

Town of Hamburg
Planning Board Meeting
February 7, 2018
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, February 7, 2018 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, Vice-Chairman William Clark, Doug Schawel, Augie Geraci, Dennis Chapman, Robert Mahoney and Al Monaco.

Others in attendance included Town Planner Andrew Reilly and Assistant Municipal Engineer Rick Lardo.

WORK SESSION

Leo Schifano - Requesting Sketch Plan Direction on a proposed two-lot subdivision to be located at 3183 Lakeview Road

Leo Schifano, applicant, stated that he owns a home on this property and would like to subdivide it to create another building lot. He noted that he does not cut the grass in the area where the new lot would be, and he thinks it would look nicer if someone builds a home there and maintains the property.

Chairman O'Connell noted that Mr. Schifano's lot, as well as the newly created lot, would have the required amount of frontage along Lakeview Road, but neither would be two (2) acres in size, which is required by the Town Code.

It was determined that a variance would be required from the Zoning Board of Appeals, and the applicant will apply for the variance and then return to the Planning Board for further review if the variance is granted.

Engineering Department comments have been filed with the Planning Department.

Elderwood at Hamburg Skilled Nursing Facility - Requesting Site Plan Approval of a proposed addition to the existing building at 5775 Maelou Drive

Victor O'Brien with C & S Engineers, representing the applicant, stated that projects have been brought to the Planning Board over the last few years, but none was ever constructed. He stated that changes to the parking lot that were approved a few years ago are included in the present proposal, along with a proposed single story addition of just under 8,000 sq.ft.

In response to a question from Mr. Geraci, Mr. O'Brien stated that there would be no net increase in the number of beds with the proposed addition.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on February 21, 2018. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Leonard P. Iwanenko, Jr. - Requesting a Special Use Permit to operate a towing and storage facility at 4699 Camp Road

The applicant did not appear.

Chairman O'Connell stated that he spoke with Sarah desJardins and Kurt Allen, and he visited the site twice that day. He stated that at the Board's last meeting, the applicant was told that in order to receive the requested Special Use Permit, the height of the existing fence on the property must be increased to eight (8) feet. He further stated that the fence height has not been increased, and when he visited the site at 9:20 AM and 11:30 AM, the applicant was working out of the site both times.

Chairman O'Connell stated that the applicant should be notified that this request will be placed on the Planning Board's February 21, 2018 agenda, and if the height of the fence (including the gate) is not eight (8) feet by then, he will not receive the Special Use Permit. He further stated that in the event the fence height has not been increased by February 21, 2018, he will direct the Planning Department to send a letter to the Police Department stating that Mr. Iwanenko is not in compliance and does not have the valid Special Use Permit required to tow for the Town of Hamburg, and Mr. Iwanenko will not be placed on a subsequent Planning Board agenda.

It was determined that the applicant is operating out of this site at this time. It was also determined that the applicant told Kurt Allen, Supervising Code Enforcement Official, that the height of the gate and fence would be increased by February 7, 2018.

Board members agreed that because Planning Board Attorney Cheryl McFadden-Zak cannot be involved in discussions relative to this project because of a relationship with the applicant, the Town Attorney's office will be asked to send a representative to the next Planning Board meeting for this agenda item.

Mr. Clark made a motion, seconded by Mr. Mahoney, to table this request. Carried.

Engineering Department comments have been filed with the Planning Department.

Eden Valley Brewing Co. - Requesting Sketch Plan Direction on a proposal to redevelop a portion of 6550 Southwestern Boulevard into a Tim Hortons

Mr. Reilly stated that the Planning Department has recently received the required Site Plan application, fee and SEQR documentation.

Attorney Sean Hopkins, representing the applicant, stated that the property is currently zoned C-1, and the project itself consists of the redevelopment of the vacant retail building on the site into a 2,286 sq.ft. Tim Hortons with a drive-thru window and a future tenant space of 1,484 sq.ft. He stated that 43 parking spaces are proposed.

Attorney Hopkins stated that concerns have been raised by certain individuals that the site is not properly zoned, but his position is that the site is properly zoned for the following reasons:

- Section 280-70 A (2) (C) of the Town of Hamburg Zoning Code specifically states that “eating and drinking establishment” are permitted in the C-1 District.
- The Zoning Code states that accessory uses customarily incidental to permitted principal uses are also permitted, and a drive-thru window is a customary accessory use.
- Kurt Allen, Supervising Code Enforcement Official, has submitted a letter to the Planning Board stating that the project site is properly zoned.

Attorney Hopkins stated that the primary concerns that have been raised to date concern traffic impacts associated with a Tim Hortons. He stated that a traffic impact study was submitted prepared by SRF Associates, as was a signal warrant analysis that was requested by the New York State Department of Transportation (NYSDOT) based on its review of the traffic impact study. He stated that an email received by Sarah desJardins by Ed Rutkowski from the NYSDOT indicated that “after reviewing the plans showing dimensions of pavement markings, NYSDOT is satisfied that the lane widths and geometries of White Oak Way are acceptable”. He noted that Mr. Rutkowski was referring to the modifications to White Oak Way that would allow a dedicated right-out lane and a dedicated left-out lane to Southwestern Boulevard from White Oak Way.

Attorney Hopkins stated that NYSDOT, which has exclusive jurisdiction over Southwestern Boulevard, has deemed the applicant’s approach shown on the current site plan to be acceptable.

Attorney Hopkins stated that in terms of the extensive review of the traffic impact study and the signal warrant analysis, as well as the review of the same by the NYSDOT, the applicant has demonstrated based on expert evidence that the project will not result in any potentially significant adverse environmental impacts.

In response to a question from Chairman O’Connell, Attorney Hopkins stated that the signal warrant analysis looked at nine (9) different warrants determining whether or not there is justification for a traffic signal. He stated that only one (1) of the nine (9) warrants was satisfied, and that was based on existing conditions. He stated that the position of the NYSDOT is that, although at this time a signal is not justified, to be sure the traffic analysis is accurate and that the actual trips match the projected trips, six (6) months after the Tim Hortons opens, an updated signal warrant analysis will be performed.

It was determined that the Planning Board can decide when the updated signal warrant should be performed so that it is not performed during the summer months when school is not in session.

In response to a question from Mr. Mahoney, Randy Schmitz, applicant, stated that he is waiting to find out from Tim Hortons if he can be open less than 24 hours a day.

Mr. Reilly stated that the Planning Board cannot control a business’s hours of operation, but it can consider them in the context of impacts of the project (lighting, noise, etc.).

In response to a question from Chairman O’Connell, Chris Wood from Carmina, Wood Morris stated that the existing loading dock used by the previous post office will be removed. He noted that Tim Hortons does not need a loading dock for deliveries.

It was determined that new Planning Board attorney Cheryl McFadden-Zak would be asked for an opinion on the "Intent" section of the Town Code relative to the C-1 District and whether "intent" can be legislated.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on March 7, 2018. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Reilly reminded Board members that in 2017 the Board granted Preliminary Approval to the next phase of the Mission Hills subdivision off of Camp Road. He noted that the applicant has learned that the wetland area has increased, and therefore the number of planned building lots has been reduced.

Board members agreed that the applicant will return to the Planning Board for review of the revised layout.

Mr. Schawel made a motion, seconded by Mr. Mahoney, to approve the minutes of January 17, 2018. Carried.

Mr. Schawel made a motion, seconded by Mr. Monaco, to adjourn the meeting. The meeting was adjourned at 8:00 P.M.

Respectfully submitted,
Doug Schawel, Secretary
February 11, 2018