

Town of Hamburg
Planning Board Meeting
August 7, 2019
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, August 7, 2019 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman William Clark, Vice-Chairman Augie Geraci, Doug Schawel, Robert Mahoney, Al Monaco, Dennis Chapman, and Kaitlin McCormick.

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

WORK SESSION

E-ONE – Requesting Site Plan Approval of a +/- 10,000 sq.ft. addition to the existing building at 4760 Camp Road

Dan Buchanan from Bammel Architects, representing the applicant, stated that the proposal is to construct an addition to the existing building.

Board members discussed where new landscaping should be proposed on the site.

It was determined that an area variance will be required regarding the distance from the building to Queens Lane.

Mr. Clark made a motion, seconded by Mr. Chapman, to table this project to the Board's 9-10-19 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Mrs. desJardins stated that Lucia's (4151 Lakeshore Road) is proposing a third-story observation deck on top of the existing second-story deck for patrons to wait for tables. She asked Board members for input regarding whether a Site Plan Waiver is appropriate in this situation. She further stated that the proposal would also have to be reviewed by the Shoreline Revitalization Committee.

Board members agreed that a Site Plan Waiver is appropriate for this project.

REGULAR MEETING

Public Hearing - 7:00 P.M., Wanakah Country Club – Requesting Site Plan Approval of an expansion of the dining area and a new terrace off the ballroom at 5161 Lakeshore Road

Debbie Pound, architect, representing the applicant, stated that the applicant proposes to construct an addition to the existing dining room and also a new terrace off the ballroom.

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 proposal by Wanakah Country Club to expand the dining area and construct a new terrace at 5161 Lakeshore Road. The Public Hearing will be held on August 7, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Chairman Clark declared the public hearing open. No one spoke.

Chairman Clark declared the public hearing closed.

Mr. Geraci made the following motion, seconded by Ms. McCormick:

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the Wanakah Country Club project at 5161 Lakeshore Road and held the required public hearing on August 7, 2019. The project meets the criteria established in the SEQR law as a Type II action (617.5 (c) (7) and therefore does not require completion of the SEQR process.

The Town of Hamburg Planning Board hereby grants Conditional Site Plan approval for the Wanakah Country Club project to be located at 5161 Lakeshore Road with the following conditions and waivers:

1. Approval is contingent upon the Engineering Department comment letter dated August 7, 2019.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Clinton Holcomb – Requesting Site Plan Approval of an indoor public mini-storage business in the former Dick’s Sporting Goods building (3504 McKinley Parkway)

Clinton Holcomb, applicant, stated that no outdoor storage is planned, and he does not plan to approach the Hamburg Industrial Development Agency for funding.

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 proposal by Clinton Holcomb to operate an indoor public mini-storage business in the former Dick’s building at 3701 McKinley Parkway. The Public Hearing will be held on August 7, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Chairman Clark declared the public hearing open. No one spoke.

Chairman Clark declared the public hearing closed.

Mr. Geraci made the following motion regarding SEQR, seconded by Mr. Mahoney:

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the proposal by Clinton Holcomb to install an indoor public mini-storage facility in the former Dick’s building located at 3504 McKinley Parkway and held the required public hearing on August 7, 2019. The project meets the criteria established in the SEQR law as a Type II action (617.5 (c) (7) and therefore does not require completion of the SEQR process.

The Town of Hamburg Planning Board hereby grants Conditional Site Plan approval for the Clinton Holcomb indoor public mini-storage project at 3504 McKinley Parkway with the following conditions:

1. No outdoor storage is permitted.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing – 7:00 P.M., Joe Ball – Requesting Site Plan Approval of a proposed 3,456 sq.ft. building addition and a 6,000 sq.ft. new maintenance building at 3725 Jeffrey Boulevard

Mr. Reilly stated that all new lighting must be dark sky compliant. Mr. Gow stated that no stand along lighting is proposed.

Mr. Reilly stated that this property is not located in the Ravenwood North Industrial Park.

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 proposal by Joe Ball to construct a 3,456 sq.ft. building addition and 6,000 sq.ft. new maintenance building at 3725 Jeffrey Boulevard. The Public Hearing will be held on August 7, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

Chairman Clark declared the public hearing open. No one spoke.

Chairman Clark declared the public hearing closed.

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

“In accordance with the New York State SEQR Law, the Town of Hamburg Planning Board has reviewed the Ball Toilet & Septic project, which involves the construction of a 3,456 sq.ft. building addition and a 6,000 sq.ft. new maintenance building at 3725 Jeffrey Boulevard and held the required public hearing on August 7, 2019. Based on this review, the Planning Board has determined that the project’s environmental impacts have been avoided or mitigated to the maximum extent practicable. Therefore, the Planning Board has determined that the Joe Ball Toilet & Septic project is not anticipated to result in any significant adverse environmental impacts and a Negative Declaration is hereby issued.” Carried.

