

Town of Hamburg
Planning Board Meeting
June 19, 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, June 19, 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 Drew Reilly, Town Engineer Michael Quinn and Planning Board Attorney Jennifer Puglisi.

WORK SESSION

Burke Construction LLC - Requesting Site Plan Approval of a project consisting of two (2) new eight-unit apartment buildings to be located on vacant land on the west side of McKinley Parkway, just north of 3300 McKinley Parkway

Attorney Sean Hopkins, representing the applicant, confirmed that this property was re-zoned in November 2017 to R-3. He stated that two new apartment buildings and a new six-unit parking building are proposed, and no new curb cut is proposed because this will connect to the existing apartment buildings to the south that are owned by the same ownership group but a different entity.

Attorney Hopkins stated that two (2) variances will be needed in connection with this project because one of the proposed buildings does not comply with the underlying Code requirements.

It was determined that the variances will be sought at the Zoning Board of Appeals' meeting on July 2, 2019.

In response to a question from Mr. Quinn, Attorney Hopkins stated that an access agreement will be recorded.

Attorney Hopkins stated that a separate curb cut is not being proposed onto Lake Avenue.

It was determined that the residents of the new apartments will have access to the existing recreational amenities at the adjacent apartment complex owned by the applicant.

Chairman Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on July 17, 2019. Carried.

Engineering Department comments have been filed with the Planning Department.

AL Asphalt Corporation - Requesting Site Plan Approval of a hot mix asphalt plant to be locate at 5690 Camp Road

No one appeared on behalf of the applicant.

Mr. Chapman made a motion, seconded by Ms. McCormick, to table this project. Carried.

REGULAR MEETING

Public Hearing - 7:00 P.M., Eddy & Lewin Homes – Requesting Preliminary Approval of a two-lot subdivision to be located on vacant land west of 1576 Schoellkopf Road

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 two-lot subdivision proposed by Eddy & Lewin Homes to be located on the north side of Schoellkopf Road. The public hearing will be held on June 19, 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:

“The Town of Hamburg Planning Board has reviewed the two-lot subdivision proposed by Eddy & Lewin Homes located on vacant land on the north side of Schoellkopf Road. Based on the Preliminary Plat, review of the submitted materials and input from other departments, the Planning Board has determined that the proposed subdivision is not anticipated to result in a significant adverse environmental impact and that a Negative Declaration is hereby issued.” Carried.

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

“The Town of Hamburg Planning Board hereby grants Preliminary Plat Approval for the Eddy & Lewin Homes Two-Lot Subdivision with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated 6/19/19.
- The installation of sidewalks is waived.
- The filing of a map cover is waived.
- Recreation fees in lieu of land will be required.”

Ms. McCormick made a motion, seconded by Mr. Chapman, to amend Mr. Geraci’s motion to change the date of the Engineering Department comment letter to 6/17/19. Carried.

All members voted in favor of the motion as amended.

Engineering Department comments have been filed with the Planning Department.

Public Hearing - 7:00 P.M., Hamburg Auto Center – Requesting a Special Use Permit and Site Plan Approval of a proposal to construct an additional building at 5873 Camp Road

Ron Henry, applicant, appeared on behalf of the project and showed Board members renderings of the proposed building.

Mr. Quinn stated that he had not had a chance to review the latest plans submitted by the applicant.

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 Hamburg Auto Center to construct a new building at 6873 Camp Road. The public hearing will be held on June 19, 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.

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

Engineering Department comments have been filed with the Planning Department.

Chuck Backus – Requesting a Special Use Permit and Site Plan Approval of a proposal to convert an existing vacant building to public mini-storage and construct additional new mini-storage buildings at 1975 Lakeview Road

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 Chuck Backus to convert the existing building at 1975 Lakeview Road to public mini storage and construct a new mini storage building at the rear of the property. The public hearing will be held on June 19, 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:

“Whereas, the Town of Hamburg Planning Board received a Special Use Permit application from Chuck Backus to convert an existing building to public mini storage and construct a public mini storage building in the rear of 1975 Lakeview Road; and

Whereas, on June 19, 2019 the Hamburg Planning Board held the required public hearing; and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has done a thorough review of the project and its potential impacts; and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has determined that the project and Special Use Permit will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations;

Now, Therefore, Be It Resolved that the Town of Hamburg Planning Board hereby determines that the proposed project is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and the Planning Board Chairman is authorized to sign the EAF.” Carried.

