

Town of Hamburg
Planning Board Meeting
November 15, 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, November 15, 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, Dennis Chapman, Robert Mahoney, Augie Geraci and Al Monaco.

Others in attendance included Planning Consultant Sarah desJardins, Assistant Municipal Engineer Rick Lardo and Attorney Mark Walling.

WORK SESSION

Up State Tower - Requesting Site Plan Approval of a cellular tower on property located at 3725 Jeffrey Boulevard

Don Carpenter from Carpenter Consulting Group, representing the applicant, stated that a 160-foot high cellular tower is proposed on Jeffrey Boulevard behind Ball Septic, as well as the Rod & Gun Club. He noted that the proposed cellular tower would be 407 feet from the nearest residentially zoned property, and therefore just Site Plan Approval would be required.

Mr. Carpenter stated that he realizes that there is a pending cellular tower moratorium, and he has submitted a letter to the Town Board asking that Board to either delete the grandfathered clause from the moratorium or exempt this proposal from it.

Mr. Carpenter stated that there would be relatively little new disturbance on the proposed site.

Mr. Carpenter stated that this site is important to Upstate Tower because of the microwave backhaul for some of the other sites in the Town of Hamburg. He noted that this site would be important to provide continuous coverage throughout the Town of Hamburg, and it is needed to mesh together all of the other microwave sites. He stated that at this point he does not know if Emergency Services would be using this tower or not, but Upstate will be providing microwave data link for Emergency Services at this site, as well as an additional site.

In response to a question from Mr. Clark, Mr. Carpenter stated that there is a tower up the road in the Village of Blasdell, but that tower needs to be structurally upgraded.

In response to a question from Chairman O'Connell, Mr. Carpenter stated that he did not investigate putting the proposed tower on the site up the road that already has the outdated tower on it because it is owned by a different tower company.

In response to a question from Mr. Chapman, Mr. Clark stated that all cellular companies that put up a tower post a bond with the Town of Hamburg. He further noted that the Planning Board has never waived that requirement for a cellular tower.

Mr. Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on December 6, 2017. As there were six ayes and one (1) nay (Mr. Chapman), the motion carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Chairman O'Connell stated that the South Shore Community, LLC project would not be discussed.

Public Hearing - Public Hearing - 7:00 P.M., Glenn Wetzl - Requesting Site Plan Approval of a senior housing project to be located on Southwestern Boulevard adjacent to Brookview Apartments

Attorney Sean Hopkins, representing the applicant, stated that based upon previous input from the Planning Board, a Traffic Impact Study has been prepared. He noted that this project was to be reviewed by the Traffic Safety Advisory Board (TSAB) on November 9, 2017, but the meeting was rescheduled to November 16, 2017.

Attorney Hopkins stated that fully engineered plans have been submitted to the Engineering Department.

Attorney Hopkins stated that the reason for the lengthy delay between when the concept plan was presented to the Board and now is that the applicant was waiting for a jurisdictional determination from the U.S. Army Corps of Engineers. He noted that that determination was issued this past summer, and the only wetland on this site that is jurisdictional has been identified, and the applicant proposes to only impact .03 acres of those jurisdictional wetlands.

Mr. Schawel read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a request by Glenn Wetzl to construct a senior housing development on vacant land located on Southwestern Boulevard, adjacent to the Brookview Apartment development. The public hearing will be held on November 15, 2017 at 7:00 P.M. in Room 7B of Hamburg Town Hall."

Chairman O'Connell declared the public hearing open. No one spoke.

Chairman O'Connell stated that the public hearing would be kept open until the TSAB has a chance to review this project.

Mr. Clark made a motion, seconded by Mr. Chapman, to authorize the table this project and to authorize the Planning Department to prepare approval resolutions for the Board's December 6, 2017 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

West Herr Automotive Group - Requesting Sketch Plan Direction on a proposal to construct a 3,660 sq.ft. aluminum detail shop building addition at 3510 Sowles Road

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the proposed Site Plan has been revised to include additional landscaping in front of the proposed building.

