

Town of Hamburg
Planning Board Meeting
February 6, 2013
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, February 6, 2013 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Sasha Yerkovich, David Bellissimo, Doug Schawel, August Geraci and Dan O'Connell.

Others in attendance included Andrew Reilly and Sarah desJardins, Planning Consultants, Richard Lardo, Assistant Municipal Engineer, Attorney Cheryl McFadden-Zak and Councilwoman Amy Ziegler.

Excused: Stephen McCabe

WORK SESSION

Stephen Day – 5781 Old Lakeshore Road

Mrs. desJardins stated that the applicant has a contract to purchase the property, which includes a single family home and a garage apartment. She noted that the applicant's mortgage company will not provide a mortgage on this property because the applicant would not be allowed to rebuild the garage apartment in the event it is damaged or destroyed because of its classification as a permitted non-conforming use. (Two homes cannot be located on one lot.) She further stated that the applicant is requesting approval of a two-lot subdivision so that the garage apartment can be located on its own lot and therefore considered a legal use.

Mrs. desJardins stated that the applicant would need to seek variances for this subdivision, including one for lot area and one for the rear yard setback. She noted that the applicant is attempting to purchase a small portion of the property located adjacent to the garage apartment in order to enlarge the lot area.

Mr. Stephen Day, applicant, stated that this is the only way he can obtain financing for the purchase of this property.

Mrs. Yerkovich made a motion, seconded by Mr. Schawel, to schedule a public hearing for this proposal to be held on February 20, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

Erie County Agricultural Society Agricultural Discovery Building

Attorney McFadden Zak stated that she would need to recuse herself due to her connection to Nussbaumer & Clarke, as well as her personal connection to the Erie County Agricultural Society. She further stated that Mr. Schawel would need to recuse himself because he is an employee of the applicant.

Rob Pidanick from Nussbaumer & Clarke, representing the applicant, appeared on behalf of the proposed project, along with Mr. Dennis Lang, Chief Executive Officer of the Erie County Fair and Ms. Jessica Underberg, Assistant Fair Manager. Mr. Pidanick showed the Board an overall plan of the Erie County Fairgrounds and noted that an Agricultural Discovery Building is proposed on the east side of the Fairgrounds property.

Mr. Pidanick stated that Mr. Kurt Allen, Supervising Code Enforcement Official, indicated that because of the size of the proposed building (53,000 sq.ft.), the Planning Board should be involved in the review of this proposal.

Mr. Pidanick stated that the applicant proposes to demolish three (3) existing wood frame buildings that have become fire hazards and replace them with a new prefabricated metal building. He noted that the applicant needs to begin manufacturing this building as soon as possible so that when the fair ends in August, the three (3) wood frame buildings can be demolished and the foundation for the new building can be laid and it can be assembled.

Ms. Underberg stated that the building will house stalls, public restrooms, a milking parlor and an area for hands-on agricultural education.

Mr. Lang stated that no decisions have been made to date regarding the color of the new building, although he assumes it will be white.

Mr. Pidanick stated that all utilities necessary to support the new building are available for hook up.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to schedule a public hearing for this proposal to be held on February 20, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

DDR Corporation (L A Fitness)

Chairman Reszka stated that in this matter the Planning Board is only an advisory Board because when the McKinley Mall was built, it was determined that all projects proposed that require Site Plan Approval in and around the Mall will be reviewed by the Town Board, rather than the Planning Board.

Andrew Hart from Bergmann Associates, representing the applicant, stated that the proposal is to redevelop an outparcel of the McKinley Mall. He further stated that two (2) existing vacant buildings totaling just over 49,000 sq.ft. would be demolished and a new one-story 35,000 sq.ft. building would be constructed for L A Fitness. He noted that a portion of the existing parking lot located south of the parcel would be reconstructed (DDR owns both parcels) so that the parking spaces are more oriented to the proposed front entrance to the business. He stated that approximately 286 parking spaces are proposed and the applicant proposes to maintain as much of the existing pavement as possible.

Mr. Hart stated that the existing impervious area will not be increased. He further stated that the business would close at midnight.

Mr. Reilly asked Mr. Hart to fill in the gap in the trees along Milestrip Road. Mr. Hart agreed to do this. Mr. Hart also agreed to add some features to the side of the building that faces Milestrip Road so that it is not a long, blank wall.