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

“Whereas, the Town of Hamburg Planning Board received a Special Use Permit application from Chuck Backus to convert an existing building to public mini storage and construct a public mini storage building in the rear of 1975 Lakeview Road; and

Whereas, on June 19, 2019 the Hamburg Planning Board held the required public hearing; and
Whereas, the Hamburg Planning Board, in reviewing the proposed project and Special Use Permit, has determined in accordance with Section 280-312 and 280-326.2 the following:

1. The project will be in harmony with the purposes and intent of Section 280-312 (Special Use Permits).
2. The project will not create a hazard to health, safety or general welfare.
3. The project will not alter the essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.
5. The new public mini storage building is not proposed within 100 feet of a residential structure.
6. The new public mini storage building will be screened by the existing structure in front of the property.

Now, Therefore, Be It Resolved that the Town of Hamburg Planning Board hereby determines that the proposed Special Use Permit is in accordance with the requirements of the Town of Hamburg, and therefore the Special Use Permit is hereby issued with the following condition:

- No outside storage is permitted.” Carried.

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

“The Planning Board hereby grants Site Plan Approval for the Chuck Backus project with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated 6/17/19.
- The installation of sidewalks is waived.
- No outdoor storage is allowed.” Carried.

Engineering Department comments have been filed with the Planning Department.

Michael Schmidt – Requesting a Special Use Permit and Site Plan Approval of a proposal to construct two (2) new self-storage buildings totaling 6,400 sq.ft. at 5139 Southwestern Boulevard

It was determined that the applicant had planted the required trees on the exiting berm.

Mike Schmidt, applicant, confirmed that the buildings will be constructed in the location they are proposed.

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 Michael Schmidt to construct two (2) new self-storage buildings totaling 6,400 sq.ft. on property located at 5139 Southwestern Boulevard. The public hearing will be held on June 19, 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:

“Whereas, the Town of Hamburg Planning Board received a Special Use Permit application from Hamburg Self Storage to construct two (2) new public mini storage buildings totaling 6,400 sq.ft. at 5139 Southwestern Boulevard; and

Whereas, on May 1, 2019 and June 19, 2019 the Hamburg Planning Board held the required public hearing; and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has done a thorough review of the project and its potential impacts; and

Whereas, the Hamburg Planning Board, in accordance with SEQR, has determined that the proposed project and Special Use Permit will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations;

Now, Therefore, Be It Resolved that the Town of Hamburg Planning Board hereby determines that the proposed project is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and the Planning Board Chairman is authorized to sign the EAF.” Carried.

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

“Whereas, the Town of Hamburg Planning Board received a Special Use Permit application from Hamburg Self Storage to construct two (2) new public mini storage buildings totaling 6,400 sq.ft. at 5139 Southwestern Boulevard; and

Whereas, on June 19, 2019 the Hamburg Planning Board held the required public hearing; and

Whereas, the Hamburg Planning Board, in reviewing the proposed project and Special Use Permit, has determined in accordance with Section 280-312 and 280-326.2 the following:

1. The project will be in harmony with the purposes and intent of Section 280-312 (Special Use Permits).
2. The project will not create a hazard to health, safety or general welfare.
3. The project will not alter the essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.
5. The new public mini storage building is not proposed within 100 feet of a residential structure.
6. The existing berm in front of the buildings will help to screen them from Southwestern Boulevard, and the front part of the site will not be used for public mini storage, but for other commercial construction.

Now, Therefore, Be It Resolved that the Town of Hamburg Planning Board hereby determines that the proposed Special Use Permit is in accordance with the requirements of the Town of Hamburg, and therefore the Special Use Permit is hereby issued with the following conditions:

- No additional public mini storage buildings will be allowed on this site.
- Outdoor storage is limited to the areas depicted on the plan.
- The building will be constructed where it is approved.”

