

Town of Hamburg
Planning Board Work Session
March 7, 2012
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, March 7, 2012 at 7:00 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Vice-Chairman Sasha Yerkovich, Stephen McCabe, Gerard Koenig, David Bellissimo and Doug Schawel.

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

Excused: Daniel O'Connell

Public Hearing - Maple Shade Subdivision

Mr. McCabe read the following public hearing notice:

"Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a five-lot subdivision known as the Maple Shade Subdivision to be located on the south side of Taylor Road on March 7, 2012 in Room 7 B of Hamburg Town Hall at 7:00 P.M. The property is described as follows: SBL# 196.00-3-24.13".

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to remove this item from the table. Carried.

Mr. Reilly stated that this is a major subdivision (more than four lots) and the applicant has received a waiver from Erie County indicating that he will not be required to tie in to the existing sanitary sewer line on Taylor Road and can instead install septic systems on each lot. He further stated that the project meets all zoning requirements.

Mr. Reilly stated that correspondence was received from the New York State Department of Environmental Conservation expressing a concern about the wetlands that exist at the rear of the site and suggesting that the Planning Board require that a conservation easement be placed on these wetlands so that no development occurs on them.

In response to a question from Chairman Reszka, Jerry Giglio (Traffic Safety Advisory Board Coordinator) stated that the TSAB would be reviewing this project at its meeting on March 8, 2012.

Mr. Reilly stated that the Planning Board previously expressed concerns about turn arounds being required for each lot so that no one is backing out of a driveway onto Taylor Road. Mr. Giglio responded that this would probably be one of TSAB's recommendations, as well.

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

- Bob Mahoney, Taylor Road, asked how far the driveways have to be apart, per Hamburg Town Code. Mr. Reilly stated that there are no requirements in the Town Code, but the minimum distance between driveways is determined based upon what

the posted speed limit is on the highway. Mr. Mahoney stated that if the driveways are going to be close to one another, drivers should be made aware of this.

Chairman Reszka declared the public hearing closed.

Planning Board members concurred that the Preliminary Plat should be amended to reflect the following changes:

1. A conservation easement in the name of the Town of Hamburg on the wetland area is to be shown on the Preliminary Plan.
2. A note is to be added to the Preliminary Plan indicating that turn-arounds will be provided for each lot.
3. A note is to be added to the Preliminary Plan indicating that utilities to the site will be underground.

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

Engineering Department comments have been filed with the Planning Department.

Willow Woods Subdivision

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to remove this item from the table. Carried.

Planning Board members reviewed Part II of the Environmental Assessment Form for this project to make sure that all of the environmental issues raised during the review process have been addressed. Discussion was as follows:

- Impact on land – Construction will last longer than one (1) year; Town refers to the rear of this site as important green space and it will be preserved
- Impact on water – There could potentially be an impact to a designated protected body of water (wetlands in the rear of the site) but no development is proposed in that area; ponds will be created on the site; there is a stream corridor in the area; ground water and surface water quality and quantity will be impacted and a discharge permit will be required; inflow and infiltration removal will probably be required; drainage patterns will be impacted.
- Impact on air – Impacts will be minor.
- Impact on plants and animals – There are no protected species in this area.
- Impact on agricultural resources – The property has been farmed in the last ten years; will convert more than ten acres of agricultural land.

- Impact on aesthetic resources – The project will affect surrounding properties; project will be buffered somewhat; project site has been designated as potentially archeologically sensitive; the open space on the site that has been identified in the Town's green space plan has been shown as being preserved.
- Impact on transportation – The project will alter the movement of people in this area and will create local traffic issues.

Mr. Koenig stated that lots # 1, 2 and 49 have direct access to Taylor Road and asked why lots # 2 and 49 don't just have access to the interior roadway. He further stated that if these lots access directly to Taylor Road, they should install turn arounds so no one is backing out into Taylor Road.

Mr. Giglio stated that the TSAB has recommended that any lot with a driveway on Taylor Road be provided with a turn around.

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the reason the driveways are proposed onto Taylor Road is for aesthetic purposes, noting that the homes facing Taylor Road would serve to shield the subdivision from a passerby's view.

- Impact on energy – The project will increase the use of energy, but below any major thresholds.
- Impact on noise and odor – There will be construction-related noise and odor issues but the applicant will attempt to address these concerns.
- Impact on public health and safety – There is concern that excavation and other disturbance is proposed within 2,000 feet of a site used for the disposal of solid waste material.

