

Town of Hamburg
Planning Board Work Session

September 3, 2008

Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, September 3, 2008 at 7:30 p.m. in Room 7B in Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Gerard Koenig, Vice-Chairman David Phillips, Steve McCabe, Rich Taber, Sasha Yerkovich, Karen Rogers and Peter Reszka.

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

Arthur Court Townhouse Development

Mr. Reilly stated that the Board had asked the applicant for correspondence from the Army Corps of Engineers regarding the wetlands, as well as from the New York State Office of Historic Preservation, and some minor changes to the Site Plan. It was determined that the Army Corps of Engineers correspondence has been submitted by the applicant, indicating that the wetlands on the property are not jurisdictional. Mr. Reilly also stated that the applicant must update the site plan to meet the requirements of the Town Code (townhouse developments require recreation areas, etc.) and the changes to the project (public road, etc.).

Mr. Reilly stated that the applicant is hoping to receive conditional Site Plan Approval from the Planning Board at its next meeting.

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

Engineering Department comments are attached.

Walgreen's Pharmacy

Mr. Reilly reminded the Board that at its last meeting it issued a Negative Declaration regarding this project and stated that it is his recommendation that the Village of Hamburg should take its actions next. He further stated that he believes that the Village's actions (Site Plan Approval from the Village Board of Trustees and variances from the Village Zoning Board of Appeals) could serve to help the Town Zoning Board of Appeals make its decision regarding the variances that will be requested by the applicant. Mr. Reilly noted that, once the Village acts on the project, the Town Zoning Board of Appeals could entertain the variances requested and then the Town Planning Board could act on the site plan.

Attorney Sean Hopkins appeared on behalf of the applicant, stating that, because the applicant has been working on this project for several months and the Planning Board has spent the most amount of time looking at it to date, the applicant would request that

the Board grant Conditional Site Plan Approval at its next meeting subject to all of the other approvals needed. He further stated that his concern is the timing of the approvals, as he feels the applicant would not receive all of the required Village approval until November at the earliest, which would mean that the project would not come back to the Town Planning Board until December or January.

Chairman Koenig stated that he agrees with Mr. Reilly that the Planning Board should be the last Board to take action on the project. He further stated that he feels the Planning Board should not take action until the Zoning Board of Appeals rules on the requested variances.

Mr. Reilly stated that the Town might appear to be acting in a heavy-handed manner if the Planning Board and Zoning Board of Appeals make their decisions before the Village takes any action.

Mr. Phillips stated that he was not in attendance at the Board's last meeting due to illness. He stated that he recently walked south on Buffalo Street in the Village and was surprised to see that no buildings are built right up to the right-of-way until one reaches the Napa store. He further noted that when one walks north on South Park Avenue in the Town, all of the buildings are set back a distance from the road as well. He stated that he does not understand why the Walgreen's is proposed right up to the right-of-way of Buffalo Street, as this is not consistent with the rest of the buildings in the area.

Mr. Reilly stated that it is his understanding that the Village passed a new law some years ago requiring all new buildings to be built at the street. Mr. Phillips responded that the proposed building would be located in the Town as well as the Village and that, if constructed as proposed, would be the only building in a two-block area that is not set back from the road.

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

Engineering Department comments are attached.

Lake Shore Road Commercial Subdivision

Attorney Neil Katz appeared on behalf of the applicant.

Mr. Reilly stated that the applicant received the required variances from the Zoning Board of Appeals on September 2, 2008. He further noted that the Planning Board received correspondence from the Shoreline Committee regarding the issue of waterfront access, indicating that it is comfortable with the Planning Board addressing this issue when an applicant comes before the Board in the future for Site Plan Approval for these parcels.

It was determined that the Planning Department will prepare draft resolutions for a SEQRA determination and Subdivision Approval for the Board's next meeting.

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

Engineering Department comments are attached.

Cloverbank Hotel property (4881 Lake Shore Road)

Mr. Reilly stated that the Planning Department received a full description of the parcels involved in the rezoning request and the Town Board will have to refer the rezoning request to the Planning Board again on September 8, 2008, as the property is zoned both Neighborhood Commercial and residential (the original referral was for property zoned Neighborhood Commercial).

Mr. Reilly noted that the applicant has submitted a list of possible uses for the building, which has been forwarded to the Code Enforcement Officer to determine its conformance with the Waterfront Commercial zoning requirements. He stated that some of the uses proposed by the applicant are retail, a bank, a gym, a food court, offices and a restaurant. It was determined that the Code Enforcement Officer will advise the applicant as to the appropriateness of these uses in the Waterfront Commercial zone.

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

John Kuebler Rezoning Request (McKinley Parkway)

Mr. Reilly stated that the Planning Board cannot entertain Mr. Kuebler's request to rezone his property on McKinley Parkway from HC to C-2 until the new Comprehensive Plan is adopted, which may occur in September. He explained that the current Comprehensive Plan states that properties in this area of McKinley Parkway cannot be rezoned to C-2 and the new Comprehensive Plan does allow a rezoning request to C-2.

Jack Kuebler, applicant, stated that a site plan will be submitted once the new Comprehensive Plan is adopted.

Mr. Reilly noted that the new Comprehensive Plan does allow rezoning requests to C-2, but also includes a section indicating that the Town can place conditions on rezonings to C-2. He stated that the new Comprehensive Plan does not allow access to Allendale Parkway from Mr. Kuebler's site and would require ingress and egress to be on McKinley Parkway. He added that the new Comprehensive Plan requires substantial buffering of the residential properties that back up to Mr. Kuebler's parcel and also requires cross-access between commercial uses along this portion of McKinley Parkway.

Mr. Reilly reminded the applicant that, given the setback requirements for this area, even if the parcel is rezoned to C-2 it may still be difficult to develop a large-scale project on these relatively small parcels.

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

Patrick Homes (Waterford Pines)

Mr. Reilly stated that the developer of the Waterford Pines Subdivision has asked for a waiver of the requirement that two trees be placed on each lot. He noted that the Code Review Committee is working on a new law that may be in place in the next 60 days addressing this issue. He further stated that the Planning Board has no power to waive this requirement, as it is in the law.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to table this item as it will be addressed by the Code Review Committee. Carried.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to approve the minutes as revised of August 6, 2008. As there were five (5) ayes and two (2) abstentions (Mr. McCabe and Mr. Phillips), the motion carried.

Mr. Phillips made a motion, seconded by Mrs. Rogers, to adjourn the meeting. Carried.
The meeting was adjourned at 8:02 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board