Mr. Reilly stated that when the McKinley Mall was approved, an Environmental Impact Statement was prepared and therefore SEQR has been completed.

Board members agreed that this would be a great improvement to the Mall.

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to forward a positive recommendation to the Town Board regarding this proposal. Carried.

Engineering Department comments have been filed with the Planning Department.

Suburban Adult Services, Inc.

Patricia Bittar from William Schutt & Associates, representing the applicant, stated that construction of Phase 1 of this project should begin in early summer 2012. She further stated that Phase 2 is identical to Phase 1 (two-story 12-unit apartment building). She noted that the detention pond associated with the approval of Phase 1 was designed to also incorporate Phase 2.

Chairman Reszka stated that the proposed turn-around at the western end of the property could appear to some people as a stub that the applicant plans to extend in the future. Ms. Bittar agreed to reconfigure that turn-around so it does not look like it is intended for future expansion.

Mrs. Yerkovich made a motion, seconded by Mr. Schawel, to schedule a public hearing for this proposal to be held on February 20, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

Gullo's Garden Center

David Derkacz, representing the applicant, stated that Gullo's proposes to construct a twenty-foot addition along the front of the existing greenhouse on the site, as well as a small addition on the rear of the building. He further stated that Gullo's cannot extend the greenhouse in the rear as much as they would like because of the proximity of the northern property line. He acknowledged that the addition in the front would infringe upon the fifty-foot green area required in the Southwestern Boulevard Overlay District, but he noted that Southwestern Boulevard has been widened and as a result Gullo's has less of a front yard. He further noted that most of the businesses in the area are now noncompliant with the Overlay green space requirement because of the Southwestern Boulevard road work.

Mr. Derkacz stated that the front addition to the greenhouse would be located in the area where landscaping and stone work exists presently, and it would not obstruct sight lines for vehicles accessing the site.

In response to a question from Mr. O'Connell, Mr. Derkacz stated that the greenhouse is currently approximately 41 feet from the right-of-way and if the addition is approved, it would be approximately 21 feet from the right-of-way.

It was determined that this addition would require a variance from the Zoning Board of Appeals because of the infringement on the fifty-foot green area along Southwestern Boulevard.

In response to a question from Chairman Reszka, Mr. Derkacz stated that the applicant does not wish to construct the addition on the side of the building that faces the parking lot instead of on the front because the main entrance faces the parking lot and contains a vestibule. He noted that it would be very difficult to construct the addition on that side of the building.

Mrs. Yerkovich stated that she thinks the addition would be an enhancement to the site.

Mr. Reilly stated that the applicant may have to also request a variance from the Zoning Board of Appeals to expand a non-conforming building that exceeds 15,000 sq.ft.

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to schedule a public hearing for this proposal to be held on February 20, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Public Hearing – DATO Development

Mrs. Yerkovich read the following public hearing notice:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by David Burke to amend an approved Site Plan to include the construction of garages associated with the approved apartment buildings on vacant land located east of 4288 Lake Avenue. The Public Hearing will be held on February 6, 2013 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Daryl Martin, architect, representing the applicant, stated that the proposal is to construct garages to be associated with the previously approved apartment project. He noted that the two (2) sublots on the eastern end of the previously approved Oakwood Subdivision will be reconfigured so that they both still are at least 7,000 sq.ft. in size, as required by Town Code, and a property maintenance easement will be provided for the detention pond for the garages that will be partially located on these two (2) lots.

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

Chairman Reszka declared the public hearing closed.

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

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board had reviewed the Oakwood Apartment project and previously issued a Negative Declaration. The applicant has now revised the Plan to include garages, and the Planning Board has reviewed the submitted materials and has concluded that the project change will not impact the Negative Declaration issued for this project and that the project's environmental impacts have been avoided or mitigated to the maximum extent practicable. Therefore, the Planning board has determined that the proposed amendment to the Oakwood Apartments project is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby re-issued.”

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

“Based on the review of the Oakwood Apartment garage addition project, and having completed the SEQR process, the Hamburg Planning Board hereby approves the revised Oakwood Apartment project site plan to include garages with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated February 6, 2013.

2. A final plan must be submitted showing the reconfigured lot lines as discussed by the applicant and agreed to by the Planning Board on January 23, 2013.
3. There will be no additional curb cuts onto Lake Avenue.
4. There will be no connection to the Oakwood Subdivision (Oakwood Avenue and Glenwood Avenue)."