Mr. Gow stated that the property consists of two (2) different parcels under different named ownerships that are owned by West Herr, and West Herr is in the process of combining these parcels into one (1) ownership.

Chairman O'Connell stated that the new construction would mean the removal of two (2) very large existing trees. Mr. Gow responded that he does not think that the applicant would want to shift the new building in order to avoid the trees.

Mr. Schawel stated that he would not want to require the applicant to change the architectural plans just to avoid two (2) trees and then have the trees die in a few years.

Board members agreed that additional street trees could be planted along Sowles Road east of the existing driveway.

Mr. Clark made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on December 6, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

Buffalo-South Motor Inn, Inc. - Requesting Preliminary Plat Approval of a two-lot subdivision to be located on Milestrip Road @ I-90

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

“Whereas, the Town of Hamburg received a minor subdivision application from Buffalo-South Motor Inn, Inc. to subdivide property located on the north side of Milestrip Road @ the I-90 interchange; and

Whereas, the Planning Board has reviewed the project and the Short Environmental Assessment Form in accordance with 6NYCCR Part 617, SEQR.

Now, Therefore Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed subdivision is not anticipated to result in any significant adverse environmental impacts and that a Negative Declaration is hereby issued. The Planning Board Chairman is authorized to sign the EAF.”

Carried

Mr. Clark made the following motion regarding Site Plan Approval, seconded by Mr. Monaco:

“Whereas, the Town of Hamburg received a minor subdivision application from Buffalo-South Motor Inn, Inc. to subdivide property located on the north side of Milestrip Road @ the I-90 interchange into two (2) lots; and

Whereas, the Planning Board has reviewed the Preliminary subdivision plan and held the required public hearing on this proposed subdivision on November 1, 2017; and

Whereas, the Hamburg Planning Board has determined that the proposed subdivision will not

result in any significant negative effect on the environment and has issued a Negative Declaration;

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby approves the Preliminary Plat for the Buffalo-South Motor Inn, Inc. two-lot subdivision with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated 11-15-17.
- The filing of a Map Cover is waived.
- The installation of sidewalks is hereby waived.”

Carried.

Engineering Department comments have been filed with the Planning Department

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 approval granted on May 18, 2016)

Mr. Joe Green from United Wind, representing the applicant, stated that United Wind's assertion is that it does not believe, based on information collected from the State of New York, that the Town of Hamburg has the authority to require a decommissioning bond for a project such as this. He stated that New York State Town Law Section 274 B (Special Use Permits) has no provision granting authority to the Town to require a bond of any kind.

In response to a question from Mr. Clark, Mr. Green stated that New York State Town Law Section 274 B does not specifically state that a Town cannot require a bond. He noted that New York State Town Law Section 274 A (Site Plan Approvals) grants the authority for bonding requirements.

Chairman O'Connell stated that the Town of Hamburg Town Code requires a demolition bond for the protection of the residents of the Town of Hamburg.

Mr. Green asked Board members to waive the demolition bond requirement.

Mr. Green stated that United Wind has named the Town of Hamburg as an additional insured on its policy. Chairman O'Connell stated that a decommissioning bond is not referred to in United Wind's policy.

Mr. Green stated that United Wind has a contract with the applicant that allows for decommissioning. Chairman O'Connell stated that this does not involve the Town of Hamburg.

Attorney Walling stated that he did review the general liability coverage form for the insurance policy that United Wind gave Board members the additional insured insurance certificate for. He stated that that covers injury, property damage personal and advertising liability, but there is nothing in that policy that has any effect on the bond requirement.

Attorney Walling stated that United Wind's attorney did not disagree with the above statement.

Attorney Walling stated that the policy does not give any coverage for the removal of a wind turbine.

