

Town of Hamburg
Planning Board Meeting
November 20, 2019
Minutes

The Town of Hamburg Planning Board met for a Regular Meeting at 7:00 P.M. on Wednesday, November 20, 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, Dennis Chapman, and Kaitlin McCormick.

Others in attendance included Town Planner Andrew Reilly, Town Engineer Michael Quinn and Planning Board Attorney Jennifer Puglisi.

Excused: Al Monaco

REGULAR MEETING

Public Hearing – 7:00 P.M., Gerald 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.

Mr. Quinn advised Attorney Stachowski that the two (2) parcels would have to be served by separate utilities. Attorney Stachowski responded that a septic system serves the entire property now. Mr. Quinn stated that the applicant would have to get approval from the County to have combined water service to the two (2) separate parcels.

Mr. Schawel read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will hold a Public Hearing on a two-lot subdivision known as the Schmidt Two-Lot Subdivision to be located at 6284 Smith Road. The public hearing will be held on November 20, 2019 in Room 7B of Hamburg Town Hall at 7:00 P.M.”

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

- A member of the public stated that he drives by this property every day and sees no problem with what the applicant proposes.
- James Walton, 6281 Smith Road, stated that he is in favor of the proposal.

- Robert Kirst, 6262 Smith Road, stated that he has no problems with what the applicant is proposing.
- Cassandra Cudney, 6291 Smith Road, stated that she has no objections to the applicant's proposal.
- Mark Lorquet, 6096 Smith Road, stated that he is in favor of the subdivision.
- Megan Comerford, 97 Church Street, stated that she is in favor of the applicant's request.

Chairman Clark declared the public hearing closed.

Chairman Clark made a motion, seconded by Mr. Chapman, to issue a Negative Declaration. Carried.

Chairman Clark made a motion, seconded by Mr. Mahoney, to grant Preliminary Approval to this two-lot subdivision with the following conditions:

1. The filing of a Map Cover shall be waived.
2. The installation of sidewalks shall be waived.
3. Applicant must obtain approval from Erie County Water Authority for combined water service.
4. The recreation fee shall be waived.

Carried.

Public Hearing – 7:00 P.M., 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

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 revised proposal by Chuck Backus to convert the existing building at 1975 Lakeview Road to public mini-storage and construct a new mini-storage building in the rear of the property. The Public Hearing will be held on November 20, 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. Schawel:

“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, the Planning Board on June 19th, 2019 issued a SEQR Negative Declaration, approved a Special Use Permit and the Site Plan for this project; and

Whereas, the Planning Board has received a revised site plan for this project and has reviewed this revised plan and discussed the revision with the applicant; and

Whereas, on November 20, 2019 the Hamburg Planning Board held a new public hearing on this revised site plan.

Now, Therefore Be It Resolved that the Planning Board has determined that this revision to the site plan does not result in any changes to the original SEQR determination and does not impact the Special Use Permit; and

Be It Further Resolved that the Planning Board grants Site Plan Approval for the revised Chuck Backus project, drawings revised 11-20-19, with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated 11-6-19.
- The installation of sidewalks is waived.
- No outdoor storage is allowed.” Carried.

Ms. McCormick made a motion, seconded by Mr. Chapman, to amend the above motion to reflect the fact that the date of the approved plans is 10-30-19 rather than 11-20-19. Carried.

Speedway, LLC – Requesting a rezoning of property located at 4200 Southwestern Boulevard from C-1 to C-2 in order to construct a convenience store with fuel sales

Jonathan Wocher from McBride Dale Clarion, representing the applicant, stated that a Traffic Impact Study was prepared and submitted to the New York State Department of Transportation (NYSDOT), and NYSDOT recommended that the driveway onto Southwestern Boulevard be a right in/right out only driveway and that the left turn lane on Southwestern Boulevard be extended approximately 100 feet to addresses queuing distance issues that may arise.

Mr. Wocher stated that the Traffic Impact Study is being updated to reflect the changes resulting from the above comments from the NYSDOT.

Mr. Wocher stated that a driveway permit has been requested from Erie County Department of Public Works for the proposed access to Big Tree Road.

Mr. Wocher stated that the applicant feels that the requested zoning is appropriate, given the fact that there is C-2 across Southwestern Boulevard (Tops plaza) and in the vicinity, as well as the existing traffic and development conditions in the area.

