

Town of Hamburg
Planning Board Meeting
October 2, 2013
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M., on Wednesday, October 2, 2013 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, Doug Schawel, Dan O'Connell and August Geraci.

Others in attendance included Sarah desJardins, Planning Consultant, Richard Lardo (Engineering Department) and Councilwoman Amy Ziegler.

Excused: Sasha Yerkovich and David Bellissimo

REGULAR MEETING

Public Hearing - Villages at Mission Hills Apartments, Phase II

Mr. McCabe read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on Phase II of the Villages at Mission Hills Apartment project, located on the northeast side of Camp Road immediately east of the railroad tracks. The project sponsor is requesting re-approval of the site plan that was originally granted on December 10, 2010. The public hearing will be held on October 2, 2013 at 7:00 PM in Room 7B of Hamburg Town Hall".

Mrs. desJardins stated that the project has not changed since it was originally approved in 2010, but the approval has expired and the applicant is requesting that the project be approved again.

In response to a question from Chairman Reszka, Mr. Lardo stated that the Engineering Department does not have everything it needs for Site Plan Approval.

Chairman Reszka declared the public hearing open. The following people spoke:

- Helen Heathers, a current resident of the Villages at Mission Hills Apartments, Phase I, stated that in May 2013 she was promised an apartment in Phase II by July 2013, and that date was subsequently moved to September 2013. She stated that in August 2013 she sold her home in Hamburg only to find that her apartment would not be ready until November 2013, so she was placed in a temporary apartment in Phase I that she cannot decorate and she is living out of a suitcase. She stated that she was originally offered a storage unit to keep her belongings in until the new apartment is ready, but now she has been told there are none available. She stated that she asked Mr. Manko (applicant) to allow her to simply live in the temporary apartment she is in for the rest of her days, and she asked him to put in the flooring she wants, etc. She noted that Mr. Manko originally refused to allow that, but recently he has indicated that he will work with her on this idea. She stated that she does not want to have to wait and wait for the new apartment while living in a temporary one that she cannot call home.

Chairman Reszka stated that the Planning Board previously approved Phase I and then

allowed Mr. Manko to include the first two (2) buildings of Phase II in Phase I for financing purposes. He advised the audience that whether or not the Board grants Site Plan Approval for Phase II will not affect Ms. Heather's problems because the two (2) buildings are being held up for additional reasons that have nothing to do with the Planning Board.

- Mike Denney, 3572 Heatherwood Drive, stated that his property abuts Phase III of the Villages at Mission Hills project, and he wants to make sure that the entire parcel is not clear cut. He stated that it was his understanding that the applicant will not cut down trees in a phase until that phase has been approved.

Chairman Reszka declared the public hearing closed.

In response to a question from Mr. McCabe, Mr. Lardo stated that he has not heard from the applicant's engineer in months. He further stated that before the two (2) buildings in Phase II that are currently being built can be occupied, Phase II must be approved by the Planning Board.

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

Engineering Department comments have been filed with the Planning Department.

Public Hearing – Dan Howard Subdivision

Mr. Geraci stated that he would be recusing himself from all discussion regarding this project.

Mrs. desJardins stated that a second public hearing is required because the applicant is proposing duplexes on these lots, rather than single-family homes. She further stated that the subdivision plat has been revised to include a note that only one driveway will be provided for each lot.

In response to a question from Chairman Reszka, Mr. Lardo stated that historically the Planning Board has either approved a subdivision for single-family homes or duplexes, but not both. He stated that this is so that someone who buys a single-family home is not surprised when a duplex is built next to him, since a realtor might not divulge the fact that a duplex could be built next door.

Mr. McCabe 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 five-lot duplex subdivision proposed by Dan Howard to be located on the northwest corner of Bayview Road and Big Tree Road. The public hearing will be held on October 2, 2013 at 7:00 PM in Room 7B of Hamburg Town Hall".

Chairman Reszka declared the public hearing open. No one spoke.

Chairman Reszka declared the public hearing closed.

Mr. McCabe made the following motion, seconded by Mr. O'Connell:

"Whereas, the Town of Hamburg Planning Board received a major subdivision application from Dan Howard to subdivide property located on the northwest corner of Bayview Road and Big Tree Road into five (5) duplex lots, and

Whereas, on October 2, 2013 the Hamburg Planning Board held the required public hearing and received comments from the public, and

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Whereas, the Hamburg Planning Board, in accordance with the New York State Environmental Quality Review Act (SEQR), established itself as Lead Agency through a Coordinated Review process and has done a thorough review of the project and its potential impacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has determined that the proposed subdivision will not adversely affect the natural resources of the state and/or the health, safety or 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 subdivision is not anticipated to result in any significant adverse environmental impacts and that a Negative Declaration is hereby issued.” Carried.

