

Town of Hamburg
Planning Board Meeting

October 21, 2009

Minutes

The Town of Hamburg Planning Board met in regular session on Wednesday, October 21, 2009 at 7:30 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Gerard Koenig, Sasha Yerkovich, Peter Reszka, David Phillips, Steve McCabe, Richard Taber and Karen Rogers.

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

K-Technologies

Mrs. desJardins stated that since the Board's last meeting the Planning Department received correspondence from the Big Tree Fire Department indicating its support of the project, as well as minutes from the Traffic Safety Advisory Board's meeting of October 1, 2009.

Mr. Lardo stated that he read the restrictive covenants pertaining to the Ravenwood North Industrial Park and found that this property was excluded from the covenants when they were written.

Mr. Koenig stated that this is one of a number of parcels on Bayview Road that, if the other parcels are developed, will share one access to Bayview Road. He further stated that the driveway location proposed by this applicant, if the Planning Board approves the site plan, could be eliminated in the future if it is determined that the driveway to be shared should be located in a different location on Bayview Road.

Board members discussed whether the applicant's site plan should indicate that a cross-access to a shared driveway should be provided if the parcel(s) west of this property are developed.

The following members of the public spoke:

Carole Gillette, 4035 Harwood Avenue, stated that this project was never re-reviewed by the Traffic Safety Advisory Board so that it could reexamine the request taking the concerns of the neighbors into consideration. She further stated that when the Town Board recently approved a curb cut on Bayview Road, conditions were placed on the approval (The Planning Board is to approve the location of the curb cut and if the other parcels on Bayview Road are developed, the access to Bayview Road will be shared with K-Technologies). Ms. Gillette stated that if the parcel just west of this property is not developed but the parcel west of that one is, there would have to be two curb cuts on Bayview Road.

Chairman Koenig stated that the Planning Board would have to deal with Ms. Gillette's concern as stated above when the situation arises.

Ms. Gillette expressed concern regarding the Town Board's condition that no trucks be allowed to use the new curb cut on Bayview Road, noting that that is impossible to enforce. She further stated that she feels that the proposed driveway is a convenience for the applicant and not a necessity, questioning if the applicant's convenience is worth the safety of the neighborhood.

Douglas Eich, 4214 Bayview Road, stated that he lives across the street from the proposed driveway on Bayview Road and asked the Board to deny the applicant access to Bayview Road. He stated that the Bayview Road driveway is not a necessity and noted that, in the future, it is possible that other businesses on Jeffrey Boulevard might end up using the driveway. He also expressed concerns regarding safety in the area.

Chairman Koenig noted that the applicant plans to have a tenant in the southern portion of the building that would need the access.

Chairman Koenig stated that the Planning Board received a letter from the Big Tree Fire Company in support of this project for fire fighting purposes.

Mr. Phillips made a motion, seconded by Mr. McCabe, to grant Conditional Site Plan Approval to this project, subject to the following conditions:

1. Approval is subject to the Engineering Department comment letter dated October 21, 2009.
2. Reference is made to the Town Board resolution of September 28, 2009 authorizing the Planning Board to act on this request.
3. No SEQR determination is required.
4. The Big Tree Fire Company has indicated that it feels positively about this project because the second access improves fire department accessibility and public safety, which is a great concern of the Planning Board.
5. The driveway onto Bayview Road will not be utilized for trucks and will posted as such and enforced by the Town.
4. The volleyball court will only be used for employees of the building.

Carried.

Engineering Department comments have been filed with the Planning Department.

Hasenoehrl Minor Subdivision

Mrs. desJardins stated that the applicant submitted a revised plan on October 21, 2009 (at the meeting) that indicates that fifteen feet of woods would be preserved on the north and south sides of the two building lots and sixty feet would be preserved in the rear of the lots. Board members noted that the plan Mr. Reilly marked up for discussion at the

Board's last meeting provided for fifty feet of woods to be preserved on the north and sides of both lots and 100 feet in the rear of the lots.

