

Town of Hamburg  
Planning Board Meeting  
March 20, 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, March 6, 2013 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, David Bellissimo, Doug Schawel, August Geraci, Sasha Yerkovich and Dan O'Connell.

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

**WORK SESSION**

**Lockwood's Greenhouses (4462 Clark Street)**

Mrs. desJardins stated that the applicant proposes to rezone the entire parcel from R-3 and M-1 to C-1 in order to bring the property into compliance with the Town Code.

Mr. Reilly stated that, although this proposed rezoning makes a lot of sense, it is not in conformance with the Town's Comprehensive Plan, which does not call for commercial uses in this area, so the Planning Board must have sound reasoning for a positive recommendation to the Town Board.

Mr. Reilly stated that the Planning Department supports the proposed rezoning.

It was determined that C-1 allows garden centers with outdoor display areas with a Special Use Permit.

Mr. McCabe wondered if the neighbors will be concerned that a commercial use might be established on this property someday, once the property is commercially zoned.

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to forward a positive recommendation to the Town Board regarding the requested rezoning for the following reasons:

1. This is an existing business that has been there for almost 100 years.
2. The Fairgrounds surround this property on three (3) sides, and Lockwood's is a similar use and therefore this makes sense.
3. The rezoning would eliminate the M-1 zoning on the property, which is considered spot zoning.
4. The current zoning of this property impedes the owner's ability to make changes to the property.
5. Because the Town's Comprehensive Plan does not call for R-3 zoning in this area, the C-1 zoning would be more in conformance with the Plan's intent.

Mrs. Yerkovich amended her motion, seconded by Mr. O'Connell, to include the following condition:

"The Town Board should take into consideration any comments received from nearby residents regarding restrictions on allowable uses for this property."

Carried.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to recommend that the Town Board issue a SEQRA Negative Declaration regarding this rezoning request. Carried.

### **Joe's Auto Service (3756 Lakeview Road)**

Chairman Reszka stated that the applicant is requesting a Special Use Permit for a public garage as required by the Hamburg Police Department so that he can continue to tow for that department.

Mr. Lardo stated that he feels that there should be some sort of site plan record, even if it is a photocopy of the site. It was determined that a copy of the satellite photo of the property will be included in the file, along with the delineation of the existing fenced-in area for stored vehicles.

Mr. Lardo stated that there are vehicles currently parked off the property to the north, and they are not within the fenced-in area as required by the Town Code. Joe Nelson, applicant, responded that he is in the process of removing these vehicles.

Mr. Reilly informed Mr. Nelson that all vehicles must be stored within the fenced in area.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to schedule a public hearing on this matter to be held on April 3, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Sean Wall (4241 Quinby Drive)**

Mrs. desJardins stated that Mr. Wall proposes to subdivide the property located at 4241 Quinby Drive. She stated that a home currently exists on the property, and he and his wife would like to construct a new home on the newly created lot. She noted that the proposed subdivision meets all zoning requirements.

Mrs. Yerkovich made a motion, seconded by Mr. Schawel, to schedule a public hearing on this matter to be held on April 3, 2013. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Anthony & Maria Rock (4856 Lake Avenue)**

Chairman Reszka stated that the applicants propose to rezone this property from M-1 to C-2 in order to operate a golf car business in the existing building.

Mrs. desJardins stated that the applicants have an existing business in West Seneca

and would like to relocate to Hamburg at this site. She noted that the applicants propose to purchase two (2) pieces of property at this location that have recently been merged by the current owner. She further stated that the Planning Department received a letter from the current owner giving the applicants her permission to act on her behalf.

Mrs. desJardins stated that C-2 zoning exists to the east and to the south of this property, and the proposed rezoning is in conformance with the Town's Comprehensive Plan.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to forward a positive recommendation to the Town Board regarding the requested rezoning, as it is in conformance with the Town's Comprehensive Plan and it is a down zoning. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to recommend that the Town Board issue a SEQRA Negative Declaration regarding this rezoning request. Carried.

## **REGULAR MEETING**

### **Whispering Pines Subdivision**

Mrs. desJardins reminded Board members that this cluster development was previously approved by the Planning Board. She noted that while survey work was being done, the developer's contractor disturbed two (2) areas that were to remain untouched. She stated that the developer submitted a proposed plan prepared by a Registered Landscape Architect (RLA) to mitigate the disturbed areas.

Mr. Reilly stated that the proposed mitigation plan must be approved by the Planning Board. He noted that the Planning Board can, by law, require that the removed trees be replaced at a higher ratio than those removed. He stated that screening, additional landscaping, improved aesthetics, etc. can also be required, as well as a bond.

Mr. Reilly stated that he spoke with the RLA who prepared the proposed mitigation plan, and she indicated that, because of the dense root patterns and existing trees in the disturbed areas, if larger trees are planted they will have less of a chance to survive. She further indicated that the bigger root balls would have trouble becoming established.

Mr. Reilly stated that the RLA proposed planting shrubs along some of the rear property lines of the future building lots that abut the conservation areas in an effort to demarcate where the conservation areas are. He noted that he suggested that the RLA extend the shrubs along all of the rear property lines of these future building lots that abut the conservation areas, and the RLA agreed to do so.

Mr. Reilly stated that the RLA feels strongly that the new trees to be planted should be between one (1) and two (2) inches in caliper. Board members agreed that this caliper is satisfactory.

Mr. Reilly stated that the Planning Board should either require a bond or some type of

guarantee that the trees will survive for a certain number of years.

Mr. McCabe stated that the Planning Board took great pains when this cluster development was approved to preserve the unique natural features of the property.

Board members discussed what form of guarantee should be required of the developer, whether it is a bond or a certified check that would be held by the Engineering Department.

Mr. Lardo suggested that a bond or certified check be required to ensure the plantings for two (2) years, with the ability to extend the time an additional two (2) years. Attorney McFadden-Zak responded that she does not like that idea and would rather see a five (5) year guarantee.

It was determined that the Town Engineer would be responsible for determining the amount of the bond or certified check to guarantee that the plantings will live for a period of three (3) to five (5) years.

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to approve the submitted mitigation plan with the following conditions:

1. Shrubs will be planted along the rear property lines of all of the sublots that are adjacent to the conservation areas.
2. A five (5) year bond in an amount to be determined by the Town Engineer shall be provided by the applicant to ensure the viability of the plantings. If it is not possible to secure a bond, a surety in a manner to be determined by the Planning Board Attorney shall be provided.

Carried.

## **OTHER BUSINESS**

Regarding the minutes of March 6, 2013, Mr. McCabe stated that Councilwoman Ziegler's first name was incorrectly spelled in paragraph 2, line 1. Additionally, a comma is to be added after the word "Engineer" and before the word "and".

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to approve the minutes of March 6, 2013 as amended. Carried.

Mr. Reilly stated that the landscaping plan provided by Gullo's for its two (2) additions was not approved by the Planning Department and will have to be enhanced.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 7:45 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

## Planning Board

Date: March 26, 2013