

Town of Hamburg
Planning Board Meeting
December 4, 2013
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M. on Wednesday, December 4, 2013 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, Dan O'Connell, Sasha Yerkovich, David Bellissimo and August Geraci.

Others in attendance included Andrew Reilly and Sarah desJardins, Planning Consultants, Richard Lardo, Assistant Municipal Engineer and Jerome Giglio, Traffic Safety Advisory Board Coordinator.

Excused: Doug Schawel

REGULAR MEETING

Care-A-Lot Daycare (5479 Lakeshore Road)

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 Care-A-Lot Daycare Center to construct a 1,641 sq.ft. addition to the existing building on the property. The public hearing will be held on December 4, 2013 in Room 7B of Hamburg Town Hall at 7:00 P.M."

Mr. Reilly stated that the biggest issue that has come up with this project is the fact that an additional curb cut for the business onto Juno Drive has been recommended, and some of the Juno Drive residents have expressed concern about this. He further stated that two (2) variances would be required for this project to move forward, and the Planning Board would need to recommend to the Zoning Board of Appeals on those requested variances.

In response to a question from Chairman Reszka, Jerry Giglio, Traffic Safety Advisory Board (TSAB) Coordinator, stated that the TSAB endorses the proposed new driveway onto Juno Drive, noting that this would create a safer situation.

Chairman Reszka stated that Captain Wickett from the Hamburg Police Department provided the Board with the accident reports for the last three (3) years at the intersection of Route 5 and Juno Drive, as requested at the Board's last meeting. He further stated that there have been no vehicle-to-vehicle accidents at that intersection of any kind during the last three (3) years. He noted that the report indicates that there was one (1) reported accident there where a vehicle slid off a slippery road, which had nothing to do with the intersection, and there have been two (2) other accidents there that both involved a vehicle striking a deer.

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

- Joseph Fohl stated that he lives at the corner of Juno Drive and Walden. He stated that he is concerned about traffic safety, noting that he is worried that if the new driveway is installed, vehicles will go out to Pleasant Avenue instead of trying to turn left onto Route 5, which will increase the traffic in his neighborhood. He stated that Juno Drive is not wide enough to handle this increased traffic, especially with vehicles parking on the sides of the road.

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- Linda Tschopp stated that she is concerned about how narrow the intersection of Juno Drive and Route 5 becomes in the winter when there is a lot of snow built up there. She stated that she was involved in an accident at that corner just over three (3) years ago. She stated that there is a curve just before the intersection on Juno Drive.
- Rich Schwartzott stated that he lives on Juno Drive and is concerned about where the proposed driveway would be located on Juno Drive because of the curves in the road.
- Joanne Kohler stated that her property is adjacent to the daycare facility on Juno Drive and she feels that someone exiting the daycare facility onto Juno Drive would have to look over his or her right shoulder to see if anyone traveling on Route 5 west is making a left turn onto Juno Drive.
- Cathy Dibb stated that she lives on Juno Drive, which is a dead end, and she worries that people exiting the daycare facility onto Juno Drive who wish to make a left turn onto Route 5 will instead turn left onto Juno Drive and use that road to access Pleasant Avenue. She stated that there are many young families on Juno Drive with small children, and many people walk their animals on Juno Drive, so she feels this would be a quality of life issue.
- Charles Holmes stated that he lives four (4) houses from the corner of Juno Drive and Route 5, and he feels that the driveway onto Juno Drive could cause a dangerous situation because of the curve on Juno Drive near the proposed driveway. He stated that the street is narrow, and becomes narrower in the winter with snow on the sides of the road. He stated he is opposed to the proposed new driveway.
- Ms. Kohler stated that it would be safer for the children attending the daycare facility to not have the proposed driveway.

Mr. Reilly stated that the applicant did not originally propose the new driveway, but it was recommended for the safety of the business at that location.

Patricia DePan, applicant, stated that she feels the new driveway would be safer for the children attending her daycare facility.

Chairman Reszka declared the public hearing closed.