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

“Based on the review of the Ball Toilet & Septic projects materials, and having completed the SEQR process, the Hamburg Planning Board grants Conditional Site Plan Approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated August 7, 2019.
2. The installation of sidewalks is waived, as there are no sidewalks on Jeffrey Boulevard.
3. The landscaping plan shall be approved by the Planning Department.
4. Trees must be on the Town’s approved tree list.
5. All lighting shall be dark sky compliant.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Aspire of WNY, Inc. – Requesting a rezoning of vacant land located on the south side of Bayview Road across from Berkeley Place from C-2 to N-C or R-3 (whichever the Town prefers) in order to construct a 60-unit multi-family development

Attorney Steve Ricca, representing the applicant, stated that 34 parking spaces are proposed, but there is room for up to 60 parking spaces if needed. He stated that the need for cars in this sort of building will be less than one would expect because 25% of the building would be occupied by disabled people and the rest of the building would be occupied by people who generally only have one (1) vehicle.

Attorney Ricca stated that two (2) letters from a traffic consultant, the first of which projects peak traffic at 20 trips in the evening, which is far less than one would expect from a commercial use.

Attorney Ricca stated that the nearby school has announced that there will be designated bus entrance and exit improvements, which might improve the Bayview Road traffic concerns.

It was determined that there will be community spaces in the building for the benefit of the residents.

In response to a comment from Mr. Reilly, Attorney Ricca stated that the applicant will in no way object to a commercial use within the business park it will be a part of.

Mr. Chapman made a motion, seconded by Mr. Mahoney, that the Planning Board forward a positive recommendation to the Town Board regarding the Aspire request to rezone this property from C-2 to N-C. As the vote on the motion was five (5) ayes and two (2) abstentions (Chairman Clark and Mr. Geraci), the motion carried.

Wetzel Senior Apartments - Planning Board discussion of a minor change to the approved Site Plan

Mr. Chapman stated that he feels that the fence in question should be taken down and replaced with a vinyl fence. He stated that there is no permit for the fence, it was not on the original Site Plan and an amended Site Plan has not been submitted. He asked that Board members to vote on the above.

In response to a question from Ms. McCormick, Mrs. desJardins stated that the applicant submitted a photo of the color he intends to stain the fence once the Planning Board approves it.

Mr. Schawel stated that he does not think the Planning Board can tell someone what kind of fence to put up.

Ms. McCormick stated that it is somewhat wasteful to make someone remove a fence and put another one in. She stated that it might be a good idea to have the applicant appear at the Board's next meeting and discuss the color of the fence, as well as landscaping.

Mr. Geraci stated that he does not feel that the Town has the right to tell someone what kind of fence to put up and noted that it is the applicant's property.

Mr. Mahoney stated that he would rather find an alternative path than make the applicant take the fence down.

Chairman Clark asked Board members whether they want the fence taken down or they want to table this issue until the Board's next meeting.

Mr. Monaco stated that the issue should be tabled until August 21, 2019, and the applicant should be notified that someone must appear at that meeting to discuss the fence.

Mr. Geraci, Mr. Schawel and Ms. McCormick agreed with Mr. Monaco.

Mr. Geraci made a motion, seconded by Mr. Schawel, to table this issue. Carried.

It was determined that Board members want to see a very detailed revised Site Plan showing the location, type and color of the fence, as well as proposed landscaping and the existing gas fire pit. Board members noted that it is mandatory that someone appear at the August 21, 2019 meeting regarding this issue.

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

Chairman Clark stated that the following concerns and questions had been received via email from various residents regarding this proposal:

- There was a request that the homes on the cul-de-sac closest to Brookwood Drive be limited to single story. Bryan Ehrhart, applicant, stated that the lots will be made available for building whatever the prospective homeowner prefers.
- There was a question regarding whether a traffic study has been done. Mrs. desJardins stated that she has not received any correspondence from the Erie County Highway Department, but she did receive comments from Erie County Department of Sewerage Management. Mr. Ehrhart stated that as requested, a sight distance calculation was submitted to the Planning Department. Mr. Reilly stated that the sight distance calculations were adequate per the Wendel traffic engineer.
- There was a question regarding whether any drainage from this subdivision would go into the Village of Hamburg drainage system. Mr. Ehrhart stated that the majority of the storm water would make its way into the swale that runs along the west side of the property and would tie into the existing 8" pipe that runs along the driveway to Glen Meadows Park. He stated that that pipe was designed specifically for storm water management that dumps into the creek, and he must design his storm water management around that pipe. He stated that this subdivision cannot result in an increase of flow into that 8" pipe. He noted that the storm water pond would empty into that pipe, the sheet flow into the swale on the west side of the site would empty into the pipe and the swale that would exist in between lots 30, 29, 28 and 27 that catches the berm on the east side of the site would also eventually make its way to that pipe.

