

Town of Hamburg  
Planning Board Meeting  
December 19, 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, December 19, 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, Robert Mahoney, Augie Geraci and Al Monaco.

Others in attendance included Town Planners Andrew Reilly, Sarah desJardins and Matt Bowling, as well as Town Engineer Michael Quinn.

**WORK SESSION**

**Bryan Ehrhart – Requesting Sketch Plan Direction on a proposed cluster subdivision to be located on vacant land, north side of Pleasant Avenue**

Mr. Bryan Ehrhart, applicant, stated that he is proposing a 32-lot single family cluster subdivision and has a contingent contract to purchase the property. He stated that a feasibility study was performed, and soil borings have also been done.

Mr. Ehrhart presented an R-1 layout subdivision, as well as a proposed cluster layout. He stated that he believes that the cluster layout preserves more green space than what is required by Town Code. He noted that this is the first subdivision he has attempted, and he is open to making the project as appealing to the surrounding community as possible.

Mrs. desJardins stated that if the Planning Board decides that a cluster subdivision makes sense on this property, it must determine how many building lots the applicant can provide. She stated that the Board would do that by determining how many building lots the applicant could feasibly put on the property given any obstacles like wetlands, steep slopes, etc.

Mr. Ehrhart stated that the cluster subdivision would serve to maximize green space on the site and would provide smaller lots, less infrastructure and a public road.

Mrs. desJardins stated that a Homeowners' Association (HOA) would be required to maintain the detention/retention ponds on the site.

Mr. Quinn stated that at this point he does not know whether the proposed detention ponds are large enough to handle the project, nor does he know where the water would be going from there.

It was determined that the applicant will provide the turning radii of the proposed curves in the R-1 subdivision layout.

Mr. Reilly noted that at some point in the future, the Planning Board will decide whether to authorize the use of cluster for this project, and it will also determine the number of building lots the applicant may provide if cluster is authorized.

In response to a question from Mr. Reilly, Mr. Ehrhart stated that, to his knowledge, the property was used as a fill site for the roundabouts in the Village, which is why he had five (5) soil borings done to identify the types of soil he is dealing with. He noted that the fill on the site varies from six (6) to 18 feet deep. He stated that this is an open unwooded lot, and there is no bedrock on the site. He further noted that a large amount of topsoil will have to be brought in.

Mr. Clark advised the applicant that he would like to see a cluster layout that does not include houses with frontage on Pleasant Avenue.

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**

### **Public Hearing – 7:00 P.M., Mark Armbruster – Requesting Preliminary Approval of a two-lot subdivision to be located at 3495 Pleasant Avenue**

Mr. Schawel read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on December 19, 2018 in Room 7B of Hamburg Town Hall at 7:00 P.M. regarding a proposed two-lot subdivision to be located at 3495 Pleasant Avenue.”

Chairman O’Connell declared the public hearing open. The following people spoke:

- A member of the public asked if the zoning of the property will remain the same once the property is subdivided.

Chairman O’Connell declared the public hearing closed.

Mr. Reilly noted for the record that there are some interesting lots in the area not part of Mr. Armbruster’s plan and not owned by him that have nothing to do with this subdivision.

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

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the proposed Mark Armbruster Two-Lot Subdivision. Based on the Preliminary Plan, review of the submitted materials and input from other departments, the Planning Board has concluded that the project’s environmental impacts have been avoided or mitigated to the maximum extent practicable. Therefore, the Planning Board has determined that the proposed Mark Armbruster Two-Lot Subdivision is not anticipated to result in any significant adverse environmental impact 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 Mark Armbruster Two-Lot Subdivision with the following conditions:

- I. The installation of sidewalks is waived.
- II. The filing of a Map Cover is waived.”

Carried.

**Continuation of Public Hearing held on November 21, 2018 - Guggenheim Development Services, LLC – Requesting Preliminary Approval of a three-lot subdivision to be located as an outparcel in front of Lowe’s (4950 Southwestern Boulevard)**

Mr. Garth Winterkorn from Costich Engineering and Kurt Overmyer from Guggenheim Development appeared on behalf of the applicant.