Mrs. desJardins stated that the applicant received a variance from the Zoning Board of Appeals to extend the existing non-conforming use (daycare facility in an R-1 zoning district) and for the setback of the addition from Juno Drive (40 feet is required and the variance was to allow 20 feet). She noted that the applicant still requires a variance for the proposed parking spaces that are too close to Route 5.

Mrs. Yerkovich stated that she does not like the problems that the proposed driveway causes. She further stated that there are potential natural hazards (slippery conditions, deer, etc.) in addition to man-made hazards, at this location, and the fact that the only reported accidents at the corner of Route 5 and Juno Drive are natural hazards does not absolve any responsibility of adding more man-made hazards. She noted that she is concerned about the curve on Juno Drive near the proposed driveway curb cut.

Mrs. Yerkovich stated that, because of the many variances needed for this project, it seems that the applicant is trying to shoe-horn in something that may not be appropriate for this spot. She stated that there may not be enough traffic generated by the construction of this addition to warrant the amount of chaos the new driveway might be causing in a difficult, site-challenged

and nature-challenged location.

In response to a question from Chairman Reszka, Mrs. Yerkovich stated that the proposed expansion of the business causes the need for the driveway.

In response to a question from Mrs. Yerkovich, Mrs. DePan stated that the driveway would offer a smoother traffic pattern and would make it easier for parents to get out onto Route 5, and it would mean that the traffic leaving the facility accessing Route 5 would be spread out a bit.

Mr. Giglio stated that Juno Drive's location where it accesses Route 5 is the optimum spot for site distances, noting that there is a greater site distance there than there would be at the existing daycare facility exit onto Route 5. He stated that two (2) vehicles would be able to stack between the Route 5/Juno Drive intersection and the new driveway, and vehicles could also stack on the daycare's property waiting to exit onto Juno Drive. He noted that the peak traffic hours for the daycare facility would be within a narrow window.

Mr. Giglio stated that without the new driveway, all of the daycare traffic will be forced onto Route 5 from a single location in a very congested area. He stated that snow on Juno Drive would be cleared by the Town plows, and there would be wind row to obscure views.

Mr. Giglio stated that if the narrow street is a problem for the residents, he would be happy to have the TSAB investigate posting No Parking signs on one (1) or both sides of Juno Drive. He further stated that you can access Pleasant Avenue from Juno Drive before it (Juno Drive) ends.

Mr. Giglio stated that the safest place for parents to exit the daycare facility with their children is from the proposed new driveway onto Juno Drive.

Mr. Giglio reminded Board members that there also is a proposal for a physical therapy office on the corner of Pleasant Avenue and Route 5, which will further congest this area. He noted that the proposed driveway for the daycare facility would at least somewhat deviate the traffic to reduce the congestion.

Mr. O'Connell stated that he visited the site and does like the idea of the new driveway onto Juno Drive. He stated that he does not like the expansion, but he understands what the applicant is trying to do.

Mr. Bellissimo stated that he has no problem with the installation of the new driveway because there would be just as much danger for a parent trying to get out onto Route 5 from the existing curb cut as there would from Juno Drive. He further stated that the new driveway would reduce the number of vehicles exiting the site from the existing driveway, which would be a safer situation. He stated that he has no problem with the proposed expansion.

Mr. McCabe stated that the Planning Board always looks for cross-access when reviewing projects in order to reduce the number of curb cuts. He stated that the new driveway would reduce the need for access directly onto Route 5 in order to enhance safety.

In response to a question from Mr. McCabe, Mrs. DePan stated that she anticipates 15-20 additional children at the daycare facility spread over the whole day.

Mr. Geraci stated that the proposed driveway makes sense because it would alleviate the need to access Route 5 from the existing driveway. He stated that the applicant must see a need for the expansion, or she would not be proposing it.

Chairman Reszka stated that he has no problem with the proposed expansion of the business, since it appears to be needed and the requested variances were obtained. He noted that he

agrees with Mr. Giglio that the new driveway onto Juno Drive will make the situation there safer.

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Board members agreed that the Planning Department will put an approval resolution with conditions together for Board members to review ahead of the Board's next meeting.