Carried.

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

“The Planning Board hereby grants Site Plan Approval for the Hamburg Self Storage project with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated 6/17/19.
- The installation of sidewalks is waived.
- There will be no additional public mini storage buildings constructed on this site.
- The front of the property cannot be used for public mini storage.” Carried.

Engineering Department comments have been filed with the Planning Department.

Continuation of Public Hearing - 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 Western NY District Wesleyan Church near 4999 McKinley Parkway

Attorney Robert Brenner from Nixon Peabody, representing the applicant, stated that the applicant is working on the questions raised by Board members regarding the access road length and utility crossing, and those questions will be addressed prior to the Board's next meeting. He further stated that the applicant is also working on responding to the questions regarding the potential impact on property values relative to the tower and will respond after the Board hears from the RF Engineer, Dr. Johnson.

Attorney Brenner stated that the applicant will submit a letter addressing the above questions, as well as any others that come up as a result of the public hearing and the discussion with Dr. Johnson.

Chairman Clark made a motion, seconded by Ms. McCormick, to release Mr. Sedia's "David and Goliath" report to the applicant's attorney. Carried.

In response to a question from Mr. Geraci, Attorney Brenner stated that the reason the tower is being proposed is that there is a capacity need being generated by three (3) sites in the area. He further that this project is being proposed not solely to offload the Erie County Fairgrounds site during capacity overload during the Fair.

In response to a question from Mr. Geraci, Attorney Brenner stated that the vacant property on McKinley Parkway across from the Fairgrounds is not a feasible site for the cell tower.

Dr. Bill Johnson, faculty member at the Rochester Institute of Technology, stated that it appears that Verizon does have a capacity problem. He stated that the proposed cell tower site is intended to provide increased capacity to offload traffic from neighboring sites. He noted that it would relieve capacity, as well as provide additional coverage to the area where the proposed site is located.

Attorney Brenner reiterated that this is a capacity issue and noted that the Erie County Fairgrounds site is the largest capacity strain in this area, but there are also capacity deficiencies on the Seven Corners site and a site in Orchard Park. He stated that the goal is to lo-

cate a cell tower in the center of those three (3) areas to provide a solution for those three (3) sites.

Dr. Johnson stated that the applicant is trying to stay away from having customers lose service or not be able to complete or receive calls because the system is overloaded. He stated that in that instance data rates will slow down.

Dr. Johnson stated that, although the Fairgrounds site is near saturation at times, putting a cell tower there does not help because part of that saturation problem involves serving the subscribers in the northern part of the sector. He noted that the goal is to allow the Fairgrounds site to handle its own traffic and the new cell tower to handle the additional traffic to the north. He further stated that the proposed cell tower is intended to handle all of the traffic that is currently being served at the Fairgrounds site from the north and pull that traffic to itself, which in turn will free up the Fairgrounds site to handle the capacity of overload and local services that are needed at the Fairgrounds.

In response to a question from Mr. Geraci, Dr. Johnson stated that the existing cell tower located on the Erie Community College (ECC) property would not help solve the problem because of FCC exposure guidelines.

Dr. Johnson stated that at his request, Verizon provided an analysis of how the propagation characteristics translate to capture of traffic. He explained that the analysis shows that as the height of the proposed tower decreases, the coverage footprint for the highest band frequency that is in use begins to shrink. He noted that although the coverage footprint shrinks at the highest band frequency, he is not 100% convinced that there would be a huge reduction in capacity offload at the lower frequency.

Dr. Johnson stated that additional information should be provided regarding the quantitative estimates of how ACL reduction would hamper the applicant's need to off load traffic and improve the capacity at the Fairgrounds site and neighbor sites.

Dr. Johnson stated that the proposed cell tower site is considered "categorically excluded", meaning that it meets all FCC requirements and without any further analysis is deemed safe. He noted that a licensed professional engineer has certified that this site comes nowhere close to human exposure concerns.

Dr. Johnson stated that if someone has a concern about health risks, he or she should focus on the cellphone itself and not the base station.

