

Town of Hamburg
Planning Board Meeting
July 24, 2013
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting on Wednesday, July 24, 2013 at 7:00 p.m. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Peter Reszka, Stephen McCabe, David Bellissimo, Doug Schawel, Dan O'Connell and August Geraci.

Others in attendance included Andrew Reilly and Sarah desJardins, Planning Consultants, Richard Lardo (Engineering Department) and Councilwoman Amy Ziegler.

Excused: Sasha Yerkovich.

Benderson Development (McKinley Parkway and Southwestern Boulevard)

Chairman Reszka stated that this building was previously approved by the Planning Board as part of the Tops redevelopment project at Seven Corners. He noted that a condition of the approval was that before this building is built, the Planning Board must approve its design.

Mr. Reilly stated that when this plaza redevelopment was approved, no loading docks were allowed. He noted that this proposed building has a loading door, but no loading dock.

It was determined that the proposed design of the building meets the conditions placed on the previous rezoning of the parcel by the Town Board.

Mr. McCabe made a motion, seconded by Mr. O'Connell, to approve the Benderson Development new design for the building to be constructed in the southeast corner of the Tops Plaza located on the southwest corner of Southwestern Boulevard and McKinley Parkway.

Mr. McCabe amended his motion to state that the Board is approving the "design", rather than the "new design". The amended motion was seconded by Mr. O'Connell. Carried.

Engineering Department comments have been filed with the Planning Department.

Nidus Development (South Park Avenue)

Mrs. desJardins stated that she spoke with Lowell Dewey, representative for the applicant, and he indicated that he would not be attending the meeting. She noted that Mr. Dewey informed her that he is still dealing with the New York State Department of Environmental Conservation (NYSDEC) about the existing wetlands on the site, and he is optimistic that he will obtain a letter from that department indicating that it has no concerns with the proposal.

Mrs. desJardins stated that Mr. Dewey also indicated that he has been in contact with the New York State Department of Transportation, and that department does not have objections to the proposal.

Chairman Reszka stated that something in writing from the NYSDEC must be received by the Planning Board before it will move forward in the approval process.

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

Engineering Department comments have been filed with the Planning Department.

Benderson Development (Tim Horton's)

Chairman Reszka stated that this site was also approved as part of the Tops Plaza redevelopment project on the corner of Southwestern Boulevard and McKinley Parkway, but it was approved for a retail building, and the developer wishes to construct a Tim Horton's instead. Therefore, the Planning Board must review the change in the approved redevelopment site plan.

Bob Bender from Tim Horton's stated that the plan presented at this meeting is the same plan they presented at the Board's last meeting because he feels that the answers he provided at the last meeting sufficiently addressed the concerns the Board had about the queuing situation. He stated that Tim Horton's did draw up a plan whereby the proposed building was rotated as suggested by some Board members, and the problems with that plan are evident. He noted that if the building were to be rotated, there would not be enough room for the traffic driving around the west side of the building leaving the drive-up area to make a 180-degree turn to head north to get to the signal on McKinley Parkway and exit the plaza.

Mr. Bender stated that to correct the above problem, the double drive-up lane situation would have to be eliminated, and a single drive-up lane would mean that the same number of cars would be stacked with only one (1) service point.

Mr. Bender stated that a queuing study was performed, and the traffic engineers are 95% confident that the 12-car stack is sufficient for the site. He further stated that he recognizes that there may be times where there are a car or two (2) backed up into the parking lot, but Tim Horton's is very confident that the proposed stacking is sufficient, and Benderson and the other tenants in the plaza have expressed no concerns about potential traffic problems.

Mr. Bender stated that Tim Horton's peak hours do not coincide with the hours of operation of the other stores. He noted that, although Tops is open 24 hours a day, it is not doing a large volume between 6:00 AM and 9:00 AM.

Chairman Reszka stated that he still supports the rotated building because the Traffic Safety Advisory Board (TSAB) recommended it. He noted that his concern also stems from the fact that when the gas pumps at the plaza were being reviewed by the Planning Board, the applicant assured the Board that the traffic flow would work well and there would be no problems. However, three months after the pumps opened, people were complaining that they could not get in and out, the gas pumps were blocking things and traffic flow was terrible. He stated that this situation seems very much like that one.

Mr. Bender stated that he does not believe there is a problem with traffic flow at the gas pumps, other than the usual issues of having to be aware of who is leaving the pumps and occasionally having to wait for someone to decide which pump to use.

In response to a question from Mr. Bellissimo, Mr. Bender stated that on the rare occasion where there are between 13 and 16 cars stacked in the drive-up lanes, this would block the parking spaces located directly west of that area. He noted that he believes that if someone sees that the queuing lanes are over-stacked, he or she would probably not choose to park in those parking spaces.

Mr. Bender stated that the Tim Horton's employees could park in those spaces directly west of the drive-through lanes.

