

Town of Hamburg
Planning Board Meeting
October 16, 2019
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M. on Wednesday, October 16, 2019 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman William Clark, Vice-Chairman Augie Geraci, Robert Mahoney, Al Monaco, Dennis Chapman, and Kaitlin McCormick.

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

Excused: Doug Schawel

REGULAR MEETING

Public Hearing – 7:00 P.M., 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 7,000 sq.ft. building to house basketball operations for a tenant in the existing building on the site who operates a sports performance gym there.

In response to a question from Mr. Chapman, Mr. Gow stated that the applicant is willing to plant new trees, but there are no street trees or landscaping in front of any of the existing buildings on Maelou Drive. He stated that there is not a lot of room on the site, and a ditch runs along the frontage, but the applicant will find a location for trees. He further noted that railroad tracks are located behind this parcel.

In response to a question from Ms. McCormick, Mr. Gow stated that the frontage associated with the area of the site to be developed is approximately 150’.

Mr. Gow stated that if the Planning Board required one (1) tree per 30’ of the frontage of this entire site, along with the side and rear yard dimensions, there would not be nearly enough room to plant that many trees.

Board members discussed whether and how many trees should be required.

Mr. Gow stated that he will look at the site currently being considered for development and propose a reasonable number of new trees to be planted.

Mr. Reilly advised Mr. Gow to make sure there are no State wetlands on this site.

Mr. Geraci 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 Roger Duffett to construct a new 7,000 sq.ft. building on property located at 5640 Maelou Drive. The Public Hearing will be held on October 16, 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. Gow agreed to submit a landscaping plan and a rendering of the proposed building.

Board members agreed that resolutions can be prepared by the Planning Department for the Board's next meeting.

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

Engineering Department comments have been filed with the Planning Department.

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

No one appeared on behalf of the applicant.

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

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

Attorney Corey Auerbach from Barclay Damon, representing the applicant, stated that there is a statutory 20-day period from when an action is classified under SEQR by the Lead Agency to when the Lead Agency makes a determination of significance. He stated that the applicant assumes that the Planning Board will continue to do its due diligence and noted that the applicant has not received any requests for additional information since the Board's last meeting.

Mr. Reilly stated that the Town Board authorized the hiring of an outside consultant (E A Science & Technology, Inc.). Chairman Clark added that the firm should be on board by the week of October 21, 2019 and hopefully will have something for the Board by November 6, 2019.

Chairman Clark stated that the purpose of hiring the consultant is to get some more information from an independent consultant.

In response to a question from Ms. McCormick, Rosanne Dipizio, applicant, stated that when it was stated in a letter to the Board that the closest adjoining use is 300 feet from the proposed project, the closest adjoining use refers to Carruba Collision.

Board members reviewed the Part II of the submitted Long Environmental Assessment Form as follows:

- 1. Impact on Land – Yes, the project may involve construction on, or physical alteration of, the land surface of the proposed site.**
 - The project does not involve construction on land where depth to water table is less than three (3) feet.
 - The project does not involve construction on slopes of 15% or greater.
 - The project does not involve construction on land where bedrock is exposed, or generally within five (5) feet of existing ground surface.
 - The project does not involve the excavation and removal of more than 1,000 tons of natural material.
 - The project will not result in increased erosion, whether from physical disturbance or vegetation removal.
 - The project is not located within a Coastal Erosion hazard area.

2. Impact on Geological Features - No

- The project will not result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site.

3. Impacts on Surface Water – Yes, the proposed action may affect one or more wetlands or other surface water bodies.

- The project will not create a new water body.
- The project will not result in an increase or decrease of over 10% or more than a 10-acre increase or decrease in the surface area of any body of water.
- The project will not involve dredging more than 100 cubic yards of material from a wetland or water body.
- The project will not involve construction within or adjoining a freshwater or tidal wetland or in the bed or banks of any other water body.
- The project will not create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.
- The project will not include construction of one or more intakes for withdrawal of water from surface water.
- The project will not include construction of one or more outfalls for discharge of wastewater to surface water.
- The project will not cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.
- The project will not affect the water quality of any water bodies within or downstream of the site of the project. The applicant has indicated that there will be no outside storage of any materials other than what is already there, and there are no plans for recycled asphalt.
- The project will not involve the application of pesticides or herbicides in or around any water body.
- The project will not require the construction of new, or expansion of existing, wastewater treatment facilities.