Chairman O’Connell stated that he spoke with Kurt Allen, Supervising Code Enforcement Official, as well as the Conservation Advisory Board (CAB), and he was informed that they feel that the unbuildable lots should be returned to a vegetative state instead of being mowed (wild flowers, trees and grasses that would not get too high and would not require maintenance).

Mr. Winterkorn stated that the applicant consulted a company called Earth Seeds, the largest producer and supplier of native North American seeds on the East Coast, and explained what the proposed end result would be for the unbuildable lots. He stated that Earth Seeds recommended the Showy Northeast Native Wildflower & Grass Mix & Cover Crop for these areas. He noted that the applicant spoke extensively with Earth Seeds about how to get rid of the existing vegetation on the sites.

Chairman O’Connell asked if anyone wanted to speak in favor of or in opposition to the proposed subdivision. No one spoke.

Chairman O’Connell declared the public hearing closed.

Board members agreed that two (2) trees will be proposed on the eastern side of the Jiffy Lube site between it and the proposed KFC. Three (3) trees in the northeast section of the unbuildable lot closest to the proposed KFC will also be proposed.

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

“The Hamburg Planning Board has reviewed the information presented by the applicant for the subdivision at 4950 Southwestern Boulevard (outparcel in front of Lowe’s, for the development of a Jiffy Lube). Based on this review, the Planning Board hereby grants Preliminary Plat approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated 12/19/18.
2. The filing of a Map Cover is waived.
3. Approval is contingent upon a final landscape plan to be submitted to the Town of Hamburg Planning Board and approved by the Town of Hamburg Planning Board.
4. The remainder of the property not used by Jiffy Lube will be non-buildable lots continuously owned by Hamburg Land Associates and its successors. Hamburg Land Associates shall convert the non-buildable lots to a low maintenance naturalized landscape. The existing vegetation on the non-buildable lots will be annihilated and replaced with trees, as outlines in the Site Plan, and plants indigenous to Hamburg, New York. Said plants will not grow above 24”. The Town of Hamburg Conservation Advisory Board will monitor the changeover of the non-buildable lots from their current condition to a low maintenance naturalized landscape.”

Carried.

Mr. Reilly stated for the record that if the applicant ever wishes to build on the non-buildable lots, the Planning Board will have to be approached to get condition # 4 removed and reapprovals.

Engineering Department comments have been filed with the Planning Department.

**Guggenheim Development Services, LLC – Requesting a Special Use Permit and Site Plan Approval of a proposed Jiffy Lube to be located on an outparcel in front of Lowe’s (4950 Southwestern Boulevard)**

Mr. Garth Winterkorn from Costich Engineering and Kurt Overmyer from Guggenheim Development appeared on behalf of the applicant.

Mr. Winterkorn stated that revised elevations of the building were submitted based upon input received at the Board’s previous meeting. He stated that variations in the heights of the parapets on the north and south sides of the building are proposed.

Mr. Reilly stated that the Town Code requires that trees be planted 30 feet on center along the frontage of Southwestern Boulevard.

Board members discussed the proposed landscaping plan with Mr. Winterkorn. Mr. Winterkorn stated that the Town Code requires that 10% green space be provided, and the Site Plan contains 50% green space.

It was determined that trees will be concentrated on the west side of the proposed building facing Oregon Road. It was further determined that landscaped islands will be proposed between Southwestern Boulevard and the front of the new building.

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

”In accordance with the SEQR requirements, the Planning Board has reviewed Part 1 of the EAF, along with the information submitted by the applicant (including project revisions), completed Part 2 of the EAF and evaluated project impacts in Part 3 of the EAF. The Planning Board has determined that the proposed project, a three-lot subdivision to be located in front of Lowe’s at 4950 Southwestern Boulevard, and Special Use Permit and Site Plan Approval of a Jiffy Lube to be located on the outparcel at 4950 Southwestern Boulevard, will not have any significant adverse impact on the environment. Therefore, the Planning Board issues a Negative Declaration, and the Planning Board authorizes the Chairman to sign the EAF, which will act as the Negative Declaration.”

Carried.

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

“The Planning Board, in the reviewing this proposed special use permit application, has determined, in accordance with Sections 280-312 and 280-324 of the Code, that the proposed Jiffy Lube at 4950 Southwestern Boulevard shall adhere to the following provisions of the Code:

Section 280-312 (B.)