Mr. McCabe made the following motion, seconded by Mr. O’Connell:

“Whereas, the Town of Hamburg Planning Board received a major subdivision application from Dan Howard to subdivide the parcel located on the northwest corner of Bayview Road and Big Tree Road into five (5) duplex lots, and

Whereas, the Hamburg Planning Board has reviewed the Preliminary Subdivision plan and other required materials in accordance with the Hamburg Subdivision Code, and

Whereas, the Hamburg Planning Board received comments from various Town advisory boards and departments, and

Whereas, the Hamburg Planning Board held the required public hearing for this proposed subdivision on October 2, 2013, 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 Dan Howard Subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated October 2, 2013.
2. T shaped driveway turn-arounds will be provided for each lot.
3. Only one (1) driveway will be provided for each lot.
4. The driveway for lot # 4 must be as far away as possible from the intersection of Bayview Road and Big Tree Road.
5. Recreation fees in lieu of land will be required.”

On the question:

Mr. Lardo stated that the Engineering Department did not issue a comment letter on this project.

Mr. McCabe amended his motion to revise condition # 2 to read “Two (2) T-shaped turn-arounds will be provided for each lot, and to eliminate condition # 1. Mr. O’Connell seconded the amendment.

All members voted in favor of the amended motion.

Dana Weller (vacant land, west side of Boston State Road, across from Dorst Road)

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Mrs. desJardins stated that a note was added to the Subdivision Map indicating that there will be no building within 60 feet of the top of the bank of Eighteen Mile Creek.

Mr. McCabe made the following motion, seconded by Mr. O'Connell:

"Whereas, the Town of Hamburg Planning Board received a minor subdivision application from Dana Weller to subdivide property located on the west side of Boston State Road into three (3) lots, and

Whereas, on September 18, 2013 the Hamburg Planning Board held the required public hearing, and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has determined that the proposed subdivision will not adversely affect the natural resources of the state and/or the health, safety or 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 subdivision is not anticipated to result in any significant adverse environmental impacts and that a Negative Declaration is hereby issued." Carried.

Mr. McCabe made the following motion, seconded by Mr. O'Connell:

"Whereas, the Town of Hamburg Planning Board received a minor subdivision application from Dana Weller to subdivide property located on the west side of Boston State Road into three (3) lots, and

Whereas, the Hamburg Planning Board has reviewed the Preliminary Subdivision plan and other required materials in accordance with the Hamburg Subdivision Code, 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 Dana Weller Minor Subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated October 2, 2013.
2. The filing of a Map Cover is waived.
3. Recreation fees in lieu of land will be required."

Carried.

Engineering Department comments have been filed with the Planning Department.

Georgianne Peluso (4515 East Highland Parkway)

Mrs. desJardins stated that the Planning Department has determined that the project requires a variance for the rear yard setback of the lot on which the existing home would be located. She noted that the newly created lot would be compliant with all requirements of the Town Code.

Mr. McCabe made the following motion, seconded by Mr. O'Connell:

"Whereas, the Town of Hamburg Planning Board received a minor subdivision application from Georgianne Peluso to subdivide property located at 4515 Highland Avenue into two (2) lots, and

Whereas, on September 18, 2013 the Hamburg Planning Board held the required public

hearing, and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has determined that the proposed subdivision will not adversely affect the natural resources of the state and/or the health, safety or 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 subdivision is not anticipated to result in any significant adverse environmental impacts and that a Negative Declaration is hereby issued." Carried.

Mr. McCabe made the following motion, seconded by Mr. O'Connell:

"Whereas, the Town of Hamburg Planning Board received a minor subdivision application from Georgianne Peluso to subdivide property located at 4515 Highland Avenue into two (2) lots, and

Whereas, the Hamburg Planning Board has reviewed the Preliminary Subdivision plan and other required materials in accordance with the Hamburg Subdivision Code, 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 Georgianne Peluso Minor Subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated October 2, 2013.
2. Approval is contingent upon the applicant receiving a variance from the Zoning Board of Appeals for the lot containing the existing home.
3. The filing of a Map Cover is waived.
4. Recreation fees in lieu of land will be required."