Mr. Gow stated that the applicant has submitted a study performed in 1994 that looked closely at the area around the dump site itself. He further stated that four (4) samples were taken and confirmed that no monitoring wells were drilled. He noted that Nussbaumer & Clarke has consulted with an environmental scientist, who will go out to the site.

Mr. Gow stated that since the study was performed, the standards have changed regarding how these tests are conducted. He further stated that the environmental scientist will install four (4) monitoring wells (depicted on the site plan as red dots) at the back of the subdivision to monitor ground water and test for soil sampling.

Mr. McCabe stated that he walked the site on March 15, 2012 and found trash everywhere. He noted that he believes that the dumping is far more extensive than what was indicated. Mr. Gow responded that that will be investigated, as a full Phase 2 will be conducted on the site.

Mr. McCabe stated that he believes that the new study should delineate where the actual dumping was.

Mr. Reilly stated that he phoned the New York State Department of Environmental Conservation (NYSDEC) and spoke to Mark Hans in the Solid Waste Department, who informed Mr. Reilly that the NYSDEC has no record of the dump on this property and does not regulate this type of dump site.

Mr. McCabe stated that because a dump site is not listed does not mean that it should not be investigated. He further stated that there are a lot of questions that the Planning Board is not capable of answering.

Mrs. Yerkovich stated that perhaps the NYSDEC should be asked to investigate this dump site, noting that a regulating agency should be involved in this discussion. Mr. McCabe added that perhaps the New York State Department of Health should be contacted. Mr. Reilly stated that he will attempt to find a State agency that will help the Planning Board review this issue and make an informed decision about it.

Board members reviewed photos taken by Mr. McCabe on March 15, 2012 when he walked the project site. Mr. McCabe explained specifically where on the site each photo was taken, noting that he saw trash, as well as water flowing orange, probably from rust, with an oil sheen over all of it. Mr. Gow stated that he believes that is probably from iron ore.

Mr. McCabe stated that many of the photos were taken in an area that was not included in the portion of the site delineated in the report done in 1994 as being the actual dump site. He further stated that he saw automobile gas tanks, frames and parts. He noted that he saw extensive dumping (including a leaking above-ground fuel tank, a Freon tank and some LP gas tanks) up closer to Taylor Road on or adjacent to proposed lots 46, 47 and 48.

Chairman Reszka stated that there seems to have been more dumping on the site than was previously indicated. Mr. Gow responded that he can work with the environmental engineer to expand the scope of study, if necessary, and the applicant is willing to investigate the Planning Board's additional concerns. He further stated that he will speak with the environmental engineer to see if there are ways to make a determination on other parts of the site where dumping is evident.

Mr. McCabe stated that the Planning Board's goal is to have some assurance that the 49 families who will ultimately move in to this subdivision are living in a safe neighborhood and that whatever material is currently on the site is not migrating off site.

Mr. Reszka stated that Mr. Reilly sent an email to the Planning Board members indicating the following:

"I spoke to Mark Hans at the NYSDEC Solid Waste Department and unfortunately they have no record of any landfill on Taylor Road. This is the case for hundreds of these sites in New York State, as the NYSDEC was not put in charge of landfills until the 1960s or 1970s. They have no regulatory powers over these pre-existing sites. He did agree with the Planning Board suggested methodology to re-test the site – 18 year old testing is out of date – and suggested using Part 360 regulations – Section 360.211 D (6) as a guideline for testing. He also suggested potentially some ground water monitoring wells to see if there is any contamination and which way the ground water flows. He said the brownish-orange creek is not surprising due to the rusting materials."

Mr. McCabe suggested that when Mr. Reilly speaks with the NYSDEC again, he should mention New York State Environmental Conservation Law Subpart 375-2.7, which deals specifically with significant threat and registry determinations. He further stated that this might be the enabling legislation that would allow the NYSDEC to investigate the site.

- Impact on the growth and character of the community – The project will create an increase in community demand on the police, schools and fire department.

Mr. Reilly stated that this project is in conformance with the Town's Comprehensive Plan.