Mrs. desJardins stated that, when the Planning Department receives a revised plan on the day of the Planning Board meeting, the Board usually tables the project so that zoning and engineering reviews can be performed on the revised plan. She noted, however, that if Board members want to vote on this issue, they must decide whether or not to waive the requirement of the South Central Overlay District that the bulk requirements must be increased by 50%.

Mrs. desJardins further stated that, if the Board waives the above requirement, it would have to be because the Board feels that the plan presented meets the intent of the Overlay District.

Board members concurred that the plan as presented does not meet the intent of the South Central Overlay District and that they would not be in favor of waiving the requirement of increasing the bulk requirements by 50%.

Bob Hasenoehrl, applicant, stated that when Mr. Reilly suggested that 50 to 100 feet of woods be preserved in the rear and 30' be preserved on the sides of the proposed lots, he (Mr. Hasenoehrl) decided to preserve at least 60' in the rear. Mr. Phillips responded that the Board wants 100' preserved in the rear and 50' on either side of both lots. Mr. Hasenoehrl stated that he misunderstood Mr. Reilly.

Mr. Hasenoehrl stated that his idea was to sell one of the lots and keep 250' of woods and he does not want any problems with his neighbors. He further stated that if he has to sell the entire parcel as one building lot, he has no problem with that. He noted that he appreciates the time the Town has taken to consider his proposal and he hopes that makes the neighbors happy.

In response to a question from Chairman Koenig, Mr. Hasenoehrl stated that he can return to the Planning Board with a plan that preserves 50' of woods on the north and south sides of the lots, as well as 100' in the rear.

Board members discussed whether, if the applicant returns with a plan that preserves the woods as suggested by Mr. Reilly, the Board would approve it. Chairman Koenig and Mr. Phillips indicated that they would be in favor of such a plan.

The following members of the public spoke:

Jeremy Lindstrom, 50 Sharon Avenue, asked Chairman Koenig if he was giving his personal opinion or if he thinks approving this project is what is good for the Town of Hamburg. Chairman Koenig responded that he was speaking as a member of the Planning Board.

Mrs. Yerkovich stated that Board members are not arbitrary and that they follow the Town's Comprehensive Plan and zoning codes when making decisions.

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Joseph Ritz, 6301 Smith Road, asked where the proposed subdivision would be located.

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

Engineering Department comments have been filed with the Planning Department.

Old Time Baptist Church

Lowell Dewey from C&S Engineers appeared on behalf of the applicant, stating that the site plan has been revised. He distributed the revised plan to the Board members for their input. Mr. Dewey stated that, since the Board last discussed this project, the applicant met with the New York State Department of Environmental Conservation (DEC) regarding the 100-foot adjacent area that extends into the northwest corner of the site. He stated that the DEC asked the applicant to stay out of the wetland, as well as the adjacent area (the proposed detention area encroached upon that area) and indicated that the detention area can be located in the mowed area of the site but that the trees are to be untouched. Mr. Dewey noted that the amended site plan, therefore, shows the detention area completely outside of the treed area, the building is reduced in size somewhat, the number of seats in the sanctuary has been reduced slightly and the number of parking spaces has been reduced by 15.

Mr. Dewey stated that, rather than pump storm water to Hickox Road, the applicant proposes to allow the storm water to trickle onto Mr. Los's property (rip-rap stone would be placed in between the trees so that the water will soak into the ground if there is any opportunity at all) and by the time the water reaches Mr. Los's property line it would be a very small flow in the worst of storms.

It was determined that the Board will discuss this further at its next meeting.

Mr. Phillips made a motion, seconded by Mr. Reszka, to table the project. Carried.

Engineering Department comments have been filed with the Planning Department.

Smith Road Subdivision

Andrew Gow from Nussbaumer & Clarke and Andy Romanowski, applicant, appeared on behalf of the proposed subdivision.

