

Town of Hamburg
Planning Board Meeting
December 5, 2012
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting, on Wednesday, December 5, 2012 at 7:00 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, Gerard Koenig, Daniel O'Connell, Sasha Yerkovich and Doug Schawel.

Others in attendance included Sarah desJardins and Richard Lardo.

Excused: David Bellissimo

Public Hearing – Miller's Collision and Auto

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 for a Special Use Permit for Miller's Collision and Auto, Inc. to operate a public garage at 3034 Abbott Road. The public hearing will be held on December 5, 2012 at 7:00 PM in Room 7B of Hamburg Town Hall."

Mrs. desJardins stated that no correspondence had been received regarding this application. She further stated that this business meets the criteria for a public garage, but some of the conditions of approval relative to his original Special Use Permit granted some years ago cannot be complied with. She noted that if/when this Special Use Permit is granted, the Board may wish to amend some of those original conditions of approval.

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

Chairman Reszka declared the public hearing closed.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to direct the Planning Department to prepare approval resolutions for the Board's next meeting.

Chairman Reszka asked Mrs. Yerkovich to amend her motion to include a condition that only customers may park next to the building, which would ensure that no junked vehicles are parked there, and a condition that there be no parking in front of the building.

Mrs. Yerkovich amended her motion to include the above conditions of approval. Mr. Koenig seconded that motion. Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing - Sgroi Two-Lot Subdivision (Woodland Drive)

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 December 5, 2012 in Room 7B of Hamburg Town Hall at 7:00 PM on a two-lot subdivision known as the Sgroi Two-Lot Subdivision to be located at the end of Woodland Drive."

Mrs. desJardins stated that Mr. Eric Krull, who represents the applicant, could not attend this meeting due to a death in his family. She further stated that he will attend the Board's next meeting.

Chairman Reszka stated that the Conservation Advisory Board Chairman noted that the existing foundation is under two (2) feet of water at this time.

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

- Mark O'Neill, adjacent neighbor, stated that he has a letter from the New York State Department of Environmental Conservation (NYSDEC) from 2009 declaring that area a wetland. He stated that this wetland has encroached onto his property. He stated that the applicant's foundation has been under water for several years, and that is dangerous.

Mr. Lardo stated that the applicant did get the area where the foundation is located removed from the wetlands by mitigating at the Villas at Brierwood. He further stated that he believes the applicant plans to build in the same location as long as the Building Department allows him to do so.

- Mr. O'Neill asked if Woodland Drive would be extended. Chairman Reszka stated that it would not.
- Dr. Cyril Bodnar, adjacent landowner, stated that he would have liked to have been notified about the applicant's proposal. He stated that he would like to know where the applicant intends to build.
- Mr. O'Neill stated that his deed states that he has ingress, egress and utility privileges over the southerly extension of Woodland Drive to the easterly extension, and that easement will terminate if that extension becomes a public road. He stated that if the applicant puts in a driveway, according to Mr. O'Neill's deed, he still has rights to access his property through the applicant's driveway.
- Dr. Bodnar stated that he is not opposed to the applicant building, but he wants to ensure that he follows all of the rules. He stated that the applicant has defiled the property.

Mrs. desJardins suggested that the Board keep the public hearing open so that the applicant can attend the Board's next meeting and answer the neighbors' questions. Board members agreed to do so.

Chairman Reszka made a motion, seconded by Mr. Schawel, to adjourn the public hearing until the Board's next meeting (December 19, 2012). Carried.

Engineering Department comments have been filed with the Planning Department.

Russo Development – Old Milestrip Road

Mr. Reszka stated that he lives within a few miles of the project area and it will affect him, but he has no financial or other interest in the project.

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the comments from the previously held public hearing have been addressed. He further stated that the applicant is currently working with Niagara Mohawk to secure a leased access to Coder Road in order to bring the parking lot out to Coder Road as opposed to Lake Avenue. He noted that

this process will probably take another month to complete. He stated that the Engineering Department's concerns have also been addressed.

