

Town of Hamburg
Planning Board Meeting
May 15, 2019
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M. on Wednesday, May 15, 2019 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman William Clark, Vice-Chairman Augie Geraci, Doug Schawel, Dennis Chapman, and Kaitlin McCormick.

Others in attendance included Town Planners Sarah desJardins and Matt Bowling, as well as Planning Board Attorney Jennifer Puglisi.

Excused: Robert Mahoney, Al Monaco

REGULAR MEETING

Public Hearing – 7:00 P.M., Tarpon Towers II, LLC and Bell Atlantic Mobile Systems of Allentown, Inc. d/b/a Verizon Wireless – Requesting Site Plan Approval and a Special Use Permit for a proposed cellular tower to be located on land owned by WNY District Wesleyan Church near 4999 McKinley Parkway

Attorney Robert Brenner from Nixon Peabody, LLP, representing the applicant, stated that he was hoping to discuss the Radio Frequency (RF) Engineer’s findings at this meeting but would hold off on doing a full presentation until the RF Engineer is present at a subsequent Planning Board meeting.

Attorney Brenner stated that as requested, a map of the existing sites that are referenced in an attachment to the application, as well as antenna centerline heights of the existing facilities on that map, were created. He distributed those to the Board members.

Attorney Brenner stated that the applicant has a Site Engineer looking into the crossing rights over the electric easement, and that information will be provided at the continuation of the public hearing on June 19, 2019.

Mr. Schawel read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a request by Tarpon Towers II, LLC and Bell Atlantic Mobile Systems of Allentown, Inc. d/b/a/ Verizon Wireless to construct a cellular tower on property located at 4099McKinley Parkway. The Public Hearing will be held on May 15, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Chairman Clark declared the public hearing open. The following people spoke:

- Robert Sedia, 4521 Hidden Hollow Road, stated that he submitted a packet of information to Board members and will speak to it at the June 19, 2019 public hearing. He stated that he and some neighbors met with representatives of the church and are waiting to hear back from them regarding the concerns of the Hidden Hollow residents. He stated that the application is inconsistent.
- Frank Davison, 4837 Gerber Parkway, stated that his concerns include the eyesore element of the tower and the depreciation of his property. He stated that no one knows yet

if towers are safe to surrounding property owners. He stated that public perception is what lowers a property's value, rather than scientific evidence. He stated that a stigmatized property is one where public perception harms its value, and in this instance the tower, which is tangible, would harm the property values because many people will not purchase a home near a tower. He stated that if a property owner objects to a tower being placed near the property, the Town should support that property owner's right to protect his or her property. He stated that the church is an entity that does not pay taxes but has decided to place an objectionable tower on its property against the wishes of the surrounding taxpaying property owners.

- Joanne Zabielski, 4988 Parker Road, stated that three homes near hers were purchased by the church, and she is worried about the value of her property. She stated that a study was done in Italy about the effects of cell towers on animals and reproduction, and there are twelve other countries that are more concerned about residential homes being affected by cell towers. She submitted a report to that effect from those countries.
- Joan Brylski, 4527 Hidden Hollow Road, stated that she strongly opposes the proposed tower because it is advantageous for the church, but not for the Town. She stated that if the tower were built on Town-owned property, that would be a source of revenue for the Town. She stated that cell towers reduce nearby property values, and she would expect that her taxes would be reduced accordingly.
- Bethany Domanowski, 4509 Hidden Hollow Road, stated that she did not move to Hidden Hollow in order to live next to a cell tower. She stated that she and her neighbors never could have imagined that a non-taxpaying church on residential property would get into the business of cell towers, and she is angry that the only entity not profiting from this would be the Town. She referenced the Town's list of preferred zoning districts in which a cell tower should be proposed, with Town property being at the top of the list, and asked why the applicant deems that list "not applicable". She asked why the tower could not be placed on the Town-owned property that used to be a Boy Scout Camp. She stated that she is insulted that the applicant's answer to whether the tower would have an adverse impact on surrounding property is "not applicable". She noted a study that concluded that 94% of those surveyed would not buy property located close to a cell tower, and she noted another study that showed a 20% drop in home values after construction of a nearby cell tower. She quoted from the applicant's submittal that "the Fairgrounds is **sometimes** overloaded during large events" and "the network is **occasionally** exhausted". She stated that the above does not justify her property values decreasing, and the Fairgrounds has plenty of space for a cell tower to be located there. She urged the Board to slow the review process down because in a year there might be a solution that does not involve a cell tower.
- Linda Smith, 4520 Hidden Hollow Road, stated that she agreed with everything that had been previously said.

Chairman Clark stated that the public hearing would remain open and would be continued at the Board's June 19, 2019 meeting.

Chairman Clark made a motion, seconded by Ms. McCormick, to table this project to the Board's June 19, 2019 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Bryan Ehrhart – Requesting Preliminary Approval of a 30-lot cluster subdivision to be located on vacant land, north side of Pleasant Avenue

David Stutz from Studio T3 Engineering, PLLC, representing the applicant, stated that in January of this year the Board authorized the use of cluster on this property. He stated that a 30-lot cluster subdivision is now being proposed with open space around the home lots. He noted that walking trails are proposed, and the woods on the north side of the property would remain untouched.

