

Town of Hamburg
Planning Board Meeting
June 7, 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, June 7, 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 Planner Sarah desJardins, Assistant Municipal Engineer Rick Lardo and Attorney Mark Walling.

WORK SESSION

KUB Holdings – Requesting Site Plan Approval of a 9,600 sq.ft. new building to be constructed at 3985 Lakeshore Road

Mike Kubiszyn, applicant, stated that he plans to construct a 6,000 sq.ft. building on the property. He stated that he recently relocated his business, Universal Engine, to this property and also has a tenant that was there when he purchased the property. He stated that he has some office space available, and many people who have been interested in renting office space also have wanted storage space, which he does not have. He stated that because of that and because he also needs some indoor storage space for Universal Engine, he plans to build the 6,000 sq.ft. building to accommodate both needs.

Mr. Kubiszyn stated that he will use the building for storage space for Universal Engine and plans to subdivide it for prospective tenants. He stated that he will divide the space inside based on demand.

Chairman O’Connell stated that he was advised that the new building would be approximately 800 feet from an existing fire hydrant, and the Town Code requires that all buildings be within 400 feet of a hydrant. He encouraged Mr. Kubiszyn to discuss this with the Supervising Code Enforcement Official, Kurt Allen.

Chairman O’Connell stated that he was advised that some trucks from the applicant’s property are encroaching on the property to the north he does not own. Mr. Kubiszyn stated that he will investigate that and take care of any infractions.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on June 21, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

Goddard Development Partners – Requesting Preliminary Approval of a two-lot subdivision to be located at 5363 Southwestern Boulevard

Brian Burri from Bergmann Associates, representing the applicant, stated that the proposal is to subdivide this parcel into two (2) separate lots. He stated that the Mavis Discount Tire building that was recently approved by the Planning Board would occupy Lot # 1 (1.67 acres), and future development would go on Lot # 2 (1.84 acres).

Mr. Burri stated that the two (2) lots would share access to Southwestern Boulevard, noting that there would be a reciprocal easement agreement between the owners of the two (2) lots. He stated that the easement agreement would cover ingress/egress, parking overflow, drainage, etc.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on June 21, 2017. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING**Public Hearing – 7:00 P.M., Liberatore Management Group – Requesting a Special Use Permit for Lake Erie Towing & Recovery to operate at 3984 Burke Parkway**

Victor Liberatore, Jr., applicant, stated that he would like to erect a 40' X 30' fenced-in area for stored vehicles on property he owns north of the building.

Chairman O'Connell stated that he does not like the idea of the storage area being north of the building because it would be visible from McKinley Parkway. He stated that he would rather see the area behind the building used for vehicle storage.

Mr. Liberatore stated that the fence company has indicated that it will take between four (4) and six (6) weeks for the fencing to be installed.

It was determined that the property behind the building is owned by Niagara Mohawk Power Company, and Mr. Lardo stated that that entity probably will not allow the applicant to construct the vehicle storage area on its property.

In response to a question from Chairman O'Connell, Mr. Liberatore stated that he owns approximately ten (10) feet of property to the west of the building.

In response to a question from Mr. Geraci, the owner of Lake Erie Towing, Lenny Iwanenko (tenant) stated that he has been storing the majority of his vehicles inside the building.

Board members discussed different locations for the vehicle storage area and determined that the best place for it would be directly north of the building (attached to the building). It was determined that the side facing east would be stockade, and the other two (2) sides (facing west and north) would be chain link with the gates facing north. It was further determined that the fencing will be at least eight (8) feet high.

In response to a question from Mr. Geraci, Mr. Iwanenko stated that the 40' X 30' vehicle storage area would be large enough to store six (6) vehicles.

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 proposal by Liberatore Management Group to allow Lake Erie Towing & Recovery to operate at 3984 Burke Parkway, which requires a Special Use Permit. The Public Hearing will be held on June 7, 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 a motion, seconded by Mr. Mahoney, to table this project until the vehicle storage area is installed. Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Battery Post (4109 St. Francis Drive) - Requesting Site Plan Approval of an addition to the existing building

Susan King from King Consulting Engineers, representing the applicant, stated that she has addressed the comments from the Engineering Department. She further stated that the applicant is requesting a waiver from the landscaping requirement, as well as the requirement of a nautical feature as requested by the Waterfront Revitalization Committee.

