

Town of Hamburg
Planning Board Meeting
August 19, 2020
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, August 19, 2020 in Room 7B of Hamburg Town Hall and via Webex. Those attending included Chairman William Clark, Doug Schawel, Al Monaco, Robert Mahoney, Dennis Chapman, Megan Comerford and Kaitlin McCormick.

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

WORK SESSION

The Broadway Group, LLC – Requesting Site Plan Approval of a new Dollar General store to be located at 6505 Southwestern Boulevard

Tara Mathias from The Broadway Group, LLC appeared on behalf of the proposed project. She stated that a 9,100 sq.ft. store is proposed, as well as 30 parking spaces and a significant amount of landscaping, and a septic system is planned for the waste water.

Ms. Mathias stated that comments were received from the Town Engineering Department that will be addressed by The Broadway Group's engineers.

Ms. Mathias stated that 8 to 10 jobs would be created if the project is approved.

Ms. Mathias stated that Dollar General has a very good track record of not vacating stores.

Chairman Clark stated that Board members would like to see what the building would look like.

Ms. Mathias agreed to submit a PDF of the full submittal, as well as renderings of the proposed building, to the Planning Department.

It was determined that the site is zoned C-2.

In response to a question from Mr. Schawel, Ms. Mathias stated that the applicant's preference was to have the access on Southwestern Boulevard, but the New York State Department of Transportation (NYSDOT) has indicated that access to Heltz Road is preferred. She noted that she has had multiple discussions about this with NYSDOT and has learned that if a project is proposed on a corner lot, NYSDOT considers the side street a driveway of sorts to Southwestern Boulevard and prefers that the access be located on that side street.

Ms. Mathias stated that she would be willing to appeal the NYSDOT decision regarding the location of the access, but she would need the cooperation of the Planning Board.

Ms. desJardins stated that she received a call from Ed Rutkowski from the NYSDOT, and he reiterated what Ms. Mathias had explained.

Mr. Reilly asked Ms. Mathias to provide a traffic generation report for the project.

In response to a question from Ms. McCormick, Ms. Mathias stated that a photometric analysis was performed of the lighting schematic to show that the light will be contained on the site and will not cause any spillage of significance to the adjoining properties.

Mr. Mahoney stated that he has a concern that vehicles will turn right out of the Dollar General site and continue to Lakeview Road to get back to Southwestern Boulevard. He noted that Heltz Road is a residential street. He noted that an exit to Southwestern Boulevard would definitely be preferred.

Ms. Mathias stated that she will share traffic generation numbers with the Planning Board.

In response to a question from Ms. McCormick, Ms. Mathias stated that a substantial number of trees on the site would have to be cleared to make room for the project, but it is the applicant's intention to preserve the trees that can be preserved. She noted that there is a cluster of mature trees near the southwest corner of the property that would be preserved, as well as three (3) trees at the corner of Heltz Road and Southwestern Boulevard.

In response to a question from Mr. Monaco, Mrs. desJardins stated that the Traffic Safety Advisory Board (TSAB) did review this proposal.

In response to a question from Mrs. desJardins, Ms. Mathias stated that the proposed building is 11.7' from the adjacent property to the south because the applicant followed the Hamburg Town Code when locating the building. She noted that taking the shape of the property, the size of the building and the parking requirements into consideration, this is the layout that allows the project to fit within the Town's zoning ordinance.

It was determined that the residential properties on both sides of Heltz Road are zoned C-2.

Chairman Clark stated that the Planning Board would want some sort of buffering in the 11-foot area between the building and the adjacent property.

Mr. Chapman made a motion, seconded by Mr. Mahoney, to table this project to the Board's September 16, 2020 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Brandon Williams – Requesting Site Plan Approval of a trailer sales and service business at 4245 McKinley Parkway

Chairman Clark stated that this applicant received a use variance from the Zoning Board of Appeals, so the use is not in question. He stated that the Planning Board's role is to review the Site Plan and noted that the only proposed changes to the property are the addition of a fence and the storage of trailers.