Mr. Bender listed the multiple existing Tim Horton's locations in Hamburg and Blasdell, noting that customers will probably continue to go to the most convenient location for them, so this site will not have flocks of customers from other locations. He further stated that the queuing study that was performed did not take into account the fact that there are so many other Tim Horton's nearby, nor did it take into account the fact that the double drive-up is planned.

In response to a question from Mr. Lardo, Mr. Bender stated that he is not concerned about vehicles exiting the drive-through area, because they typically exit every 20 to 25 seconds, so the traffic exits at a bit of a trickle.

Mr. McCabe made the following motion, seconded by Mr. Schawel:

"A Negative Declaration was previously issued by the Planning Board on February 2, 2011 in connection with the Site Plan Approval of the redevelopment of the Tops Plaza. The Planning Board has reviewed this proposal, which is an amendment to the approved plan (a restaurant previously approved for retail). The Planning Board has determined that this change to the approved plan, including changes to traffic patterns, does not affect the previously issued Negative Declaration. Therefore, SEQRA remains completed." Carried.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to grant Conditional Site Plan Approval to this project with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated July 24, 2013.
2. The applicant will reevaluate the traffic six (6) months after opening and will make revisions to the layout traffic pattern if a problem is occurring, such as cars backing out into the main entrance driveway.
3. The landscape plan shall be approved by the Planning Department.

Mr. McCabe amended his motion to change conditions # 1 to read as follows: "Approval is contingent upon the Engineering Department comment letter dated July 24, 2013 excluding item # 2."

Mr. Bellissimo seconded the amended motion. Carried.

Engineering Department comments have been filed with the Planning Department.

Dan Howard Five-Lot Subdivision

Andrew Gow from Nussbaumer & Clarke, representing the applicant, stated that the applicant has decided to add one (1) lot to the previously proposed layout. He stated that three (3) lots would front Bayview Road and two (2) would front Big Tree Road. He noted that all five (5) lots will be as large as R-1 lots, although they are zoned R-2.

Mr. Gow stated that the applicant is committed to only constructing single-family homes on these lots, even though duplexes are permitted in the R-2 zone.

Mr. Gow stated that sanitary sewer service exists down the road from this site on Big Tree Road, but bringing it to the new lots on Big Tree Road would be cumbersome. He noted that Erie County Sewer District # 3 has allowed the applicant to put in a twenty-foot easement so that a lateral from the existing sanitary sewer on Bayview Road can be put in to service the lots on Big Tree Road.

In response to a question from Mr. Bellissimo, Mr. Gow stated that there are no sidewalks in this area.

Chairman Reszka stated that the traffic report from the Police Department indicated that the Bayview Road/Big Tree Road intersection has improved greatly since the stop signs were installed, so traffic concerns are not a factor any more.

Mr. Geraci stated that he lives in this area, and the traffic problems no longer occur at the intersection, but they do occur in the area where the two (2) homes are proposed on Big Tree Road. He noted that he has no objection to the plan, however.

In response to a question from Mr. Bellissimo, Mr. Gow stated that the drainage easement would be on private property, so the person who owns lot # 5 would own and maintain it. He further stated that the easement would simply look like grass. He also noted that the sewer easement would be owned by whoever purchases lot # 1.

It was determined that mainly scrub trees and brush exist on the site and are not worth saving.

Mr. McCabe made a motion, seconded by Mr. O'Connell, to schedule a public hearing to be held on August 7, 2013 regarding this proposal. Carried.

Mr. McCabe made a motion, seconded by Mr. Bellissimo, to seek Lead Agency Status and initiate the Coordinated Review. Carried.

Engineering Department comments have been filed with the Planning Department.

Ralph Sardo (6638 Gowanda State Road)

Mr. Reilly stated that this property was rezoned by the Town Board from NC (Neighborhood Commercial) to R-A (Residential-Agricultural) and C-1 (Local Business District).

Board members received a packet of information from Mr. Sardo regarding his proposal.

Mr. Sardo stated that the previously proposed drive-thru window and circular drive-up area have been removed from the proposed site plan, the amount of proposed paving has been greatly reduced, the line between the R-A and C-1 zones has been shown, the existing gas line will be relocated and the parking area has been moved ten feet further away from the adjacent property to the north.

Mr. Sardo stated that a buffer zone with a retaining wall would be installed along his northern property line. He noted that the adjoining property to the north is six to eight feet above his property, and the existing fence (on the adjoining property) is another six feet high, so he would have to install some very tall landscaping to further buffer the neighbor.

It was determined that the adjoining property to the north is zoned C-1.

Chairman Reszka stated that even if Mr. Sardo does not plant any additional landscaping along the northern property line, when cars pull in, their lights would shine on the embankment between the two (2) properties.

Mr. Sardo stated that the top of the existing fence on the neighbor's property is approximately 15 to 20 feet higher than his property.

In response to a question from Mr. Reilly, Mr. Sardo stated that the only lights he might install on the northern side of his property would be low-voltage landscaping lights so that patrons can see where they are walking at night.