Ms. King stated that landscaping was installed along St. Francis Drive and Big Tree Road with the original development of the site. She noted that the currently proposed addition would be in the back of the building.

Ms. King stated that the applicant did not have to add a nautical feature when he originally built the building, nor was it addressed when he constructed the subsequent additions to the building. She stated that this building is quite far from the lake.

Chairman O'Connell stated that this project was reviewed by the Waterfront Revitalization Committee, and that committee requested a nautical element be added to the site. He further stated that the Town Board has indicated that it wants the Planning Board to require these elements as requested by the Waterfront Revitalization Committee.

Chairman O'Connell stated that a nautical element does not have to be costly or elaborate. He stated that he met with the Chairman of the Waterfront Revitalization Committee, and that committee is going to forward a list to the Planning Board of suggested nautical elements. He stated that that committee is looking for a boat, an anchor, netting, ropes, etc. and feels it is important for properties in this area to adhere to the nautical theme.

Chairman O'Connell stated that the Planning Board has the ability to waive the nautical theme, but he would rather not go against what the Town Board has asked the Planning Board to do.

Jeff Logsdon, applicant, stated that several nearby new buildings have not had to add the nautical feature. He noted that St. Francis just completed a new field house, etc., and that applicant was not required to add a nautical feature. He stated that he feels he is being singled out.

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 proposal by Battery Post to construct an addition to the existing building at 4109 St. Francis Drive. The Public Hearing will be held on June 7, 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. Logsdon stated that he would erect a flag pole with an American Flag and a nautical flag underneath it.

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

"In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the Battery Post project, which involves the construction of an addition to the existing building located at 4109 St. Francis Drive, and held the required public hearing on June 7, 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.

The Planning Board, having completed the required public hearing and having the applicant amend the drawings based on the Planning Board's comments, hereby grants Conditional Site Plan Approval with the following conditions and waivers (A Certificate of Occupancy will not be granted until the following conditions are met):

- Approval is contingent upon the Engineering Department comment letter dated June 7, 2016.
- The Planning Board waives the installation of sidewalks, as there are no existing sidewalks in the area.
- The project will include the addition of a freestanding nautical flag pole.
- The current landscaping at 4109 St. Francis Drive is sufficient for a landscaping plan, and no additional landscaping will be required for the addition."

Carried.

Engineering Department comments have been filed with the Planning Department.

Villages at Mission Hills – Requesting Preliminary Plat Approval of a +/- 60-lot subdivision on the east side of Camp Road

Dave Manko, applicant, stated that he is proposing to continue the third phase of the project, which involves 60 patio homes.

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

"Whereas, the Town of Hamburg has received a subdivision application from David Manko to subdivide an additional 60 lots in the Villages of Missions project site off of Camp Road as depicted on the submitted Preliminary plat prepared by Greenman-Pederson, Inc. received on

Whereas, the project was the subject of a rezoning and the completion of an Environmental Impact Statement; and

Whereas, the Town Board, acting as SEQR Lead Agency, in accordance with the New York SEQR law, issued a Positive Findings for this project; and

Whereas, the Hamburg Planning Board held the required public hearing on May 17, 2017 and received no adverse comments from the public; and

Whereas, the Hamburg Planning Board has reviewed the Subdivision Application against the subdivision requirements of the Town, the approved overall development plan, the conditions placed upon the rezoning, the input received from various agencies and the public and the Positive Findings that was issued; and

Whereas, based on these reviews the Planning Board has determined that the project meets the conditions of the rezoning and no other adverse comments were received; and

Whereas, the Planning Board has reviewed the SEQR Findings and have determined that the project, which is in accordance with the original site layout, is in accordance with the SEQR Findings; and

Whereas, the Hamburg Planning Board, based on these reviews, and input received from Town departments, has found that the proposed Subdivision is in accordance with Town Subdivision requirements and the purposes of Chapter 230 of Hamburg Town Code and therefore wishes to approve the preliminary subdivision plan.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues Preliminary Subdivision Approval in accordance with Chapter 230, with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated 6/7/2017.
2. The Planning Board has determined that the subdivision will impact recreation in the Town, but no additional suitable lands are available at the site, and therefore will require a recreation fee in lieu of dedicating land to the Town.
3. In accordance with Town Subdivision requirements, sidewalks shall be required.
4. Conservation easements and deed restrictions (to be approved by the Town of Hamburg Legal department) in the name of the Town of Hamburg shall be finalized and put in place at the time of Final Plat approval.
5. The roadway to be constructed for this subdivision will be private and maintained by a Homeowners' Association.
6. In accordance with the Town's subdivision regulations, two street trees per lot shall be planted.