Mr. Wocher stated that a lighting plan has been submitted to the Planning Department, as requested at the Board’s last meeting.

Board members talked about the existing trees on the property, how many would need to be taken down and how many would be replaced. Mr. Wocher stated that if the rezoning is successful, he would submit a tree preservation and landscaping plan as part of the site plan review process.

Board members discussed the Comprehensive Plan and how this property is addressed therein.

Mr. Geraci stated that he feels that this proposed use would fit in with the surrounding area.

Ms. McCormick stated that if this property were to be developed as high density/mixed residential, which is how the Future Land Use map depicts it, the project would probably eliminate more green space and require more parking spaces than what is being proposed by Speedway. She noted that this applicant would be able to provide a buffer at the rear of the site.

Mr. Reilly stated that if the project goes forward, the applicant will have to plant hundreds of trees on the property.

Mr. Geraci stated that there are no gas stations in Hamburg that are surrounded by trees.

Mr. Reilly stated that the new trees would be located behind the gas station.

Ms. McCormick stated that if the Planning Board recommends that this rezoning be granted, it could also recommend a condition of approval barring the applicant from ever subdividing the rear portion of the site that is not earmarked for development.

Mr. Wocher stated that, with all due respect, the Planning Board is putting the cart before the horse with the discussion about preserving trees, etc.

Chairman Clark stated that the Planning Board is discussing issues such as the preservation of trees because the applicant would not want to be granted the rezoning by the Town Board and then denied the Special Use Permit by the Planning Board.

Board members discussed the potential traffic patterns on Southwestern Boulevard and Big Tree Road if the project goes forward.

Board members discussed what types of uses could go on this property if it is rezoned to C-2 and the Speedway project does not go forward. Mr. Reilly stated that a gas station is the most impactful use allowed in the C-2 District.

Mr. Geraci stated that the Planning Board may wish to recommend that if the rezoning is granted, the applicant would not be allowed to construct a future car wash at this site.

Chairman Clark polled the Board members regarding their feelings on the proposed rezoning as follows:

- Mr. Mahoney stated that he would be opposed to the rezoning.
- Mr. Chapman stated that he would be opposed to the rezoning.
- Ms. McCormick stated that she would support the rezoning with the appropriate conditions.
- Mr. Schawel stated that he would support the rezoning.
- Mr. Geraci stated that he would support the rezoning.

Chairman Clark stated that he does not have a strong opinion either way, but he would probably not support the rezoning.

Ms. McCormick stated that she would prefer that the Planning Board not make a recommendation to the Town Board, but rather forward a list of conditions to be imposed if the Town Board decides to approve the rezoning.

Chairman Clark stated that the areas the Planning Board would like the Town Board to consider are as follows:

1. A significant conservation easement (buffer area) should be placed as a deed restriction on the northern and western boundaries of this parcel.
2. The applicant must finalize working with the NYSDOT and Erie County in developing the access for this site.
3. A deed restriction should be placed on the property preventing the further addition of a car wash.

Laura Podkulski, 4332 McKinley Parkway, stated that right in/right out only access does not work, as evidenced by the one on McKinley Parkway at the Tops entrance.

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

“Whereas, the Town of Hamburg received a request from Speedway LLC to rezone 4.08 acres of vacant land located at 4200 Southwestern Boulevard (the southwest corner of its intersection with Big Tree Road) from C-1 (Retail Business District) to C-2 (General Commercial District) in order to construct a Speedway convenience store with fuel sales (gasoline station); and

Whereas, the Code Review Committee reviewed the application and although they had concerns, found enough merit in the rezoning of this property to send it to the Town Board to begin the process; and

Whereas, the Town Board entertained with concerns this rezoning request and referred the application to the Planning Board for its review and recommendation; and

Whereas, the Planning Board has reviewed the application, requested additional information from the applicant and reviewed the application against the Town’s Comprehensive Plan.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board recommends that the Hamburg Town Board deny this rezoning request for the following reasons:

1. The Comprehensive Plan’s “Generalized Future Land Use map illustrates lands in this area as “Business (Regional/Local)”, but the proposed rezoning lands are illustrated as “Residential (high density mixed)”.
2. Looking at this area, it is noted that the parcels across Big Tree Road are zoned C-1 and properties to the north of these lands are zoned residential. Based on the above description in the Comprehensive Plan, and that this property is currently zoned C-1, which acts as a buffer between the residential lands to the north and the C-2 zoning (higher intensity commercial zoning) to the south (across Southwestern Boulevard), we believe this “buffer” of C-1 zoned land should remain to protect the essential character of the area.
3. There are currently many other fueling stations in the area and there is not a need for more such facilities. Fueling stations require a Special Use Permit (which are issued by the Planning Board), and the Planning Board believes that a Special Use Permit would not be warranted for this use and location, as this higher intensity use is not appropriate for this location.
4. The Planning Board believes that a rezoning of these lands would exacerbate existing traffic conditions/problems in and around the area formerly known as 7 corners. The recent reconstruction of “7 corners” to improve traffic flow would be negatively impacted by the addition of this high volume use. It would also worsen the traffic conditions associated with large events occurring at New Era Field.

Be It Further Resolved, that in accordance with the requirements of Section 280-340 B. of the Hamburg Zoning Code, the Planning Board also includes with their recommendation, the attached report.

Be It Finally Resolved, that if the Town Board determines that a rezoning is warranted, the Planning Board recommends the following conditions:

1. A significant conservation easement (buffer area) should be placed as a deed restriction on the northern and western boundaries of this parcel.
2. The applicant must finalize working with the NYSDOT and Erie County in developing the access for this site.
3. A deed restriction should be placed on the property preventing the further addition of a car wash.”

The vote on the motion was three (3) ayes (Mr. Chapman, Mr. Mahoney and Chairman Clark) and three (3) nays (Mr. Geraci, Mr. Schawel and Ms. McCormick).

Anthony Cutaia – Requesting approval of a revised Site Plan for the apartment project located at 5138 South Park Avenue

Attorney Sean Hopkins, representing the applicant, stated that the original Site Plan for this project was approved by the Planning Board in February 2019, and some minor changes have been made as a result of further discussions with Hilbert College. He stated that the proposed softball field will be oriented differently, and the fields will be natural grass instead of artificial turf. He further stated that dugouts, seating areas, bull pens and home run walls are now proposed, as well as a retaining wall.

Mr. Reilly stated that he was informed by Roger Gibson, Supervising Code Enforcement Official, that he (Mr. Gibson) and Mark Lorquet from the Conservation Advisory Board visited the site and observed that the site is being developed according to the approved Site Plan.

Board members discussed an on-site inspection done by Chairman Clark, Ms. McCormick and Mr. Lorquet, as well as an apparently unused old septic system that was found on the site.

Chris Wood from Carmina Wood Morris stated that he would research the septic system found on the site.

Chairman Clark made a motion, seconded by Mr. Mahoney, to authorize the Town Engineer and the Planning Board Chairman to sign the revised Site Plan with the minor changes. Carried.

5272 South Park Avenue LLC – Planning Board to review a minor change to the approved Site Plan

Attorney Sean Hopkins, representing the applicant, stated that the original Site Plan for this project was approved earlier this year, and at that time apartments were proposed. He stated that the applicant has decided that the units will be owner occupied instead of rentals. He noted that the project is the exact same as what was previously proposed.

In response to a question from Mr. Chapman, Attorney Hopkins stated that the change in plans arises from the fact that the applicant believes that there is more of a demand now for owner occupied condos than for rental units. He noted that the applicant completed a project recently with owner occupied condos that was very well received.

It was determined that Mr. Reilly and Mr. Lorquet will check the Approved Tree List and make sure the proposed landscaping adheres to that list.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on December 4, 2019. Carried.

OTHER BUSINESS

Chairman Clark stated that the Hamburg Town Board would like to have a joint meeting with the Planning Board at 5:30 PM to discuss pending litigation.

Mr. Chapman made a motion, seconded by Mr. Geraci, to approve the minutes from October 21, 2019 and November 4, 2019. As the vote on the motion was five (5) ayes and one (1) abstention (Mr. Schawel), the motion carried.

Mr. Schawel made a motion, seconded by Mr. Chapman, to adjourn the meeting. The meeting was adjourned at 8:30 P.M.

Respectfully submitted,
Doug Schawel, Secretary
December 3, 2019