Carried.

Engineering Department comments have been filed with the Planning Department.

Pleasant Development, LLC (Pleasant Avenue)

Attorney Sean Hopkins, representing the applicant, provided Board members with a copy of the Agricultural Data Statement.

Attorney Hopkins stated that, if approved, this project would leave approximately 35 acres of permanent open space that would be protected by a declaration of restrictions that would be recorded after the Town Attorney's office has had the opportunity to review it.

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

"Based on the review of information submitted by Pleasant Development LLC, meetings from October 17, 2012 through January 23, 2013, input from Town Departments, Advisory Boards and residents, as well as review of the Part I and II of the full EAF, the following conclusions were reached:

Impact on land: The project will not impact any unusual land forms and a substantial portion of the project site will be preserved as permanent open space. Although the site contains areas where the water table is less than 3 feet in depth and construction will occur over more than 1 year, these impacts are not significant.

Impact on water: The project site contains jurisdictional wetlands, but most of the wetlands will be preserved. The project will require a Stormwater SPDES Permit, but the stormwater design will meet or exceed State and Town requirements. The project will ultimately utilize close to 50,000 gpd of water and discharge this accordingly to the County wastewater system. The existing systems in this area will accommodate these flows.

Impact on air: The project will not have any significant impacts on air.

Impacts on plants and animals: The project site does not contain any threatened or endangered species, and contains large areas that will be preserved for existing animals.

Impact on agricultural resources: The site is located in an Agricultural District, but has not been farmed in many years. The past use was a nursery.

Impact on aesthetics: The proposed project fits into the character of the area and is laid out in such a way as to preserve important features and protect surrounding uses. The project locates different uses (multi-family) away from the single family areas.

Impact on open space, recreation and CEAs: The site does not contain any important open spaces, any recreation, and is not located in an area of a CEA.

Impact on transportation: The project had the possibility to significantly impact the surrounding roads, but through a proposed road improvement project, it will not have a significant impact. A secondary means of egress will be provided for emergency access.

Impact on energy: The project will require potentially large increases in power use, but modern design and code requirements will minimize this impact.

Impact on noise and odor: Impacts to noise and odor for the project will not be large or significant. Construction noise impacts will be temporary in nature and will be "buffered" from existing residential areas.

Impact on public health and safety: There was a concern raised about the past farming use and the potential for pesticide and herbicide contamination of soils and nearby creeks. A Phase 1 Environmental Site Assessment was performed which did not require a Phase 2 study (no indications of any soil contamination).

Impact on growth and character of community: The project requires a rezoning, but has been shown to be in accordance with the Town's Comprehensive Plan. The layout of the site helps preserve the character of the community in this area.

Based on the above, the Planning Board recommends a Negative Declaration."

Carried.

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

"Based on the review of submitted materials and the input this Board received, the Planning Board recommends approval of the rezoning with the following conditions:

1. The split zoning (R-2 and R-3) as shown on the amended application and concept plan presented to the Planning Board during its meeting on January 23, 2013 shall be implemented.
2. A declaration of restrictions for the permanent preservation of the approximately 36 acres of "Conservation Area" as depicted on the concept plan shall be recorded at the Erie County Clerk's Office, and the Town Attorney shall review and approve the content of the Declaration of Restrictions before recording occurs. A recorded copy of the Declaration of Restrictions shall be provided to the Town Clerk's Office and the Town Attorney's Office.
3. The timing of the installation of the emergency access connection shall be determined during the subdivision review process for the single family homes on property to be zoned R-2.
4. The applicant shall provide additional information to the Town Board concerning the potential soil contamination on the site.

5. The roadway improvements are to be approved by the County and constructed in conformance with the Plan.
6. A deed restriction will be placed on the property to be zoned R-2 that no duplexes will be constructed on that property.”

Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Board members were reminded that training will be held on February 13, 2013.

Mr. Bellissimo made a motion, seconded by Mrs. Yerkovich, to approve the minutes of January 9, 2013. Carried.

Mr. Bellissimo made a motion, seconded by Mr. O’Connell, to approve the minutes of January 23, 2013. Carried.

Mr. Schawel made a motion, seconded by Mr. O’Connell, to adjourn the meeting. The meeting was adjourned at 7:35 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: February 12, 2013