

Town of Hamburg  
Planning Board Meeting  
July 18, 2012  
Minutes

The Town of Hamburg Planning Board met for a Work Session, followed by a Regular Meeting, on Wednesday, July 18, 2012 at 6:30 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, Gerard Koenig, Sasha Yerkovich, David Bellissimo and Doug Schawel.

Others in attendance included Sarah desJardins, Richard Lardo, Attorney Cheryl McFadden-Zak and Councilman Joseph Collins.

Excused: Daniel O'Connell

## **WORK SESSION**

Chairman Reszka stated that the following projects would not be discussed at this meeting because the applicants had asked that their projects be tabled: Hamburg Recovery & Towing, Suburban Adult Services, Willow Woods Subdivision and Russo Development. He further noted that the applicant for the Hickey Farms project has indicated that the project is not viable at this time and therefore the project would not be discussed.

### **Frank's Flatbed Service**

Mrs. desJardins stated that the Building Inspector has instituted a new policy dealing with the businesses in Hamburg that tow for the Police Department. She noted that these businesses must appear before the Planning Board to receive a Special Use Permit in order to be considered a Public Garage and be eligible to continue towing for the Hamburg Police Department.

Chairman Reszka stated that this new policy also came about because of the recent passing of the new Junkyard Law. He noted that the Town wants to make sure that towing operations adhere to the regulations regarding public garages so they do not become junkyards.

Mrs. desJardins stated that she has visited the site and observed that there are no vehicles stored outside the building.

Chairman Reszka read the following letter into the record from the applicant:

"I am responding to Kurt Allen's letter of May 15, 2012, in which he indicated that I should contact you to apply for a Special Use Permit for a Public Garage. Please let this letter serve as a request for a Special Use Permit. I understand I must go in front of the Planning Board to be granted the permit. I understand through my landlord, Roger Duffett, that the main concern of the Town is the impound and storage of vehicles on the exterior of the building. Let me assure the Town of Hamburg that at no time are any vehicles stored on the exterior of the building. Any impounded vehicles are now and would be in the future stored on the interior of

the building. Please let me know if there is anything else required or if I can be of further assistance.”

Mrs. Yerkovich made a motion, seconded by Mr. Schawel, to schedule a public hearing for this project to be held on August 1, 2012. Carried.

### **Randy's Two-Lot Subdivision**

Mrs. desJardins stated that this subdivision was proposed in 2011 but it was determined that a commercial building had been built on the new lot, which is zoned R-A and therefore not allowed to contain a commercial building. She further stated that the owner of the commercial building has converted it to an agricultural building with farm equipment, horse stalls, etc. and is now keeping his horses on the lot. She noted that agricultural buildings are allowed on R-A lots.

Chairman Reszka noted that the subdivision has already been registered with Erie County.

Mrs. Yerkovich made a motion, seconded by Mr. Bellissimo, to schedule a public hearing for this project to be held on August 1, 2012. Carried.

Engineering Department comments have been filed with the Planning Department.

### **Heron Hill Apartments/First Baptist Church of Hamburg**

Chairman Reszka stated that the applicants are requesting a rezoning of the property bordering McKinley Parkway, Route 391 and Newton Road from R-A (Residential-Agricultural) to R-3 (Residential Multi-family). He noted that the applicant is requesting that the land be rezoned from the most restrictive to the least restrictive residential district. He further stated that this is a referral from the Town Board for review and comment.

Dominic Palmisano, architect, stated that the applicants (First Baptist Church of Hamburg and Young Development) are requesting the rezoning together. He further stated that one (1) part of this property would be an eight-acre parcel for the new home of the First Baptist Church of Hamburg and the rest of the property (20.38 acres) would be a new apartment complex.

Mr. Palmisano stated that natural wetlands meander through the property and the intent is to enhance the wetlands and slow the water down. He further stated that only 27% of the site would be developed and the developer would incorporate trails, etc. on the remaining 73% of the site to keep the natural habitat where it is.

