

Town of Hamburg
Planning Board Meeting
April 18, 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, April 18, 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, Attorney Cheryl McFadden Zak and Municipal Engineer Michael Quinn.

WORK SESSION

CC Land Corp – Requesting Sketch Plan Direction on a proposal to construct a +/- 11,000 sq.ft. building on vacant land at 5809 Camp Road

Chad Lantaff and Craig Snyder, applicants, appeared on behalf of the project. Mr. Lantaff stated that there would be two (2) businesses in the building that would share a front door facing Camp Road. He noted that the building would be set back the required distance from Camp Road and Franklin Street, but a variance would be required for a few of the proposed parking spaces between Camp Road and the front of the building.

Chairman O'Connell stated that the south elevation (facing Franklin Street) will have to be dressed up. In response to a question from Chairman O'Connell, Mr. Lantaff stated that the rear $\frac{3}{4}$ section of the building would be finished metal siding, and the bottom part would be face stone. He stated that the front of the building and the two (2) sides of the retail portion of the building would be hearty board or vinyl siding, and the stone would carry around the building from the rear section.

It was determined that the building would be 184 feet long and the employees would park along the side of the building facing Franklin Street. It was further determined that the customer parking would be in front of the building.

Mr. Lantaff stated that they plan on erecting a pergola for the employees on the east side of the building with picnic tables, etc. He noted that there would be 30 feet between the building and the east property line.

Mr. Clark stated that he would like to see evergreen trees planted between the rear of the building and the east property line to help screen the residents on Franklin Street.

Board members agreed that they would like to see exactly where the building would be located on the site. The applicants agreed to place stakes on the property indicating the location of the proposed building.

In response to a question from Chairman O'Connell, Mr. Lantaff stated that the building would be approximately 18 feet high.

Mr., Geraci advised the applicants not to put a metal roof on the building because when it rains or hails, the nearby residents would hear that noise.

It was determined that if a dumpster is planned, it must be shown on the Site Plan.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Colton RV - Requesting a Special Use Permit to allow outdoor storage of recreational vehicles at 4817 Lake Avenue

Mr. Clark made the following motion regarding SEQR, seconded by Mr. Chapman:

“A Special Use Permit application, in accordance with Article XLVI of the Hamburg Zoning Code, was submitted to the Town for the operation of a RV repair/storage facility by Colton RV located at 4817 Lake Avenue. In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the Colton RV repair/storage facility at 4817 Lake Avenue, received input from various Town departments and held the required public hearing on March 21, 2018. Based on this review and input, the Planning Board has determined that the project is not anticipated to result in any significant adverse environmental impacts, and a Negative Declaration is hereby issued and the Planning Board Chair is authorized to sign the EAF.”

Carried.

Mr. Clark made the following motion, seconded by Mr. Mahoney:

The Planning Board has reviewed the Special Use Permit application for the Colton RV repair and storage facility at 4817 Lake Avenue, has held the required public hearing and determined, in accordance with Section 280-312 (General Requirements for an SUP), that:

- (1) The project will be in harmony with the general purposes and intent of this chapter.
- (2) The project will not create a hazard to health, safety and the general welfare.
- (3) It will not alter the essential character of the neighborhood or be detrimental to the residents thereof.
- (4) The project will not otherwise be detrimental to the public convenience and welfare.

The Planning Board, in reviewing this proposed Special Use Permit application also makes the following findings, in accordance with Section 280-321:

- a. The property is not located along Camp road as it is not a sales facility.
- b. The proposed project does not include the storage of any junk or unregistered vehicles.
- c. The applicant will allow the Code Enforcement department to make periodic inspections of the site.
- d. The off-street parking facilities have been reviewed and accepted.

Therefore, based on the SEQR Negative Declaration and the information submitted, the Planning Board approves the issuance of a Special Use Permit for the Colton RV project with the following conditions:

1. The parking aisles will be striped as shown on the plan.
2. The lighting will be dark sky compliant.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Capital Telecomm Holdings, LLC, as agent for Bell Atlantic Mobile Systems of Allentown, Inc. d/b/a Verizon Wireless - Requesting a tower special permit and site plan approval of a cellular tower to be located at 3081 Pleasant Avenue

Attorney Donald Cheney, representing the applicant, stated that he submitted responses to questions and comments received by the Planning Board from nearby residents. He elaborated on those responses as follows:

- Regarding health and safety, it is off the table because Attorney Cheney has already answered questions and provided evidence on this topic. This is a radio signal that has been know about for hundreds of years, and the Federal Communications Commission and experts have determined that there is no harm to humans.
- Regarding visibility, the applicant cannot mitigate the fact that this would be a cell site. The applicant has tried to find sites that mitigate the impact as much as possible. The site contains barns and significant trees, and the only side of the tower that cannot be mitigated visually is the Thruway side. Along Pleasant Avenue there would be a 30 to 40-foot tree blocking the residents' view of the tower. People do not look up.

