

**Town of Hamburg**  
**Planning Board Meeting Minutes**  
**December 17, 2008**

The Town of Hamburg Planning Board met in regular session on Wednesday, December 17, 2008 at 7:30 p.m. in Room 7B of Hamburg Town Hall. Those attending included Chairman Gerard Koenig, David Phillips, Stephen McCabe, Richard Taber, Sasha Yerkovich, Karen Rogers and Peter Reszka.

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

**Public Hearing – Berkley Square, Part 10**

Mr. McCabe read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a proposed 13-lot subdivision known as Berkley Square, Part 10 to be located in the Berkley Square PUD north of Bayview Road, west of South Park Avenue on December 17, 2008 in Room 7 B of Hamburg Town Hall at 7:30 P.M.”

Andrew Romanowski, applicant, and Michael Borowiak, engineer, appeared on behalf of the project. Mr. Borowiak stated that the proposal is a 13-lot single family home subdivision on land previously zoned for commercial use in the Berkley Square PUD. He noted that the Hamburg Town Board amended the PUD to change the use of this land from commercial to residential earlier in 2008 and that the applicant now proposes to construct the homes in conformance with the PUD.

Chairman Koenig read the following comments received from the Traffic Safety Advisory Board regarding this proposal:

“Members recommended that the southwest curve, where the additional units are to be built, should be posted NO PARKING (P1-2) signs and signs paid for by developer”.

The Board discussed the fact that a .75 acre recreation area to be located behind proposed sub lot #1 was previously required by the Planning Board as part of the Berkley Square apartments approval. Mr. Romanowski stated that it is his understanding that the recreation area in question was eliminated long before he got involved with Berkley Square. He further stated that his intention is to build a berm with landscaping as a screen that separates the condominiums to the south from the backs of the new lots.

Chairman Koenig stated that the new lots created will be subject to the recreation fee.

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:

David Gerstner, President of the Berkley Square Homeowners' Association, stated that the Homeowners' Association is in favor of this proposal and are in the process of working out an agreement to extend some of the parkland behind proposed lots 8 through 13 so that these lots have additional depth, but the agreement has not been finalized. He stated that he would not like to see the applicant build homes on those lots with the depth they currently have, as it would not make for a very good streetscape. He further stated the he is working on a plan to include these 13 lots in the Berkley Square Homeowners' Association to ensure that the Association has control over the type of home is built on these lots.

Chairman Koenig confirmed with Attorney McKenna that whether or not these lots are included in the Homeowners' Association has nothing to do with the Planning Board.

Mr. Romanowski stated that what he is looking at is additional depth for the lots that back up to the parkland. In return, he would convey back to the Homeowners' Association a strip of land between lots 10 and 11 for access to the park and also make improvements to the park. He stated that if this exchange of land is successful, there would also be an agreement between the two parties relative to the type of fencing he would use, the fact that he would only build single family homes on the six lots adjacent to the park and that he would bring the lots into the Homeowners' Association. He further noted that he feels this issue is separate from his request from the Planning Board for subdivision approval.

Mr. Romanowski stated that he intends to market lots 1 through 7 initially and place a hold on the remaining lots until the agreements are in place with the Homeowners' Association. He further stated that if he reaches an agreement with the Homeowners' Association regarding the exchange of land, he would return to the Planning Board for an amended Subdivision Plat, as the six lots adjacent to the park would be larger at that point.

Al Amelotte, former President of the Berkley Square Homeowners' Association, stated that the proposed agreement with Mr. Romanowski requires 75% of the members of the Association's approval by ballot.

Mr. Phillips stated that any agreements between the applicant and the Homeowners' Association are not the concern of the Planning Board at this time.

Chairman Koenig declared the public hearing closed.

Mr. Phillips made a motion, seconded by Mr. Reszka, to issue a Negative Declaration

and approve this subdivision subject to the Engineering Department comment letter dated December 17, 2008 excluding items #5 and #8. Additionally, a "No Parking" sign shall be posted on the southwest curve of Tisbury Lane at the expense of the developer and the recreation fee shall be required.

As the vote on the motion was six (6) in favor and one (1) abstention (Mr. McCabe), the motion carried.

Engineering Department comments are attached.

### **Villages at Mission Hills**

Leanne Voit from Greenman-Pederson, David Manko, applicant, Robert Gill, architect and Frank Brzezinski, RLA appeared on behalf of the proposed project.

Mrs. desJardins noted that the applicant has submitted information regarding the issues that were to be discussed in the Supplemental Environmental Impact Statement (SEIS) relative to the previously proposed project for this site that was never completed. She stated that the Board members should review this information in the next few weeks and be prepared to discuss at the January work session what, if any, additional issues need to be addressed in the SEIS for the currently proposed project.