Be It Further Resolved, that the Hamburg Planning Board Chairman is authorized to sign the Preliminary Plat, once the Town Engineer signs off on the Plat.”

Carried.

Engineering Department comments have been filed with the Planning Department.

ARR Holdings, LLC – Requesting Preliminary Plat Approval of a five-lot subdivision to be located on the south side of Bridlewood Lane

Attorney Sean Hopkins, representing the applicant, stated that in November 2016, the Planning Board held the required public hearing on this project and authorized the Planning Department to prepare draft Preliminary Plat resolutions. He stated that at that time, the applicant asked the Planning Board to table its decision on the project as a result of a zoning condition that was

imposed by the Town Board that requires the current owner of the balance of the site, as well as the applicant, to install appropriate screening separating the rear of the new lots from the existing commercial use on the adjacent property. He noted that the existing property owner has not been able to fulfill that obligation of installing that screening, even though pursuant to a contract with the applicant, that was his obligation. He stated that, given that this delay has continued, the applicant has voluntarily agreed that he will accept that responsibility himself, even though it is inconsistent with the contract.

Attorney Hopkins stated that a revised Preliminary Plat has been submitted showing a berm with landscaping, which has been reviewed by the Planning Department and the Engineering Department.

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

“In accordance with the New York State SEQRL Law, the Town of Hamburg Planning Board has reviewed the five-lot subdivision proposed by ARR Holdings, LLC to be located on vacant land on the south side of Bridlewood Lane, east of Abel Road. Based on the Preliminary Plat, review of the submitted materials and input from other departments, the Planning Board has determined that the proposed subdivision 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. Schawel:

“The Hamburg Planning Board hereby grants Preliminary Plat Approval for the ARR Holdings, LLC Five-Lot Subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter memo dated 6/7/2017.
2. Sidewalks will be required along Bridlewood Lane but will be waived along Abel Road.
3. Buffering of the new lots from the existing landscaping business per the revised Preliminary Plat received May 30, 2017 will be approved by the Planning Department.
4. The filing of a Map Cover is required.
5. Recreation fees in lieu of land will be required.

Carried.

Engineering Department comments have been filed with the Planning Department.

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

Attorney Sean Hopkins, representing the applicant, stated that since the Planning Board last reviewed this request, the Town Board adopted a resolution on May 22, 2017 authorizing the SEQRL Coordinated Review to begin. He stated that a wetland delineation has been conducted

of the 35.19 acres confirming that there are no jurisdictional wetlands subject to either the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers.

Attorney Sean Hopkins stated that a traffic study has been ordered, and it has been determined that the firm that will conduct the study will be able to do counts before school lets out for the summer.

Attorney Hopkins stated that Part I of the Environmental Assessment Form will be submitted to the Planning Board very soon, and once the Coordinated Review is begun the applicant will return to the Planning Board to continue the review.

In response to a question from Mr. Chapman, Attorney Hopkins stated that the property is under contract, and the applicant has every intention of closing on it.

Mr. Chapman stated that the current owner owes \$92,000 in back taxes on the property. Attorney Hopkins responded that the applicant will not close on the property until those back taxes are paid.

In response to Mr. Chapman's concern that the applicant does not own the property, Attorney Hopkins stated that almost all projects that come before the Planning Board are based on an applicant coming in who does not own the property.

In response to a question from Mr. Chapman, Chairman O'Connell stated that the Planning Board will not issue a recommendation to the Town Board on this rezoning request until the issue of whether or not the recreational facility will be part of the project is resolved.

In response to a question from Mr. Chapman, Attorney Hopkins stated that if the applicant is not able to acquire the balance of the site, the project would be limited to what is currently being proposed on 35.19 acres.

In response to a question from Mr. Geraci, Kevin Curry, representing the applicant, stated that the applicant is under contract for the entire parcel (155 acres).

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

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Schawel made a motion, seconded by Mr. Geraci, to approve the minutes of May 17, 2017. Carried.

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

Respectfully submitted,
Doug Schawel, Secretary

June 14, 2017