

Town of Hamburg  
Planning Board Meeting  
December 4, 2019  
Minutes

The Town of Hamburg Planning Board met for a Work Session and Regular Meeting at 7:00 P.M. on Wednesday, December 4, 2019 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman William Clark, Vice-Chairman Augie Geraci, Doug Schawel, Al Monaco, Robert Mahoney, Dennis Chapman, and Kaitlin McCormick.

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

**WORK SESSION**

**E-One - Requesting Site Plan Approval of a 2,100 sq.ft. addition to an existing building at 4760 Camp Road**

Dan Buchanan from Bammel Architects, representing the applicant, stated that the applicant proposes to construct a small covered metal enclosure for cold storage onto the side of one of the existing buildings on the property. He stated that currently there is pavement on all sides of the building, and the applicant stores metal parts outside. He noted that the applicant would like to store the metal parts in the new enclosure.

Chairman Clark asked Mr. Buchanan to submit color renderings of the proposed addition.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on December 18, 2019. Carried.

Engineering Department comments have been filed with the Planning Department.

**REGULAR MEETING**

**Public Hearing - 7:00 P.M., 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 the applicant plans to change out the generating equipment on the wind turbines along Lake Erie, four (4) of which are located in the Town of Hamburg. He stated that a SEQR Negative Declaration was issued by Erie County Industrial Development Agency on November 20, 2019, and on December 3, 2019 an area variance was granted for turbine # 10 regarding its setback to a property line.

Attorney Davis stated that the base of the turbines will remain, and the generating equipment (the blades and hub) on the top will be replaced. He noted that the new blades will be 36' longer than the existing ones, and nothing else about the site will change.

Attorney Davis stated that currently this project operates without any curtailment methods that can improve or mitigate impacts on birds and bats. He noted that the new project will contain curtailment technology as follows:

1. When the blades are not spinning they will be feathered.
2. The operation of the facility will be curtailed at times throughout the year (primarily July 1 through September 30) when the wind speed is below 4.5 meters/second in order to protect birds and bats.

Chairman Clark read the following correspondence from the Town's Conservation Advisory Board (CAB):

"The CAB has concerns regarding the upgrades at the windmill sites. The concerns are bird kill controls, noise decibels at peak and at lows, annual bird kill inspections by the CAB, materials used in new blade technology (specifically carbon fiber), fall zones into the water, ice shedding controls for blades, heated leading edges on the blades and how the gear oil is contained in the gear box if there is a catastrophic failure in the gear box."

Attorney Davis stated that the noise decibel at peak (standing directly in front of the hub at the top of the facility) would be 107 dba. He stated that at the property line the noise decibel would be 55 dba.

In response to a question from Mr. Reilly, Attorney Davis stated the noise levels of the new turbines will be equivalent to what is there now.

Attorney Davis stated that the CAB would not be allowed on the site because it is a controlled brown field site.

Attorney Davis stated that the new blades will be constructed of fiberglass with wood interior. He noted that they will not be constructed of carbon fiber.

It was determined that the old blades will be reused or recycled.

Attorney Davis stated that blade throw and ice throw reports were included in his original submission.

Attorney Davis stated that as required by the New York State Department of Environmental Conservation (NYSDEC), the applicant will have avian reports done, and a carbon copy will be submitted to the Town.

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 request by Erie Wind, LLC to amend the approvals granted for the Steel Winds II project on Lakeshore Road (approvals granted in 2010). The Public Hearing will be held on December 4, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall."

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

- Amy Blendell, 64 Oliver Place, stated that she appreciates the Board members' interest in reviewing information because it is disheartening to hear that other Boards are not interested in maintaining knowledge about this. She stated that she would like electronic copies of the applicant's information made available to the public so that it can hold the NYSDEC accountable for the bird health in our area, which is critical.

Chairman Clark declared the public hearing closed.

Chairman Clark made the following motion, seconded by Mr. Monaco:

"Whereas, the following findings have been made:

1. The City of Lackawanna Planning Board, as Lead Agency, issued a SEQRA Negative Declaration on February 20, 2008 on the original Steel Winds project, and the ECIDA issued a Negative Declaration on this project revision on November 20, 2019.
2. The proposed Commercial Wind Energy Conversion System (WECS) 2019 Project is consistent with the Town of Hamburg Comprehensive Plan and Local Waterfront Revitalization Plan.
3. The proposed Commercial WECS 2019 Project will not unreasonably interfere with the orderly land use and development plans of the Town of Hamburg. It was a good re-use of this property, and this upgrade will allow the use to continue.
4. The benefits to the applicant and the public of the proposed Commercial Wind Energy Conversion System (WECS) 2019 Project will exceed any burdens.
5. The proposed Commercial Wind Energy Conversion System (WECS) 2019 Project will not be detrimental to the public health, safety or general welfare of the community (as detailed in the applicants' previously submitted "Analysis of Environmental Impacts" document and the new application materials).
6. The proposed Commercial Wind Energy Conversion System (WECS) 2019 Project complies with all required provisions of the Zoning Code, and one variance is needed from the Town of Hamburg Zoning Board of Appeals (for the change in height). That variance was granted on 12/3/19.
7. The proposed Commercial Wind Energy Conversion System (WECS) 2019 Project is in compliance with the Town of Hamburg's Commercial WECS Law, based on the documentation dated September 4, 2019 submitted to the Town of Hamburg and based on the conditions attached.