Mr. Sardo stated that the gas line on the property that would be relocated is simply a service line feed to the residence in the rear of the property.

Regarding the northerly neighbor's concerns regarding exhaust fumes and odor, Mr. Sardo stated that he plans to utilize an air-tight high-efficiency smoking oven with a filtration system, which would greatly reduce emissions.

In response to a question from Chairman Reszka, Mr. Sardo stated that he does not plan to have a dumpster because he does not want a large truck on the pavement because of the potential for hydraulic leaks, the weight of the truck, etc. He noted that he would use four (4) or five (5) totes that would be kept behind the building in a fenced-in area.

In response to a question from Mr. Bellissimo, Mr. Sardo stated that there will be a relatively small amount of grease remains that will be picked up by a service.

Board members agreed that Mr. Sardo can proceed to the Site Plan preparation phase of the review process.

In response to a question from Councilwoman Ziegler, Mr. Sardo stated that he anticipates the restaurant being open Tuesday through Sunday from 11:00 AM until 9:00 PM or 10:00 PM.

Mr. McCabe 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 FEIS

Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that the draft FEIS (Final Environmental Impact Statement) discusses what came about as a result of the draft EIS being prepared. He stated that the document's first section gives an overview of the project and contains a summary of project modifications. He noted that as a result of the comments received from the involved agencies (New York State Department of Environmental Conservation, Erie County Department of Environment & Planning and the Planning Board), there was much discussion about the conservation lands, the storm water detention basins, the landfill on the site and the State and Federal wetlands on the property.

Mr. Pidanick stated that the applicant plans to create a homeowners' association (HOA) that will own and maintain the part of the project that is not developed (103.8 acres). He noted that the storm water detention ponds will be owned and maintained by the HOA, the wetlands on the property will be protected by the HOA and the balance of the 103.8 acres will consist of the conservation lands and the landfill area.

In response to a question from Mrs. desJardins, Mr. Pidanick stated that the storm water detention ponds would not have a fence around them.

Mr. Pidanick stated that the applicant has dealt with the issues and recommendations raised by Mr. Norm Wohlabaugh as a result of the public hearing held on May 1, 2013 regarding the landfill area. He further stated that the additional study work performed on the landfill by SJB indicates that there will be no significant adverse impacts as a result of the project.

Mr. Pidanick stated that the laboratory analysis that goes with the SJB study, as well as all correspondence received, will be included in the final FEIS document.

Mr. Pidanick stated that the second section of the document lists of all the correspondence received and addresses each one.

Mr. Reilly stated, for the record, that the Planning Board received comments from the public prior to the public hearing, and those comments were used to scope the draft EIS. Subsequently, the applicant submitted the draft EIS, and a public hearing was held on that document.

Mr. Reilly stated that Mr. Norm Wohlabaugh will be invited to the Board's August 7, 2013 meeting. He noted that hopefully Mr. Wohlabaugh will have reviewed the FEIS by then and will be able to answer any questions Planning Board members might have and issue a memo regarding the FEIS.

Ed Tone, 6590 Taylor Road, asked if the Board ever consulted Dan Schunk, Taylor Road resident, about what areas of the landfill should be tested based on what was dumped there from the Village, as well as after that. Mr. Reilly responded that the Planning Board hired an independent consultant at the applicant's expense who has 30 years of experience with landfills. He further stated that the consultant determined where the wells should go in.

In response to a question from Mr. McCabe, David Steiner from SJB stated that the ground water on the site flows from the west northwest.

David Radwan, 6594 Taylor Road, stated that the water table is very high behind his property. He asked where the drainage would be going from the detention pond proposed behind his home. Mr. Gow responded that it would be draining into the existing wetlands. He further stated that the HOA would be tasked with maintaining the ponds.

Tracy Tone, 6590 Taylor Road, asked where the proposed easement would be if the Town needed to get to the detention pond. Mr. Lardo responded that it would be between two (2) sublots.

In response to a question from Mr. Tone, Mr. Pidanick stated that according to the Institute of Traffic Engineers, in a peak hour there would be one (1) car per home coming out of this development. He further stated that there is capacity on Taylor Road to handle the additional traffic that will come out of this development.

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

Proposed Code Changes and Zoning Map Revisions

Chairman Reszka stated that the proposed dumpster law does not require some kind of on-site control to keep liquids from flowing on the ground surface from the dumpster location.

OTHER BUSINESS

Chairman Reszka stated that if a project is tabled at the applicant's request two (2) consecutive times, the project will not be placed on a subsequent meeting agenda until the applicant submits something for the Planning Board to review.

Mr. Bellissimo made a motion, seconded by Mr. Geraci, to approve the minutes of July 10, 2013. Carried.

Mr. Bellissimo made a motion, seconded by Mr. O'Connell, to adjourn the meeting. The meeting was adjourned at 8:40 P.M.

Respectfully submitted,
Stephen J. McCabe, Secretary
Planning Board

Date: July 31, 2013