Ms. Voit stated that the subject parcel is approximately 93 acres in size, zoned R-4 and is surrounded by residential properties, the railroad and Camp Road. She noted that in the early 1990s a mobile home project was proposed on the property and an Environmental Impact Statement was completed for the project, although the project never moved forward. Subsequently, Mr. Piotrowski came forward with a proposal consisting of patio homes and single family homes, and at that time the Planning Board required an SEIS, but that project did not move forward either. She stated that at this time Mr. Piotrowski and Mr. Manko are proposing a new project that includes patio homes and senior apartments.

Ms. Voit stated that the currently proposed project consists of 208 senior apartments units with a community center, 48 single-story apartments with a community center and 92 single family homes. She further noted that the federally jurisdictional wetlands on the parcel are being avoided. Additionally, she noted that the buffers agreed upon with the nearby residents when the previous project was proposed are being maintained and stated that the buffer to the railroad has been substantially increased from the previous project.

Ms. Voit stated that there is a flood plain along the stream corridor in the western portion of the parcel that the applicant proposes to cross with a bridge and she

acknowledged that they will be required to obtain approvals from FEMA.

Ms. Voit stated that, based on her preliminary review of this site, it is her belief that all of the impacts will be reduced from the previously proposed project, including impacts on traffic and the school district, as well as water and sewerage usage.

Mr. Manko confirmed that a Homeowners' Association would be formed for the owner-occupied patio homes. He further stated that all of the roadways would be private and that all roadways, sidewalks and lawns would be maintained by the Homeowners' Association.

Mr. Manko described the proposed project to the members, noting that it would be broken up into four phases. He further stated that 80% of the units in the first phase (apartments for seniors over 55 years of age) are considered "affordable" and gave an example of a retired married couple whose income is under \$39,000 being able to rent an apartment for \$540 per month. He noted that if that retired married couple's income is over \$39,000, they would be charged \$850 per month rent for the same apartment.

Mr. Manko stated that he has built properties such as this in Cheektowaga (French Road), Clarence, Geneseo, Albany, North Carolina and South Carolina. He further stated that there would be an elevator in every eight-unit apartment building. Additionally, there would be a 7,000 sq.ft. centralized club house and, as Mr. Manko is a Meals on Wheels provider for Erie County, the program will be offered to residents of this project. The club house would be used by Meals on Wheels to distribute and serve meals to residents. He noted that, once his facility is open, it would also be available to the Town of Hamburg for its Meals on Wheels program.

Regarding the 48 ranch-style apartments, Mr. Manko stated that they would be high-end units with additional amenities including a pool and business center, continental breakfast at the club house, housecleaning services and a membership to the Brierwood Country Club. He noted that these units are designed to look like attached single family homes and would rent for between \$1,500 and \$1,700 per month.

Regarding the patio homes, Mr. Manko stated that they would be marketed between \$190,000 and \$240,000 and would also be limited to seniors.

Mr. Manko stated that a second means of emergency egress is proposed with a 16 foot gated emergency (breakaway) gate and noted that he has spoken with the owner of the property and is reaching an agreement to be able to install the emergency egress.

Mr. Manko noted that he proposes to develop 50% of the parcel and leave the remaining 50% green.

Chairman Koenig confirmed with Ms. Voit that she will be addressing the concerns of

the Traffic Safety Advisory Board.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to reestablish Lead Agency under SEQR. Carried.

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

Engineering Department comments are attached.

### **Autumnview Health Care Facility**

Chairman Koenig stated that the applicant has asked to be tabled.

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

Engineering Department comments are attached.

### **Walgreen's**

Attorney Sean Hopkins and Tony Battista (Benderson Development) appeared on behalf of the project.

Chairman Koenig stated that the Village of Hamburg Planning Board recommended approval of this project, both the Village and Town of Hamburg Zoning Boards of Appeals have approved the required variances and the Village of Hamburg Board of Trustees has approved the project.

Attorney Hopkins showed the Board members the architectural elevation that was approved by the Village Board of Trustees on December 15, 2008, noting that since the Planning Board last saw this elevation, additional dormers were added, similar materials were incorporated on all four sides of the building and the façade has been broken up so it does not have the appearance of a long, flat wall. He further noted that, at the request of the Village, Walgreen's will use the Village light fixtures and the cupola has been lowered. He stated that he feels that all issues raised have been addressed at this time.

Mrs. Rogers confirmed with Attorney Hopkins that there will be no outside dumpster on the site. She further confirmed that signage will be installed directing commercial traffic to not exit the site and travel west on Walker Place.

Attorney Hopkins noted that an agreement has been reached with Dr. Kathleen Nowak, who owns property adjacent to this site on Legion Drive, to install a fence along her

property line. He added that, although an agreement has never been reached with the property owner adjacent to this site on Walker Place, the applicant will install a fence along his property line and he will be given the opportunity to select the fence style from several options.