Attorney Sean Hopkins, representing the applicant, stated that this building was constructed in 2000 and was initially a Perkins restaurant, has changed hands and has been vacant for several years. He stated that LOE Trailers is an existing successful business located in North Tonawanda that is interested in a Southtowns location. He stated that the building is the size the business need and there is adequate room for the storage of new and customized trailers. He noted that the application proposes to install a four-foot vinyl split rail fence around the perimeter of the property for aesthetics and to control access to the site when the business is not open.

Attorney Hopkins stated that visibility and access do not matter as much to the applicant because there would rarely be more than a few visitors to the site at any given time.

Attorney Hopkins stated that a use variance was required because this site is zoned C-1, and all of the surrounding properties are zoned C-2.

Attorney Hopkins stated that the trailers the applicant sells are trailers largely used by landscaping and local contractors.

In response to a question from Mr. Monaco, Attorney Hopkins stated that servicing of the trailers would be done inside the building.

In response to a question from Chairman Clark, Chris Wood, project engineer, stated that the two (2) new overhead doors would be on the rear of the building facing the old Walmart parking lot (east side of the building).

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

Engineering Department comments have been filed with the Planning Department.

David Manko – Requesting Planning Board review of a proposed cluster subdivision to be located on the west side of Parker Road

Chris Wood from Carmina Wood Morris, project engineer, stated that a 67-lot subdivision is proposed on a 35-acre parcel. He stated that an As of Right plan was submitted showing the 67 lots. He stated that in the Hamburg Town Code there is a formula for determining the number of lots that could potentially fit on a site and if that formula is applied to this project. 88 lots would fit. He noted that the applicant is proposing fewer lots than he could potentially put on this site.

Mr. Wood stated that he also submitted a proposed Cluster subdivision layout with 67 proposed lots. He stated that the lots are somewhat smaller than the proposed lots on the As of Right plan (no smaller than 10,500 sq.ft. lots with a minimum road frontage of 75'). He noted that some of the proposed lots are well in excess of 10,500 sq.ft. He further noted that the Cluster law requires that lots be at least 5,000 sq.ft. in area and have at least 50' of road frontage, so these proposed lots are substantially larger than the minimum required.

Mr. Wood stated that a Cluster subdivision is required to have at least 50% green space, but this proposal would have approximately 40% green space. He noted that the applicant would pursue a variance for that discrepancy and as mitigation for it the proposed green space and the area around the southern detention area would be enhanced with landscaping and potentially walking trails.

Mr. Wood stated that the proposed Cluster subdivision provides approximately 335' of open space between the rear of the southernmost lot and the north property lines of the existing residential properties on John Michael Way. He further stated that there are several existing homes on Parker Road adjacent to the applicant's property, and the green space abuts those properties' western property lines.

In response to a question from Mr. Mahoney, Mr. Wood stated that some of the new homes would have two (2) stories. He noted that the Town Code requires that homes not be higher than 35'.

Mr. Reilly noted that the Planning Board must authorize the use of Cluster Development based upon the goals outlined in the Town Code. He stated that usually an area approved for Cluster Development has some important environmental feature the Town wants to preserve.

Mr. Wood stated that the applicant is proposing a public roadway with the standard 70' right-of-way. He further stated that the benefit of this proposal to the Town would be that the 335' buffer provided to the residents to the south of this parcel and a large buffer for the residents to the east would not be attainable if a regular R-1 subdivision is constructed.

Mr. Wood noted that clustering provides less public roadway for the Town to maintain.

In response to a question from Chairman Clark, Mr. Wood stated that these would be regular single-family homes for sale that would pay full taxes (no condominiums).

In response to a question from Mr. Schawel, Mr. Wood stated that two (2) entrances to the subdivision are proposed because the Fire Code states that there must be two (2) means of egress if a subdivision contains more than 30 lots.

In response to a question from Mrs. Comerford, Mr. Wood stated that the clustering law requires a minimum separation of at least 15' between homes, and the average square footage of the homes would be 2,500 sq.ft.

Mr. Reilly stated that there is an active snowmobile trail that runs through the site.