4. Impact on Groundwater – Yes, the project may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.

- The project will not require new water supply wells or create additional demand on supplies from existing water supply wells.
- Water supply demand from the project will not exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer.
- The project will not allow or result in residential uses in areas without water and sewer services.
- The project will not include or require wastewater discharged to groundwater.
- The project will not result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.

- The project will not require the bulk storage of petroleum or chemical products over ground water or an aquifer. The applicant has indicated that no spill response plan is required because double walled containment systems are used.
- The project will not involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.

5. Impact on Flooding – No, the project will not result in development on lands subject to flooding.

- The project will not result in development in a designate floodway.
- The project will not result in development within a 100-year floodplain.
- The project will not result in development within a 500-year floodplain.
- The project will not result in, or require, modification of existing drainage patterns.
- The project will not change flood water flows that contribute to flooding.
- There is no dam on the project site.

6. Impacts on Air – Yes, the project may include a state regulated air emission source.

The Board will await input from the consultant just hired on the impacts of the project on air.

Attorney Auerbach stated that he does not believe that the submitted Air Facility Permit indicates that the project would exceed the 3.5 tons/year of nitrous oxide.

Ms. McCormick stated that the information provided by the applicant indicates that the project would emit 1.7 tons/year of nitrous oxide.

It was agreed that 1.7 is not 50% of 3.5.

7. Impact on Plants and Animals – No, the project will not result in a loss of flora or fauna.

- The project will not cause reduction in population or loss of individuals of any threatened or engendered species as listed by New York State or the Federal Government that use the site or are found on, over or near the site.
- The project will not result in a reduction or degradation of any habitat used by any rare, threatened or endangered species as listed by New York State or the Federal Government.
- The project will not cause reduction in population or loss of individuals of any species of special concern or conservation need as listed by New York State or the Federal Government that use the site or are found on, over or near the site.
- The project will not result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal Government.
- The project will not diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.
- The project will not result in the removal of, or ground disturbance in, any portion of a designated significant natural community.

- The project will not substantially interfere with nesting/breeding, foraging or over-wintering habitat for the predominant species that occupy or use the project site.
- The project will not require the conversion of more than ten (10) acres of forest, grassland or any other regionally or locally important habitat.
- The project will not involve the use of herbicides or pesticides.

8. Impact on Agricultural Resources – No, the project will not impact agricultural resources.

9. Impact on Aesthetic Resources – Yes, the land use of the proposed action may be obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource.

- The project will not be visible from any officially designated federal, state or local scenic or aesthetic resource.
- The project will not result in the obstruction, elimination or significant screening of one or more officially designated scenic views.

Attorney Auerbach noted that this question is specifically in relation to land use changes between this project and a scenic or aesthetic resource. He stated that because no scenic or aesthetic resource has been identified in the area, this question should be answered “no”.

Board members discussed how to answer the question regarding whether the project will be visible from publicly accessible vantage points.

10. Impact on Historic and Archeological Resources – No, the project will not occur in or adjacent to a historic or archeological resource.

Board members discussed whether any of the buildings on the project site could be considered “historic”. Attorney Auerbach noted that “old” does not necessarily mean “historic”.

11. Impact on Open Space and Recreation – No, the project will not result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.

12. Impact on Critical Environmental Areas – No, the project will not be located within or adjacent to a critical environmental area (CEA).

Mr. Reilly stated that he will get Board members the distance between this property and 18-Mile Creek.