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

Section 280-324

- A. The Town Building Inspector/Code Enforcement Officer shall make periodic inspections of the operating facility to ensure the proper structural maintenance of all structures and the adequate cleanup of litter.
- B. No part of any building used as a filling station, gasoline service station or towing and recovery impoundment area, and no filling pump, lift or other service appliance, shall be erected within 200 feet of any R District boundary or within 300 feet of any school, church, playground or park located in an R District.
- C. No gasoline pumps are proposed.
- D. No storage of gasoline or underground tanks is proposed. The storage of oil products will meet all applicable state and federal regulations.
- E. There is no use of the lot, except for landscaping or screening, within 20 feet of any R District boundary (does not directly abut residential property).
- F. All portions of the lot not enclosed in a building and used for a reservoir space or for the storage, parking or servicing of a motor vehicle shall be subject to the provision of Town Code Section 280-266.

Therefore, based on the SEQR Negative Declaration and the review of the special use permit criteria, the Planning Board approves the issuance of the special use permit for the 4950 Southwestern Boulevard with the following conditions:

- A. No outdoor storage of equipment, cars, etc. will be allowed.
- B. The landscaping plan will be reviewed and approved by the Planning Department.”

Carried.

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

“The Hamburg Planning Board hereby grants site plan approval for the proposed Jiffy Lube at 4950 Southwestern Boulevard (outparcel in front of Lowe’s) with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated December 19, 2018.
2. The landscaping plan will be reviewed and approved by the Planning Department.
3. Approval is based upon the new architectural rendering submitted to the Planning Board on 12-19-18.”

Carried.

Engineering Department comments have been filed with the Planning Department.

**Anthony Cutaia – Requesting Site Plan Approval of a proposed multi-family project to be located at 5138 South Park Avenue**

Attorney Sean Hopkins, representing the applicant, stated that an informational meeting was held on November 27, 2018 with nearby property owners, most of whom live on the south side of Twilight Lane.

Attorney Hopkins stated that the 60 feet of green space between Building 1 and Building 2 and the site's northern property line is proposed to be preserved. He further stated that the entire green area along the northern portion of the site where existing vegetation exists will remain in place.

Attorney Hopkins stated that the proposed landscaping plan was recently submitted to the Planning Department, and he noted that very extensive landscaping is proposed throughout the project. He stated that nearly 400 trees and approximately 1,150 shrubs are proposed.

Attorney Hopkins stated that the applicant has purposely oriented the proposed parking so that when a vehicle is heading north, it would not be parking or facing into the backyards of the existing homes on Twilight Lane.

Attorney Hopkins stated that the two (2) athletic fields would not be lit at night. He further stated that they will be owned by the applicant and leased to Hilbert College at no cost. He stated that the fields will be available for public use, as well, and Hilbert College will maintain them.

Attorney Hopkins stated that the proposed buildings would be contain eight (8) two-story units with separate garages and entrances. He stated that much taller buildings would be permitted in this zoning classification, but the applicant feels that two-story buildings are more compatible with the surrounding homes.

Attorney Hopkins stated that the density of this project as proposed would be approximately 6.5 units per acre.

Attorney Hopkins showed Board members what the buildings would look like. He also noted that the existing building on the property would be used for a clubhouse, events, pool, etc., and recreational trails would be provided.

Attorney Hopkins stated that as a result of the SEQR Coordinated Review, comments were received from the New York State Department Environmental Conservation (NYSDEC), Erie County Water Authority and Erie County Sewer, and none of the comments related to potentially significant adverse environmental impacts.

In response to a question from Mr. Geraci, Attorney Hopkins stated that the proposed entrance to the site from South Park Avenue would be where the curb cut already exists.

In response to a question from Chairman O'Connell, Attorney Hopkins stated that approximately 40 parking spaces would be provided for clubhouse users.

Chairman O'Connell stated that, although the renderings of the buildings are beautiful, he still feels that the project is too dense. He noted that if the buildings were staggered instead of in rows, it might be more appealing and attractive.

It was determined that a higher quality vinyl siding with a vinyl shake would be used, and veneer stone and architectural shingles would also be used.

