

Town of Hamburg  
Planning Board Meeting  
October 2, 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, October 2, 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 Planner Sarah desJardins and Planning Board Attorney Jennifer Puglisi.

**WORK SESSION**

**Jerry Schmidt – Requesting Preliminary Approval of a two-lot subdivision to be located at 6284 Smith Road**

Attorney Michael Stachowski, representing the applicant, stated that the applicant has been in Hamburg Town Court for five (5) years, and appearing before the Planning Board is part of an agreement made with the Town to resolve the fact that the applicant has two (2) residences on one (1) lot.

Attorney Stachowski stated that approximately ten (10) years ago the applicant's son moved in with him and his wife, and the applicant created an apartment in an existing barn for his son to live in.

Attorney Stachowski stated that the previous Supervising Code Enforcement Official, Kurt Allen, came up with a settlement resolution that he (Attorney Stachowski) thought was reasonable. He noted that the settlement resolution was that the applicant would split the property into two (2) lots so that each residence would be on its own lot.

Attorney Stachowski stated that each lot would have its own address.

Chairman Clark made a motion, seconded by Mr. Monaco, to schedule a public hearing to be held on November 20, 2019. Carried.

Engineering Department comments have been filed with the Planning Department.

**Roger Duffett - Requesting Site Plan Approval of a proposed 7,000 sq. ft. new building at 5640 Maelou Drive**

Andy Gow from Nussbaumer & Clarke, representing the applicant, stated that the proposal is to construct a new building to house basketball operations for a tenant in the existing building on the site who operates a sports performance gym there.

Mrs. desJardins stated that on October 1, 2019 the applicant received the necessary use and area variances.

The owner of the sports performance gym stated that the building would be used primarily for private basketball training and for the teams that he sponsors. He noted that no events would be hosted in the building.

Mr. Gow stated that the majority of the site is gravel.

Chairman Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on October 16, 2019. Carried.

Engineering Department comments have been filed with the Planning Department.

**Erie Wind LLC – Requesting an amendment to the approvals granted for the Steel Winds II project on Lakeshore Road (approvals granted in 2010)**

Attorney Jeff Davis from Barclay Damon, representing the applicant, stated that Erie Wind LLC is the owner of the Steel Winds II project, which was approved in 2012-2013. He stated that many of the turbines are not spinning, even on windy days, because the manufacturer went bankrupt, and as a result replacement parts are not available. He stated that Erie Wind LLC is considering two (2) manufacturers (GE and Vestis) who have come up with a mechanism whereby the rotating area of the turbine can be replaced with different components that can allow this facility to still generate electricity while using the same base.

Attorney Davis stated that the foundations and towers will stay the same but the blades will be longer, which will result in an overall tower height to the tip of blade of 456' (GE) or 466' (Vestis). He noted that although it is basically a maintenance project, the applicant must modify the existing Special Use Permit to allow the change in height and extend the variance granted by the Zoning Board of Appeals (ZBA) for the distance of the southernmost tower to a property line.

Attorney Davis stated that SEQR documentation and materials have been submitted and noted that the applicant is in a time line crunch and needs to get through the zoning and SEQR processes fairly quickly. He stated that applications have been submitted to the Hamburg Planning Board and ZBA, the City of Lackawanna, the Erie County Industrial Development Agency (ECIDA) and the Hamburg Industrial Agency.

Attorney Davis stated that there are numerous Involved Agencies under SEQR, and ECIDA has sent letters declaring its desire and intent to be Lead Agency on this project. He noted that when Steel Winds I and Steel Winds II were reviewed, the City of Lackawanna was Lead Agency.

Attorney Davis stated that no decisions can be made on this project until the SEQR process is complete, and he asked the Board to consider consenting to the ECIDA being Lead Agency. He noted that every other Involved Agency has consented to this.

In response to a question from Mr. Chapman, Attorney Davis stated that the manufacturer will certify that the existing foundation and the design can withstand what will be put on top.

In response to a question from Mr. Chapman, Attorney Davis stated that there are existing PILOT (Payment in Lieu of Taxes) agreements from both the ECIDA and the HIDA. He noted that the PILOT agreements will be amended as a result of this project.

In response to a question from Mr. Monaco, Attorney Davis stated that the applicant has been in discussions with the Town of Hamburg and City of Lackawanna for some time. He stated that the project has a new owner, and there are Federal tax credits that are expiring, and a project like this cannot happen without them.

Attorney Davis stated that the plan is to have the replacement project completed by 2021.

It was determined that the original manufacturer declared bankruptcy in 2012.

Attorney Davis stated that the refurbished equipment is not meeting an industry standard that it needs to for the investment needed to do that. He noted that full replacement at the top of the tower is now required.

In response to a question from Chairman Clark, Attorney Davis stated that there are no residences near this project. He noted that the types of impacts found from windmills are generally noise impacts (this project complies with the Town's sound Code at the property line) and visual impacts (the windmills are existing). He noted that there are no odors or glare.

Regarding potential impacts on birds and bats, Attorney Davis stated that the applicant is proposing feathering the blades so that there are reduced impacts on birds and bats and "curtailment", meaning that the turbines will not operate at a lower wind speed at which birds and bats are typically flying and then they will kick in at a higher wind speed.

Attorney Davis stated that if the Planning Board was uncomfortable consenting to the ECIDA being Lead Agency, the applicant would probably proceed with the project in the City of Lackawanna and not in the Town of Hamburg, which would mean that the four (4) wind turbines in Hamburg would probably be decommissioned.