- There was a question regarding the ground testing that was done and whether it is possible that the testing may have missed some “hot spots”. Chairman Clark stated that given the results of that testing, he does not think there is any reason to think that there are “hot spots” on the site that were not identified. Board members concurred with the Chairman’s thoughts.
- There was a request to have the open space on the site dedicated to the Town of Hamburg in order to preserve that vegetation. It was determined that the open space on the site would be owned by the Homeowners’ Association and placed in a conservation easement in the name of the Town of Hamburg.
- There was a request for rodent control during the building process. Chairman Clark stated that that issue is one that should be raised with the Building Department.
- There was a question about the process of wetland mitigation. Mr. Ehrhart stated that lots 1 through 9 are affected by wetlands. He stated that he would have to create new wetlands at a ratio of 1 1/2 times the amount of wetlands that would be disturbed. Mr. Reilly stated that typically the Army Corps of Engineers would like to see the new wetlands created in the same drainage shed as the ones that are to be disturbed.
- There was a concern about the dumping that occurred on this site a number of years ago and whether it was legal. Chairman Clark stated that this is an issue for the New York State Department of Environmental Conservation (NYSDEC). Chairman Clark noted that the applicant did not own this property at the time the dumping occurred, so it does not have an impact on this project.

There was a question regarding input from the Erie County Division of Sewerage Management. Mr. Ehrhart stated that that department has requested a downstream analysis, which is standard.

Ms. McCormick stated that she would like the Town Engineer to attend the next Planning Board meeting to ensure that he is comfortable with the way that the proposed drainage system is designed and that there is no concern that there will be sheet flow down the berm area to Brookwood Drive properties.

Chairman Clark made a motion, seconded by Mr. Mahoney, to table this project and authorize the Planning Department to prepare resolutions for the Board’s next meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

A L Asphalt Corporation - Requesting Site Plan Approval of a hot mix asphalt plant to be located at 5690 Camp Road

In response to a question from Chairman Clark, Rosanne Dipizio, applicant, stated that she previously proposed a residential project on this site approximately two (2) years ago that would have required a rezoning and a height variance. She noted that she was informed then that she could not ask for the variance before receiving the rezoning, and that would have been very expensive to go through the rezoning process and then find out that the variance was not approved. She stated that she walked away from the project because she did not want a fight on her hands.

Ms. Dipizio stated that she is trying to make the parcel a profitable piece of property.

It was determined that the applicant's attorney presented an opinion that this project does not require Site Plan Approval based on the Town Code, but the Supervising Code Enforcement Official determined that it does in fact require Site Plan Approval.

Ms. Dipizio stated that she has submitted all required information, the Planning Board has sought Lead Agency status and the 30-day comment period has expired.

Chairman Clark stated that the Board will review the submitted Long Environmental Assessment Form and discuss it at the Board's next meeting.

Ms. Dipizio stated that she would like to see the comments received by the Planning Department regarding this project.

Ms. Dipizio requested that the public hearing be scheduled for August 21, 2019.

In response to a question from Ms. McCormick, Ms. Dipizio stated that an asphalt plant must certify that it falls within the guidelines of the EPA requirements. She noted that an air quality permit is also required. She stated that the certification and air quality permit application would be submitted on approximately August 9, 2019.

Ms. Dipizio stated that there are permitted levels of exhaust per the New York State Department of Environmental Conservation (NYSDEC) that the asphalt plant must adhere to. She noted that the proposed asphalt plant on her property would be under every standard the NYSDEC and EPA have.

Ms. Dipizio stated that when the Town's Comprehensive Plan was updated in 2008, the Town had the opportunity to remove "asphalt plant" from the list of permitted uses in the M-3 District.

Mr. Reilly responded that the zoning was not changed at the applicant's site because the concrete plant was operating at that time. He further stated that the Camp Road Overlay does not envision the type of use proposed by the applicant in this area of Town.

Chairman Clark made a motion, seconded by Mr. Schawel, to schedule a public hearing to be held on August 21, 2019. Carried.

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 Jared Lusk, representing the applicant, stated that the questions raised by the R F Engineer, Dr. Bill Johnson, at a previous Planning Board meeting were provided to him on July 20, 2019. He stated that he was asked to reconfirm the previous statement from the Church that it is unwilling to allow the applicant to co-locate in the steeple, and he provided that correspondence to Board members.

In response to a question from Chairman Clark, Dr. Johnson stated that he submitted his report on July 26, 2019, and it dealt with the tower height evaluation, whether small cell technology would be a feasible alternative and the possibility of extending the tower.