Mr. Reilly stated that the reason this property is zoned R-3 is because that is the district that schools are permitted in. He noted that no one envisioned apartments on this property.

Mr. Quinn stated that someone who toured the site indicated that there is a storm sewer back in the woods. He stated that the Engineering Department does not have any records to that effect, and he asked Attorney Hopkins to investigate that.

Attorney Hopkins stated that letters of support for this project were submitted from Hilbert College and the Franciscan Sisters.

Attorney Hopkins stated that before the current applicant expressed interest in this property, the Franciscan Sisters tried to market it for institutional and educational uses, among others.

Mr. Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on January 16, 2019. Carried.

Engineering Department comments have been filed with the Planning Department.

### **5272 South Park Avenue LLC - Requesting Preliminary Plat Approval of a two-lot subdivision to be located on portions of 5200 and 5272 South Park Avenue**

Attorney Sean Hopkins, representing the applicant, stated that as a result of the SEQR Coordinated Review, none of the agencies that commented expressed concerns with the Planning Board acting as Lead Agency, nor did they express any concerns related to potentially significant adverse environmental impacts.

Attorney Hopkins stated that a Traffic Impact Study was performed and submitted to Erie County Department of Public Works and the New York State Department of Transportation (NYSDOT). He noted that Erie County Department of Public Works indicated that it has no traffic concerns, and the NYSDOT also indicated that the project will not have any adverse impacts on the State highway system.

Attorney Hopkins stated that a Phase I Cultural Resource Study was conducted, and a No Impact letter was received from the New York State Office of Parks, Recreation & Historic Preservation.

Attorney Hopkins stated that 161 trees, 126 bushes and shrubs, and approximately 500 other plantings are proposed.

Chairman O'Connell stated that the two (2) concerns he still has relate to installing a sidewalk along Sowles Road to South Park Avenue and the stand of trees on the east side of the property.

Attorney Hopkins stated that it was not the intention of the applicant to purchase or develop that eastern portion of the site, but as a result of the topography, the applicant had no choice to accommodate the drainage system that complies with the NYSDEC requirements. He stated that the applicant proposes to replace that vegetation that must be removed with new landscaping. He noted that this area has a lot of dead trees in it, and the applicant thought from a grading perspective it would be better to replace that landscaping.

Attorney Hopkins stated that if it is required that sidewalks be constructed along Sowles Road, the site has been designed to accommodate that requirement.

Chairman O'Connell stated that he would rather see building K eliminated and building H rotated in order to keep the trees on the east side of the property. Attorney Hopkins stated that the applicant will look at that possibility.

Board members discussed ways to landscape the area along Sowles Road and what the passive recreation area would consist of.

Mr. Clark made a motion, seconded by Mr. Mahoney, to authorize the Planning Department to prepare resolutions regarding SEQR and table this project. Carried.

Mr. Reilly stated for the record that a complete application was not received on this project until October 2018.

Engineering Department comments have been filed with the Planning Department.

**5272 South Park Avenue LLC - Requesting Site Plan Approval of a residential project on portions of 5200 and 5272 South Park Avenue**

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project and to authorize the Planning Department to prepare approval resolutions. Carried.

Engineering Department comments have been filed with the Planning Department.

**Planning Board to review request from residents on Mosey Lane to rezone Town-owned property located north of Mosey Lane and west of both Horton Avenue and Wolf Road from R-2 to PR (Park Recreation District)**

Mrs. desJardins stated that there is a large amount of Town-owned land east of the McKinley Mall and north of Mosey Lane that is zoned R-2. She stated that some of the Mosey Lane residents are requesting that that property be rezoned to PR (Parks and Recreations) because they are worried that the property might be developed. She stated that the Code Review Committee supports the request.

Mr. Chapman stated that he does not want to see the Town give up future possible taxable land for parkland.

It was determined that the Planning Department will research the parcels in question regarding the history of when they were created and what the intention was regarding their purpose.

**OTHER BUSINESS**

Mr. Schawel made a motion, seconded by Mr. Mahoney, to approve the minutes of December 5, 2018. Carried.

Mr. Schawel made a motion, seconded by Mr. Chapman, to adjourn the meeting. The meeting was adjourned at 8:50 P.M.

Respectfully submitted,  
Doug Schawel, Secretary  
January 8, 2019