

Town of Hamburg
Planning Board Meeting
April 5, 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, April 5, 2017 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O’Connell, Vice-Chairman William Clark, Augie Geraci, Robert Mahoney, Dennis Chapman and Al Monaco.

Excused: Doug Schawel

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

WORK SESSION

E F Burke – Requesting rezoning of vacant property located on the west side of McKinley Parkway, just south of Lake Avenue, from C-2 to R-3 in order to construct two (2) eight-unit apartment buildings

Daryl Martin, architect, representing the applicant, stated that the applicant would like to purchase the property, which is just over one (1) acre in size, and construct two (2) eight-unit one-bedroom apartment buildings.

Mr. Martin noted that the properties south of this parcel are zoned R-3 and contain apartment buildings.

In response to a question from Chairman O’Connell, Mr. Martin stated that a dumpster is planned.

Mrs. desJardins stated that the owner of the property submitted a letter authorizing the applicant to act on his behalf in seeking the rezoning.

It was determined that this matter would be placed on the Board’s April 19, 2017 agenda for consideration.

Mrs. desJardins stated that the applicant for the first item on the Work Session (The Green Organization) requested that the rezoning request not be discussed at this time.

Mrs. desJardins stated that the Peter Liberatore project on the Regular Meeting agenda would not be discussed at the request of the applicant, and the Camp Road Animal Hospital project would not be discussed because plans had not been received by the Planning Department.

REGULAR MEETING

Public Hearing – 7:00 P.M., Joseph Ball – Requesting Site Plan Approval of a proposed building addition at 3725 Jeffrey Boulevard

Mr. Clark 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 proposal by Joseph Ball to construct an addition to the existing building at 3725 Jeffrey Boulevard. The public hearing will be held on April 5, 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 declared the public hearing closed.

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

“In accordance with New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the Ball Toilet & Septic Services project, which involves the construction of a 2,640 sq.ft. addition to the existing building and held the required public hearing on April 5, 2017. The project meets the criteria established in the SEQR Law as a Type II Action (617.5 (c) (7)) and therefore does not require completion of the SEQR process.

Conditional Site Plan Approval is hereby granted with the following condition:

- Approval is contingent upon the Engineering Department comment letter dated April 5, 2017.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Pleasant Creek Subdivision – Analysis of revisions to Phase I

Mr. Clark read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing to consider rescinding subdivision approval for the Pleasant Creek Subdivision. The public hearing will be held on April 5, 2017 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

Chairman O’Connell declared the public hearing open. The following people spoke:

- Mrs. desJardins read the following email from Attorney Sean Hopkins, representing Michael Bevilacqua, developer of the Pleasant Creek Subdivision to Mrs. desJardins and Attorney Walling:

“I am sending this email to follow up on our conversation subsequent to the email sent on behalf of Jeff Palumbo, Esq. Thanks for confirming that the email was sufficient for the Planning Board to table the pending consideration of rescinding the approved subdivision this evening, and per our conversations the following documentation is needed to finalize this matter:

1. Letter from Jeff Palumbo to the Town confirming statement in email below (statement was that Natale Homes will not be asking for condominiums in this phase of the subdivision)
2. Letter from Jeff Palumbo to the Attorney General's office withdrawing the offering plan
3. A draft restriction prohibiting the use of condominium form of ownership for the subdivision including the lots to be sold to Natale and future phases

The restriction, which will be recorded at the Erie County Clerk's office, will state it is binding on Pleasant Development LLC (current owner) and its successors and assigns, any future owner of lots or a phase of the subdivision. I spoke to Mike Bevilacqua, and we will not be attending the meeting this evening but will do everything possible to provide the three (3) items above in advance of April 19, 2017 Planning Board meeting."

Chairman O'Connell declared the public hearing closed.

Mr. Reilly stated that Natale Homes should also withdraw its application currently in front of the Board of Zoning Appeals. Attorney Walling concurred.

Mr. Clark made a motion, seconded by Mr. Geraci, to table this matter. Carried.

Glenn Wetzl – Requesting Preliminary Approval of 45-lot cluster subdivision on vacant land bordered by Route 391, McKinley Parkway and Newton Road

In response to a question from Chairman O'Connell, Glenn Wetzl, applicant, stated that there were no changes to the project since the Board's last meeting.

