

Town of Hamburg
Planning Board Work Session
May 2, 2012
Minutes

The Town of Hamburg Planning Board met for a Work Session on Wednesday, May 2, 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, David Bellissimo and Doug Schawel.

Others in attendance included Sarah desJardins and Attorney Cheryl McFadden-Zak.

Willow Woods Subdivision

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that Erie County Health Department approval is still outstanding, as is Erie County Water Authority. He noted that the applicant hired an environmental consultant, who visited the site to determine where the wetlands are and that the U. S. Army Corps of Engineers has confirmed the wetlands delineation.

Mr. Gow stated that the applicant is requesting that the Planning Board grant Preliminary Plat Approval so that the Town's Engineering Department can begin its review.

Mr. Gow stated that one of the main issues that has been discussed has to do with the environmental concerns resulting from the Village of Hamburg municipal dump that existed on the site from 1951 until 1966. He further stated that a report was done in 1994 and submitted to the Planning Board that showed that there was no contamination in the areas that were tested at that time. He noted that the applicant has hired an environmental consultant (Lender Consulting Services) to test closer to the area of the proposed subdivision to see if there is any migration of any contaminants toward the project site.

Douglas Reid from Lender Consulting Services stated that the 1994 report focused primarily on the area around the landfill and the analysis did not identify any contamination of any consequence. He further stated that he advanced a series of borings where the landfill is, as well as in the area of the proposed development. He stated that the purpose of his investigation was two-fold: to see if there is any contamination migrating within the soil and to see if there is any contamination in the ground water. He noted that the bedrock is quite shallow in this area and if there is any contamination migrating, it will typically be found near the top of the rock. He further stated that the study found one constituent that was slightly elevated in the southwestern portion of the site, but it is also a naturally occurring constituent and typically associated with essentially elevated background conditions.

Mr. Reid stated that he did not find anything of particular concern within the investigation.

Chairman Reszka stated that the Planning Board's job is to make sure that, if this project is approved, the residents of the new subdivision will be secure in their homes from the day the homes are purchased until they are demolished due to old age. He further stated that the Planning Board will be looking at the landfill only as it affects the area of the site where the subdivision is proposed. He noted that the landfill itself is outside of the Planning Board's scope.

Chairman Reszka stated that the Planning Board members are not qualified to review the submitted report. He further stated that the New York State Department of Environmental Conservation (NYSDEC) has agreed to perform a preliminary review of the report and if they find any shortcomings in the report or if the Board is still not comfortable, he would like the Board to consider obtaining an outside firm to review it. Board members agreed with this course of action.

Attorney McFadden-Zak stated that it is her opinion that it should be the obligation of the applicant to bring an expert forward. Mr. McCabe stated that there is an inherent conflict if the applicant is paying the person who is overseeing the data.

Chairman Reszka stated that the data should be reviewed by an independent and totally uninvolved entity.

Mr. McCabe stated that perhaps the NYSDEC would be willing to review the data, assess any deficiencies that may exist in the data and recommend whether the information does what the Planning Board wants it to do.

It was agreed that the NYSDEC will be asked to review the report.

Chairman Reszka stated that if the Planning Board still is not comfortable with the data, a Positive Declaration can be issued.

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

Engineering Department comments have been filed with the Planning Department.

Russo Development

Chairman Reszka stated that the applicant had asked that the project be tabled.

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

Engineering Department comments have been filed with the Planning Department.

Whispering Pines Subdivision

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

David Burke, applicant, stated that some trees were cut down for sight lines outside of the right-of-way. He further stated that he could get a landscape expert and present some type of growth plan for the area where the trees were cut down.

Chairman Reszka stated that trees were taken down in the conservation area, which was not to be touched, and the Planning Board will require a mitigation plan prepared by a Registered Landscape Architect showing how the wooded area will be restored.

Mr. Burke stated that the project is very close to receiving Final Plat Approval and asked if he could proceed with the understanding that a Registered Landscape Architect will be hired to do a mitigation plan. Board members concurred that this would not be allowed.

Andrew Gow from Nussbaumer & Clarke stated that he looked at the aerial photos that are online and they clearly show where strips of land were cleared, some of which do encroach into the conservation area in a very limited manner. He noted that the Engineering Department has indicated that the over-clearing is more extensive than what the aerial photos show, although he (Mr. Gow) does not believe that to be the case.

Chairman Reszka stated that the Engineering Department did an on-site inspection of the area. Mr. Gow responded that it would be difficult to know where exactly one is when walking the site.

Mr. Burke stated that this was not a haphazard clearing, but rather it was done while referring to a map supplied to the applicant by the surveyor.