Attorney Walling stated that United Wind's contract with Mr. Jablonski states that it is a 20-year lease, and at the end of the 20-year lease, if the contract is not renewed, United Wind will take the wind turbine down.

Attorney Walling stated that the Town of Hamburg can require a removal bond, and it is up to the Planning Board to decide whether to waive that requirement.

Mr. Green stated that if a removal bond is required, it will make the project completely impossible, and any additional increase in cost, even if it is only \$100, will render this project inviable.

Attorney Andrew Leja from Barclay Damon, representing National Grid, stated that National Grid has transmission lines directly east of the applicant's property. He stated that he understands that the currently proposed wind turbine's location has been moved to the required distance from the shared property line, and National Grid has no objection to the placement of the proposed wind turbine in its current position, as long as the required setback is maintained. He stated that in the future, to the extent there are additional towers proposed on the applicant's property, National Grid expects and hopes that the setback requirements will be similarly enforced. He further stated that if there is a change in the height of the currently proposed wind turbine, there should be a corresponding increase in the setback requirement from National Grid's property, and National Grid hopes and expects that the increased setback will be implemented by the Planning Board.

Attorney Leja stated that National Grid has an interest in making sure that the Town of Hamburg is satisfied that its requirements are being upheld to the letter.

Chairman O'Connell declared the public hearing closed.

Chairman O'Connell asked Mrs. desJardins to prepare two (2) approval resolutions for the Board's next meeting, one requiring the removal bond and one waiving that requirement.

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

Engineering Department comments have been filed with the Planning Department.

Randy Schmitz, Eden Valley Brewing Co. – Requesting Sketch Plan Direction on a proposal to redevelop a portion of the previous post office located at 6550 Southwestern Boulevard into a Tim Horton's with a new drive-thru

Attorney Sean Hopkins, representing the applicant, stated that a Traffic Impact Study was prepared by SRF Associates. He noted that this project was to be reviewed by the Traffic Safety Advisory Board (TSAB) on November 9, 2017, but the meeting was rescheduled to November 16, 2017.

It was determined that Mrs. desJardins provided a copy of the Traffic Impact Study to the TSAB, as well as to Ed Rutkowski at the New York State Department of Transportation.

Attorney Hopkins stated that an informational meeting was held with nearby property owners, and the Concept Plan was revised based on input received as follows:

- A fence and trees have been added to minimize intrusion from headlights exiting the drive-thru lane.
- The height of the proposed trees along the northern property line has been increased to eight (8) feet.

Attorney Hopkins stated that the traffic consultant suggested that it would be beneficial to extend the right turn lane on White Oak Way, so a small amount of paving would be added in that area. He noted that this would improve stacking by adding queuing length.

In response to a question from Mr. Clark, Randy Schmitz, applicant, stated that Tim Hortons stores are open 24/7, and he would have to approach Tim Hortons to see if he would be allowed to deviate from those hours.

In response to a question from Mr. Chapman, Mr. Schmitz stated that typically all of the operations are 24/7, and operators have to sign a contract with Tim Hortons to that effect. He noted that recently Tim Hortons is allowing stores to shorten their hours, depending on the site and safety conditions.

In response to a question from Chairman O'Connell, Mr. Schmitz stated that some of the stores in this area shut down the drive thru and inside, and some shut down just the inside area and leave the drive thru open.

In response to a question from Mr. Clark, Mr. Schmitz stated that he will know before the public hearing is held on this project what the hours of operation would be for both the drive thru and the inside area.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project until its December 20, 2017 meeting. Carried.

Engineering Department comments have been filed with the Planning Department

OTHER BUSINESS

Mr. Schawel made a motion, seconded by Mr. Mahoney, to approve the minutes of November 1, 2017. Carried.

Mr. Schawel made a motion, seconded by Mr. Chapman, to adjourn the meeting. The meeting was adjourned at 7:30 P.M.

Respectfully submitted,
Doug Schawel, Secretary
December 4, 2017