

Town of Hamburg  
Planning Board Meeting  
August 22, 2018  
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting on Wednesday, August 22, 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, Dennis Chapman, Augie Geraci, Robert Mahoney and Al Monaco.

Others in attendance included Town Planners Andrew Reilly and Matt Bowling.

**REGULAR MEETING**

**Hamburg Land Associates - Requesting Preliminary Approval of a two-lot subdivision to be located in front of 4950 Southwestern Boulevard (Lowe's)**

**Plaza Street Partners - Requesting Site Plan Approval of a new KFC restaurant to be located in front of Lowe's (4950 Southwestern Boulevard)**

Jonathan Phillips from Davidson Architecture & Engineering, representing the applicant, stated that the Preliminary Plat had been revised based on comments from the Engineering Department.

Mr. Reilly stated that the Board would need to discuss both the proposed subdivision and the KFC building and then address SEQR, because the SEQR determination would cover both projects.

In response to a question from Mr. Schawel, Mr. Phillips stated that the intent of the developer is to develop two (2) lots on this property.

Mr. Reilly stated that no additional subdivision of this property would be allowed if the subdivision and Site Plan are approved.

Regarding the proposed KFC building, Mr. Phillips phoned Mr. Brett Elliot from Plaza Street Partners and had him on speaker phone in case Board members had any questions he could answer.

Mr. Phillips stated that the KFC building would be an earth tone similar to the color of the Lowe's building, and it would be a full brick front around all four (4) sides.

Chairman O'Connell stated that awnings and lighting are proposed that would break up the building, but the building still is rectangular.

In response to a question from Mr. Mahoney, Mr. Phillips stated that the lighting would be LED, and every effort would be made to match the intensity and color of what is at Lowe's with the understanding that there is a specific lighting package that KFC uses.

Mr. Elliot stated that all of the gooseneck lights would point at the building and would not be intrusive.

Chairman O'Connell stated that it is his understanding that the applicant is not authorized at this time to provide the cornice Board members requested at the Board's previous meeting.

Mr. Elliot explained that when additional amenities are added to the project such as cornices, brick, etc., it makes it difficult for the applicant to get approval from the ultimate tenant (the business owner) because although KFC's revenue is positive the margins are not huge, and every time something is added to the project it increases the lease rate, and it becomes a much more complicated matter for the business owner. He further stated that the applicant is committed to the brick exterior and a very nice design, and when the building is built with the awnings and canopies, it will look very nice.

Mr. Elliot asked the Board to allow the applicant to forego the cornice.

In response to a question from Mr. Bowling, Mr. Phillips stated that the dumpster would be surrounded by a masonry enclosure.

Mr. Elliot stated that the gates for the dumpster enclosure would be chain link with slats between them that would match the building color. He further stated that the masonry would be painted to match the graphite gray that would be at the base of the KFC building.

Mr. Phillips confirmed that all signage would be internally lit.

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

"In accordance with the New York State Environmental Quality Review Act (SEQRA), the Town of Hamburg Planning Board has reviewed the two-lot subdivision proposed by Hamburg Land Associates to be located in front of 4950 Southwestern Boulevard (Lowe's) and the proposed Kentucky Fried Chicken (KFC) proposed for the new lot. Based on the Preliminary Plat, review of the submitted Site Plan materials, and input from other departments, the Planning Board has determined that the proposed subdivision and construction of a KFC is not anticipated to result in any adverse environmental impacts and that a Negative Declaration is hereby issued."

Carried.

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

"The Hamburg Planning Board hereby grants Preliminary Plat approval for the Hamburg Land Associates two-lot subdivision with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated August 22, 2018.
2. The property shall not be further subdivided and a note to such will be added to the plat.
3. Access to the site will be limited to curb cuts shown on the Plat, and there shall be no direct access to Southwestern Boulevard."

Carried.