Mr. Reilly stated that a draft resolution will be available for public review by Wednesday, December 11, 2013.

Mr. Bellissimo stated that one (1) condition of approval should be that the new driveway be exit only onto Juno Drive.

Board members discussed possible parking restrictions on Juno Drive. It was determined that the TSAB will review this issue at its December 12, 2013 meeting.

Chairman Reszka stated that a condition of approval should also be that there is to be no parking on Juno Drive by the daycare facility clients.

Councilman Joe Collins stated that there seem to be several safety issues that are being ignored. He stated that an opinion should be rendered by the Planning Board's attorney, as well as the Board's liaison, regarding whether these safety issues should be taken into consideration.

Mrs. DePan stated that approximately 20 vehicles would be entering and exiting the facility per day.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Eddy & Lewin Homes

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the topographic survey of the property is being prepared at this time so that drainage and engineering plans can be generated in the near future. He further stated that once the topographic survey is complete, he will determine what the drainage patterns of the site are. He noted that the initial plan is to intercept the drainage and bring it to a detention basin in the northwest corner of the site.

Mr. Gow stated that he will work with the TSAB regarding analysis of the potential traffic from this subdivision.

In response to a question from Mr. Reilly, Mr. Gow stated that he will be working with the State Historic Preservation Office (SHPO) regarding any archeologically sensitive areas on the site. Mr. Reilly stated that some correspondence from SHPO is required before a SEQR determination is made by the Planning Board.

The Board reviewed the Part 2 of the Environmental Assessment Form (EAF) as follows:

- Impact on land: Project is proposed on land where the water table is less than three (3) feet.
- No impact on unique or unusual land forms.
- No state or federal wetlands have been discovered on the site.
- No impact on protected or non-protected bodies of water.
- Impact on surface or ground water quality: The project will require a storm water discharge permit. Water and sewer are available.

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- Impact on air: Traffic will be generated by the project, but the level is way below 1,000 trips per hour.
- Impact on plants or animals: There is no evidence of endangered or threatened species on the site. Non-threatened wildlife is probably found on the site.
- No impact on agricultural resources.
- Impact on aesthetic resources: The project will change the aesthetic resources in the area, but there are no significant view-sheds there.
- Impact on historic and archeological resources: There may be archeologically sensitive areas on the site. Documentation from SHPO will be required before a SEQR determination is made.
- No impact on open space and recreation.
- Site is not located in a Critical Environmental Area.
- Impact on transportation: The project will impact transportation and alter the pattern of movement. The applicant will submit additional information to the Planning Board regarding the new entrance onto Sowles Road.
- Impact on energy: The project does not exceed any of the listed thresholds in Part 2 of the EAF.
- Impact on noise and odor: Impacts will be normal.
- No impact on public health.
- Impact on growth or character of the community or neighborhood: The project will create additional demand for community services and there could be potential extension of Yale and Harvard Streets into the existing developed area, although that is not part of the current application.
- There is not expected to be grave public controversy related to the potential environmental impacts.

It was determined that the applicant will be asking the Town to abandon some of the roads on this site, and this cannot be done until a SEQR determination is made by the Planning Board.

Mr. Gow confirmed that the applicant will be requesting a front yard setback variance for all 29 lots because there are existing streets that come in to the subdivision, and the applicant wishes to keep these streets the way they are. He further stated that if these streets are expanded to the required 70 foot widths, all of the rear yards will be very shallow. He noted that if the homes can be built ten feet closer to the road, the lots' rear yards will be a bit more generous. He further stated that the front yard setbacks would be 25 feet, if variances are granted, instead of the required 35 feet.

Mr. Reilly stated that the applicant will be required to plant two (2) trees on each lot. He asked Mr. Gow if the utilities would be below grade. Mr. Gow responded that they would be below grade.

In response to a question from Mr. Reilly, Mr. Gow stated that the applicant will allow the homeowners in the vicinity of the commercial parking lot to decide what sort of buffer they would like in that area. He further confirmed that sidewalks would be installed throughout the subdivision.

Mr. Reilly stated that the Town Code requires that the dedication of parkland or recreation area

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to the Town be considered. He noted that if this is not appropriate, then money in lieu of land will be required per lot.