In response to a question from Mr. Mahoney, Mr. Wood stated that the homes would have garages.

Mr. Wood agreed to provide the wetland delineation report for this site, as well as any other studies that may have been done on the site.

In response to a question from Ms. McCormick, Mr. Wood stated that a standard Phase 1A cultural resources study is being performed, and nine-foot basements are proposed.

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

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Continuation of Public Hearing - Lindsay Buncy/Marie Doman-Pazch – Requesting Site Plan Approval of the addition of a coffee shop and co-working space at 4900 Lakeshore Road

Mr. Reilly stated that based upon his analysis, 5-7 parking spaces would be needed for the co-working space, parking for the coffee shop would be based upon seating and parking for the salon would be per chair. He stated that his analysis showed a peak number of spaces needed of 20 for the site.

Chairman Clark stated that it appears that 14 parking spaces are shown on the site, four (4) are available on the adjacent property and an undetermined number would be available at the Public House site.

In response to a question from Mr. Reilly, Marie Doman-Pazch, applicant, stated that the number of parking spaces her clients can use on the Public House site has not been determined, but that number would definitely be larger than four (4).

Ms. McCormick stated that she would want the applicant to provide written correspondence indicating how many spaces are available on the Public House site.

Board members discussed the TSAB comments on this project.

Board members discussed the traffic flow on the site.

Mr. Reilly asked the applicants to demarcate on the pavement that there can be no parking along Lakeshore Road in the area of the entrances to the site.

Board members agreed that the current layout of the parking lot works except for the area that is not owned by the applicants.

It was determined that the parking layout proposed by the applicants does not show any parking spaces on the adjacent property. It was further determined that 13 parking spaces are proposed on the applicants' property.

In response to a question from Chairman Clark, Ms. Doman Pazch stated that the number of parking spaces the Public House will allow the applicants to use is more than three (3).

It was determined that if the handicapped parking space is occupied, people would be able to get in and out of the garage but a car would not be able to get out of the garage. It was further determined that the number of spaces proposed does not include the garage spaces.

Ms. McCormick read several comments received on the Town's Facebook page comment section in support of 49 Coffee House and the co-working space.

Mr. Mahoney stated that he visited a co-working space and 49 Coffee in Springville and feels that both businesses are great concepts. He noted that he feels that the applicant has met the burden regarding parking spaces.

Attorney Edward Murphy, representing James Travis (owner of the adjacent property to the north of 4900 Lakeshore Road), stated that his client wants to make sure that the approved plan specifically excludes for traffic flow and parking that portion of the property that lies north of the applicants' property.

Chairman Clark confirmed that the above comments by Attorney Murphy were understood by the Planning Board and agreed with.

Chairman Clark declared the public hearing closed.

Mrs. Comerford made the following motion, amended by Chairman Clark and seconded by Mr. Schawel:

"WHEREAS, the Town of Hamburg received a Site Plan application from Lindsay Buncy and Marie Doman Pazch requesting Site Plan Approval of the addition of a coffee shop and co-working space at 4900 Lakeshore Road; and

WHEREAS, the proposed project components were determined by the Code Enforcement Officer as being allowed uses in this zoning district and referred the proposed changes in uses at this site to the Planning Board for site plan approval; and

WHEREAS, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA) and therefore does not require a SEQR Determination; and

WHEREAS, the Planning Board held public meetings on this project, including public hearings on 8/5/20 and 8/19/20; and

WHEREAS, the Planning Board has reviewed the project in accordance with Article XLIV of the Town of Hamburg Zoning law.

NOW, THEREFORE BE IT RESOLVED, the Hamburg Planning Board issues Site Plan approval of this project with the following conditions and waivers;

1. The final landscaping plan will be reviewed and approved by the Planning Department;
3. Parking spaces shall be clearly delineated at the site and a small sign placed on the site indicating where additional parking is available.
4. 'No Parking' shall be painted on the asphalt in approved locations.
5. The Planning Board waives the construction of a sidewalk along the frontage of this site as there are no sidewalks in this area.
6. The applicant will provide copies of the parking agreements with the adjoining property owners."

