

Town of Hamburg  
Planning Board Meeting  
December 19, 2012  
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, December 19, 2012 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, Gerard Koenig, Daniel O'Connell and Doug Schawel.

Others in attendance included Attorney Cheryl McFadden-Zak, Andrew Reilly and Sarah desJardins.

Excused: David Bellissimo, Sasha Yerkovich

## **WORK SESSION**

### **Susan Keller – 3861 McKinley Parkway**

It was determined that the applicant wishes to rezone her property from R-2 to NC in order to convert the existing Home Occupation business to a commercial business without the restrictions of Home Occupation. Mr. Reilly stated that this is the only parcel on McKinley Parkway still zoned residential, noting that all other properties on McKinley Parkway are zoned commercial.

In response to a question from Mr. Reilly, Ms. Keller stated that she currently has room for five (5) vehicles to park on the property. She further stated that if the property is rezoned, she might need to expand the parking lot. She noted that she would like to add one (1) or two (2) more employees to her hair styling salon.

Mr. Reilly stated that he will make a copy of the Town's old parking requirements for the Board's files so that they can be referred to, if necessary.

Mr. Reilly stated that this rezoning request is in compliance with the Town's Comprehensive Plan.

Mr. McCabe made a motion, seconded by Mr. O'Connell, to forward a positive recommendation to the Town Board regarding this rezoning request. Carried.

## **REGULAR MEETING**

Chairman Reszka stated that the Russo Development project applicant had asked that that project be tabled.

### **Continuation of Public Hearing – Sgroi Two-Lot Subdivision**

Mr. McCabe read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will hold a continuation of a Public Hearing on December 19, 2012 in Room 7 B of Hamburg Town Hall at 7:00 P.M. regarding a proposed two-lot subdivision known as the Sgroi Subdivision, to be located at the

end of Woodland Drive. The property is identified as SBL# 196.00-3-8.1.”

Mr. Reilly stated that the applicant is proposing a two-lot subdivision at the end of a dedicated highway. He further stated that a variance would be required for the road frontage provided for each lot.

Mrs. desJardins stated that she recently was informed that the applicant does not intend to build on the proposed lot that is currently vacant (lot # 2). Mr. Reilly stated that the Planning Board has, in the past, approved subdivisions containing lots that are not building lots. He noted that the Planning Board would require that the fact that a lot is not a building lot be filed with the County so that someone does not build on the lot in the future.

Mr. Eric Krull, representing the applicant, stated that the applicant owns property in the Town of Boston that is adjacent to this property. He noted that the applicant purchased this property in Hamburg with the intention of building homes on the portion that is closest to Woodland Drive, but later found out that the property contains wetlands. He began building one (1) home on the westernmost lot but was stopped by the New York State Department of Environmental Conservation (NYSDEC) due to a minor infraction. He stated that since that time, the applicant has paid a fine and performed wetlands mitigation, and has been cleared to continue building the home per the NYSDEC.

Mr. Krull stated that the applicant does not want to sell the entire parcel that is to be divided to one (1) person because his home is situated on the adjacent property in Boston and he does not want someone building near his home.

Mr. Reilly suggested that the applicant attach the vacant lot (lot # 2) to his existing property in Boston.

In response to a question from Chairman Reszka, Mr. Krull stated that the Hamburg Engineering Department has a map showing the exact boundaries of the existing wetlands on the property.

Mr. Krull stated that he will speak to the applicant about the possibility of attaching the vacant land on lot # 2 to his adjacent property in Boston.

Mr. Reilly stated that the applicant needs to discuss the condition of the existing foundation with the Building Department.

Chairman Reszka read the following memo received from the Chairman of the Conservation Advisory Board:

“The approval of a two-lot subdivision here would in effect create a second building lot in the buffer to an NYSDEC wetland, creating the potential for another wetlands violation.”

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

1. Mr. Don Larson stated that he owns property approximately 300 feet from this property. He stated that the property on which the applicant proposes to build is extremely wet, and he has no indication as to how the applicant would handle the surface water that will come off the house, as well as the storm water, or where the driveway would be.

He stated that the storm water would probably have to go to adjoining properties. He stated that he feels that this is not a buildable site and noted that 80% of the properties on Woodland Drive and Vail Drive have very wet rear yards in the spring that are unusable. He stated that the existing foundation on the property is unsafe.

2. Dr. Cyril Bodnar, 6841 Woodland Drive, stated that the applicant's property is a mess and kids congregate there on the weekend evenings. He stated that the fence around the foundation is not substantial and is often taken down by the kids. He stated that the applicant's property is extremely wet and worries that the applicant might build a dam, which would adversely affect his (Dr. Bodnar's) property. He stated that he is concerned about his right of ingress and egress to the roadway where the applicant's driveway would begin.