Dr. Johnson stated that if this cell tower is approved, there are neighbor sites that this site would have to connect to for operational, subscriber performance and safety reasons. He noted that the object is to not have any dead zones where calls are dropped and connections must be re-established.

Dr. Johnson stated that Verizon Wireless has a license to cover this area, and the Planning Board should ask Verizon where the next new sites will be, as well as what its plans are to bring 5G to this area.

Dr. Johnson stated that small cell sites are probably not the best solution, and they are not the most financially effective solution for Verizon. He stated that small cell sites are good for

what they are intended to do, which is cover very small areas, but this is a large area that has to be covered, and it would be very difficult to engineer it and have a good reliable system with all small cells.

Dr. Johnson stated that the closer the base station is to someone, the stronger the signal is going to be. He reiterated that it is not the base station that is the health problem, but rather the phone.

Dr. Johnson stated that the applicant looked at 11 alternative sites, and every one was dismissed because of the presence of wetlands, zoning requirements and/or distance to residences.

In response to a question from Chairman Clark, Dr. Johnson stated that all of the alternate sites are located in a residential area.

Mr. Reilly stated that the applicant has indicated that there are no cell towers in this area on which Verizon could co-locate, and the Church does not want the tower attached on the steeple.

In response to a question from Mr. Mahoney, Dr. Johnson stated that the 5G system works on a whole new range of frequencies and would be supplemental to the existing system.

In response to a question from Ms. McCormick, Dr. Johnson stated that the macro towers will coexist with the 5G sites. He noted that 5G sites will be mounted on telephone poles, lamp posts, etc., and the macro sites would serve subscribers who are not within 100 to 200 feet of a 5G site.

Dr. Johnson stated that somewhere down the road when hundreds of thousands of 5G sites have been installed in this area and those sites provide ubiquitous service for everyone who uses their mobile device, the macro sites may go away. He noted that that would not happen any time soon.

In response to question from Mr. Geraci, Attorney Brunner stated that to his knowledge no other providers would be utilizing this tower initially, but it is designed for up to four (4) additional co-locaters.

In response to a question from Mr. Chapman, Attorney Brenner stated that as proposed the top of steel of the tower is 114 feet with a four-foot lightening rod, so the total height would be 118 feet. He noted that Verizon's antenna center line is 110 feet, and the co-locater spaces that are reserved are below that 110-foot level.

In response to a question from Dr. Johnson, Attorney Brenner stated that he does not know if the tower as designed could be extended higher.

Mr. Schawel read the following notice of public hearing:

"Notice is hereby given that the Town of Hamburg Planning Board will continue 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 4999 McKinley Parkway. The continuation will be held on June 19, 2019 at 7:00 P.M. in Room 7B of Hamburg Town Hall."

Chairman Clark advised the public that the Planning Board does not consider the tax levies when making a decision, and federal regulation # 332C(7)B(4) prohibits the Planning Board from considering the health effects if a proposed cellular tower meets the FCC standards. He asked the public not to bring up those concerns during the public comment period.

Chairman Clark stated that public comments would be limited to three (3) minutes if many people wish to speak, but if only a few people wanted to comment he would allow them more time.

The following people spoke:

- Bethany Domanowski stated the following:

“My name is Bethany Domanowski. I live at 4509 Hidden Hollow Rd.

As I read through the proposal there were several things that were alarming that I want to mention here.

The proposal also says in Section D Y 4 p. 6 “The extent to which the proposed facility would be visible from, but not limited to...” It mentions local parks, public lands, historic districts, preserves, environmental conservation areas and “any other location where the site is visible to visitors, travelers or residents.” The town should be aware that the adjoining property to the Wesleyan church is designated as “Park Lands and Private Life Sanctuary”. Frank Parlato developed Hidden Hollow, which is 46 acres and includes a 24 lot subdivision with a 30 acre private forest. He put restrictive covenants within the property deeds and filed in the Erie County clerks office so that the property be classified as “Park Lands and Private Wildlife Sanctuary”. The property deeds for everyone who lives on Hidden Hollow states that no structures are to be built on the shared land with the intention to preserve the private area as permanent forest land. It says that the restrictions relative to the private park area will be permanent and are not subject to expiration or amendment. This is the reason we fell in love with this street. The beauty of nature, not a giant cell phone tower with a blinking light, so that even after the sun goes down we can still see it while in our backyard.