Carried.

Mr. McCabe made the following motion, seconded by Mr. O'Connell:

"The Planning Board forwards a positive recommendation to the Zoning Board of Appeals regarding the requested rear yard setback variance for Georgianne Peluso for the following reasons:

1. The newly created lot conforms to all area requirements.
2. The corner lot containing the existing home conforms to the area, front yard setback and side yard setback requirements.
3. Reducing the rear yard setback of the corner lot containing the existing home will not affect the contiguous neighbor."

Carried.

Engineering Department comments have been filed with the Planning Department.

Eddy & Lewin Homes (Vacant land south of Sowles Road near Southwestern Boulevard)

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the plan for the 29-lot single-family home subdivision has not changed since the Board's last meeting. He stated that the applicant is requesting that the Board begin the Coordinated Review process

under SEQR.

In response to a question from Chairman Reszka, Mr. Gow stated that Bradford Street will connect to Sowles Road if the subdivision is approved. He further stated that Harvard Street and Yale Street will also be extended to the back of the proposed lots where the two (2) streets intersect with Bradford Street.

Chairman Reszka made a motion, seconded by Mr. McCabe, to direct the Planning Department to begin the Coordinated Review process and seek Lead Agency Status under SEQR. Carried. Engineering Department comments have been filed with the Planning Department.

Shaw Properties (Vacant land north of 4819 South Park Avenue)

Chairman Reszka stated that the applicant asked that the project be tabled.

Willow Woods Subdivision FEIS

It was determined that all members did review the proposed Findings Statement for this project.

Mrs. desJardins stated that the proposed monitoring plan will be attached to the Findings Statement. Mr. McCabe stated that he had just received the proposed monitoring plan that evening and the Board took some time to review the plan.

Mr. McCabe asked Mrs. desJardins who would be evaluating the sampling results. Mr. Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that it is his understanding that SJB would be doing the sampling.

Mr. O'Connell suggested that the resolution adopting the Findings Statement indicate that SJB will do the sampling and who will be evaluating the results. Mr. McCabe responded that he believes that this important information should be established.

Mr. McCabe stated that he feels that the agencies that were copied in on the draft Environmental Impact Statement (EIS) and the final EIS should receive the monitoring results (NYSDEC and Erie County Health Department). He noted that the consultant (Mr. Wohlabough) would only have advisory powers and not regulatory powers.

Mr. O'Connell stated that the consultant could bring the results of the monitoring tests back to the Planning Board and advise it of the results.

Mr. Lardo stated that Mr. Wohlabough should not be specified because he may not be available at the time the monitoring tests are performed.

Mr. McCabe stated that he feels the Planning Board has more work to do regarding the monitoring tests and does not know exactly what it is signing off on. He noted that there is no process in place to ensure that the results are reviewed, questions are answered, and if there are problems, that they get resolved.

Mr. O'Connell suggested the resolution indicate that the monitoring results will be reviewed by an approved consultant paid by the property owner or Homeowners' Association and then reviewed by the Planning Board and Town Board.

Mr. Pidanick stated that he believes that involving the agencies that were involved with the

review of the EIS would be appropriate.

Chairman Reszka stated that if the Planning Board approves the Findings Statement, it will also be approving the monitoring plan because the two documents are tied together. He noted that if the monitoring plan becomes part of the Findings Statement, and the Planning Board approves the Findings Statement, then any condition the Board places on the approval has already been rendered moot because the Board approved the monitoring plan as part of the Findings Statement.

Councilwoman Ziegler suggested that the Board approve the Findings Statement subject to an amended environmental monitoring plan that would identify the agency or agencies involved in the frequency and reporting obligations.

Mr. McCabe stated that he would feel more comfortable if he had a chance to look at the monitoring plan beforehand. He noted that the Board would be approving the monitoring plan on the fly, and this is the most crucial aspect of the entire project.

Chairman Reszka stated that the Planning Board has spent a lot of time getting to this point, and there is something missing.

Mr. McCabe stated that when he reviewed the initial draft of the Findings Statement six (6) weeks ago, he asked where the sampling plan was, and he just received it.

Councilwoman Ziegler asked if the Findings Statement could be approved on the condition that an amended monitoring plan be submitted within a certain number of days that identifies the sampling agency, as well as the agencies to which the results are reported.