Chairman Reszka read the following email received from Mr. Giglio regarding the intersection of East Eden Road and Taylor Road:

"I have received numerous complaints of near misses. I have contacted Erie County, which has changed signing posting each side of Taylor with stop signs and "stop ahead" signs. I would like to install a stop bar in the spring (weather permitting) to reinforce the existing stop signs."

Chairman Reszka read the following email received from Mr. Gow regarding the level of service on Taylor Road:

"We can discuss it at the meeting, but there are no traffic counts available to determine the LOS (level of service) of Taylor Road. What we do know is that 49 lots will not have a significant impact on the LOS no matter what it is. Also, this project has no bearing on accidents occurring at Taylor and East Eden, which is $\frac{3}{4}$ of a mile away from our entrance."

Chairman Reszka stated that he would like a written overview from the Engineering Department regarding storm water, how it will be handled and why it will not adversely affect the surrounding residents.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Long's Floor Care

Mr. Bellissimo made a motion, seconded by Mrs. Yerkovich, to remove this item from the table. Carried.

Mr. Reilly stated that a proposed landscape plan as mitigation for the removal of excess trees on the project site was submitted in February and the Planning Board asked for revisions to it. He noted that a revised mitigation plan has been submitted. He further stated that Wendel's Landscape Architects have reviewed the revised plan and have found that it meets the intent of what the Planning Board asked for.

Mr. Reilly stated that two (2) evergreen trees were added in front of the parking area, the bushes are taller and the trees are a larger caliper than the original mitigation plan.

Mr. Reilly stated that the issue of grading is a concern, noting that the revised mitigation plan is acceptable as long as the applicant follows the original approved Grading Plan. He stated that if the applicant plans to change the Grading Plan, the Planning Board would have to review it before approving the proposed mitigation. He noted that the applicant raised the driveway three (3) feet, which means that the approved Grading Plan cannot be adhered to because the entire site would have to be raised and the existing trees would not survive.

Chairman Reszka stated that the applicant will have to adhere to the Grading Plan as originally approved.

Mr. Long, applicant, stated that he would be willing to erect a fence in front of the parking area in order to better screen it from the road.

In response to a question from Mr. Bellissimo, Mr. Long stated that the areas of standing water on the site will have to be filled in.

Mr. Reilly informed Mr. Long that the Engineering Department has indicated that the approved Grading Plan will not work anymore because the road was raised three (3) feet. He further stated that Mr. Long should meet with Mr. Lardo from Engineering to discuss this issue.

Mr. Reilly stated that Mr. Long was not able to find a Performance Bond for the installation of the trees, per the Planning Board request. He noted that Mr. Long should work out how he will ensure that the plantings will go in with the Town Attorney.

Chairman Reszka stated that the Town Engineer has indicated that he has no problem reducing the amount of the Performance Bond to the amount arrived at by Mr. Long's Landscape Architect, as long as the Town Engineer finds the amount reasonable.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to approve the amended Landscape Plan with the following conditions:

1. The Grading Plan will be approved by the Town Engineer to his satisfaction.
2. The applicant will resolve the issue of how the installation of the plantings will be guaranteed with the Town Attorney.

Carried.

Engineering Department comments have been filed with the Planning Department.

Calkins Used Auto Parts (5661 Camp Road)

Mr. Reilly stated that the Town of Hamburg has a new junkyard law that states that new junkyards are not allowed in the Town. However, in order for an existing junkyard to continue operating in the Town, the owner must request a Special Use Permit from the Planning Board. He further stated that the owner must bring the junkyard into conformance with the requirements of the new junkyard law and has up to five (5) years to accomplish this. He noted that the Special Use Permit must be renewed every year.

Mr. Reilly stated that the new owners of Calkins have submitted a plan for the front of the property that shows how they propose to screen the business from Camp Road travelers. He noted that the Planning Board will also want to review a schematic plan that shows existing conditions, as well as what they plan to do on the property in the future.

Patrick Eck, applicant, stated that the proposed concrete block fence along Camp Road will have a foundation. He further stated that it will be painted.

Frank Wailand, representing the applicant, stated that the concrete block fence will be several hundred feet long and will serve to screen the business from the road. He noted that the southern end of the property is substantially higher than the roadway and therefore the business will be very well screened. He further stated that the applicants plan to improve the existing building on the site.

In response to a question from Mr. Bellissimo, Mr. Eck stated that the business will be accepting peddler scrap (copper, brass, aluminum, etc.)