This leads me to my next concern... in the proposal in Exhibit D, p. 7 section AB, it mentions that “to Tarpon’s knowledge, the Project is not located in proximity to any listed or eligible historic places or archeologically sensitive areas.” Tarpon states that they were in the process of completing a Phase 1 archeological study but the federal government shutdown delayed the application. Has this since been completed? It should be followed up with, especially due to the land preserve and Rush creek in the adjacent property.

In Exhibit D of the proposal, on p.2 it says “At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.” This cell tower, is taller than the tallest tree, so it will NOT blend into the natural settings and surrounding buildings... and Tarpon has made no effort to do so.

As was mentioned before, it has been shown that having a cell phone tower near your house, can reduce your property value up to 20 percent. If the cell tower is built at the Wesleyan church, my husband and I have been very seriously talking about moving.

Why? I realize that everyone's health is not relevant to this situation because the government says that the exposure from a cell phone tower is within acceptable limits. But as far as I'm concerned, when it comes to the health of my child, 0 exposure is my acceptable limit. As a mother and a teacher who advocates on behalf of children because they are trusting the adults in their lives to do what is best for them, it shocks me that the Wesleyan church would be okay with putting a cell phone tower right next to their playground, a youth center and their preschool.

So, let's get back to this 20%. Because this was our forever home, we put a lot of money into improvements that would not increase our property value but that were important to us. We knew that we wouldn't get that money back if we sold the house, but it didn't matter... we planned to grow old here. Now at the prospect of moving, we could experience a 20% drop in the sale price and eat the cost of the improvements we made to our forever home that is no longer forever.

Let's talk about the Erie County Fairgrounds. In the project need overview, Tarpon states that the Erie County Fairgrounds has the highest demand for capacity offload, so it seems to be the biggest reason for needing a new cell phone tower. It says and I quote: "The capacity constraint is mostly due to a combination of high volumes during yearly events at the Erie County Fairgrounds." Are we really going to put up a cell phone tower next to my house because the Fairgrounds is busy 12 days during the summer? The proposal says that in regards to the capacity projection FDV that the fairgrounds is "sometimes overloaded during large events." Then when talking about the Capacity projection AvgAC, mentions the Fairgrounds sector is "occasionally exhausted." Both graphs show the issue occurring only around the time of the fair. I don't pretend to know what FDV or AvgAC means. But I do know that "sometimes" and "occasionally" don't seem important enough to justify destroying my property value. If the main issue is the Fairgrounds and their capacity is described as sometimes or occasionally an issue, then how do you describe the other 2 areas that the cell phone tower is supposed to support... rarely or once a month it's an issue? The whole thing doesn't seem urgent. The Erie County Fairgrounds has plenty of space for an additional cell phone tower. If the Erie County Fairgrounds is the biggest issue in the affected area, put the cell phone tower there. Better yet, put it on town land like Boy Scout camp so that the revenue goes to the town.

I heard that when the Buffalo Bills play a home game, that Verizon just brings some sort of technology to the property to take care of the temporary cellular shortage. Why isn't this an option for the fairgrounds? We talked to the network technician at the Erie County fairgrounds. Both he and his supervisor said that there is NOT an issue with network saturation... or data issues that result in dropped calls. Then why is Tarpon saying there is a problem? Is it because Tarpon and all the lawyers wouldn't make any money if the cell phone tower wasn't put up?

My husband and I are life long residents of Hamburg. We love Hamburg and are counting on the Town Planning board to make the right decision for the residents of this community. A decision that is in the best interest of the people, not a money maker for Verizon, Tarpon, the Wesleyan church and all of the lawyers.

Thank you!"