Mrs. desJardins noted that the property to be subdivided is located on the west side of Smith Road and on the north and south sides of Lakeview Road. She further noted that the property is zoned RA.

Board members concurred that the subdivision, as proposed, is unacceptable because all six (6) proposed lots are much too small.

Mr. Gow produced another proposed layout for the Board's review that reduced the number of proposed lots from six (6) to three (3). Chairman Koenig noted that lots #2 and #3 would

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require variances from the Zoning Board of Appeals because they do not have the area required (two acres) in the RA zone.

Mrs. desJardins reminded the Board that these lots are located in the South Central Overlay District and, as such, the Board can require that the bulk requirements be increased by 50% if it feels that is appropriate.

Mr. Gow stated that, if approved, lots #2 and #3 could front Old Lakeview Road and lot #1 would front Lakeview Road. Mr. Romanowski stated that this would mean that there would be the opportunity to buffer Lakeview Road from lots #2 and #3. He further noted that lot #1 could front Smith Road, lot #2 could front Old Lakeview Road and lot #3 could front Smith Road. Mr. Romanowski stated that the existing house on the property would be demolished.

Mrs. desJardins recommended that the public hearing be held to gather input from the public before the Board recommends on the variance to the Zoning Board of Appeals. Board members concurred.

Mr. McCabe stated that he is troubled philosophically with being confronted with a plan that contradicts zoning, the Comprehensive Plan and probably the sentiment of a lot of the neighbors in the area. He asked what the offsetting benefits would be to rendering this plan good for the Town or for planning.

Board members concurred that they want to wait until the Board's next meeting to decide how or whether to move forward with this proposal and indicated a need to talk among themselves about how to proceed.

Mr. Gow agreed to provide to the Board an aerial photograph of the area proposed for development for its next meeting.

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

Engineering Department comments have been filed with the Planning Department.

Michael Schmidt request for parking area expansion

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

Mrs. desJardins stated that in 2008 the applicant received approval to store vehicles, RVs, etc. and now he wishes to expand that parking area in order to store additional vehicles there. She noted that the area the applicant wishes to now develop was labeled "area not to be disturbed" on the approved plan from 2008.

Chairman Koenig asked the applicant to explain whether or not he is in compliance with the approved plan from 2008. Mr. Schmidt stated that he was unaware of anything that has not been done relative to the previous approval, noting that the Building Inspector who did the final inspection of the site indicated that everything was done that was supposed to be done. He further stated, however, that some of the pine trees that were planted on the existing berm per the previously approved plan have since died.

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Mrs. desJardins stated that the Building Inspection Department gave a fill removal permit to someone (not Mr. Schmidt) for the area that was labeled "not to be disturbed" on the plan approved in 2008. She further stated that, although the area has been disturbed and it should

not have been, it is not the fault of the applicant since a permit was issued. Mr. Schmidt stated that he has not done any work on the site other than allowing the fill to be removed.

Mrs. desJardins noted that the trees that were planted in 2008 should be replanted on the berm. She further stated that the Planning Department would like the berm cleaned up, as it is not aesthetically pleasing the way it is. Mr. Schmidt agreed to do this.

Mrs. desJardins stated that the area in front of the storage lot (fronting Southwestern Boulevard) was also labeled "not to be disturbed" and it appears that it has been disturbed. She further noted that it appears that Mr. Schmidt is selling and/or leasing Penske trucks in front of the self-storage business's office. Mr. Schmidt responded that he was completely unaware that the trucks were displayed out front, as he has not been out to the site in quite some time. He noted that he does rent Penske trucks but does not lease them and stated that the District Manager for Penske must have put the "For Sale" sign in the window of the truck. He stated that he personally removed the "For Sale" sign as soon as he saw it.

Chairman Koenig stated that the Planning Board will schedule a public hearing on this proposal but clarified with Mr. Schmidt that he (Mr. Schmidt) must clean up the berm and replant the trees that have died. Chairman Koenig further stated that Mr. Schmidt must do what is approved and nothing more.