It was determined that the applicant must provide the following information to the Board in order for a SEQR determination to be made:

- Traffic analysis regarding what impact the subdivision traffic would have on Sowles Road, as well as Bradford Street
- Correspondence from SHPO
- The distance between the new street and the existing driveway directly east of it.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Pleasant Creek Development (proposed subdivision, north side of Pleasant Avenue)

Attorney Sean Hopkins, representing the applicant, stated that this property was rezoned earlier this year from R-A to R-2 and R-3 with the following conditions:

1. The conservation areas must be preserved, and when the subdivision map is recorded in the Erie County Clerk's Office, simultaneously a deed restriction will be recorded to ensure that occurs.
2. Despite the fact that the property is now zoned R-2, it can only be utilized for single-family homes.

Attorney Hopkins stated that the layout is identical to what the Planning Board previously reviewed in connection with the rezoning. He acknowledged that one (1) lot was lost due to the required emergency egress in the northwest corner of the site (paved access off of Bridlewood Lane).

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to schedule a public hearing to be held on December 18, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

Sherwood Meadows Apartments

Attorney Sean Hopkins, representing the applicant, stated that in October 2013, Hopevale entered into a contract with DATO development, applicant, by which DATO will be purchasing a portion of the Hopevale site. He stated that the purchase is in response to input received over the course of many Planning Board meetings suggesting that there was a need to explore establishing a second means of access.

Attorney Hopkins stated that the newly acquired property is also zoned R-3, and the plan is to extend a public roadway from the existing cul-de-sac to Howard Road (approximately 1,200 feet). He noted that additional multi-family development is also proposed along the new roadway, and the project now includes 227 residential units (224 attached residential units and three single-family homes along Howard Road).

Attorney Hopkins noted that because the project has been modified, another public hearing

must be held and the Planning Board must solicit Lead Agency Status under SEQR from the
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involved and interested agencies again.

Attorney Hopkins stated that originally this action was classified as an Unlisted Action under SEQR, but because there is adjacent parkland to the original Sherwood Meadows site, it has been determined that the project is a Type I Action.

Attorney Hopkins stated that the applicant chose to purchase the additional property because that is what he was asked to do, and he feels that Mr. Burke, applicant, deserves some credit for taking a lot of time and making a lot of effort to provide a second means of access to this site.

Attorney Hopkins stated that an updated Traffic Study has been performed, and the applicant is comfortable that Howard Road will now become the main means of access to this site.

Attorney Hopkins stated that he would provide a copy of the updated plans and related studies to the Planning Department so that it can be put on the Town's website for public review.

Mr. Reilly stated that a minor subdivision approval would also be required as part of the approval process.

Vice-Chairman Yerkovich directed the Planning Department to initiate the SEQR Coordinated Review for this revised project.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to schedule a public hearing on this project to be held on January 8, 2013. Carried.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Willow Woods Subdivision signage

Regarding the proposed markers to be located on the perimeter of the landfill area in the Willow Woods Subdivision, Mr. McCabe stated that he believes that the purpose of the markers should be to discourage access to that part of the parcel. He stated that the markers should be more like warning signs, and "Keep Out" or "Danger – Keep Out" would suffice.

It was agreed that the proposed markers must be larger.

Board members discussed what message the markers should convey and how far apart they should be.

It was agreed that two (2) different markers should be installed. One (1) should read "Keep Out", and the other should read "Former Landfill Area", and they should be alternated every fifty feet. It was further agreed that the markers should be installed in the area that is facing the subdivision lots.

Mr. Reilly stated for the record that the Planning Board did three (3) different investigations, did its due diligence and even erred on the conservative side and required these markers. He further stated that he will plot out the area and give the Board his recommendation on signage at a future Planning Board meeting.

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OTHER BUSINESS

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to approve the minutes of November 20, 2013. Carried.

Board members agreed to hold their annual Christmas party after the December 18, 2013 meeting.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to adjourn the meeting. The meeting was adjourned at 8:30 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board

Date: December 10, 2013