Carried.

Continuation of Public Hearing - James Cleary – Requesting Site Plan Approval of a proposal to create a wedding/event center at 6653 Taylor Road

Mrs. Comerford read the following comments received on the Town's Facebook page regarding this project that were added after the Board's last meeting:

- Mary Hays: "The racquet club is operational no earlier than September 7th and must be taken down no later than May 31st."
- Suzanne Krycia: "What about during construction?"
- Mary Hays: "Our current walkway is within three (3) feet of the current building. During demolition the walkway will be inaccessible."
- Mary Hays: "The bubble taken down occurred two (2) weeks ago only due to the safety issues associated with the virus."

Chairman Clark stated that the Planning Board does not have any authority to dictate terms of a construction schedule. He noted that there probably is a solution that both the Racquet Club and the applicant will be happy with.

Attorney Sean Hopkins, representing the applicant, stated that the fully engineered plans for this project have been approved by the Town Engineer and therefore all technical requirements have been met.

Attorney Hopkins stated that the Site Plan does show the required sidewalk connection to the existing tennis bubble.

Attorney Hopkins stated that the current Site Plan shows a dumpster, and if it turns out that based on relationships with the caterers it is not needed, it will not be constructed.

Attorney Hopkins stated that many of the comments received on the Town's Facebook page pertain to the existing tenant and existing lease between Willow Bend and the Racquet Club. He noted that there is no rent, it is a perpetual term and many of the issues that have been questioned about this project are not addressed in the lease. He stated that the lease does not contemplate redevelopment of the site by the owner of the property. He stated that the applicant is not currently the owner of the property, but once he is the owner he can engage in direct

discussions with the existing tenant. He noted that until that point, the applicant has no legal authority to do so.

Attorney Hopkins stated that access to the site during construction will be maintained. He further stated that utilities will be preserved.

Attorney Hopkins stated that the goal is to have a good working relationship with the tenant, but to start negotiating terms and conditions that simply are not in the lease is not appropriate.

Attorney Hopkins stated that 100 parking spaces are proposed, and that aspect of the project was evaluated as part of the SEQR process. He further stated that SRF Associates performed a traffic analysis and determined that 100 parking spaces are appropriate. He stated that the parking spaces will be available to members of the Racquet Club, and the two uses on the property would not overlap much.

Attorney Hopkins stated that the applicant will work with the adjoining property owner whose survey differs from the applicant's. He noted that if needed, the applicant will convey some of the property to that property owner at no cost to ensure that his garage has an adequate setback.

Mrs. desJardins stated that she received an email shortly before the meeting from the adjacent property owner (Evenden) indicating that they are very much in favor of the project, they have been in contact with Mr. Cleary and are comfortable that their issue will be resolved.

Kurt Allen, project manager, stated that the contractor is compelled by law to preserve and maintain any utilities. He further stated that access to the Racquet Club will be maintained during construction.

Mr. Chapman stated that he has a real problem with caterers being responsible for removing garbage. He stated that he wants a dumpster on the property.

Attorney Hopkins stated that if the Board determines that the dumpster is absolutely essential, the applicant will have one.

Mr. Milburn Crotzer stated that he assumes the applicant knows where the utilities are in the vicinity of the tennis bubble. He stated that the Racquet Club would want to be informed if there will be any interruption in the utilities. He asked if the existing pathway to the bubble that is near the existing building will still be there after the building is demolished.

Douglas Williams stated that the Racquet Club members are good people to work with and want to continue that relationship with the new owner of the property.

Charlie Burke, 6603 Taylor Road, stated that the tennis bubble is near his rear yard. He stated that this events center is a drastic change to the character of the neighborhood. He stated that the tennis club is a quiet, small operation and the swim club generally had daylight operations. He stated that this events center will extend into the evening. He stated that in the afternoons, things are busy on Taylor Road and there are no sidewalks. He stated that there will be a lot of traffic activity in this area during the afternoons. He asked if the caterers will have the liquor license. He asked who they should turn to if something goes wrong during an event. He stated that he foresees trouble in a residential neighborhood.