Mr. Krull stated that the NYSDEC and the U.S. Army Corps of Engineers agreed on the boundaries of the existing wetlands on the property, and the existing foundation is not in the wetlands but is in the buffer area. He further stated that plans for the property include a french drain mini-pond that was requested by the NYSDEC, as well as a swale to collect the drainage from the site and process it before it gets to the wetland.

Mr. Reilly stated that some of the neighbors' concerns will be moot if the applicant decides to merge the eastern portion of this property with his adjacent property in Boston because in that scenario subdivision approval would not be required and just the one (1) home would be built.

Chairman Reszka declared the public hearing closed.

Mr. McCabe made a motion, seconded by Mr. O'Connell, to table this proposal. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Public Hearing – Sherwood Meadows Apartments**

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 proposal by David Burke to construct 128 apartments on vacant land located east of Heatherwood Drive. The Public Hearing will be held on December 19, 2012 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mr. Reilly stated that the Planning Board approved a 56-unit townhouse project on this property in 2007. He further stated that to date the infrastructure and one (1) building have been built, and the applicant is proposing to convert the project to an apartment complex, which requires Site Plan Approval from the Planning Board. He noted that the property is zoned R-3, which allows apartment projects.

Mr. Andrew Gow from Nussbaumer & Clarke and David Burke, applicant, appeared on behalf of the proposed project. Mr. Gow stated that the first part of the road has been constructed, as well as one (1) cul-de-sac, one (1) detention basin and the first building containing four (4)

units. He further stated that the road and other infrastructure would be designed and installed as indicated under the original approval. He noted that the townhomes would be replaced by apartment units. He stated that the footprint of the approved plan, as well as the amount of green space provided, is similar to the footprint of the proposed plan.

Mr. Gow stated that eight-unit buildings and sixteen-unit buildings are proposed, both of which were designed with a residential style in mind.

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

1. Charles Cox, 3728 Breckinridge, asked if the Town has requirements regarding the type of infrastructure needed for a 56-unit project versus a 128-unit project. He further asked what type of apartments are proposed (low-income, subsidized, etc.) and whether the Town has density requirements for apartment projects. He stated that he was concerned when the townhouse project was approved because he would have liked the applicant to build similar housing to what exists in the neighborhood, but at least the proposed townhouses would have been owner occupied and upscale. He stated that the current proposal could easily add 256 cars to the existing neighborhood streets, and he feels that the streets were not built for that amount of traffic. He stated that there are significant problems already with the existing streets in the neighborhood. He stated that this project would be totally contrary to the existing neighborhood atmosphere that exists now.
2. Mr. Jim Zahradnik, 4537 Roundtree Road, stated that he has lived at this location since 1977 and is concerned about the potential volume of traffic on the existing neighborhood streets as a result of this proposal. He stated that the neighborhood is very family oriented. He asked if a separate drive from Southwestern Boulevard could be developed so that the entrance to Heatherwood Drive could be closed off.
3. Terri Schelter, 3691 Breckinridge Drive, stated that she is very concerned about the increase in traffic that would be generated by this project. She asked if the Town has regulations regarding the number of parking spaces that must be provided for each apartment unit. She asked how many bedrooms the apartments would have. She stated that it is bad enough that she was going to have to look at townhouses, and now she does not want to look at apartments. She stated that this is a whole new plan and does not resemble the previously approved project. She stated that her home is on a curve, and the additional traffic would be a safety concern. She stated that the developer is assuming that he can sell 126 apartments, and she does not have faith that he is assuming correctly this time, since he proposed townhouses before because he assumed he could sell them.
4. Cheryl McBride, 3479 Heatherwood Drive, asked why the developer wishes to change the project from townhouses to apartments, and whether he plans to sell the building that has already been built. She asked if garages are planned for the apartments and whether garages would be available for each apartment unit. She asked if the developer plans to maintain ownership of the development. She stated that she agrees with the previous comments regarding the increase in traffic, and she feels that without another means of egress from the project site, the roads in the neighborhood will not