13. Impact on Transportation – Yes, the project may result in a change to existing transportation systems.

- The projected traffic increase will not exceed capacity of the existing road network.
- The project will not result in the construction of paved parking for 500 or more vehicles.
- The project will not degrade existing transit access.
- The project may degrade existing pedestrian or bicycle accommodations.
- The project may alter the present pattern of movement of people or good.

14. Impact on Energy – No, the project will not cause in increase in the use of any form of energy.

- The project will not require a new, or an upgrade to an existing, substation.
- The project will not require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.
- The project will not utilize more than 2,500 MW hrs per year of electricity.

15. Impact on Noise, Odor and Light – Yes, the project may result in an increase in noise, odors or outdoor lighting.

- The applicant has indicated that the project will not produce sound above noise levels established by local regulation.

Board members discussed whether the Town of Hamburg has a decibel level that the applicant cannot exceed. Ms. Dipizio stated that she produced a report a number of weeks ago.

Attorney Auerbach stated that no one knows at this point what the decibel levels will be from the plant because it is not operating yet. He noted, however, that the applicant's expert modeled the expected noise off a larger facility so that the Board can have an idea of what to expect regarding any noise produced. He stated that there would be no unreasonable or disturbing noise generated from the project after 11:00 P.M.

Ms. Dipizio stated that she has produced cement many times during the night and has never had a complaint.

Ms. McCormick stated that she would like an expert to review the noise analysis submitted by the applicant to confirm the results.

It was determined that the Building Department would be contacted to see what, if any, regulations pertaining to decibel levels exist in the Hamburg Town Code.

- The project will not result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center or nursing home.
- The project may result in routine odors for more than one hour per day.
- The project will not result in light shining onto adjoining properties.
- The project will not result in lighting creating sky-glow brighter than existing area conditions. The applicant has indicated that lighting will be shining down on the facility and will be shielded.

16. Impact on Human Health – Yes, the project may have an impact on human health from exposure to new or existing sources of contaminants.

- The project is located within 1,500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.

The Board will await input from the consultant just hired on the impacts of the project on the above mentioned locations.

Ms. McCormick stated that she would like a more thorough response from the applicant to Dr. Melgar's comments made during the public hearing.

- The project site is not currently undergoing remediation.
- There is no completed emergency spill remediation or a completed environmental site remediation on, or adjacent to, the project site.

- The project site is not subject to an institutional control limiting the use of the property.
- The project will not affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.
- The project has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.
- The project does not involve construction or modification of a solid waste management facility.
- The project will not result in the unearthing of solid or hazardous waste.
- The project will not result in an increase in the rate of disposal or processing of solid waste.
- The project will not result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.
- The project will not result in the migration of explosive gases from a landfill site to adjacent off site structures.
- The project will not result in the release of contaminated leachate from the project site.
- There is a concern regarding the health impacts to schools, nursing home, doctor's office and homes.

17. Consistency with Community Plans – Yes, the project is not consistent with adopted land use plans.

- The project's land use components may be different from or in sharp contrast to current surrounding land use patterns.
- The project will not cause the permanent population of the city, town or village in which it is located to grow by more than 5%.
- The project is inconsistent with local land use plans or zoning regulations.

Mr. Reilly stated that the applicant will have to prove that the plant will not disseminate atmospheric pollutant, noise or odor into any R, C, M-1 or M-2 District. He stated that the Planning Board will also have to consider the Overlay District and the future land use plan, which shows this site as being commercial even though it is zoned industrial.

- The project is not inconsistent with any County plans or other regional land use plans.
- The project will not cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.
- The project is not located in an area characterized by low density development that will require new or expanded public infrastructure.
- The project will not induce secondary development impacts.
- The zoning code and overlay district have protections for discharges and impacts to surrounding properties.

18. Consistency with Community Character – Yes, the proposed project is inconsistent with the existing community character.