In response to a question from Chairman Reszka regarding the two (2) billboards on the property, Mr. Eck stated that both billboards will be removed and a new one will be installed on the north side of the property, assuming the Town Board grants the approval.

Mr. Reilly stated that the Planning Board will need to see a general idea of what will be happening on the entire site.

Mr. Eck stated that the machinery that would be stored on the site would be no higher than 15 feet tall and would be stored approximately 300 to 400 feet from Camp Road.

Mr. Reilly stated that if the applicants add more than one (1) acre of impervious surface to the site, a Storm Water Pollution Prevention Plan will be required and a State Pollutant Discharge Elimination System permit will have to be obtained.

Mr. Eck asked Board members if they will be required to build a berm and/or plant trees along Camp Road in addition to the painted concrete block wall if the wall is aesthetically pleasing and runs the full length of the property. Board members concurred that a berm would not be required.

Mr. Eck stated that he would like to plant trees at the base of the wall, rather than right up at the road. Board members agreed that this would be aesthetically pleasing.

In response to a question from Mr. Koenig, Mr. Reilly stated that the new junkyard law supersedes the Camp Road Overlay District requirements.

In response to a question from Mr. Bellissimo, Mr. Eck stated that the rear of this property does abut residential property.

Mr. Eck stated that the first phase of their plan is to only use half of the property, noting that this area will more than accommodate their needs until they get involved in parts cars. He further stated that with the wall and gates installed, the interior of the site will not be visible.

Mr. Eck stated that the site will have to be graded and they would like to use an interior road system. He noted that EPA regulations do not allow them to do any dismantling outside of the building itself. He further stated that the gates will have outside keypads so that the fire department can access the site in the event of an emergency.

Mr. Eck stated that the rows of cars on the site will be neat and orderly, and there will be no debris lying around, no tire piles, etc.

In response to a question from Mr. Koenig, Mr. Eck stated that the area from the fence line to Camp Road and the customer parking area will be paved. He further stated that they are anticipating six to eight employees.

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

Engineering Department comments have been filed with the Planning Department.

Mosey Lane Two-Lot Subdivision

Mr. Reilly stated that this lot is part of a previously approved subdivision. He noted that the applicant wishes to further subdivide this lot into two (2), which would require a variance from the Zoning Board of Appeals because the area of each lot does not meet the R-2 requirement of 10,000 sq.ft.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to forward a positive recommendation to the Zoning Board of Appeals regarding an area variance for two (2) lots. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to schedule a public hearing for this project to be held on March 21, 2012. Carried.

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

Engineering Department comments have been filed with the Planning Department.

Lake Erie Commerce Center Pre-Permitted Site Incentive Concept Application

Mr. Reilly stated that he is in the process of preparing the Final Supplemental Generic Environmental Impact Statement (FSGEIS) for this project and briefly reviewed his responses to comments received to date that will be reflected in the FSGEIS.

Mr. Reilly discussed mitigation possibilities regarding traffic, possible layouts of the Commerce Center, screening requirements for loading docks, impact of development on wildlife in the area, air quality concerns, building height restrictions, truck parking areas, storm water

concerns, regulated waste issues, construction development impacts, tax incentives, federally mandated air monitoring stations, noise concerns, Bethlehem Steel fill, green space requirements, maximum number of sites and lot size, location of storm water basins, area safety, maintenance of common areas and thresholds for future review.

Mr. Reilly stated that he plans to have a draft of the FSGEIS ready for the Planning Board's review at its March 21, 2012 meeting.

Mr. Schawel asked what would happen if one entity were to purchase the entire site and then subdivide it. Mr. Reilly responded that the entity would have to develop the site in accordance with the conditions of the Findings and the approved plan for the Pre-Permitted Site.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to table this project. Carried.

OTHER BUSINESS

Chairman Reszka stated that he spoke with the architect associated with the shoe store proposed in front of Wal-Mart and was informed that the building elevations have been revised and they will be submitting them to the Board for review shortly. He further stated that the applicant will not be allowed to install signage on the two shorter sides of the building.

Mr. Bellissimo made a motion, seconded by Mr. Koenig, to approve the minutes of February 15, 2012. Carried.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to adjourn the meeting. The meeting was adjourned at 9:05 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: March 14, 2011