In response to a question from Chairman O'Connell, Attorney Cheney stated a Capital Telecomm Verizon site acquisition person met with someone from the Town of Hamburg in 2016 about the Town-owned property on the other side of the Thruway as a possible location for the cellular tower, but the Town representative apparently said that the property would have to be alienated in order to allow the tower to be located there, and the Town was not interested in leasing the land.

It was determined that the Planning Department will research whether the Town-owned property in question would have to be alienated in order to allow the Town to lease the it to the applicant for a cellular tower.

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

Engineering Department comments have been filed with the Planning Department.

Frank Russo - Requesting Preliminary Approval of an 11-lot subdivision as an extension of Niles Avenue

It was determined that the applicant or representative was not present.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

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

Attorney McFadden Zak stated that she had a conflict of interest and would not be involved in any discussion regarding this project.

Mr. Clark made the following motion regarding SEQR, seconded by Mr. Schawel:

“A Special Use Permit application, in accordance with Article XLVI of the Hamburg Zoning Code, was submitted to the Town for the operation of towing and storage business by Leonard P. Iwanenko at 4699 Camp Road.

In accordance with the New York State SEQR law, the Town of Hamburg Planning Board has reviewed the towing and storage business at 4699 Camp Road, received input from various Town departments and held the required public hearing on March 21, 2018. Based on this review and input, the Planning Board has determined that the project is not anticipated to result in any significant adverse environmental impacts, and a Negative Declaration is hereby issued and the Planning Board Chair is authorized to sign the EAF.”

Carried.

Mr. Clark made the following motion, seconded by Mr. Chapman:

“The Planning Board has reviewed the Special Use Permit application for the towing and storage business at 4699 Camp Road, has held the required public hearing, and determined, in accordance with Section 280-212 (General Requirements for a Special Use Permit), the following:

- 1) The project will be in harmony with the general purposes and intent of this chapter.
- 2) The project will not create a hazard to health, safety, and the general welfare.
- 3) It will not alter the essential character of the neighborhood or be detrimental to the residents thereof.
- 4) The project will not otherwise be detrimental to the public convenience and welfare.

The Planning Board, in reviewing this proposed Special Use Permit application, also makes the following findings, in accordance with Section 280-325 (Towing and Recovery Impoundment Areas):

- A. A variance allowing for the fence at the proposed property to be less than eight (8) feet in height was obtained by the applicant.
- B. Towing and recovery impoundment areas are permitted as a special use, as long as they do not include auto wrecking or the storage of motor vehicles not eligible for New York State motor vehicle inspection stickers.
- C. The applicant will allow the Town Building Inspector/Code Enforcement Officer to make periodic inspections of the facility to ensure proper structural maintenance of all structures and the adequate cleanup of litter.
- D. The off-street parking have been reviewed and accepted.

Therefore, based on the SEQR Negative Declaration and information submitted, the Planning Board approves the issuance of a Special Use Permit for the towing and storage business at 4699 Camp Road with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated April 18, 2018.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Eden Valley Brewing - Requesting Site Plan Approval of a proposal to redevelop a portion of the existing building at 6550 Southwestern Boulevard into a Tim Hortons

Attorney Sean Hopkins, representing the applicant, stated that the Board of Zoning Appeals voted unanimously to affirm the Supervising Code Enforcement Official's code interpretation on April 10, 2018. He noted that this means that this proposal is an expressly permitted use in the C-1 District.

Attorney Hopkins stated that based on the language included in the SEQRA (State Environmental Quality Review Act) regulations, this project is a Type II Action, meaning that there is no need to conduct an independent environmental review.

