

Town of Hamburg
Planning Board Meeting

October 4, 2017

Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 P.M., followed by a Regular Meeting at 7:00 P.M. on Wednesday, October 4, 2017 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, Vice-Chairman William Clark, Doug Schawel, Augie Geraci, Dennis Chapman, Robert Mahoney and Al Monaco.

Others in attendance included Town Planners Andrew Reilly and Sarah desJardins, Assistant Municipal Engineer Rick Lardo and Attorney Mark Walling.

WORK SESSION

3580 Southwestern Boulevard, LLC – Requesting Site Plan Approval of a parking lot expansion to be located at 4795, 4803 and 4811 Camp Road

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the applicant has formally withdrawn the previously approved project that was associated with the auction on property slightly north of the current property in question.

Mr. Gow stated that approximately 90 parking spaces are proposed for lease turn ins, an existing building on the property would serve as the new office and approximately 125 additional parking spaces for overflow storage for lease turn ins would be provided in the rear of the site.

Mr. Gow stated that no new buildings are proposed.

In response to a question from Chairman O'Connell, Mr. Gow stated that there is a narrow parcel between the previously approved project site and this site.

Mr. Reilly stated that if/when the applicant requests approval of a project on the north side of the narrow parcel in the future, the Town will ask for cross-access between the two (2) projects.

Mr. Gow stated that the applicant would have no problem with cross-access. He noted that when the applicant dealt with the New York State Department of Transportation (NYSDOT) regarding the previous project, they were told that they had to close entrances that they could not close due to the way the business operates.

In response to a question from Mr. Clark, Mr. Gow stated that one (1) existing curb cut would be eliminated, one (1) would be expanded to serve the parking lot and one (1) will remain as is.

Mr. Gow agreed to protect the large tree behind the existing building on the site.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing on this project to be held on October 18, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

Capital Telecomm Holdings, LLC, as agent for Bell Atlantic Mobile Systems of Allentown, Inc. d/b/a/ Verizon Wireless – Requesting a tower special permit and site plan approval of a cellular tower to be located at 3081 Pleasant Avenue

Attorney Don Cheney from Cheney & Blair, attorney for Capital Telecomm Holdings, LLC, stated that Capital Telecomm is a tower operator/developer.

Attorney Cheney stated that the projection is that in five (5) years, the data increase from cellular networks will be approximately 500% more than what it is currently, and therefore more cellular sites will be needed to carry all the data and are needed in more residential zones closer to the population centers.

Attorney Cheney stated that Hamburg Town Code requires that cellular towers be located at least a distance equal to their height from any building or property line. He noted that the proposed cellular tower on Pleasant Avenue would be 158 feet high including the lightning rod, and it is proposed to be located ten (10) feet from a shed, 45 feet from a pole barn and approximately 145 feet from the New York State Thruway right-of-way. He stated that Hamburg Town Code allows the Planning Board to vary any requirement, and he asked the Board to consider waiving the above requirements.

Attorney Cheney stated that the shed on the property would serve to block the view of the cellular tower and its base from the street, and none of the buildings referred to above are inhabited generally by people.

A representative of Costich Engineering stated that a 154-foot monopole is proposed, along with a 22' X 44' fenced compound. He stated that Verizon Wireless would be the anchor tenant for the cellular tower. He noted that there would be a back-up generator located on the portion of the equipment frame platform.

The Costich Engineering representative stated that the closest property line to the west is approximately 172 feet and the closest property line to the north is approximately 175 feet. He noted that a Full Environmental Assessment Form was submitted for this proposal, as well as photo simulations showing what the proposed tower would look like.

The Costich Engineering representative stated that the tower's view shed is approximately one (1) mile in length to the east and west along the Thruway bounds.

In response to a question from Chairman O'Connell, Mr. Reilly stated that the Thruway Authority will be notified through the SEQR Coordinated Review process of this proposal.

It was determined that the applicant would lease the land from the homeowner for the cellular tower.

Mr. Reilly stated because this is the least preferred zoning district in the Town for cellular towers, the Planning Board will hire an independent RF engineer at the applicant's expense to review the information and advise the Board as to whether this is where the proposed cellular tower needs to go.

Mr. Reilly advised the applicant that a steady red light will be required on the tower because of the Mercy Flight activities in that area.

Mr. Reilly stated that the Town is proposing a temporary moratorium on cellular towers, and a public hearing will be held on October 16, 2017 to consider the moratorium.

Mr. Clark made a motion, seconded by Mr. Monaco, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING**Public Hearing – 7:00 P.M., Michael Jablonski – Requesting re-approval of a Special Use Permit to erect a residential wind energy conversion system on property located at 3134 Old Lakeview Road (original Planning Board approval granted on May 18, 2016)**

Chairman O'Connell advised Mr. Jablonski that the Planning Board needs to know if the currently proposed wind turbine will be considered agricultural under New York State Agriculture & Markets. Mr. Jablonski responded that the currently proposed wind turbine will not be considered agricultural.

Chairman O'Connell stated that in that case, a removal bond will be required.

