shown, neither lot meets the lot size requirement) or reduce the acreage of the lot with the existing home on it so that the newly created lot has the required two acres. Mrs. Fadale responded that she will make that decision and revise the plat map accordingly, if necessary, before the Board's next meeting.

Mr. Reilly reminded the Board that it can send a positive recommendation, a negative recommendation or no recommendation to the Zoning Board of Appeals.

Mr. Phillips made a motion, seconded by Mr. Eustace, to schedule a public hearing for this request for August 15, 2007. Carried.

Engineering Department comments are attached.

Hamburg Crossings

Mr. Reilly stated that the Scoping Session for this project was held earlier that evening (August 1, 2007) and that no one from the public attended. He asked the Planning Board members to review the draft Scoping document prepared by the applicant and provide input on the document at the Board's next meeting.

BQ Energy Wind Energy Facility

Attorney Adam Walters from Philips Lytle, Mark Mitskovski from BQ Energy and Elizabeth Santacrosse from Ecology and Environment, Inc. appeared before the Board to present an update on the Steel Winds II project. Mr. Mitskovski invited the Board members to read the materials presented to them regarding the windmill proposal and noted that he would return to the Board on August 15, 2007 to answer any questions they might have.

Mr. Mitskovski stated that the City of Lackawanna has requested Lead Agency Status for the entire Steel Winds project, which will include a total of 21 windmills in the City of Lackawanna and five in the Town of Hamburg.

Chairman Koenig stated that he would not want to give up Lead Agency status to Lackawanna. He also noted that, although the applicant has reduced the number of windmills in Hamburg from six to five because of the setback requirements in the Town of Hamburg's new windmill ordinance, the Planning Board does have the right to vary the setback requirements for the windmills.

Attorney Walters stated that he understands the Chairman's reticence to give up Lead Agency status, but that there are legal restrictions under the SEQR law. He explained that the applicant has had a pending application in Lackawanna since June and waited to apply in Hamburg because of the creation of the Town's new windmill ordinance and because the applicant was working out the location of the last windmill to go in Hamburg. The City of Lackawanna feels that, because the applicant is requesting eleven windmills in Lackawanna and five in Hamburg, Lackawanna should be the Lead Agency. The applicant must treat the Lackawanna request and the Hamburg request as one project under the SEQR law and therefore only one agency can be Lead Agency.

Attorney Walters further noted that Mr. Reilly has sent a letter on behalf of the Town of Hamburg preserving its right and expressing its lack of comfort with giving up Lead Agency status to Lackawanna for the portion of the project to be located in Hamburg. Mr. Reilly explained that, even if Hamburg relinquishes Lead Agency status to Lackawanna, Hamburg will still retain ultimate control over what is built on the site because the new windmill law is quite extensive and if the project does not meet the intent of the new law, the Planning Board will not grant a Special Use Permit for the project. He further noted that representatives from the Town of Hamburg and the City of Lackawanna will meet to discuss Hamburg's new ordinance and to make sure its intent is met.

In response to a question regarding power of approval, Mr. Reilly explained that if Lackawanna is designated as Lead Agency, it will have SEQR authority but not approval authority regarding the windmills proposed in Hamburg.

OTHER BUSINESS

The Board discussed the increasing number of applicants who have received conditional site plan approval and who have returned to the Board requesting relief from the curbing requirement. The Engineering Department issued a memo to the Planning Board on August 1, 2007 stating that the requirement to install curbs as part of a site development is a design issue that is addressed by the Engineering Department and that all inquiries regarding this requirement should be directed to that department.

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Paul Eustace, Secretary

Planning Board