Attorney Hopkins stated that a letter with some site plan approval conditions was submitted to the Planning Board for its consideration. He stated that this effort was made in good faith to make sure those conditions are consistent with the previous statements and are reviewed by other agencies. He outlined those proposed conditions as follows:

- The applicant is willing to limit the hours of operation to 5:00 AM – 10:00 PM every day. Although a Planning Board cannot regulate hours of operation, the applicant agrees to record a deed restriction to memorialize this condition. This is important because if the applicant ever decides to sell the Tim Horton's or the property, whoever purchases it would have notice of that condition.
- The applicant agrees to adjust the lighting levels downward during the evening hours beginning at 10:30 PB. Only security lighting would be on during these hours.
- The applicant will proceed with the installation of the required extension of the right-hand turn lane from White Oak Way onto Southwestern Boulevard that has been previously reviewed and approved by the New York State Department of Transportation (NYSDOT).
- Based on input received from the NYSDOT over the course of a series of emails, including emails from January 17, 2018 and February 2, 2018, the applicant will conduct the follow-up signal warrant analysis within six (6) months. The follow-up signal warrant analysis will not be conducted during summer months when traffic levels are lessened because schools are not in session.

Attorney Hopkins stated that this project clearly complies with the four (4) site plan criteria. He stated that the applicant made a lot of modifications to the project throughout the lengthy review process.

Mr. Clark made the following motion regarding SEQR, seconded by Mr. Chapman:

"Based on the information submitted for the Tim Horton's project, which entails the reconstruction of an existing building at the former Lakeview Post Office located at 6550 Southwestern Boulevard, the Planning Board has determined that the project is a Type II Action under SEQR 617.5 C (7) and is not subject to the SEQR process and review under these regulations."

Carried.

Mr. Clark made the following motion, seconded by Mr. Mahoney:

“The Planning Board, based on its review of the project in accordance with Article XLIV (Site Plan Review) of the Town of Hamburg’s Zoning Code, having received and considered the input from Town departments and advisory Boards, and having completed the required public hearing, hereby grants Conditional Site Plan Approval for the Tim Horton’s project to be located at 6550 Southwestern Boulevard with the following conditions and waivers:

1. Approval is contingent upon the Engineering Department comment letter dated April 18, 2018.
2. The project must meet the requirements of the NYSDOT, and the owner must provide the Town with a copy of the agreement between the applicant and the NYSDOT.
3. A follow-up traffic study and potential installation at that site of a signal will be conducted when schools are in session.
4. The Planning Board waives the installation of sidewalks along Southwestern Boulevard, as there are no existing sidewalks in the area, but does not waive them along White Oak Way.
5. The applicant has offered deed restrictions that will limit the hours of operation to 5:00 AM – 10:00 PM. The Planning Board accepts that offer and asks for a copy of the deed restriction for review by its attorney, and the deed restriction must be filed.
6. Lighting will be reduced during the hours when the business is not open to the public.
7. The improvements along White Oak Way shall be reviewed and approved by the Engineering Department and the Highway Department.”

On the question:

Mr. Mahoney stated that this has been a very trying and stressful thing for him to go through. He stated that the Supervising Code Enforcement Official determined that this is a permitted use in the C-1 District. He stated that the Board received many letters for and against this project. He stated that he did not agree with the traffic study information and other documentation the Board was given. He stated that his vote is primarily due to safety.

Mr. Chapman stated that the Zoning Board of Appeals upheld the Supervising Code Enforcement Official’s determination that this is a permitted use in the C-1 District. He stated that the Town’s Comprehensive Plan from 2007 states that Lakeview should remain a rural area, but this property and the adjacent commercial properties’ zoning was not changed. He stated that the concern regarding the hours of operation has been resolved. He stated that he has to go with what the experts recommended regarding traffic safety.

Chairman O’Connell stated that he concurred with everything stated by Mr. Chapman.

Mr. Schawel stated he also concurred with everything stated by Mr. Chapman and noted that the applicant has met all the requirements he must abide by.

Mr. Monaco stated that per the Supervising Code Enforcement Official, this use is permitted in the C-1 District.

Mr. Geraci stated that he based his decision on the upholding by the Zoning Board of Appeals of the Supervising Code Enforcement Official’s determination. He stated that he has parked his car at various times during the morning to observe traffic, and he agrees with the previous comments made by Board members.

As the vote on the motion was five (5) ayes (Mr. Chapman, Chairman O’Connell, Mr. Schawel, Mr. Monaco and Mr. Geraci) and two (2) nays (Mr. Mahoney and Mr. Clark), the motion passed.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Mr. Clark made a motion, seconded by Mr. Mahoney to approve the minutes of April 4, 2018. As the vote on the motion was five ayes and two (2) abstentions (Chairman O'Connell and Mr. Schawel), the motion passed.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 7:40 P.M.

Respectfully submitted,
Doug Schawel, Secretary
May 8, 2018