Mr. Reilly stated that in the near future the Board must approve (with or without modifications) or disapprove the Preliminary Plat. He further stated that the Board must provide grounds for approval with modifications or for disapproval. He noted that grounds are not required if the Board approves the project without modifications.

Mr. Reilly stated that the Preliminary Plat must meet the requirements of the Subdivision Code, the Cluster Development Code and the requirements of the PRD Code, as well as any rezoning conditions.

Mr. Reilly stated that the Board must make a decision on this proposal within 45 days of the public hearing per the Hamburg Town Code or else the proposal is automatically approved. He noted that New York State Law requires a decision within 62 days of the public hearing. He stated that the Board should make a decision on this matter either at its next meeting (April 19, 2017) or the following meeting (May 3, 2017).

Mr. Reilly stated that the Preliminary Plat is in accordance with Section 230-15 of the Hamburg Town Code.

Mr. Reilly stated that the exact name of the owner of the subdivision must be on the Preliminary Plat.

Mr. Reilly stated that per the conditions of the rezoning of this property to PRD, the draft restriction regarding how the open space will be preserved must be submitted to Attorney Walling.

Mr. Reilly stated that the lot sizes are all in conformance with the Hamburg Town Code, but the plans indicate that the minimum rear yard setback for each lot is 25 feet. He noted that the Town Code requires that the minimum rear yard setback be 25% of the lot depth with a minimum of 25 feet, so the lots that have a depth of more than 100 feet will require rear yard setbacks of more than 25 feet.

Mr. Reilly asked the applicant to make the above adjustments to the table provided on the Preliminary Plat.

Mr. Reilly stated that the Planning Board must approve the architectural features of the proposed homes and asked Mr. Wetzl to bring them to the Board's April 19, 2017 meeting.

Mr. Reilly stated that the Planning Board must decide whether to require that 10% of the property be dedicated to the Town or that a fee in lieu of land be provided.

Mr. Reilly stated that the Board will have to decide whether to waive the requirement of sidewalks. He stated that the proposed roads are private and no sidewalks are proposed.

Chairman O'Connell stated that he believes that sidewalks should be required because it would connect with the Village. Mr. Clark stated that sidewalks would connect the homes inside the subdivision.

Mr. Reilly asked Mr. Wetzl to show on the Preliminary Plat a standard lot with a home on it to show that the homes can meet the setback requirements. He also asked Mr. Wetzl to indicate on the Preliminary Plat that all homes will be at least 1,200 sq.ft. in area.

Mr. Mahoney stated that he has spoken to several of the residents in the area and there is a lot of wildlife on this property. He stated that there are a lot of drainage problems in this area, which is what he spoke to the residents about. He stated that he is concerned about the wildlife on the property.

Mr. Mahoney asked Mr. Wetzl what sort of guarantee he can give the public that these residents will be relieved of any drainage problems. Mr. Wetzl responded that he would not know how to give the residents a percentage guarantee.

Mr. Lardo concurred with Mr. Wetzl's response to the above.

Chairman O'Connell asked Mr. Lardo if, in his opinion, the construction of this subdivision would improve the existing drainage situation for the residents on Newton Road and the Johnsons, who live on Boston State Road.

Mr. Lardo stated that the construction of the subdivision will probably not improve the existing drainage problems in those areas. He stated that the drainage problems will probably be the same after the subdivision is built. He stated that the State Code requires that the applicant design for existing conditions and retain the difference with the developed conditions. He stated that Mr. Wetzl has gone above that requirement and will make the conditions a little bit better by installing larger detention ponds.

Mr. Lardo stated that what will happen is going to continue to happen, and the only difference is that Mr. Wetzl is going to do some work on the outlet and along Newton Road, which will improve the drainage problems there somewhat.

Chairman O'Connell stated that if this project goes forward, the residents on Newton Road and the Johnsons will see improvements in their drainage problems. He stated that when it rained two (2) weeks ago, he drove along Boston State Road and pulled into the first driveway where the creek goes under. He stated that that water has to go uphill so far to get to the Johnson's house and asked Mr. Lardo to explain how that water gets there.