Chairman Clark stated that this area is zoned R-A, and the applicant had to obtain a variance from the Zoning Board of Appeals for this use because it is not a permitted use in the R-A District. He further stated that the Planning Board is not deciding whether there should be an events center at this site, but rather it is reviewing the layout of the project, projected traffic, etc.

Kathy Burke, 6603 Taylor Road, asked how a tennis club operates without bathroom facilities. She stated that the traffic on Taylor Road is out of control, and it is unrealistic to think that this road is equipped for this type of use.

Mr. Robert Wagner, president of Willow Bend Club, Inc., stated that Willow Bend is exciting to see something happen with this facility. He stated that Willow Bend has been trying to sell this property for some time, and Willow Bend is no longer solvent. He stated that the tennis club has been a point of conflict for anyone who was considering purchasing the property. He stated that he thinks the applicant has tried his best to deal with all of the things he has to abide by per the lease agreement. He stated that the tennis club does not have the option to use Willow Bend's facilities (bathroom) because Willow Bend is not in a position to pay for the utilities.

In response to a question from Mr. Mahoney, Mr. Williams stated that Willow Bend did not have a liquor license and there was no alcohol on site.

Chairman Clark declared the public hearing closed.

Mr. Mahoney stated that he is still concerned about safety and the traffic associated with this project. He stated that this events center, along with the Town's events center nearby, will create a large amount of traffic.

Mr. Reilly stated that banquet facilities usually have one (1) space for every three (3) seats or it is a function of the square footage of the building, and in both instances 100 spaces is appropriate for this project.

Chairman Clark asked Board members if there are any changes that could be made to this layout that would address the traffic and safety concerns brought up by nearby residents.

Board members discussed whether a STOP sign would be helpful at the end of the driveway.

Mr. Mahoney stated that he does not think the parking is adequate. He further stated that he is concerned about the character of the neighborhood.

Attorney Hopkins stated that traffic has been adequately addressed via the SEQR review process. He stated that the applicant is comfortable with the number of parking spaces proposed. He further stated that the applicant's goal is to be a good neighbor.

Attorney Hopkins stated that a light standard was added to the lighting plan at the end of the driveway specifically because it was requested by the Planning Board previously. He noted that that area will be lit and the lighting will not spill over onto adjoining properties.

Attorney Hopkins stated that the Site Plan currently does not show an identification sign, if the Board feels that this site should have an externally lit appropriately sized ground sign, the applicant would agree to that.

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

WHEREAS, the Town of Hamburg received a Site Plan application from James Cleary requesting Site Plan Approval of a wedding/events center to be located at 6653 Taylor Road; and

WHEREAS, the project site was not zoned correctly for the proposed use, and the Hamburg Zoning Board of Appeals issued a Use Variance for the proposed use; and

WHEREAS, the proposed action is an Unlisted Action under the State Environmental Quality Review Act (SEQRA) and the Planning Board has issued a SEQR Negative Declaration; and

WHEREAS, the Planning Board held numerous meetings on this project, including public hearings on 8/5/20 and 8/19/20; and

WHEREAS, the Planning Board has reviewed the project in accordance with Article XLIV of the Town of Hamburg Zoning law.

NOW, THEREFORE BE IT RESOLVED, the Hamburg Planning Board issues Site Plan approval of this project with the following conditions and waivers;

1. The project must address the issues outlined in the most recent Town Engineer's memo.
2. The final landscaping plan will be reviewed and approved by the Planning Department. Vegetation along Taylor Road will be removed to provide good sight lines for people entering and exiting the property.
3. The dumpster will be shown on the Site Plan.
4. For public health and safety during construction, the applicant shall maintain access to the Tennis facility during the time periods that it is open.
5. The access drive shall be posted "No Parking" allowed and meet any other Fire Department requirements.
6. Areas showing the limits of disturbance shall be marked in the field prior to construction and CAB inspections shall report to the Building Department on any violations of these construction disturbance limits (protecting 18 Mile Creek).
7. The Planning Board waives the construction of a sidewalk along the frontage of this site as there are no sidewalks in this area.
8. A STOP sign will be placed at the exit of the driveway.
9. Subject to review and approval by the Building Department, a ground mounted sign that is lighted will be placed at the end of the driveway so it can be identified from the road.
10. The Planning Board will make a referral to the Traffic Safety Advisory Board requesting that a sign be posted on Taylor Road identifying that a driveway is upcoming."

