

Town of Hamburg
Planning Board Meeting Minutes
November 21, 2007

The Town of Hamburg Planning Board met in regular session on Wednesday, November 21, 2007 at 7:30 p.m. in Room 7B of the Hamburg Town Hall. Those attending included Chairman Gerard Koenig, Secretary Paul Eustace, Steve McCabe, Sasha Yerkovich, Karen Rogers, David Phillips and Richard Taber.

Others in attendance included Sarah desJardins, Richard Lardo, Attorney Michael Fruth and Attorney Don McKenna.

Steel Winds II Wind Energy Facility

Chairman Koenig stated that the applicant asked that this request be tabled to the Board's December 5, 2007 work session, as the City of Lackawanna has not completed the SEQRA evaluation on this proposal.

Mr. Phillips made a motion, seconded by Mr. Eustace, to table this request to the Board's December 5, 2007 meeting. Carried.

Verizon Wireless

Chairman Koenig reviewed with the Board members that the applicant has investigated alternate sites for the proposed tower and has shown that none is suitable. Therefore, the applicant is proposing to locate the cell tower on the originally proposed site (Monro Muffler property located at 4115 McKinley Parkway)

Mr. Phillips made a motion, seconded by Mr. Eustace, to issue a Negative Declaration for the proposed telecommunications facility to be located on the Munro Muffler property on McKinley Parkway based on the review of the Long Environmental Assessment Form and the input received from the Conservation Advisory Board and the Planning Department. Carried.

Mr. Phillips made the following motion, seconded by Mrs. Rogers:

Whereas, the following findings have been made:

1. The Hamburg Planning Board, as Lead Agency, issued a SEQRA Negative Declaration on November 21, 2007.

2. The applicant has shown that a good-faith effort has been made to co-locate on an existing tower or other available and appropriate structures, and it has been shown that this could not be accomplished.
3. The applicant has shown that a good-faith effort has been made to locate the proposed tower in an alternate technologically feasible and available location. The applicant has demonstrated to the Planning Board that there is no property with an existing structure suitable for co-location.
4. The applicant has demonstrated that there is no municipal or government owned property suitable for locating the proposed tower, nor is there any M-1, M-2 or M-3 zoned property suitable. The only Town property is designated Parkland and the Erie County property has too restrictive lease conditions (If these lease conditions were to become acceptable the County property would be a more favorable location).
5. The applicant has provided a copy of Verizon's policy regarding co-location on the proposed tower, which indicates that it is in compliance with the Town of Hamburg requirements as outlined in Section 288-334 (B)(7).
6. The applicant has provided the information required in the Town's Telecommunications Law.

Now therefore, the Hamburg Planning Board hereby approves a Tower Special Permit for an 85' wireless telecommunications facility at 4115 McKinley Parkway with the following conditions:

1. The tower shall be enclosed by a fence not less than eight feet in height. The rear of the site shall be re-vegetated and screening shall be provided in front of the proposed fence to enhance the appearance of the tower area. A landscape plan illustrating this must be provided to the Planning Department for review and approval.
2. The tower shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) or if requested by Mercy Flight. If required by the FAA or Mercy Flight, lighting shall not consist of strobe lights unless specifically mandated by the FAA. The tower shall be of a non-reflective finish.

3. The tower shall not contain any signs or advertising devices. A small sign shall be placed on the fencing to identify the ownership of the facility and a telephone number for emergencies.
4. There shall be no permanent access to Allendale Parkway. The tower shall only be accessed through McKinley Parkway. A temporary driveway from Allendale Parkway will be allowed during construction, but it shall be abandoned after construction is completed, and the area shall be restored to green space.
5. The applicant shall comply with all applicable state and federal regulations, including but not limited to FAA and FCC regulations.
6. The applicant shall remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months.
7. The applicant will provide a demolition bond (amount to be determined by the Town) for purposes of removing the telecommunications facility in case the applicant fails to do so as required by Town law.
8. Every three years after construction of the tower, the applicant shall provide a certification from a qualified professional engineer certifying that the tower meets all applicable structural safety standards.
9. The telecommunications facility shall be maintained in good order and repair and remain in conformance with all of the requirements of the Telecommunication's law and this permit.