Mr. Palmisano stated that the idea is to create a nice, upscale apartment complex with rents of approximately \$900 per month. He further stated that the property would be accessed from McKinley Parkway and Newton Road. He noted that there is sufficient sanitary sewer capacity and water pressure to the site.

Mr. Palmisano stated that the First Baptist Church of Hamburg currently has 250 families and a congregation on Sundays of approximately 400 people. He further noted that the church membership is growing.

Chairman Reszka asked Mr. Palmisano if he feels that requesting rezoning from R-A to R-3 is out of character with the surrounding neighborhood. He further asked Mr. Palmisano why the developer cannot do a project that conforms to the current zoning of the property. Mr. Palmisano responded that the developer is an apartment complex developer and would need to develop apartments on this site in order for the project to be cost effective. He further stated that if the rezoning is not approved, the developer will not be interested in this site anymore.

Mr. Palmisano stated that building a nice, upscale apartment would only enhance the businesses in the Village of Hamburg and give the churches in the Village more members.

In response to a question from Chairman Reszka, Mr. Palmisano stated that if the rezoning is not approved, the church will not move forward with its plans because it cannot afford to purchase the entire property.

Mrs. Yerkovich stated that she was a member of the Town's Comprehensive Plan Committee in 1997 and this property is not located in an area the Committee considered up-zoning at that time. She further stated that she does not ever remember the Town rezoning any property from R-A to R-3. She stated that she finds this request a big problem.

Chairman Reszka stated that the Town's Comprehensive Plan contradicts itself because one section of the document indicates that the property east of the Village to the Hamburg Town line should remain rural, while another section indicates that high density usages should be considered as close to the Village as possible where it makes sense.

Mrs. Yerkovich stated that "where it makes sense" is very important, noting that she believes that this is a case of poor wording, rather than a contradiction of intent. She further stated that the intent of the Comprehensive Plan relative to this part of the Town was to not develop it into a more dense area.

Mr. Bellissimo stated that he is concerned about the amount of wetlands that are involved on this site. Mr. Palmisano stated that wetlands are regulated and the existing wetlands on the site would be avoided.

Mr. Palmisano stated that it would be quite a challenge to develop large residential lots on this property, given the amount and location of the wetlands on the site.

Mrs. Yerkovich stated that an up-zoning of this nature would be unprecedented in the Town of Hamburg.

Chairman Reszka asked Mr. Palmisano to attempt to convince the Board at its next meeting that this request is not spot zoning, noting that the zoning is out of conformance with everything else in the area and it does not seem to be in conformance with the Town's Comprehensive Plan.

Mr. McCabe stated that when someone buys a home in a particular neighborhood and it is zoned a particular way, the Town has an obligation to present a compelling reason for changing that zoning.

Chairman Reszka stated that the Board must consider whether this is the proper place and whether R-3 is the proper zoning for this project, considering the property's location, the surrounding property and the surrounding zoning. He noted that the Board must decide if this project belongs on this site.

Mr. Palmisano stated that if an area that is located just outside of the Village, where businesses are, is not a good place for higher density projects, he does not know what area would be. He further stated that the residents of this apartment complex would be able to walk to the Village, take advantage of the Village's amenities and be part of the community while still living in an apartment.

Mr. Terry Vicante asked the Board when the last time was that the Town rezoned property from R-A to R-3. Chairman Reszka responded that it has never been done to his knowledge.

Mr. Richard Lawrence asked what influence the surrounding neighbors have in the Board's decision process. Mrs. desJardins responded that the Planning Board is a recommending body and will forward a recommendation on the rezoning request to the Town Board. She noted that the Town Board will hold a public hearing on this rezoning request.

Mr. Ray Skalski stated that he has lived on Grandview Avenue for six (6) years. He further stated that one of the things that attracted him to this area was being at the intersection of Newton Road and McKinley Parkway and looking at the Boston Hills. He stated that this parcel is beautiful and it increases the neighboring properties' values.