Peter Danforth, Chairman of the Village Traffic Safety Committee, stated that he feels there are still some safety concerns that have not been adequately addressed. He stated that the issue of school children and pedestrians walking along Walker Place is a concern, as there are no sidewalks. He noted that the applicant did previously state that Benderson would be willing to install sidewalks on Walker Place and stated that the lack of sidewalks would force pedestrians into the street.

Mrs. Yerkovich stated that the applicant does propose to install sidewalks on Walker Place along the length of the property, as well as on the other two sides of the parcel (Legion Drive and South Park Avenue). Mr. Danforth responded that he is aware of that but that sidewalks are needed along the entire stretch of Walker Place.

Chairman Koenig stated that Benderson cannot be held responsible for installing sidewalks on property it does not own. Mr. Danforth responded that it is his understanding that the developer did agree to install sidewalks along all of Walker Place.

Attorney Hopkins stated that the developer never agreed to extend the sidewalk along the entire stretch of Walker Place and noted that this would not be possible because the developer does not own all of the properties on Walker Place.

Mr. Danforth stated that another concern of the Village Traffic Safety Committee is that commercial vehicles not be allowed to exit the site and head west on Walker Place. He noted that currently Walker Place is a residential street and asked the Board members if they think commercial vehicles should be allowed to use Walker Place. Board members indicated that they do not think commercial vehicles should be allowed on Walker Place west of the Walgreen's curb cut and that weight limits should be posted so that commercial traffic not be allowed from the Walgreen's exit on Walker Place in a westerly direction.

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

Whereas, the Town of Hamburg Planning Board received an application from Benderson Development Company for site plan approval of a 13,650 sq.ft. pharmacy on 1.15 acres of land located at 6185 South Park Avenue and 406 Buffalo Street; and

Whereas, the Town of Hamburg Planning Board, acting as Lead Agency, conducted a Coordinated SEQR Review and issued a Negative Declaration on August 20, 2008; and

Whereas, the Town of Hamburg Zoning Board of Appeals and Village of Hamburg Zoning Board of Appeals have issued all required variances; and

Whereas, the Town of Hamburg Planning Board has reviewed the site plan in accordance with the Town of Hamburg Zoning Code (C-1 zoning district, South Park Avenue Overlay District and other related sections) and general planning principles; and

Whereas, the objectives and requirements of the South Park Overlay District have been met with the exception of the following:

1. The building will not be set back at least forty feet from the street right-of-way.
2. Architecture has been reviewed and approved by the Village of Hamburg.
3. Based on reviews by the New York State Department of Transportation, the Town of Hamburg and the Village of Hamburg, the restricted access onto South Park Avenue will be allowed.

Now, Therefore, Be It Resolved that the Town of Hamburg Planning Board hereby approves the Walgreen's Pharmacy site plan with the following conditions and waivers:

#### Conditions

1. The landscaping plan shall be approved by the Planning Department. Landscaping and fencing of the southwest portion of the site will be in accordance with the applicant's agreement with the adjoining property owner.
2. The freestanding sign for the building shall not include pylon signage or any form of flashing light. Signage shall be at ground level in accordance with the South Park Overlay District.
3. Special attention shall be given to the final site plan review by the Engineering Department to ensure that the parking area lighting meets the South Park Overlay District requirements.
4. The splitter island on South Park Avenue will be extended as shown on the 11/25/08 landscaping plan and access to South Park Avenue shall be limited to right-in/right-out.
5. Approval is subject to the Engineering Department comment letter dated December 17, 2008.

#### South Park Overlay District Waivers

1. The building will not be set back at least forty feet from the right-of-way because of conflicting regulations with the Village of Hamburg.
2. The proposed curb cut on South Park Avenue will be allowed but will be restricted. The splitter island will be extended and will be right-in/right out only.

Carried.

Engineering Department comments are attached.

#### OTHER BUSINESS

Chairman Koenig noted that one of the conditions of approval of the Lutz Mobil Station car wash addition at Camp Road and Southwestern Boulevard was that, six months after opening, a traffic flow inspection and report was to be performed by the Town and the applicant to make sure the traffic on site is flowing smoothly. Board members indicated that they have not heard of any problems at the site and Chairman Koenig stated he will ask the Traffic Safety Advisory Board if it has any problems with the traffic flow at this location.

Regarding the minutes from December 3, 2008, Mr. Taber noted that the establishment on the west side of South Park Avenue referred to during the Board's discussion regarding the proposed Subway is called "The Townhouse". Additionally, Mr. McCabe noted that the number of lots proposed by Mr. Romanowski is 13 and not 10.

Mrs. Yerkovich made a motion, seconded by Mrs. Rogers, to approve the minutes of December 3, 2008 as amended. Carried.

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

The meeting was adjourned at 8:35 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board