Now, Therefore, Be It Resolved that the Hamburg Planning Board hereby re-approves the Special Use Permit for the Steel Winds II Wind Energy Facility with the following conditions:

1. The applicant shall continue the appropriate removal bond and insurances to the Town for its approval. The Town will work with the applicant to determine the appropriate bond amount. The bond may need to be evaluated each year.
2. The applicant shall meet all the requirements of the fees and costs section of the Commercial WECS Law.
3. The applicant shall provide the certifications required per the Town's Commercial Wind Energy Conversion System (WECS) 2019 Project ordinance to the Code Enforcement Department.
4. The applicant shall perform the monitoring requirements for commercial wind energy conversion systems as noted in the Town Code (avian/bat impact monitoring studies). The applicant shall provide information to allow the Town of Hamburg and the public to view power production reporting. The applicant shall perform monitoring for yearly structural inspection reports and construction reports.
5. The avian/bat impact study will be in accordance with NYSDEC requirements, and the applicant shall provide a copy of that report to the Town of Hamburg CAB via email.
6. The project will contain additional curtailment management measures such as shutting of the windmills between sunset and sunrise between July 1 and September 30 if the winds speed is under 4.5 meters/second.
7. The routing of materials to the site during construction will not utilize any Town of Ham-

burg roads. Proper permitting and approvals will be obtained for the utilization of any New York State or Erie County roads or facilities.

Be It Further Resolved, that the Planning Board grants Conditional Site Plan approval for a commercial wind energy conversion system with the following conditions:

1. The applicant shall obtain all other regulatory approvals.
2. Aviation warning lights shall be installed at the top of each of the wind turbine support towers in conformance with Federal Aviation Administration regulations.
3. The developer will submit a decommissioning bond, as well as all other requirements of the Town Law.”

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 except that basements are now planned for each unit.

Chairman Clark stated that when the project was originally reviewed, it was noted that bedrock may be close to the surface. He noted that this was not an issue then because basements were not proposed.

Rob Savarino from Essex Homes stated that geotechnical analyses will be performed before building commences. Attorney Hopkins added that in connection with any request for a Building Permit for this type of structure, a geotechnical consultant must make recommendations for foundation design based on the onsite specific soil conditions.

Chairman Clark stated that one of the conditions of approval of this project was that there be no blasting. Mr. Savarino responded that there will be no blasting.

In response to a question from Chairman Clark, Mr. Savarino stated that he does not know where the bedrock is on this site. He noted that pending this approval of the minor revisions to this project, a geotechnical review will be performed.

Ms. McCormick asked Mr. Savarino to provide general information on potential noise levels of the machinery that would be used to remove bedrock if it is found.

In response to a question from Chairman Clark, Mr. Savarino stated that once Planning Board approval is granted, it would be a few weeks before soil borings are done along the building development path.

Chairman Clark stated that it would simplify things if the applicant would have the soil borings done before approval is granted by the Planning Board. Attorney Hopkins responded that until final Site Plan Approval is granted, the applicant cannot proceed to full construction plans. He further stated that because the units will be for sale, they will be condominium units and the applicant cannot start the offering plan because that would require final Site Plan Approval.

Ms. McCormick stated that she would like to know if there are any other construction methods that could be utilized to reduce noise levels.

Chairman Clark stated that if the revision is approved, a limitation will be put on the hours of operation of the machines digging the basements and the total numbers of hours per day this can be done.

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 proposed minor change to an approved project proposed by 5272 South Park Avenue, LLC to be located at 5272 South Park Avenue. The Public Hearing will be held on December 4, 2019 at 7:00 p.m. in Room 7B of Hamburg Town Hall.”

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

- Mark Lorquet, Chairman of the Conservation Advisory Board, stated that there are ways to dig basements without making too much noise.
- Megan Cumerford, 97 Church Street, stated that digging should not occur when Hilbert College students are taking exams. She asked if radon gas will be addressed.

Attorney Hopkins stated that Hilbert College is very aware and supportive of this project.

- Jeanie Flanigan, 37 Milford Street, stated that she is happy that the units will be owner occupied.

Attorney Hopkins stated that he emailed a few of the residents who were interested in this project initially about the minor change, and two (2) Sowles Road residents responded favorably to the news that the units will now be owner occupied.

- Amy Blendell, 64 Oliver Place, questioned the proposed landscaping.

Chairman Clark declared the public hearing closed.

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

## **OTHER BUSINESS**

Mr. Chapman made a motion, seconded by Mr. Geraci, to approve the minutes of November 6, 2019. Carried.

Mr. Schawel made a motion, seconded by Mr. Geraci, to adjourn the meeting. The meeting was adjourned at 7:45 P.M.

Respectfully submitted,  
Doug Schawel, Secretary  
December 15, 2019