Mrs. Yerkovich suggested that the applicant meet with the Engineering Department, since that department was disturbed by the damage that was done. She further stated that the applicant needs to know the exact area of the over-clearing in order to prepare a mitigation plan.

Mr. Burke agreed to speak with Mr. Lardo from the Engineering Department to clarify the situation.

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

Engineering Department comments have been filed with the Planning Department.

David Burke apartment complex

Chairman Reszka stated that Mr. Burke received approval to construct a subdivision on Oakwood Avenue a number of years ago and the lot being proposed for development at this time was part of that subdivision. He further stated that no development on this lot was approved at the time of subdivision approval.

Mrs. desJardins stated that as far as she can tell at this early stage the project meets all zoning requirements.

In response to a question from Chairman Reszka, Mr. David Burke, applicant, stated that he plans to construct both 8-unit apartment buildings at the same time.

In response to a question from Mrs. desJardins, Mr. Burke stated that the driveway is not proposed directly across from the existing entrance to the plaza across Lake Avenue from this site.

Traffic Safety Advisory Board (TSAB) Coordinator Jerry Giglio stated that personally he would prefer to see the driveways for this development and the plaza across the street lined up in case a traffic light is ever installed at that location. He noted that this is a problematic location

because of the Thruway bridge and the narrowing of the highway. He further stated that the more traffic control there is in that area, the better.

Chairman Reszka asked Mr. Giglio if lining the driveway up with the plaza entrance and therefore making it closer to the Thruway bridge would make the situation more dangerous if a traffic light is not installed. Mr. Giglio responded that this would increase the hazard, but he would still prefer to have the two driveways lined up, noting that perhaps stop signs could be posted if a traffic light is not installed. He further stated that if the driveways are not aligned, motorists would be turning left and right out of the apartment site at the same time that other motorists are making right and left turns out of the plaza, which would be a dangerous situation.

Mr. Giglio agreed to discuss this issue at the next TSAB meeting, which will be held on May 10, 2012. He further agreed to notify Mr. Burke on May 11, 2012 regarding the TSAB's opinion.

In response to a question from Mr. McCabe, Mr. Burke stated that the rationale for the location of the driveway is to stay away from the Thruway bridge.

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

Engineering Department comments have been filed with the Planning Department.

Dennis Debo rezoning

Chairman Reszka stated that the parcels to be rezoned are the only industrial parcels on Quinby Drive, noting that they are located on the north side of the road, approximately 200 yards east of the Quinby Drive entrance to the Fairgrounds. He further stated that the uses on the site are currently existing non-conforming and this rezoning to Neighborhood Commercial would bring these uses into conformance with the Town Code. He noted that Mr. Debo would like to put a day care center in the existing building on the property and day care centers are prohibited in the M-1 zone unless they are used by the children of employees at the location of the primary allowed use.

Mrs. desJardins stated that the Code Review Committee did find merit in this request at its meeting earlier in the day.

Chairman Reszka stated that if the rezoning is approved by the Town Board, the applicant will have to return to the Planning Board to obtain a Special Use Permit to operate the day care center at that location.

Mr. Bellissimo made a motion, seconded by Mr. McCabe, to table this item. Carried.

Moonshiner's Two Lot Subdivision

Chairman Reszka stated that the property to be divided is located at 5822 and 5810 Camp Road and is currently owned by the individual who lives at 5810 Camp Road. He further stated that there is a building on 5822 Camp Road and the owner of the parcel proposes to subdivide the property and sell the building at 5822 Camp Road to the individuals who plan to re-open the business as Moonshiner's.

Mrs. desJardins stated that the proposed subdivision meets all zoning requirements.

Chairman Reszka stated that the entire lot (5822 Camp Road) is paved and he is concerned about available parking for the business. Mrs. desJardins stated that there will be no parking on 5810 Camp Road after the property is split. She noted that the new owners of the business have indicated that they have an agreement with the property owner to the south of 5822 Camp Road to allow the business's patrons to park there if the need arises.

Mrs. Yerkovich made a motion, seconded by Mr. O'Connell, to schedule a public hearing for this proposal to be held on May 16, 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.

OTHER BUSINESS

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to approve the minutes of April 18, 2012. Carried.

Chairman Reszka informed Board members that the Town Board is in favor of the Planning Board adopting the same meeting model used by the Town Board (having a work session before every meeting, instead of just having one work session at the first meeting of each month.)

It was determined that the Planning Board will begin the new schedule on July 5, 2012 and that the meetings will begin at 6:30 P.M.

Mr. Schawel stated that he is very happy that the Planning Board will be changing its meetings because he has always been concerned about the length of time it takes applicants to get their projects in front of the Planning Board.

Attorney McFadden-Zak stated that she will attend each Work Session and will stay for the Regular Meeting if Board members feel it is necessary.

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

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: May 8, 2012