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

"The Hamburg Planning Board hereby grants Conditional Site Plan approval to the Plaza Street Partners proposed Kentucky Fried Chicken (KFC) building to be located in front of 4950 Southwestern Boulevard (Lowe's) with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated August 22, 2018.
2. Landscaping and vegetative buffering shall be installed on all four (4) sides of the lot. The four (4) sides of the lot include: Southwestern Boulevard, the entry drive off of Southwestern Boulevard, the north side of the lot (facing Lowe's), and the west side of

the lot. Landscape plan must be approved by the Planning Department.

3. Lighting color and temperature rating shall be designed to match the Lowe's adjacent to this lot.
4. Sidewalks are currently located on Southwestern Boulevard and shall be continued and connected to the project site."

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**

Mr. Keith Marquis appeared on behalf of the applicant.

Board members discussed the following responses received from Mr. Marquis to the six (6) additional questions asked by Ms. Mary Lu Zern, 3580 Niles Avenue:

Regarding how the subdivision would affect 3580 Niles Avenue, Mr. Marquis responded as follows: "The residence located 3580 Niles Avenue will benefit from the extension of Niles Avenue on 2 counts. #1, the driveway that is currently part of the proposed Niles Avenue Extension will become part of the actual road. The owner will not need to maintain the lengthy drive (plowing, etc.) that currently comes with the responsibility of the driveway, with the exception of the portion from the home to the newly installed roadway. Trash collection can now be performed at the end of their drive where I believe they currently need to bring refuse out to the end of the existing Niles Avenue.

With respect to utilities, extensions of existing utilities being provided (water, sanitary, drainage, roadway) are the responsibility of the developer. They will be reviewed and approved by the Erie County Water Authority (ECWA), Erie County Department of Environment and Planning (ECDEP) and the Erie County Health Department (ECHD) in addition to the Town of Hamburg.

With respect to gas and electric, those entities complete their own underground work and follow their protocol. It is not done through the developer or the town. It is the responsibility of the town to assure that work conforms to town specifications with construction oversight once it begins. This includes testing procedures performed on the newly installed utilities (water, sanitary).

Utility connection for the new lots will be performed by whoever the builder may be that is building the homes. Provisions for sanitary sewer connections will be provided as part of the overall sanitary sewer extension. Water service connections will also be on an as needed basis when a newly constructed home is nearing completion.

Utilities at 3580 Niles Avenue are currently in place with no reason to revise those utilities. The developer would not want to take on the additional expense of reconnecting to those newly installed, specifically water and sanitary. Sidewalk will be installed to the end of the lot located at 3580 Niles Avenue."

Regarding discussion of two (2) acres of land developed for conservation, Mr. Marquis responded as follows: "There was dialog of developing conservation areas within the confines of the development. The planning consultant for the Town of Hamburg had some ideas as to where those could be a potential fit, but that information was not conveyed to the engineer on the project prior to the meeting. The best guess is the wetlands area located near the drainage ditch behind Lots #4 and 6. There was no discussion of 2 acres of conservation area. It was

noted that of the acreage available (6 +/-), only 2 +/- acres will actually be disturbed which includes roadway, homes, driveways and approximate lawn areas.”

Regarding lots that would be affected by wetlands, Mr. Marquis responded as follows: “As it currently stands, the developer had to surrender 2 lots (next to the end house on the east side of Niles Avenue). The reason being is that if wetlands exist, they need to be avoided or minimally disturbed (1/10 of an acre max.) if it cannot be avoided.”

Regarding the definition of “mitigation”, Mr. Marquis responded as follows: “Mitigation of wetlands would consist of expanding wetlands in a different part of the development to offset any wetlands that may have been disturbed.”

Regarding whom the builder of the homes would be, Mr. Marquis responded as follows: “As of my last conversation with Mr. Russo, it was my understanding that these lots may be sold to one or more builders, which is the norm. It is not normally the responsibility of the town to determine who may or may not buy lots. It is their responsibility to assure that the proposed approved subdivision is constructed per town standards and meets all necessary requirements as set forth by the ECWA, ECDEP and ECHD.”