In response to a question from Chairman Reszka, Mr. Gow stated that the proposed drainage swale would be open and would be a long, flat area meant to be a water quality mechanism.

Mr. Lardo stated that the County will have to approve the point of discharge to Lake Avenue.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Hamburg Recovery & Towing

Chairman Reszka stated that the applicant is in the process of installing the fence along the rear of the property, so the property will be in full compliance with the originally approved site plan.

Mrs. Yerkovich made the following motion, seconded by Mr. McCabe :

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.

Mrs. Yerkovich 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 except for the six-foot high chain link fence along the rear of the property.
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.

Carried.

Engineering Department comments have been filed with the Planning Department.

Pleasant Development, LLC

Attorney Sean Hopkins, representing the applicant, stated that a binder was prepared that includes a wide variety of studies and reports, including a traffic study, a wetland delineation report, a jurisdictional determination from the U.S. Army Corps of Engineers, a Phase I Environmental Report, sanitary sewer flow testing and analysis and an updated concept plan. He submitted a binder to each Board member for review.

Regarding the updated concept plan, Attorney Hopkins stated that the owners of the lots on Brookfield Lane that are adjacent to the two (2) proposed cul-de-sacs have asked if the applicant would provide a conservation area behind their homes. He noted that the layout has been modified to provide a twenty-foot conservation area behind these homes and the existing berm will be retained. He further stated that based on input received from the nearby residents, the applicant has decided to request R-3 zoning, rather than PUD zoning.

Attorney Hopkins stated that the intersection of the entrance of this development with Pleasant Avenue will be reconfigured and will require approval from Erie County Department of Public Works.

Attorney Hopkins stated that some of the adjacent neighbors have asked if they can acquire some of the proposed conservation area that abuts their lots. He noted that a deed restriction would be recorded to ensure that the conservation area remains open space, and the layout has been modified to show the portions of the conservation area that he would be willing to convey to the neighbors.

Attorney Hopkins stated that, because this was previously a nursery, a large portion of the site has been cleared. He noted that there are some sporadic trees that were planted on the site, and the applicant would like to preserve as many of these as possible.

In response to a question from Chairman Reszka, Mr. Michael Bevilacqua, applicant, stated that he recently purchased the home adjacent to the proposed entrance to the development for his parents to reside in.

Chairman Reszka stated that a secondary means of egress must be provided. Attorney Hopkins responded that the applicant is currently exploring that issue.

In response to a question from Mr. McCabe, Attorney Hopkins stated that providing a secondary means of egress will mean that the applicant will have to work with one of the adjacent property owners. He further stated that this would be a gated emergency access only.

Attorney Hopkins confirmed that the internal roadways are proposed to be public.

In response to a question from Mr. Schawel, Robert Pidanick from Nussbaumer & Clarke stated that he had a conversation with the Erie County Highway Department about possible ways to improve the intersection at Pleasant Avenue. He further stated that the proposal is to convert it into a four-way intersection. Attorney Hopkins stated that the developer understands

that if Erie County cannot contribute, the developer would be responsible for the cost of the work.

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

Engineering Department comments have been filed with the Planning Department.

Sherwood Meadows Apartments

Andrew Gow from Nussbaumer & Clarke, representing the applicant, requested that the Board schedule a public hearing for this project to be held on December 19, 2012. Board members discussed this request.

Mr. Gow stated that the whole site has been engineered, the roads are as they were for the originally approved project and the parking areas have changed. He noted that the building setbacks from the road are larger than they were for the townhouse project.

Board members agreed that if a more complete site plan is not submitted in time for the December 19, 2012 meeting, a second public hearing will be scheduled to ensure public input.

Mr. Gow agreed to research providing a secondary means of emergency access to the site.

Mrs. Yerkovich made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on December 19, 2012. Carried.

Engineering Department comments have been filed with the Planning Department.

Willow Woods Subdivision

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to adopt the following Final Scope for the Willow Woods Subdivision. Carried.