Mr. Lardo stated that there are 26,000 acres of land that contribute to the Hamburg Golf Course property up Eighteen Mile Creek and Mr. Wetzl's property is 26 acres, so his property is .001% of the total, and therefore there will be no change in the drainage situation near the Golf Course.

Mr. Lardo stated that the Town spent a lot of money in 2011 when it hired an engineering firm to research the Golf Course, and it was determined that the Golf Course will flood every year unless millions and millions of dollars are spent.

Mr. Lardo stated that Newton Road is much higher than Boston State Road, and Mr. Wetzl's property rises rapidly towards Newton Road, so the low lands are going to flood.

Mr. Lardo stated that the Johnsons' property is not located in the FEMA 100-year flood plain.

Mr. Lardo stated that the sanitary lift station located next door to the Johnsons will be raised up for protection from the flooding. He noted that the raising of that building will not put more water on the Johnsons' property.

Mr. Lardo clarified that the 100-year storm means that there is a one (1) in 100 chance that a high intensity volume storm will occur in a year.

Mr. Mahoney stated that the residents he spoke to on Grandview and Valleyview expressed concerns about the traffic flow with just one (1) entrance to the subdivision. Mr. Reilly responded that the single entrance was required as part of the rezoning because some residents did not want an entrance on McKinley Parkway. He stated that at the public hearing for the rezoning, the residents convinced the Town Board to require that there be no entrance on McKinley Parkway, so that entrance is for emergencies only.

In response to a question from Mr. Chapman, Mrs. desJardins stated that the original proposal by Mr. Wetzl included single-family homes along both McKinley Parkway and Newton Road but at the request of the residents, those homes were removed.

In response to a question from Mr. Chapman, Mr. Reilly stated that the applicant cannot come back at a later date and ask for the perimeter lands that were not part of the rezoning to be rezoned. He stated that a permanent deed restriction for those lands will be required to insure that they will never be developed.

Chairman O'Connell stated that the Board will make a decision on this proposal at its next meeting, and he will call for a roll call vote.

Mr. Reilly asked Board members to send their comments to him and Mrs. desJardins so that they can begin to put resolutions together.

Attorney Walling stated that two (2) Board members can discuss projects together, but discussions cannot involve the entire Board.

Mrs. desJardins agreed to email the minutes from when the Planning Board recommended on the rezoning, as well as when the Planning Board issued a Negative Declaration on the proposed subdivision.

Mr. Clark made a motion, seconded by Mr. Mahoney, to table this item. Carried.

Engineering Department comments have been filed with the Planning Department.

Bill Barrett – Planning Board to review the ice cream facility at 4904 Lakeshore Road

Chairman O'Connell noted that there was a problem with the ice cream facility last summer with the New York State Department of Health.

Mr. Barrett stated that all of the claims were cleared up by the Department of Health, and there were no issues during all of last summer.

In response to a question from Mr. Chapman, Mr. Barrett stated that he did not bring paperwork from the Department of Health showing that there are no outstanding concerns because he was unsure what the Board would be discussing this evening.

Mr. Barrett stated that he hopes that this does not get dragged out because last year he was not able to open until July 10, which hurt his sales.

Mr. Barrett stated that the Department of Health received eight (8) or nine (9) complaints from one (1) person that he was dumping sewage in the parking lot. He stated that the person making the complaints threatened his life so the police department was involved.

Mr. Reilly stated that the biggest issue raised was regarding the Health Department and the complaints made about the business. He asked Mr. Barrett to provide something in writing from the Health Department that there are no outstanding concerns.

Mr. Reilly stated that last summer Mr. Barrett's previous tenant advised the Building Department that he was supposed to have a certain number of dedicated parking spaces on this site. Mr. Barrett responded that the tenant is no longer there.

Mr. Reilly asked Mr. Barrett for a letter from him stating that there is no longer a tenant in the building.

Chairman O'Connell stated that last year the Planning Board neglected to seek input on this project from the Waterfront Revitalization Committee (WRC) and was taken to task for that.

Mrs. desJardins stated that she sent the plans for this project to the WFC recently. Mr. Reilly stated that he received an email from the WFC indicating that the members do not believe that this project is in accordance with the LWRP (Local Waterfront Revitalization Plan). He stated that he provided the Waterfront Assessment Form to the WRC and advised that the email was not sufficient and that the committee should provide reasons for its position.