Mr. Stutz stated that the developer would sell each lot individually, the lots would range in size from 6,600 sq.ft. to 12,000 sq.ft. and each lot would be at least 110 feet deep. He further noted that the walking trails would connect throughout the entire site and to the park to the west of the site.

Mr. Stutz stated that the roads would be public, but all of the land outside of the home lots would be owned and maintained by a Homeowners' Association.

Mr. Stutz stated that this property has been a fill site for almost 20 years, and the soils are acceptable to put the roadways on. He noted that a geotechnical report was done on the roadway, and 96% to 99% density was found.

In response to a question from Ms. McCormick, Mr. Stutz stated that geotechnical testing would be done on the foundations of the home sites when building permits are applied for.

Mr. Bryan Ehrhart, applicant, stated that in the original geotechnical report that was done with soil borings, he got a representative sample of not only the areas where the roadways would go, but also in some spots where homes are proposed to be built.

Mr. Ehrhart stated that he will submit to the Board an all-inclusive geotechnical report including every soil boring and every infiltration test.

In response to a question from Chairman Clark, Mr. Stutz stated that nine soil borings were done throughout the site generally in the vicinity of where the roadways are proposed, as well as in six (6) other areas of the site.

Mr. Stutz agreed to provide a grading plan for Board review that will include the soil boring locations and soil profiles.

Chairman Clark stated that the Board will need some type of assurance that the homes will be able to be built on the fill.

Board members discussed the proposed drainage plans for the project, noting that there are existing drainage problems in this area of Town.

Ms. McCormick asked Mr. Stutz if any analytical or chemical testing was done to determine whether the material will constitute the equivalent of clean fill and noted that soil classifications do not include chemical analysis. Mr. Stutz responded that the fill was placed on the site on two (2) different occasions over the years, and the Town must have a record of what the fill was made of via fill permits.

Mr. Ehrhart stated that if chemical testing is required by the Board, he will have it done.

Mr. Patrick Healy, 42 Brookwood Drive, asked if core drilling has been done to verify that the soil can support the activities that are proposed for this site.

Mr. Clark responded that the applicant will submit to the Board the report he received from the geotechnical engineer who did the soil borings, and it will be reviewed by the Town Engineer.

Mr. Tony Garguiolo, 90 Brookwood, asked if this project would have anything to do with the land to the north of it that is owned by the School District. He further stated that the area behind the Brookwood homes is quite wet.

Mr. Stutz responded that the walking trails proposed for this subdivision would connect to the park that is located east of the site.

Chairman Clark stated that the developer cannot increase the flow of water off the vacant property once it is developed.

A member of the public stated that once the fill was placed on the property, it changed the drainage patterns for the homes on Brookwood.

Chairman Clark responded that the Planning Board was not involved in the permitting process for the dumping of fill that was done on this site.

Mr. Tom Moses, Mayor of the Village of Hamburg, stated that the Village of Hamburg had nothing to do with the dumping of fill on the subject parcel. He noted that the contractor for the road project contacted Mr. Zell (current owner of the parcel) for permission to dump the fill on the site and received fill permits from the Town Engineering Department.

Mr. Moses stated that he feels that the Town Engineering Department had a responsibility to make sure that when the fill was put there it was distributed and leveled the right way, and he does not know if that was actually done.

Mr. Moses stated that, because the School District is considering giving the property north of this site to the Village of Hamburg with plans of constructing ball fields, he is concerned about the drainage from this subdivision that would go into the existing ditch and continue to Oak Hill Drive. He noted that the existing ditch cannot take much more water.

Mr. Ehrhart stated that his project will not be allowed to discharge more water into the existing drainage system than what is being currently discharged.

Mark Lorquet, Chairman of the Conservation Advisory Board (CAB), asked if basements are proposed.

Mr. Ehrhart responded that basements are proposed.

Mr. Lorquet stated that the fill that was dumped on the property was unregulated fill, and there are pieces of concrete in the fill that are 8-10 feet thick.

Mr. Ehrhart responded that he is aware of the concrete pieces and has incorporated into his budget a certain amount of money per unit for structural fill in case he has to undercut basements or foundations.

Mr. Ehrhart stated that he is well aware that this is a fill site and that there are chunks of concrete in the fill.

A member of the public stated that he will want to know if the HOA will be responsible for mosquito control in the area of the detention pond, whether the walking trails would be public and whether he would have strangers walking in his back yard.

Chairman Clark suggested that the applicant schedule an informational meeting with the surrounding property owners to talk about the walking trails, etc.

Laura Cain, 3713 Pleasant Avenue, asked if the Town plans to widen Pleasant Avenue and install sidewalks if this project is approved. She noted that she is concerned about safety.

Chairman Clark stated that traffic will be reviewed during the environmental review process.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project and schedule a public hearing to be held on July 3, 2019. Carried.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Mr. Chapman, to approve the minutes of May 1, 2019. Carried.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 8:15 P.M.

Respectfully submitted,
Doug Schawel, Secretary
May 21, 2019