**FINAL SCOPE
For the
Draft Environmental Impact Statement (DEIS)
on the
Willow Woods Subdivision**

**PREPARED BY THE HAMBURG PLANNING BOARD
December 5, 2012**

1.0 Description of the Action & Environmental Setting

The proposed action involves the subdivision of 141.67 acres of land situated off of Taylor Road in the Town of Hamburg, Erie County, New York into 49 lots under the Town's Cluster Development law, and the subsequent construction of required infrastructure and ultimately 49 single family homes (see full EAF for more information on the project and setting).

2.0 Potentially Significant Adverse Impacts

1. Impact on Public Health
 - The proposed project is located on a property that has an abandoned “landfill site” that was operated prior to NYSDEC regulatory powers.
 - The Planning Board has concerns about placing new homes near this site.
 - Are there existing contamination problems to the ground waters, surface waters, or soils (from the “landfill site”) that will cause health problems to the surrounding areas?
2. Impact on Water
 - The proposed project could make the drainage problems in the area worse.
3. Impact on Transportation
 - The project will add a new entrance onto Taylor Road and add the resulting traffic from 49 single family homes.
4. Impact on Aesthetic Resources
 - The rural character of the area and significant environmental features may be adversely impacted by the project.
5. Impact on Land
 - The project will result in the construction of 49 single family homes and other impervious surfaces on this site.

3.0 Extent and Quality of Information

The following section provides the applicant with the description of the information that is needed to be included in the DEIS:

1. Environmental setting as noted in the applicant’s draft.
2. History of the landfill site (aerial photos, research at municipalities, other sources of information to describe the history of “dumping” at the site: types of materials, how long, etc.).
3. Provide accurate dimensions/locations of the “landfill area”. Location in the field using different methodologies and adding this information onto a survey. Locate all furrows/ridges and show beginning and ending locations of these disposal areas. Dimension the landfill area on the survey to proposed building lots, wetlands, streams/creeks, and other features of the site.
4. Depth to bedrock/shale and groundwater level and flow, in the area of the “landfill site” (also include general topography of the area).
5. Testing of all “landfill furrows/rows” (materials/soils testing).

6. Water samples from surrounding surface waters (including intermittent stream flowing through the site and the down gradient wetland).
7. Groundwater sampling through test wells (identify areas for this testing).
8. All testing will be in accordance with the Part 360 testing regulations (Part 360.211).
9. Preliminary drainage report illustrating how project will meet State and Town requirements (discharge locations and affect on surrounding properties).
10. Traffic/transportation analysis (TIS is not needed) to illustrate line of sight requirements and impacts to highway system (expected LOS of new intersection).
11. Visual analysis of project for Taylor Road and surrounding residents. Illustrate important environmental features to be preserved.

4.0 Potential Mitigation Measures To Be Evaluated

1. Groundwater monitoring wells (responsibility for monitoring).
2. Removal of any “dangerous materials”.
3. Buffers to landfill areas (adding of protective features around “landfill” area.
4. Drainage control structures and potential “green” drainage solutions.
5. Location of new entrance.
6. Preservation of important buffers (greenspace areas) and changes in layout of the site.

5.0 Alternatives To Be Considered

1. Groundwater monitoring wells (responsibility for monitoring).
2. Removal of any “dangerous materials”.
3. Buffers to landfill areas (adding of protective features around “landfill” area.
4. Drainage control structures and potential “green” drainage solutions.
5. Location of new entrance.
6. Preservation of important buffers (green space areas) and changes in layout of the site.

OTHER BUSINESS

Board members discussed the proposed revisions to the Town Code from the Code Review Committee. He noted that a public hearing would be held on the revisions on December 10, 2012.

Mr. Koenig made a motion, seconded by Mr. O'Connell, to approve the minutes of November 21, 2012. As there were five (5) ayes and one (1) abstention (Mrs. Yerkovich), the motion carried.

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

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: December 14, 2012