- Linda Smith, 4520 Hidden Hollow asked what the concerns of the Planning Board were when the cell tower on Pleasant Avenue was approved. Mr. Geraci explained that the Planning Board regulated that tower's height. Ms. Smith stated that the 11 other sites considered for this cell tower need to be looked at more closely.
- Ed Shimsky, 4530 Hidden Hollow, asked if the cell tower could have users other than Verizon on it.
- Peter Smith, resident of Hidden Hollow, stated that the solution is to put the cell tower on the church building.
- Mark Schmidt, 4740 Parker Road, #27 stated that he has researched every cell tower in Hamburg (18 plus 15 in surrounding areas) and has noticed that this location is unusual compared to the existing cell towers in Hamburg because it will affect more residents than any other (except perhaps for the one in the middle of the Village of Hamburg). He stated that the area is purely residential, which is the least preferred area in which to locate a cell tower. He stated that if the Planning Board wants to abide by the laws of the Town of Hamburg, it has no alternative but to deny this request.
- Kathleen Wilczynski, 5058 Parker Road, asked how much money the Church will receive from the applicant for allowing the cell tower to be located on its property. She stated that her property is sandwiched in among properties the Church owns, and the Church does not take care of its properties. She stated that the Church is not paying taxes on its properties while making money allowing the cell tower to be placed there. She stated that the value of her home has been decreased because the Church properties are not being taken care of.
- Joan Brylski, 4527 Hidden Hollow Road, stated that she objects to having her home and property devalued because of an eyesore cell tower.
- Matt Domanowski, 4509 Hidden Hollow, stated that the Church has demonstrated that it is not a good steward of the properties it already owns. He stated that the concern is whether it will be a good steward of the cell tower property. Mr. Reilly stated that the applicant would be responsible for maintaining the property leased for the cell tower. Mr. Domanowski asked if the petition submitted is mute because the Planning Board must follow the law.
- Joanne Zabielski, 4988 Parker Road, stated that the Church is not taking care of its properties. She stated that she does not want an eyesore in her back yard. Mr. Geraci advised her to attend the Town Board meetings and let the Town Board members know of her concerns. Ms. Zabielski stated that the Church is not being neighborly.
- John Wilczynski, 5058 Parker Road, stated that he would like the applicant to look into other options before committing to this parcel. He stated that exposure to the tower could be safe for one person and not for another. He stated that he agrees with everything his wife said previously.

- Jim Sorrentino, 4535 Hidden Hollow, stated that he contacted a real estate broker and discussed the proposed cell tower and the effect it would have on nearby properties. He noted that the real estate broker indicated that if the cell tower is approved and goes up, the value of nearby homes will decrease. He stated that if that happens, the nearby property owners would have to apply to the Tow for a reduction in the assessed value of their properties. He stated that if the cell tower goes up on the Church property, the Church will have to pay taxes on that.
- Bob Sedia, 4521 Hidden Hollow Road, asked for confirmation that the Planning Board cannot by law consider safety when considering a cell tower proposal that meets FCC guidelines for safety. He showed the Board the sanctuary property surrounding the Hidden Hollow homes, as well as where the cell tower is proposed relative to that property and the agreement between the Church and the applicant from 2018. He stated that he never saw the balloon study that was done by the applicant. He stated that 65 acres of Town-owned property exists one-half mile from the Church property that could be used for the cell tower, and it could also be placed at the Fairgrounds and disguised as a silo. He stated that the cell tower as proposed is inconsistent and inappropriate to locate on the Church property near the sanctuary. He stated that he spoke to Church representatives who indicated that they are not interested in any discussions with the nearby property owners and want to go ahead with the cell tower project. He stated that the application indicates that the need for the cell tower is because of the overload of the events at the Fairgrounds. He submitted a petition against the cell tower signed by 110 residents, and he plans to get additional signatures. He questioned what type of light, if any, would be placed on the cell tower. He stated that the cell tower would be inconsistent with the community image and adversely affect the character and aesthetics of the neighborhood. He stated that the Town should be concerned that the money the Church receives may not be spent on Town residents.
- Mark Schmidt, 4740 Parker Road, stated that the Town of Hamburg needs to determine how many cell towers are actually necessary for the Town.
- Frank Davidson, 4837 Gerber Parkway, stated that the New York State Assessors' Manual indicates that if religious institutions use any part of their property for any other purpose, that portion of the property becomes wholly taxable. He asked if the Church could withdraw the application currently before the Planning Board.