Mr. Jablonski stated that in the lease with the wind turbine company, there is a provision for taking the wind turbine down. Chairman O'Connell responded that that is immaterial.

Attorney Walling stated that he reviewed the lease between Mr. Jablonski and the wind turbine company, and it does have language in it that requires United Wind to take the wind turbine down at the conclusion of the lease. He stated that he was not sure that addresses the questions Board members have about what happens if United Wind goes bankrupt, or what happens if at the end of the lease if United Wind decides not to honor the contract.

Chairman O'Connell suggested that Mr. Jablonski contact United Wind to see if that company would handle the acquisition of the removal bond.

It was determined that the Town Code requires that the applicant notify all property owners via certified mail within 1000 feet of the subject parcel, and the Town must receive proof that the property owners were notified.

Attorney Andrew Leya, representing National Grid, which owns the transmission line east of Mr. Jablonski's property, questioned the proposed location of the wind turbine relative to Mr. Jablonski's east property line. He stated that National Grid is concerned that, because this is a wind turbine, its height must be measured from the ground to the tip of the blade.

Mr. Reilly stated that the Supervising Code Enforcement Official has determined that the proposed wind turbine is set back the required distance from the property line shared with National Grid.

Mr. Jablonski stated that the wind turbine would be 153 feet high from the tip of the blade.

Attorney Leja asked for clarification that the proposed wind turbine would be 153 feet high to the tip of the blade.

Mr. Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on October 18, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Cherry Cars – Requesting a Special Use Permit to operate an auto sales business at 4670 Camp Road

Michael Deni, applicant, stated that it does not make sense from a business standpoint to dis-

play cars with landscaping in front of those cars. He stated that he would prefer to plant landscaping next to the building.

Board members agreed landscaping around the building will be acceptable with curbing along the paved area.

Mr. Clark made the following motion regarding SEQR, seconded by Mr. Mahoney:

“Whereas, the Town of Hamburg received a special use permit and site plan application from Cherry Cars to operate an auto sales business at 4670 Camp Road; and

Whereas, on September 20, 2017 the Hamburg Planning Board held the required public hearing; and

Whereas, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act (SEQRA), has done a thorough review of the project and its potential impacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed special use permit and operation of an auto sales business will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed project is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued.” Carried.

Mr. Clark made the following motion, seconded by Mr. Chapman:

“Whereas, the Town of Hamburg received a special use permit application from Cherry Cars to operate an auto sales business at 4670 Camp Road; and

Whereas, on September 20, 2017 the Hamburg Planning Board held the required public hearing; and

Whereas, the Hamburg Planning Board, in reviewing the proposed project (special use permit), has determined, in accordance with Section 280-312 and 280-321 (New or used motor vehicles sales and service) that:

1. The project will be in harmony with the purposes and intent of Section 280-312 (Special Use Permits).
2. The project will not create a hazard to health, safety and general welfare.
3. The project will not alter the essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.
5. The property has frontage along Camp Road between the Thruway and the railroad tracks north of Nash Road.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit is in accordance with the requirements of the Town of Hamburg and therefore a special use permit is hereby issued with the following conditions

1. There shall be no outdoor storage of any junk vehicles.
2. The Building Inspection Department shall make periodic inspections of the facility to ensure the proper structural maintenance of all structures and the adequate cleanup of

litter and motor vehicle parts.

3. No parking will be permitted on grass.”

Carried.

Mr. Clark made a motion, seconded by Mr. Schawel, to grant Conditional Site Plan Approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated 10-4-17.
2. A curb will be installed on edge of the parking lot facing Camp Road.
3. The landscaping plan will be reviewed and approved by the Planning Department.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Buffalo-South Motor Inn, Inc. – Requesting a Special Use Permit and Site Plan Approval of a proposed gas station to be located at 4344 Milestrip Road

It was determined that the applicant was not present.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

South Shore Community, LLC – Requesting rezoning to a new Planned Unit Development designation for a mixed use project to be located at 5076 Southwestern Boulevard

Attorney Sean Hopkins, representing the applicant, stated that the applicant’s engineer is working on a more realistic plan in terms of roadway layouts, specifications and alignments. He asked the Board to table this project so the applicant’s engineer can meet with Mr. Lardo and then return to the Board in two (2) weeks.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Rolling Ridge Subdivision, Phase Five – Requesting re-approval of the Preliminary Plat (previous re-approval was granted on May 21, 2014)

Attorney Sean Hopkins, representing the applicant, stated that the applicant is getting close to finalizing the technical reviews and noted that a portion of three (3) proposed lots in the subdivision is located in the Town of Orchard Park. He stated that the applicant will appear before the Town of Orchard Park Planning Board on October 11, 2017 to finalize approvals there.

In response to a question from Mr. Clark, Kevin Curry, representing the applicant, stated that he does not believe there have been any changes made to the plan since May 2014.

Mr. Clark made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on October 18, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Schawel made a motion, seconded by Mr. Mahoney, to adjourn the meeting. The meeting was adjourned at 8:00 P.M.

Respectfully submitted,
Doug Schawel, Secretary

October 10, 2017