Mrs. Yerkovich stated that the Town cannot stop the owner of this property from eventually developing it if he comes to the Town with a project that is zoned correctly and meets all engineering, State, Federal and Town guidelines.

Mr. Palmisano stated that the views from this property are breathtaking and the proposed project would include the installation of walkways for the public to enjoy, as well as the preservation of the natural beauty that exists on the site.

Councilman Collins stated that he is the liaison to the Planning Board and he is aware of the neighborhood's concern regarding this proposed rezoning. He further stated that the Town Board will hold a public hearing on this proposal and the residents will have a chance to be heard.

Mr. Bellissimo made a motion, seconded by Mr. Koenig, to table this project. Carried.  
Engineering Department comments have been filed with the Planning Department.

**REGULAR MEETING****Villages at Mission Hills Apartments, Phase Two**

Mr. McCabe read the following public hearing notice:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on Phase Two of the Villages at Mission Hills apartment project located on the northeast side of Camp Road, immediately east of the railroad. The project sponsor is requesting re-approval of the Site Plan that was originally granted on December 10, 2010. The Public Hearing will be held on July 18, 2012 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Mrs. desJardins stated that this project was approved by the Planning Board in December 2010 and a six-month extension was subsequently granted. She noted that no more extensions are allowed, so the project must be re-approved.

Mr. David Manko, applicant, stated that his development plan for this project has far exceeded what he thought the market demand was for senior housing. He further stated that the first phase will be completely absorbed by the end of August 2012 and there is a 35 to 40 person waiting list for the patio homes. He noted that he anticipates that half of the second phase that is currently under construction will be pre-leased before foundations are even put in the ground.

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

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to close the public hearing. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Koenig, to grant Conditional Site Plan Approval for the Villages at Mission Hills Senior Apartments, Phase Two with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated December 15, 2010.
- Approval is contingent upon Fire Department review of the proposed retaining wall.
- No SEQR determination is required, as the project is in conformance with the SEIS.

Engineering Department comments have been filed with the Planning Department.

**Public Hearing - Camp Road Medical Park**

Mr. McCabe 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 Camp Road Development to construct a 26,488 sq.ft. building to be

located on vacant land just south of 4855 Camp Road. The public hearing will be held on July 18, 2012 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

Mrs. desJardins stated that no new correspondence had been received by the Planning Department regarding this proposal.

Mr. Schawel stated that an employee in the existing medical building at 4855 Camp Road indicated that the rear parking lot does not drain properly, and in the winter standing water freezes in the rear parking lot, making it a dangerous situation.

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

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to close the public hearing. Carried.

Chairman Reszka made a motion, seconded by Mr. McCabe, to direct the Planning Department to prepare approval resolutions for this project for the Board’s next meeting. The resolutions should reference the site plan received June 20, 2012 and the Engineering Department comment letter dated July 18, 2012. Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **Public Hearing – Gateway Printing**

Mr. McCabe 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 Gateway Printing to construct an addition to the existing building located at 3970 Big Tree Road. The public hearing will be held on July 18, 2012 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

Mrs. desJardins stated that the applicant is not proposing additional parking spaces at this time. She further stated that 38 spaces exist on the property, which is the number of spaces that would be required per the Town’s parking guidelines.

It was determined that the additional space in the building will be used for storage and additional equipment.

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

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to close the public hearing. Carried.

Chairman Reszka directed the Planning Department to prepare approval resolutions for this project for the Board’s next meeting.

Mr. McCabe made a motion, seconded by Mr. Koenig, to forward a positive recommendation to the Zoning Board of Appeals regarding the applicant's variance request for relief from the side yard setback requirement. Carried.

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

Engineering Department comments have been filed with the Planning Department.

### **Public Hearing – Armor Inn Tap Room**

Mr. McCabe 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 the Armor Inn Tap Room to construct a parking facility to be located at 5404 Bayview Road across the street from the restaurant. The public hearing will be held on July 18, 2012 at 7:00 P.M. in Room 7B of Hamburg Town Hall."