As the vote on the motion was six (6) ayes and one (1) nay (Mr. Mahoney), the motion carried.

Glenn Wetzl – Requesting approval of a revised Subdivision Plan for the Cluster Subdivision on Boston State Road

Chairman Clark stated that the sidewalk was required at the time the subdivision was approved because the Board felt that if an adjacent property is ever developed, the sidewalks could connect. He asked if there is an alternate location for the sidewalk on Boston State Road.

Attorney Sean Hopkins, representing the applicant, stated that a gated emergency access is provided onto McKinley Parkway from this subdivision. He noted that the emergency access will have to be maintained and plowed in the winter months. He stated that this will be available for residents to use to access McKinley Parkway by foot.

In response to a question from Chairman Clark, Attorney Hopkins stated that there are no sidewalks in the interior of the subdivision.

Chris Wood, project engineer, stated that public sidewalks end quite a bit up the road on Newton Road and Boston State Road, and no sidewalks exist in the neighborhood on the west side of McKinley Parkway.

Attorney Hopkins confirmed that the sidewalk the applicant is asking to be removed from the subdivision plan is a segment of Boston State Road frontage.

Mr. Wood showed Board members a map indicating where the existing sidewalks end on Newton Road and on Boston State Road.

Ms. McCormick stated that she would be commenting as a resident and would be abstaining from any votes on this matter. She stated that many people walk from the Grandview/Valleyview area (west of McKinley Parkway) into the Village.

Mr. Wood stated that the property owner on Boston State Road who would be adversely affected by a sidewalk running alongside his home is supportive of the applicant's request to remove it from the approved subdivision plan.

Chairman Clark asked how walkers from the subdivision would get around the gate. Mr. Wood replied that a path could be installed around the side of the gate.

Mr. Reilly stated that in lieu of putting the sidewalk in, the applicant could pay a fee to the Town to be used to fix sidewalks in other locations.

Mrs. Comerford stated that if the Board is considering taking this sidewalk out of the equation, sidewalks should be replaced or improved elsewhere in the Town.

Attorney Hopkins stated that he is unaware of a single other project where the Planning Board has required the fee Mr. Reilly referred to. He further stated that there were other projects approved at this meeting where sidewalks were waived.

Attorney Hopkins stated that he is not sure that the Planning Board has a legal basis to require money in lieu of installing a sidewalk. He stated that to apply this idea to one single project is not equitable, and it is debatable whether it would be legal.

Mr. Schawel stated that if a sidewalk is in front of a home and someone is injured, that property owner is liable. He further stated that he is not in favor of sidewalks because so many people use the street instead.

Mr. Chapman stated that he was not on the Board when this project was approved, and he feels that the approved plan should be followed and the sidewalk should be installed.

Attorney Hopkins reminded Board members that the impacted homeowner is saying that the sidewalk would be far too close to his home.

Mrs. desJardins stated that when the subdivision was being reviewed, the Board did not realize how close this sidewalk would come to the home on Boston State Road.

Attorney Hopkins stated that the best way to leave this site on foot would be to use the emergency gated access road onto McKinley Parkway. He noted that a pedestrian walkway around the edge of the gate could be installed.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this request. As there were six (6) ayes and one (1) abstention (Ms. McCormick), the motion carried.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Mr. Mahoney, to approve the August 5, 2020 minutes. Carried.

Mr. Schawel made a motion, seconded by Ms. McCormick, to adjourn the meeting. The meeting was adjourned at 9:50 P.M.

Respectfully submitted,
Kaitlin McCormick, Secretary
August 28, 2020