Mr. Mahoney advised the public that the Board members take these decisions very seriously, and he has visited the site numerous times and done much research on this request.

Chairman Clark declared the public hearing closed.

In response to a question from Chairman Clark, Attorney Brenner stated that he can have answers to the non-radio frequency related questions in a week or two by formal letter. He asked if there are any sites within the search ring or in close proximity to the search ring that the Planning Board wants the applicant to analyze.

Mr. Monaco asked about the feasibility of the property behind the former Walmart building.

Attorney Brenner stated that Exhibit G, page 7, of the application is the search area that was analyzed. He noted that the search area was overlaid on a tax map, and the parcels that were sufficiently large enough to accommodate the project within that area were analyzed.

Attorney Brenner stated that the applicant will be happy to reevaluate any of the alternative properties to the extent that the Planning Board or Dr. Johnson would like, and if there are other sites on the fringes of the search area, the applicant would be happy to accommodate any requests within reason to look at alternative sites outside of the search area within a reasonable distance.

Chairman Clark asked Dr. Johnson to look at the alternative sites and advise the Planning Board if any of them should be investigated further.

Dr. Johnson stated that each of the alternative sites listed by the applicant was discounted for reasons other than radio frequency. He noted that there was no radio frequency analysis performed because either the site did not have sufficient setback from wetlands or a creek runs through it that would require a bridge to get access to the site.

Dr. Johnson stated that some of the other sites discussed at the public hearing (the former Walmart site and the Town-owned site) may be too far outbound of the search ring.

Chairman Clark asked the applicant to investigate the Town-owned site north of the Church.

In response to a question from Ms. McCormick, Dr. Johnson stated that Hamburg Town Code requires that a cell tower be set back from adjacent property lines so that in the event the tower topples over, no property lines are crossed.

Dr. Johnson stated that the proposed location for this cell tower is a good one because it is centrally located to almost every one of the adjacent sites, which is a good indication that if a tower goes in at this location, it is probably the minimum height because it would not have to be so tall that it is reaching across the gap to try to provide the necessary coverage.

Dr. Johnson stated that the further one moves away from the cell tower location, the higher a cell tower would have to be in order to project over the top of the clutter so that the signal propagates further than it would have if it were at the proposed location and height.

Attorney Brenner agreed to address all issues raised at the public hearing and from Board members by letter before the Board's July 17, 2019 meeting.

Mr. Reilly stated that the applicant has submitted the information required by Town law, but the Planning Board wants additional clarification to complete that application under the law.

A representative of the applicant stated that from a technical standpoint, when the application was submitted under FCC regulations there is a certain amount of time for which notice of incomplete application needs to be furnished. He stated that the additional information being provided by the applicant is not necessarily to complete the application under the FCC regulations, but rather to move the process forward.

Chairman Clark, made a motion, seconded by Mr. Geraci, to table this project to the Board's July 17, 2019 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

OTHER BUSINESS

Board members discussed the Willow Woods Subdivision HOA request to allow testing to cease at the former dump site in the rear of the property.

Ms. McCormick stated that there have been certain items detected above various screening levels.

Mr. Geraci stated that the HOA is aware of the testing results and does not want to continue the testing, and that should be its decision.

Mr. Chapman stated that the testing should continue.

Mr. Geraci stated that the test results should be sent to the Erie County Health Department for review and comment.

Chairman Clark made a motion, seconded by Mr. Chapman, that the Willow Wood Subdivision testing results be sent to the Erie County Health Department and the New York State Department of Environmental Conservation for their input as to whether testing should continue. As the vote on the motion was six (6) ayes and one (1) nay (Mr. Schawel), the motion carried.

Mr. Geraci made a motion, seconded by Ms. McCormick, to approve the minutes of June 5, 2019. Carried.

Mr. Schawel made a motion, seconded by Mr. Monaco, to adjourn the meeting. As the vote on the motion was six (6) ayes and one (1) nay (Mr. Chapman), the motion carried.

The meeting was adjourned at 9:40 P.M.

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Respectfully submitted,
Doug Schawel, Secretary
July 2, 2019