Mr. Phillips made a motion, seconded by Mrs. Yerkovich, to schedule a public hearing for November 18, 2009. Carried.

Engineering Department comments have been filed with the Planning Department.

Dorchester Patio Homes Cluster Proposal

Mrs. desJardins stated that a revised plan was received by the Planning Board on October 20, 2009 and noted that some of the revisions made were a result of the Board's discussion at its last meeting.

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the proposal, noting that the applicant submitted two plans at the Board's last meeting; one was a conventional R-2 design to demonstrate the lot yield possible for this property and the other was a proposed cluster development. He further stated that the plan now presented for cluster development has been revised based on the Board's previous comments. He noted that in the last two weeks the applicant has agreed to purchase another 1.5 acres in the northern portion of the property, which has allowed him to extend the cul-de-sac north. He further stated that, because the applicant plans to purchase the additional property, the number of lots proposed has risen from 52 to 60.

Mr. Gow stated that the revised cluster development plan is based on the conventional R-2 zoning and demonstrates that, with the additional lands, 60 lots will fit on this parcel.

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Mrs. desJardins stated that the position of the Planning Department is that the conventional R-2 layout should include the detention areas. Mr. Gow responded that, regarding the detention on the conventional R-2 plan, an agreement has already been worked out between Mr. Hollins

and the applicant such that when the land adjacent to this property is developed, the two developments would share a detention basin on Mr. Hollins' property. Mrs. desJardins asked Mr. Gow why, then, there are detention basins shown on the cluster development plan but not on the conventional R-2 layout. Mr. Gow responded that the R-2 layout is simply to determine lot calculation.

Mr. Phillips stated that the detention areas should be shown on both the R-2 layout and the cluster development plan. Mr. Gow responded that he does not see anything in the Town Code that indicates that the applicant must apply detention to the original layout when its purpose is for lot calculation. Mr. Phillips stated that it is his understanding that the R-2 layout must show buildable area and one cannot build in a detention area.

Mrs. desJardins stated that the conventional R-2 layout includes lots that are irregular in shape (lots 29 through 35 and 7 through 28), that are typically not approvable, noting that this would reduce the number of allowed lots in the cluster development. She further noted that the Planning Department's estimate of the number of lots the applicant can probably get would be 50.

In response to a question from Mr. Lardo, Mr. Gow stated that a Homeowners' Association would be formed for ownership of the open space, noting that the roads would be public.

It was determined that the Board will discuss this further at its next meeting.

Mr. Rick Krautsack, 4005 Allendale Parkway, stated that the proposed development's green space would back up to his property and he is concerned that it would become a "dumping ground" because people would not know where the development's land ends and his property begins. He stated that he feels this would devalue his property.

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

Engineering Department comments have been filed with the Planning Department.

Burke Realty

Mrs. desJardins stated that a revised traffic study was submitted by the applicant since the Board's last meeting that replaces the traffic study mailed to their homes. She further stated that the revised traffic study is based on the worst-case scenario (a fast food restaurant with a drive-thru).

Andrew Gow from Nussbaumer & Clarke appeared on behalf of the applicant, stating that the revised traffic study shows the use of a high turnover sit-down restaurant with a drive-thru window.

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Mr. Phillips asked Mr. Gow what the difference would be between this worst case scenario (high turnover sit-down restaurant with a drive-thru window) and a Subway. Mr. Gow responded that Subway would be classified as a worst case scenario, as would a Burger King or McDonald's.

Chairman Koenig stated that the worst case scenario makes him very uncomfortable.

Mrs. desJardins stated that Wendel was given a copy of the revised traffic study and Mr. Reilly will relay Wendel's comments on it at the Board's next meeting.