- The project will not replace or eliminate existing facilities, structures or areas of historic importance to the community.
- The project will create a demand for additional community services, but the impact is small.
- The project will not displace affordable or low-income housing in an area where there is a shortage of such housing.
- The project will not interfere with the use or enjoyment of officially recognized or designated public resources.
- The project is not inconsistent with the predominant architectural scale and character.
- The project is not inconsistent with the character of the existing natural landscape.
- The Village of Hamburg has been taking action to improve the character of the Village and this could create impacts to this effort.

It was determined that the Fire Company would be contacted for input on its ability to respond to a potential fire at the site.

It was determined that photo simulations will be submitted by the applicant of what the proposed project would look like from different vantage points. Board members agreed to identify from which points they would like photo simulations done.

Mr. Reilly stated that he would contact the New York State Department of Transportation (NYSDOT) to see if that department has any comments on the proposed project and its traffic patterns.

It was determined that the Traffic Safety Advisory Board will be contacted to see if that Board has any comments on the proposed project and its traffic patterns utilizing Elmview Avenue.

Ms. Dipizio stated that if the Planning Board wishes, she can direct all vehicles to exit the site at Camp Road instead of Elmview Avenue. She noted that 99% of truck traffic exits directly to Camp Road, but she would be willing to gate the exit at Elmview Avenue.

Chairman Clark stated that the Planning Board would like a response from the applicant regarding Dr. Melgar's comments at the public hearing regarding health impacts related to the emissions from the proposed asphalt plant.

Attorney Auerbach stated that he does not have enough information from the Planning Board to give it what it is looking for relative to Dr. Melgar's comments. He stated that the applicant went through the comments and provided the Planning Board with responses to those comments. He stated that if the Planning Board wants to put something in writing to the applicant and ask her to address specific concerns from the Dr.'s comments, he (Attorney Auerbach) can respond to those.

Mr. Reilly stated that he would contact the Village of Hamburg to allow them to articulate a bit more on the impact of the project on the Village.

Attorney Auerbach confirmed that the existing asphalt plant that was the base case for the noise study was in fact operating during the test.

Ms. McCormick asked for confirmation of the above from the owner of the asphalt plant that was the base case for the noise test.

In response to a question from Mr. Mahoney, Ms. Dipizio stated that there could be individual contracts with different developers, but asphalt pick up would always be scheduled and usually called in a day or two before due to wait time. She noted that this would depend upon whether the site is facilitating a NYSDOT job.

In response to a question from Chairman Clark, Ms. Dipizio stated that it would not be possible to service more than 11 trucks in a one-hour time period.

In response to a question from Mr. Mahoney, Ms. Dipizio stated that the plant would operate Monday through Friday and possibly on Saturday until noon. She noted that these are the same hours the concrete plant operates.

In response to a question from Ms. McCormick, Attorney Auerbach stated that based upon the air quality permit, this plant would be limited to producing 135,000 tons of asphalt per year.

Ms. Dipizio stated that modifications to the air permit are possible, but extensive testing would have to be done, and the plant would have to prove that the emissions levels allowed by the original permit have not been reached.

Chairman Clark stated that the next decision the Board must make is a SEQR Determination (positive declaration or negative declaration).

In response to a question from Chairman Clark, Ms. Dipizio stated that reporting requirements (how much asphalt has been produced) come with the final permit from the New York State Department of Environmental Conservation NYSDEC).

Mr. Reilly stated that he would get a letter from the NYSDEC explaining the permitting process for asphalt plants.

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

OTHER BUSINESS

Board members asked that the Sowles Road apartment project return to the Planning Board for review.

Board members discussed whether anyone had comments on the SEQR for the proposed wind turbine modification project.

Mr. Geraci made a motion, seconded by Ms. McCormick, to approve the minutes of October 2, 2019. Carried.

Mr. Chapman made a motion, seconded by Mr. Geraci, to adjourn the meeting. Carried.

The meeting was adjourned at 8:40 P.M.

Respectfully submitted,
Doug Schawel, Secretary

October 28, 2019