Carried.

Mr. Phillips made a motion, seconded by Mr. McCabe, to grant Conditional Site Plan Approval for a telecommunications facility on the Monro Muffler property located at 4115 McKinley Parkway with the following conditions:

1. The proposed drive shall be paved.
2. The landscape plan shall be approved by the Planning Department.
3. Although the 1996 Planning Board resolution to approve the Monro Muffler site plan stated that no clearing was to be done on the east end of the property but to be left in its natural state, the Planning

Board hereby revises that resolution to allow selective clearing of the east end of the site to install the telecommunications facility and then restore as much of it as possible to a "green" condition.

4. Approval is subject to the conditions of the Engineering Department's comment letter dated November 21, 2007.

Carried.

Engineering Department comments are attached.

Camp Road Collision

Mrs. desJardins stated that the applicant has withdrawn his request.

Engineering Department comments are attached.

Wal-Mart Supercenter (Brierwood Plaza)

Attorney Neal Madden appeared on behalf of Wal-Mart.

Mr. Phillips made the following motion, seconded by Mr. Eustace:

Whereas the Hamburg Planning Board granted Site Plan Approval for the Wal-Mart Supercenter to be located at the old Brierwood Plaza on December 20, 2006, and

Whereas the applicant has not yet obtained a Building Permit but plans to do so within the next six months;

Now, Therefore, Be It Resolved that the Hamburg Planning Board hereby grants a six-month extension of the Site Plan Approval.

On The Question: Mr. Philips asked Attorney Madden why just the Benderson portion of the Brierwood Plaza site has been demolished. Attorney Madden responded that until Wal-Mart obtains a building permit it cannot hire a construction contractor, and the construction contractor needs a contract with Wal-mart in order to demolish Wal-Mart's portion of the plaza.

Carried.

Wal-Mart (Seven Corners)

Mrs. desJardins stated that when the existing Wal-Mart located at Seven Corners was constructed, the property was zoned C-2. Subsequently the Town of Hamburg rezoned that property, along with others in the area, to C-1, which only allows commercial buildings up to 15,000 square feet in size. Wal-Mart is asking the Town to rezone the property back to C-2 so it can be more easily marketed.

Mr. Philips stated that the Town rezoned that property to C-1 after Wal-Mart was constructed in order to (among other things) restrict automotive uses in that area. He further stated that the Planning Board wants to see the building reutilized and since the size of the building fits in to the C-2 zoning, it makes sense to rezone it back to C-2. He noted that automotive uses in the C-2 zone require a Special Use Permit from the Planning Board.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to forward a positive recommendation to the Town Board regarding rezoning the Wal-Mart property back to C-2 for the following reasons:

1. The existing Wal-Mart building is far too large to conform to the C-1 zoning restrictions.
2. The property should be zoned C-2.
3. The Planning Board will have the authority to restrict automotive type uses on the property.

Carried.

OTHER BUSINESS

The Planning Board was shown a diagram of the Fisher Bus property off of Southwestern Boulevard. The Board previously granted Conditional Site Plan Approval to Mr. Fisher for a new bus maintenance facility and office on the site. The applicant has since determined that wetlands exist on the property and has relocated the building and parking so as to not encroach as much on the wetlands. The Board determined that the change is minor in nature and that the applicant does not need to appear before the Board again for an approval of the revised site plan.

Mr. Eustace made a motion, seconded by Mr. McCabe, to approve the minutes of October 3, 2007. Carried.

Mr. McCabe made a motion, seconded by Mrs. Rogers, to approve the minutes of October 17, 2007. Carried.

Mr. McCabe made a motion, seconded by Mr. Eustace, to approve the minutes of November 7, 2007. Carried.

The meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Paul Eustace, Secretary

Planning Board