Chairman O’Connell noted that the end of the proposed cul-de-sac is extremely close to two (2) homes on Lynwood.

Board members discussed possible areas to locate conservation easements in the name of the Town of Hamburg on the property in order to protect adjoining property owners and the environmental features of these sites.

It was determined that the areas where conservation easements could be considered are as follows:

- An area next to lot # 1 on the east side of Niles Avenue
- Areas behind lots # 4, 6 and 7
- Areas behind lots # 9 and 11

Board members discussed the possibility of shortening the cul-de-sac by approximately 20 feet in order to locate it further from the properties on Lynwood.

It was determined that Mr. Marquis will discuss the possibility of conservation easements with the owner of the property, discuss the location of the detention ponds with the Engineering Department (whether they would have to be located on separate lots) and research whether the cul-de-sac can be shortened.

It was determined that the Planning Department will prepare resolutions for the Board’s next meeting on September 5, 2018.

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

Engineering Department comments have been filed with the Planning Department.

**Capital Telcom 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**

Chairman O’Connell stated that the Town Board has determined that it does not wish to proceed with the Town-owned property on Smith Road as a potential location for the tower.

Mr. Reilly stated that the Smith Road property is 95% New York State wetlands.

Attorney Donald Cheney, representing the applicant, stated that the tower would be lit on top for safety reasons. He further stated that the Town requires a removal bond, and that is something the applicant does regularly.

Attorney Cheney stated that the tower can accommodate two (2) co-locaters, and the applicant has no problem leasing space to co-locaters.

In response to a question from Mr. Clark, Attorney Cheney stated that the tower would be a monopole.

Chairman O'Connell advised Attorney Cheney that the Board has seen photographs of towers that are made to appear like trees, etc. He stated that one photograph shown the Board by Mr. Reilly is of a cellular tower that looks like a windmill, and he really likes that idea.

Mr. Reilly stated that the Board is trying to minimize the impact of this tower, especially since it would be located in a residential district.

Mr. Reilly stated that the applicant has met all of the requirements of the Town Code, and other properties and sites have been researched. He stated that if the tower has to go on this property, the Board will want to minimize the impact to the maximum extent practicable under our law.

Mr. Reilly stated that flush mounted antennas are a way to minimize the tower's profile. Attorney Cheney stated that the cellular tower companies do not like the flush mounted antennas because the antennas cannot be adjusted to change the coverage areas.

Attorney Cheney stated that Stealth Concealment Technologies is a company he has worked with before. He stated that he will call the sales representative and discuss ways to disguise the tower. He noted that he does not usually do the stealth application unless there is a need.

Mr. Schawel stated that he believes that in the summer time nearby property owners would have to search to actually see this proposed tower.

Mr. Reilly stated that he does not agree that the residents across the street would have a hard time seeing the proposed antennas.

Chairman O'Connell stated that towers are not normally located in residential areas, and the Smith Road property is not an option anymore. He stated that the Board must try to minimize the impact on the neighbors, and that is most important.

Attorney Cheney stated that he can seek to do a lower profile mount to minimize the visual impacts.

It was determined that Attorney Cheney will speak to the applicant and indicate to the Board what the applicant is willing to do to minimize the visual impacts of the tower. Attorney Cheney agreed to email what the applicant has in mind to the Planning Department, and Mrs. desJardins will then forward that to the Board members before the Board's next meeting.

Mr. Schawel stated that the farm on which this tower is proposed is a pig farm.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project and authorize the Planning Board to draft resolutions for the Board's next meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

## **OTHER BUSINESS**

Mr. Schawel made a motion, seconded by Mr. Geraci, to approve the minutes of August 8, 2018. Carried.

Mr. Schawel made a motion, seconded by Mr. Mahoney, to adjourn the meeting. The meeting was adjourned at 8:30 P.M.

Respectfully submitted,  
Doug Schawel, Secretary  
August 29, 2018