- be able to handle the additional traffic. She stated that the 2010 Comprehensive Plan Update included a survey of Hamburg residents regarding what type of housing they would like in their area, and apartments were last on the list. She stated that her concerns about the proposed rezoning of property off of Howard Road hold true for this proposed apartment complex as well. She stated that in a 1.5 - mile radius of the Howard Road property, there are over 1,200 rental units with many vacancies.
5. Mr. Ken Radens, 4538 Roundtree Road, stated that he feels the developer's new proposal is quite a bit different than the townhouse proposal. He stated that he feels sorry for the people who would be living behind the proposed parking lot. He asked how the project would be phased. He stated that he worries that the buildings might be built and then remain empty. He stated that he is concerned about what the rent would be for these units and noted that he is concerned about the apartments being low income.
  6. Mr. Dan Kuczarski, 3715 Breckinridge Road, stated that he believes that someone could purchase a townhouse and pay a mortgage that would be relatively close to what the apartments would rent for. He stated that he does not see the advantage of building apartments, given that fact.
  7. Sarah Burke stated that she believes that it is possible that the provided number of parking spaces might not be sufficient and then people would have to park on the street. She stated that many college students are moving back home and will not be looking for apartments. She stated that an apartment complex is already being built on Route 20. She stated that the existing apartments that are vacant should be filled before new apartments are built. She stated that building apartments on this site will not make the residents of the existing neighborhood feel pride for what they worked for. She asked why single family homes are not being proposed on the site instead of apartments.
  8. Lisa Burke, 3722 Breckinridge Road, stated that cars park on both sides of her street, and there is a big parking problem already. She stated that small children run on the streets and she feels that adding more traffic is an accident waiting to happen.
  9. Loren Backlas, 3710 Breckinridge Road, stated that he chose this neighborhood because there are only two (2) ways in and out, making it quiet with plenty of room. He stated that all of the apartment traffic will be traveling through the existing neighborhood to get to and from work. He stated that the apartment renters will be walking through the neighborhood. He stated that houses sell in an average of 28 days in the existing neighborhood and he is concerned that they will not sell when prospective buyers see the apartment complex and the related traffic. He stated that if the apartment dwellers could get in and out of the site without going through the existing neighborhood, it would not affect the homes that are already there. He stated that there should be some way to mitigate the increase in noise generated from the project. He stated that the neighborhood roads are in very poor condition and will not be able to handle the additional traffic.
  10. Mr. Lawrence Bowman, 3690 Woodhaven Circle, stated that the neighborhood is very family oriented. He stated that he is very concerned about the garbage dumpsters and lighting associated with the apartments. He stated that he enjoys the wildlife in the

woods on the property. He stated that he is concerned about rodents.

11. Mr. Paul Kuss, 3686 Woodhaven Circle, stated that he is concerned that a portion of the apartment buildings will be constructed and then the developer will find out that there is no market for them. He asked why the developer doesn't leave the property vacant until the market comes back and then proceed with the original plan for townhouses.
12. Mr. Joe Kozak, 3717 Breckinridge Road, stated that he spoke to the developer when the townhouse project was approved, and he was told that there would be landscaping and trees behind his home, but nothing has been installed there. He further stated that there is a pile of rubbish behind his home on the developer's property that has been there for over five (5) years. He stated that kids race around on the developer's property on four-wheelers. He asked why the developer doesn't finish the project as it was approved and rent the townhouses instead of selling them. He stated that he is concerned about the additional traffic and the deteriorating roads in the existing subdivision, and asked if the Town will rebuild the roads. He stated that there are apartment complexes with vacancies in the vicinity of this property.

Ms. McBride urged Planning Board members to visit the Roundtree Subdivision, travel its roads and walk the project site. Mr. O'Connell responded that he knows people who live in this area and has family who live in it. He noted that he has visited the area and the site at least six (6) times.

Chairman Reszka declared the public hearing closed.

Chairman Reszka stated that the concerns raised at the public hearing must be addressed by the applicant.

Mr. McCabe made a motion, seconded by Mr. Koenig, to table this proposal. Carried.

Engineering Department comments have been filed with the Planning Department.

#### **Miller's Collision and Auto, Inc.**

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

Based on the information submitted for the Special Use Permit and site visits, the Planning Board has determined that the proposed project (existing business operation getting a Special Use Permit) will not result in any significant adverse environmental impact and a Negative Declaration is hereby issued.

Carried.

Mr. McCabe made the following motion, seconded by Mr. Koenig:

The Planning Board, in reviewing this proposed project and Special Use Permit, has determined, in accordance with Section 280-312, that:

1. The project will be in harmony with the purposes and intent of this chapter (Special Use Permit).
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 be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.

The project is in accordance with the special requirements for a Public Garage Special Use Permit as follows:

1. The use will be conducted within an area completely enclosed by a fence of at least eight (8) feet in height.
2. The Building Inspector shall make periodic inspections of each operating facility to ensure the proper maintenance of structures and the adequate clean-up of litter.
3. The size, location and materials used shall be determined by the Planning Board.

Therefore, based on the SEQR Negative Declaration, the information submitted and the Special Use Permit discussion, the Planning Board approves the issuance of a Special Use Permit with the following conditions:

1. The project is in accordance with the information submitted.
2. All towed vehicles will be stored within the fence enclosure.
3. Parking next to the building shall be for customers only.
4. There shall be no parking in front of the building.

Carried.

#### **OTHER BUSINESS**

Mr. Koenig made a motion, seconded by Mr. Schawel, to approve the minutes of December 5, 2012. Carried.

Chairman Reszka made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 8:30 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: January 2, 2013