Mr. Mahoney applauded Attorney Davis for his transparency.

Ms. McCormick stated that the Planning Board can comment to the ECIDA on the environmental review as part of the Coordinated SEQR Review.

Chairman Clark made a motion, seconded by Mr. Chapman, to consent to the ECIDA being Lead Agency under SEQR. Carried.

Attorney Davis stated that the ECIDA will hold a public hearing on the PILOT program. He further stated that the 30-day comment period for the Coordinated Review ends on October 23, 2019.

## **REGULAR MEETING**

### **Public Hearing - 7:00 P.M., E-ONE – Requesting Site Plan Approval of a +/- 10,000 sq.ft. addition to the existing building at 4760 Camp Road**

Victor O'Brien from C & S Engineers, representing the applicant, stated that the site is located on the corner of Queens Lane and Camp Road. He stated that the addition would be constructed where asphalt already exists, and a side yard setback variance was obtained from the Board of Zoning Appeals on September 10, 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 proposal by E-One to construct a 10,000 sq.ft. addition to an existing building at 4760 Camp Road. The Public Hearing will be held on October 2, 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.

Ms. McCormick 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 E-One project, which involves the extension of a building at 4760 Camp Road, received input from various departments and held the required public hearing In accordance with the New York State SEQR Law. Based on this review and input, 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 proposed E-One project is not anticipated to result in any significant adverse environmental impact, and a Negative Declaration is hereby issued.”

Carried.

Mrs. desJardins read into the record the following correspondence from the Conservation Advisory Board:

“After reviewing the proposed site plan for the E-ONE addition project and walking the site on 1 October 2019, the Hamburg Conservation Advisory Board recommends and advises the Town of Hamburg Planning Department as follows:

There are no noticeable disturbances to the natural environment from this proposal.”

Ms. McCormick made a motion, seconded by Mr. Mahoney:

“Based on the review of the E-One project materials and having completed the SEQR process, the Hamburg Planning Board hereby approves the project with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated October 2, 2019.

Carried.

Engineering Department comments have been filed with the Planning Department.

**Public Hearing - 7:00 P.M., Lakeshore Dental Care, PLLC – Requesting Site Plan Approval of a parking lot extension at 5020 Lakeshore Road**

It was determined that the new lights would be dark-sky compliant.

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 Lakeshore Dental, PLLC to extend a parking area at 5020 Lakeshore Road. The Public Hearing will be held on October 2, 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. Chapman made the following motion regarding SEQR, seconded by Mr. Schawel:

“In accordance with the New York State SEQRLaw, the Town of Hamburg Planning Board has reviewed the Lakeshore Dental Care project, which involves the extension of a parking lot at 5020 Lakeshore Road, received input from various departments and held the required public hearing In accordance with the New York State SEQRLaw. Based on this review and input, 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 proposed Lakeshore Dental Care project is not anticipated to result in any significant adverse environmental impact, and a Negative Declaration is hereby issued.”

Carried.

Mr. Chapman made the following motion regarding SEQRLaw, seconded by Mr. Mahoney:

“Based on the review of the Lakeshore Dental Care project materials and having completed the SEQRLaw process, the Hamburg Planning Board hereby approves the project with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated October 2, 2019.
- Lights will be dark-sky compliant.

Carried.

Engineering Department comments have been filed with the Planning Department.

### **WellNOW Urgent Care Clinic - Requesting Site Plan Approval of an urgent care clinic to be located on vacant land between 4923 and 4885 Southwestern Boulevard**

John Clark from DDS Companies, representing the applicant, stated that the applicant proposes to construct a 3,500 sq.ft. urgent care facility. He stated that the Town Engineer’s comments have been addressed.

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

“In accordance with the New York State SEQRLaw, the Town of Hamburg Planning Board has reviewed the WellNOW project, which involves the construction of a 3,531 sq.ft. urgent care clinic on property located adjacent to 4923 Southwestern Boulevard and held the required public hearing on September 18, 2019. The project meets the criteria established in the SEQRLaw as a Type II Action (Section 617.5 C (7)) and therefore does not require completion of the SEQRLaw process.” Carried.

Mr. Geraci made a motion, seconded by Mr. Schawel, to grant Conditional Site Plan Approval with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated October 2, 2019.
- The landscaping plan will be approved by the Planning Department
- Cross access agreements with the adjacent properties will be submitted to the Planning Board Attorney for review and approval and will be filed in the Town Clerk’s office.
- Sidewalks exist along Southwestern Boulevard.”

Carried.

Engineering Department comments have been filed with the Planning Department.

**OTHER BUSINESS**

Board members examined a proposal to put a children’s playset on property located on Old Lakeview Road that backs up to Eighteen Mile Creek. A variance will be required because of the playset’s proximity to the top of the bank, and the Conservation Advisory Board commented as follows:

„The Town of Hamburg Conservation Advisory Board does not see any permanent issues with a proposed play set being near the Critical Environmental Area bordering the eighteen mile creek. There will not be any disturbance of the ground/banks of the creek, nor any removal of shrubs trees etc. Its not a permanent play-set. its to being mounted on concrete blocks not in-ground anchors. We do not see any environmental issues with the play set as long as there are no permanent connections either electrical.”

Chairman Clark made a motion, seconded by Mr. Chapman, to approve the minutes of September 18, 2019. Carried.

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

The meeting was adjourned at 7:40 P.M.

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Respectfully submitted,  
Doug Schawel, Secretary  
October 9, 2019