Attorney Jeffrey Palumbo, representing the applicant, stated that changes were made to the site plan after several meetings with the Planning Board earlier this year and that, after reading the minutes of the May 2009 Planning Board meeting, it is very clear that traffic is the Board's main concern. He further stated that the traffic study submitted to the Board at its last meeting indicated that a delay of 20.9 seconds would be expected as result of a sit-down restaurant, giving a level of service of "C" at the intersection of South Park Avenue and Bayview Road. He noted that the new traffic study just submitted to the Board, which is based on a high turnover sit-down restaurant with a drive-thru window, indicates that the expected delay at that intersection would be 48 seconds.

In response to a question from Mrs. desJardins, Attorney Palumbo stated that the level of service in the worst case scenario would be reduced from "C" to "E".

Mr. Gow stated that the level of service "E" applies only during the morning peak for left turns made from South Park Avenue onto Bayview Road.

Attorney Palumbo stated that the applicant needs approval of this site so that it can be marketed and eventually improved and put into a productive use.

The Board discussed whether another public hearing should be scheduled. It was determined that the Board will discuss this further at its next meeting, after hearing what Wendel's opinion of the revised traffic study is.

Mr. Taber asked if the traffic study takes into account the fact that there is a school a half mile away. Attorney Palumbo responded that what is included is the analysis for this type of facility and is based on existing conditions.

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

Engineering Department comments have been filed with the Planning Department.

Cape Cod Creamery signage

Mrs. desJardins stated that the Building Inspector has asked that the Board review the proposed signage, as it is unique. She further stated that it does comply with all of the requirements of the Code regarding signage.

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Mrs. Yerkovich made a motion, seconded by Mr. Phillips, to advise the Building Inspector that the Board approves of the signage and applauds the applicant's creativity. Carried.

Proposed Tops fueling facility

Mrs. desJardins stated that the Village is looking for input from the Planning Board regarding the proposed new fueling facility proposed by Tops to be located on Clark Street in the Village.

Attorney Jay Pohlman, representing Tops, stated that the proposed location for the new fueling facility has been moved from South Park Avenue to Clark Street, as Tops has acquired the existing Whale Car Wash facility. He further stated that the signage has been upgraded and that Tops hopes to receive approval from the Village very soon.

Mr. McCabe stated that he feels this is a great solution to what seemed to be an insurmountable problem.

Mr. Daryl Ryan, South Creek Road, stated that he is concerned about traffic backing up onto Clark Street during the times when Tops shoppers are redeeming their points on their Tops bonus cards for lower priced gas.

Attorney Pohlman stated that a traffic study has been done and it indicates that approximately four additional cars per hour can be expected during peak times. He further noted that eight pumps are planned with two stacking spaces for each pump plus additional space for stacking.

Mrs. Yerkovich stated that the Village Planning Board has addressed the traffic concerns and Mr. Ryan can address the Village with his concerns.

In response to a question from Chairman Koenig, Attorney Pohlman stated that the traffic study addressed four different scenarios: people who are already at Tops and who plan to get gas, people who are already at Tops who do not plan to get gas, people who are getting gas but do not plan to go into the Tops store and people who are specifically going to get gas to redeem their Bonus Card points.

Mr. Mark Lorquet, Smith Road, stated that he has redeemed his Tops Bonus Card points for gas elsewhere and has never seen a stacking problem.

Attorney Pohlman stated that Tops looked at facilities that have stacking problems, such as the Tops fueling facility on Southwestern Boulevard in Orchard Park, and has designed this proposed fueling facility with the Orchard Park facility's problems in mind.

Mr. Phillips made a motion, seconded by Mr. Taber, to advise the Village of Hamburg that the Town Planning Board has no further input regarding the Tops fueling facility proposal. Carried.

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The Planning Board welcomed graduate students and faculty from the University of Guelph, along with Mr. Mark Lee from Erie County Department of Environment and Planning, to the meeting. The students asked Board members several questions regarding the meeting, as well as how the Board operates and what issues the Board confronts.

Mr. Phillips made a motion, seconded by Mrs. Rogers, to approve the minutes of October 7, 2009. Carried.

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

The meeting was adjourned at 9:20 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board