Mr. O'Connell made the following motion, seconded by Mr. Schawel:

"Be it Resolved, that pursuant to 6NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law, State Environmental Quality Review Act (SEQR), the Town of Hamburg Planning Board hereby issues the attached Findings to Approve the Willow Woods Subdivision project. These Findings certify that:

1. The Town of Hamburg Planning Board has considered the relevant environmental impacts, facts, conclusions and disclosures of the draft EIS and final EIS and their supporting materials.
2. The Town of Hamburg Planning Board has weighed and balanced the relevant environmental impacts with social, economic and other considerations.
3. The requirements of 6NYCRR Part 617 pertaining to Article 8 of the Environmental Conservation Law (SEQR) have been met.
4. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action to be carried out is one that avoids or minimizes to the maximum extent practicable adverse environmental impacts disclosed in the draft EIS and final EIS, and adverse environmental impacts will be minimized or avoided to the maximum extent practicable by incorporating, as conditions to this decision, those mitigating measures that are identified practicable.
5. SJB will perform the monitoring sampling, which will be reviewed by an approved consultant paid for by the property owner/homeowners' association subject to an amended testing plan to be supplied by the Board's October 16, 2013 meeting identifying which agencies and/or people the report should be submitted to."

Carried.

Mr. O'Connell made the following motion, seconded by Mr. Schawel:

"Whereas, the Town of Hamburg received a major subdivision application from The Five Yovienes, LLC to subdivide the vacant parcel located on the south side of Taylor Road into 49 lots, and

Whereas, the Hamburg Planning Board has reviewed the Preliminary Subdivision Plan and other required materials in accordance with the Hamburg Subdivision Code, and

Whereas, the Hamburg Planning Board received comments from various Town advisory boards and departments, and

Whereas, the Hamburg Planning Board held public hearings on this proposed subdivision on December 21, 2011 and August 15, 2012, and

Whereas, the Hamburg Planning Board issued Positive Findings on October 2, 2013.

Now, Therefore, Be it Resolved, that the Hamburg Planning Board hereby approves the Preliminary Plat for the Willow Woods Subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated October 2, 2013.
2. The maximum permanent dead-end road length of 500 feet is waived.
3. Recreation fees will be required.
4. The installation of sidewalks is required.
5. Approval is contingent upon implementation of all mitigation outlined in the Findings Statement issued on October 2, 2013.

On the question:

Mr. Lardo stated that the Engineering Department recommends that sidewalks not be installed along Taylor Road in front of the three (3) proposed sublots fronting on Taylor Road.

Mr. O'Connell amended his motion to include a sixth condition that sidewalks not be required along Taylor Road. Mr. Schawel amended his second.

As there were four (4) ayes and one (1) nay (Mr. McCabe), the motion carried.

Engineering Department comments have been filed with the Planning Department.

Maelou Drive Business Complex

Mrs. desJardins stated that the Planning Board approved this building previously and it has been built, but at this time the applicant, Roger Duffett, has a potential tenant who does not need the planned overhead doors but needs additional parking spaces. She further stated that additional parking is proposed on the building's east side.

Mrs. desJardins stated that the proposed parking lot would require a variance because it is proposed closer than 35 feet from the front property line.

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that a paved walkway will also be proposed from the front of the building to the new parking lot.

Mr. McCabe made a motion, seconded by Mr. Schawel, to schedule a public hearing on this

project to be held on October 16, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

Discussion of Proposed Code Changes

Chairman Reszka stated that the proposed changes to the Town Code have to do with new landscaping requirements, new snow plow operator requirements, changes to the dumpster law and changes to the electronic sign board law. He stated that the proposed changes are needed and appropriate.

Mr. McCabe made a motion, seconded by Mr. O'Connell, to issue a positive recommendation to the Town Board regarding the proposed changes to Town law regarding plowing, screening and location requirements for dumpsters and refuse containers, amendments regarding electronic sign boards and signage, landscape plan inspections, and the final acceptance of subdivision of land.

As the vote on the motion was four ayes and one (1) nay (Mr. Schawel), the motion carried.

OTHER BUSINESS

Mr. McCabe made a motion, seconded by Mr. O'Connell, to approve the minutes of September 18, 2013, 2013. As the vote on the motion was four (4) ayes and one (1) abstention (Mr. McCabe), the motion carried.

Chairman Reszka made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 8:05 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board

Date: October 14, 2013