Dr. Johnson stated that he spoke with the applicant's R F Engineer about how much capacity offload would occur for the existing sites if the height of the tower were to be reduced to lower levels. He stated that it was determined that going from 110' as proposed to 90' would only result in a single digit reduction (3-4%), so his suggestion was that going from 90' to 100' to gain that small difference of capacity probably does not argue well for 110' because almost the same offload capacity can occur at 90'. He noted that going to 90' from 110' would be something that could be supported from an engineering point of view.

It was determined that another balloon test would be scheduled during the week of August 12, 2019. It was further determined that the highest balloon would be the tracer balloon, and additional balloons would be flown at a height of 90' and 110'.

In response to a question from Ms. McCormick, Dr. Johnson stated that there would be substantial drop off in capacity offload if the tower were placed at a height of 70'.

Dr. Johnson stated that if the tower is placed at a height of 90', the Planning Board can stipulate that the tower can never be extended. He noted that if another provider needed to locate in this area, it would have to find another location or another tower. He stated that an alternative would be to build the tower and foundation to allow it to be extended if a new carrier comes before the Planning Board. He noted that the new carrier would have to justify the need for the higher tower.

Dr. Johnson stated that micro cells cannot be used in this situation because many micro cells would have to be put in to be able to cover what one fairly large 40-foot stanchion would provide in a parking lot.

Dr. Johnson stated that if the tower was in place on the Church property, putting another cell tower or multiple small micro cells at the Erie County Fairgrounds site would cover that population density, but that is not the situation that exists now. He stated that there is a macro site at the Erie County Fairgrounds site, but there is not a cell tower to draw off the capacity from the north where this cell tower is proposed.

Dr. Johnson stated that more micro sites cannot be placed at the Erie County Fairgrounds site because that area is already covered by the existing tower.

Dr. Johnson stated that the documentation that has been submitted shows that the site spikes to exhaustion at times, and the applicant is justified to try and fix that capacity problem. He noted that the site is not always at exhaustion.

Dr. Johnson stated that the Federal Communications Commission has ruled that a Town cannot make a decision that prohibits the provision of wireless service.

In response to a question from Ms. McCormick, Dr. Johnson stated that a typical problem that occurs is when a cell tower exists that is servicing a fairly large area and at a certain time of the day it cannot keep up with the capacity needs in one specific spot. He stated that sometimes a small cell site is erected in that certain spot on a different set of frequencies that is able to draw all of that extra capacity and leave the cell tower to serve the general area.

Dr. Johnson stated that the capacity problem is not localized, but rather it is uniformly distributed across the area except for places like the Erie County Fairground site.

In response to a question from Chairman Clark, Dr. Johnson stated that small cells would not work at the Fairgrounds site because there already is a cell tower covering that area.

Chairman Clark asked Dr. Johnson why small cells could not be installed at the Fairgrounds site to draw off the extra demand just like in the example he (Dr. Johnson) gave earlier. Dr. Johnson responded that this was a good question, but the applicant only has a certain amount of spectrum and it has licenses to operate in certain bands. He stated that capacity cannot be added to the Fairgrounds site because it is fully deployed.

In response to a question from Chairman Clark, Dr. Johnson stated that the existing cell tower at the Fairgrounds is already providing coverage to all of the area that the applicant is concerned about in terms of capacity.

Mr. Geraci stated that initially the applicant indicated that the need for the new tower was because of the 10 days of the Erie County Fair. He stated that as he understands it, this tower would take care of that volume as well as the increasing demand the rest of the year from cell phone users.

Dr. Johnson stated that this cell tower would relieve the demand on the existing cell tower sites by grabbing that traffic.

Dr. Johnson stated that if the applicant is going to provide wireless service, it will need to put something in this area to draw the capacity that will forestall the need for more towers in the future. He stated that it will happen later on, but for right now this would be the stopgap measure to allow the applicant to get the service it needs and avoid capacity problems.

Board members again discussed the idea of co-locating the cell tower in the Church's bell tower.

Dr. Johnson stated different ways to camouflage the cell tower, including imbedding it in a bell tower, flush mounting antennas on huge flag poles and making it look like a tree. He noted that the huge limitation is what happens when the next service provider wants to come in.

Chairman Clark made a motion, seconded by Mr. Chapman, that the Planning Board and the applicant agree to extend the shock clock to September 19, 2019. Carried.

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

OTHER BUSINESS

Mr. Geraci made a motion, seconded by Mr. Monaco, to approve the minutes of July 17, 2019. Carried.

Mr. Schawel made a motion, seconded by Ms. McCormick, to adjourn the meeting. Carried.

The meeting was adjourned at 9:30 P.M.

Respectfully submitted,
Doug Schawel, Secretary
August 21, 2019