Mr. Geraci stated that there is a restaurant adjacent to the applicant's property, a service station nearby and other businesses in the area. He stated that there is no way to get down to the lake from any of those businesses.

Mr. Reilly stated that the Traffic Safety Advisory Board (TSAB) commented during the review process in 2016 that there was a question as to whether enough parking spaces were being provided and whether it was safe for people to get to the ice cream stand.

It was determined that the Planning Board considered the comments of the TSAB in 2016.

Mr. Reilly stated that there still are several residents who are upset with the Planning Board for approving this project in 2016.

Mrs. desJardins stated that the Planning Board did approve the project and subsequently reapprove it last year.

In response to a question from Mr. Clark, Mr. Barrett stated that last summer the Health Department allowed him to do a temporary water drain where he put the gray water in a portable tank and took it to Camping World for dumping. He stated that this year the Health Department wanted him to connect to a sewer line, and that is what he is currently working on. He stated that he will not open the business until he has the sewer line issue resolved with the Health Department.

Mr. Barrett stated that he does not plan to put any money into the looks of the ice cream stand until he knows that he is going to be allowed to have a business on his property every year. He further stated that because he had to open up late last summer, it was not a profitable venture for him. He stated that he would like to put up an awning, as well as tables and chairs, and is considering opening his garage up and putting a garage door on the back side so that people can see the lake and/or be provided with shade or shelter from the rain.

Mr. Barrett stated that he is comfortable with the fact that if it is not healthy, the ice cream stand should not be open. He noted that he is not comfortable with a dormant committee giving the Planning Board reports that favor shutting his business down. He stated that that seems unfair.

Mr. Barrett stated that he employed 12 great kids last summer who had a great life experience, and he learned a lot about the business itself. He stated that he hopes that on April 19, the Planning Board will decide that, as long as he complies with the Health Department, he can continue to operate his business as usual indefinitely.

Mr. Geraci recommended that Mr. Barrett put two (2) picnic tables on the site.

Mr. Clark made a motion, seconded by Mr. Geraci, to table this matter. Carried.

Goddard Development Partners – Requesting Site Plan Approval of a proposed 6,800 sq.ft. Mavis Discount Tire building at 5363 Southwestern Boulevard

Brian Burri with Bergmann Associates, representing the applicant, stated that the previously shown future development of the site is not shown on the submitted Site Plan. He stated that eight (8) service bays are proposed, all of which would face Southwestern Boulevard.

Mr. Burri stated that in order to screen the adjacent residential property, the applicant is proposing some evergreen trees.

Mrs. desJardins stated that the applicant installed the required signage along Southwestern Boulevard, as well as Abel Road, advising the public of the proposed project. She stated that a resident of Abel Road contacted her and indicated that the residents are aware of the project and may attend the public hearing.

Mrs. desJardins read the following email she received from Ted Casey, Chairman of the TSAB, regarding this project:

“The Traffic Safety Advisory Board reviewed the above-referenced project as requested by the Planning Board. After careful consideration, the TSAB recommends that the proposed driveway be relocated to align with the already existing Walmart signal. It is the TSAB’s opinion that this will aid traffic flow, thus reducing risk of vehicle-related incidences. Such realignment may require adjustments to the retention pond to allow for this design change.”

Mr. Burri stated that he did receive correspondence from the New York State Department of Transportation (NYSDOT) that he will forward to the Planning Department. He stated that the NYSDOT indicated that it wants the driveway moved approximately 50-60 feet to the west to get it further away from potential congestion with the existing turning lane into the Walmart plaza. He noted that the driveway would be approximately 330 feet from the existing stop bar near the Walmart plaza entrance.

It was determined that it is not possible to align the new roadway from this project with the existing entrance to the Walmart plaza.

In response to a comment by Mr. Reilly, Mr. Burri stated that the front and sides of the building would be brick, and the rear of the building would be split-face colored to match the front and sides.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing regarding this project to be held on April 19, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Geraci made a motion, seconded by Mr. Monaco, to approve the minutes of March 1, 2017. Carried.

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

Respectfully submitted,
Doug Schawel, Secretary
April 12, 2017