Mrs. desJardins stated that the Traffic Safety Advisory Board (TSAB) discussed this proposal at its July 12, 2012 meeting.

Mark Tuffilaro, representing the applicant, stated that he asked Erie County to recommend a crossing pattern for people walking from the new parking lot to the restaurant via Clark Street and Armor Duells Road. He further stated that the plan recommended by the County involves a crosswalk being painted across Clark Street, a walkway in the County right-of-way in front of the gas station and a crosswalk across Armor Duells Road to the restaurant.

Chairman Reszka read the following from the TSAB minutes from July 12, 2012:

"Traffic Safety office will send a letter to Erie County Highway requesting pedestrian crosswalk markings and all appropriate signs, signals, etc. for proposed Armor Inn satellite parking lot on Bayview Road and Clark Street. In addition, TSAB will request consideration again be given to establishment of a round about at this location."

Mr. Tuffilaro stated that the applicant is concerned for the safety of their employees and the public. He further stated that he feels that the above crossing pattern is a reasonable solution.

In response to a question from Mrs. desJardins, Mr. Tuffilaro stated that there are no sidewalks in front of the gas station.

It was determined that the County had not yet responded to the TSAB letter.

Mr. Lardo stated that usually the developer pays for the crosswalk installation, signage, etc. that is necessary to make the project work.

In response to a question from Mr. Bellissimo, Mr. Tuffilaro assured the Board that the applicant will make sure that the valet personnel adhere to this crossing pattern from the new parking lot to the restaurant. He further stated that the owner is considering making valet personnel restaurant employees so that they will adhere to the crossing pattern.

Mr. Tuffilaro stated that the new parking lot would be for valet and employee parking only and appropriate signage would be installed indicating that.

Mrs. desJardins showed Board members the submitted Landscape Plan for this parking lot. Chairman Reszka stated that he would like to see a fence installed along both Clark Street and Bayview Road with a pedestrian gate onto Clark Street where the crosswalk will be located so that the valet personnel and employees cross at that point and not elsewhere.

Mr. Lardo stated that the Town Code requires that parking areas be lighted.

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

Chairman Reszka made a motion, seconded by Mr. Bellissimo, to close the public hearing. Carried.

Board members agreed to wait to hear from the County before any approvals are given.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to forward a positive recommendation to the Zoning Board of Appeals regarding the applicant's request for relief from the setback requirement for parking areas. Carried.

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

Engineering Department comments have been filed with the Planning Department

### **Roger Duffett**

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that a variance is needed for the project because the parking area is too close to Maelou Drive. He further stated that the applicant is looking for a positive recommendation to the Zoning Board of Appeals from the Planning Board.

In response to a question from Chairman Reszka, Mr. Gow stated that the applicant believes that the new building would house businesses similar to the businesses in his other buildings on Maelou Drive. He further stated that if additional parking is ever needed, the applicant could install more parking on the northeast side of the building, which is currently vacant.

Mrs. Yerkovich made a motion, seconded by Mr. McCabe, to forward a positive recommendation to the Zoning Board of Appeals regarding the applicant's variance request. Carried.

Mrs. Yerkovich made a motion, seconded by Mr. Schawel, to schedule a public hearing for this project to be held on August 1, 2012. Carried.

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

Engineering Department comments have been filed with the Planning Department.

**OTHER BUSINESS**

Mrs. desJardins stated that Council Opticians received Planning Board approval to occupy the existing building on South Park Avenue. She noted that the applicant would like to substitute a fence for the green space that was proposed along the eastern property line because of grading problems recently encountered. Board members agreed that this will not be an issue.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to approve Council Opticians adding a split rail fence in place of proposed green space on the site plan dated July 2, 2012. Carried.

Mr. Koenig made a motion, seconded by Mr. Bellissimo, to approve the minutes of June 20, 2012. Carried.

Mr. Bellissimo made a motion, seconded by Mr. Schawel, to adjourn the meeting. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,

Stephen J. McCabe, Secretary

Planning Board

Date: July 27, 2012