

Town of Hamburg
Planning Board Meeting
April 7, 2021
Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:35 P.M. on Wednesday, April 7, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Bob Mahoney and Doug Schawel.

Members who attended via Webex included Vice-Chairman Kaitlin McCormick, Megan Comerford, Al Monaco and Dennis Chapmen, as well as Planning Board Attorney Jennifer Puglisi.

Others in attendance in Room 7B included Town Planners Andrew Reilly and Sarah des-Jardins.

WORK SESSION

Keplinger Freeman Associates – Requesting a rezoning of a portion of 3497 McKinley Parkway from R-2 to C-1 in order to construct a new wellness center

It was determined that most of this parcel is zoned C-2 and a small portion of it is zoned R-2. It was further determined that the existing building would be demolished and a new building would be constructed.

Mr. Reilly stated that no one seems to know why this property is zoned the way it is and the request to rezone to C-1 is a fairly straightforward request. He further stated that the applicant originally asked for C-2 zoning but the Code Review Committee recommended that the property be rezoned to C-1 instead.

Chairman Clark stated that he believes that a condition of rezoning should be that the existing buffers and landscaping on the site be enhanced with the new construction.

Mr. Chapman stated that he has a problem with the requested rezoning because there is a adjacent small residential house and he does not want the property to be rezoned to C-2. He stated that he is concerned that this applicant will construct something appropriate for the area but then sell in the future to a user that will not be as compatible with the homes on McKinley Parkway.

It was determined that the applicant amended the request to C-1.

In response to a question from Chairman Clark, Mr. Chapman stated that he is not in favor of a rezoning of this site to C-1.

Ms. McCormick stated that she is in support of a rezoning to C-1.

Chairman Clark stated that there are seven (7) parking spaces on this site that are in the C-1 district. He further noted that the restaurant building and the remaining 30-40 parking spaces are in the R-2 district.

Board members discussed whether the Planning Board should recommend that certain permitted uses in the C-1 district not be allowed on this site.

Ms. McCormick stated that it might be cumbersome for people interested in this parcel in the future to have to deal with restrictions on its use. She noted that it might be better to recommend that this parcel be rezoned to C-1 without restricted uses.

Chairman Clark stated that before a recommendation is made to the Town Board, the Planning Board should review the permitted uses in the C-1 district to make sure it is comfortable with all of them.

Board members reviewed the permitted uses in the C-1 district.

Chairman Clark made a motion, seconded by Mr. Schawel, to table this rezoning request. Carried.

REGULAR MEETING

Public Hearing - 7:00 P.M., Switzer Precision Crafted Metal - Requesting Site Plan Approval of 17,022 sq.ft. and 1,159 sq.ft. additions to the existing building at 4020 Jeffrey Boulevard

Jim Gannon from Sheid Architectural, representing the applicant, stated that the property is zoned M-2 and is part of the former Ravenwood North Industrial Park.

Mr. Gannon stated that a new fire protection service will be added to the site and all of the Town Engineer's comments have been addressed. He noted that additional landscaping is proposed along Jeffrey Boulevard and along the north property line.

Chairman Clark read the Engineering Department comment letter regarding this project.

Mrs. Comerford read the following public hearing notice as follows:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by Switzer Precision Crafted Metal to construct 17,022 sq.ft. and 1,159 sq.ft. additions to the existing building at 4020 Jeffrey Boulevard. The public hearing will be held on April 7, 2021 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.

Mrs. desJardins reminded Board members that when it approves projects, the approval is always contingent upon the Engineering Department comment letter.

It was determined that there would be 28.8% of green space on the site once the additions are constructed.

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

Engineering Department comments have been filed with the Planning Board.

Public Hearing - 7:00 P.M., Broadway Group - Requesting Site Plan Approval of a new Dollar General store to be located on vacant land east of 4050 Southwestern Boulevard

Tara Mathias from the Broadway Group stated that the proposal is to construct a 10,640 sq.ft. retail space with 35 parking spaces, landscaping and access to Southwestern Boulevard via a curb cut.

Ms. Mathias stated that as requested by the Planning Board, a Traffic Operations Report was submitted that concluded that this would have a minimal impact on traffic operations in the area and would provide for adequate stacking.

Ms. Mathias stated that she also submitted an exhibit that shows this property in relation to the access point for other properties in the area.

Ms. Mathias showed Board members a rendering of the proposed building, as well as the landscaping plan for the project.

Ms. McCormick stated that she reached out to the Conservation Advisory Board (CAB) and was advised that it has no comments on the landscaping plan.

Regarding a potential connection to the Bert's Bikes parking area/driveway, Ms. Mathias stated that the concern Dollar General would have with that would be if Bert's Bikes was to change its business model or develop the vacant lot between it and the Dollar General site into something that is a competitor to Dollar General. She stated that Dollar General would want to have some restrictions against competitive uses and noxious uses.

Mrs. Comerford read the following public hearing notice as follow:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by The Broadway Group to construct a Dollar General store on vacant land east of 4050 Southwestern Boulevard. The public hearing will be held on April 7, 2021 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. Schawel, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

Public Hearing - 7:00 P.M., Odor Stop - Requesting Site Plan Approval of a 15,373 sq.ft. building to be constructed on vacant land located at 5139 Southwestern Boulevard

Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that Odor Stop is in the business of air purifiers to eliminate odors. He noted that two (2) to four (4) panel truck deliveries per month are expected.

Mr. Pidanick stated that he is in the process of addressing the Engineering Department's comments and a landscaping plan has been prepared.

Mrs. Comerford read the following public hearing notice as follow:

"Notice is hereby given that the Town of Hamburg Planning Board will conduct a public hearing on a proposal by Michael Schmidt to construct a new office/warehouse building for Odor Stop to be located at 5139 Southwestern Boulevard. The public hearing will be held on April 7, 2021 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. Schawel, to table this project to May 5, 2021 and authorize the Planning Department to prepare resolutions for that meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Mike Schultz – Requesting Planning Board re-review of a towing and recovery impound area at 5505 Southwestern Boulevard (Site Plan Approval and Special Use Permit granted on 11-18-20)

Chairman Clark stated that this project was approved in November 2020 but subsequent to that it appears that the Building Department has some questions about what the Planning Board intended when it approved it.

Mike Schultz, applicant, stated that he now shows the impound lot smaller than what was approved because he realizes that he does not need the larger space he previously proposed. He stated that the area labeled as “existing gravel” is not depicted accurately and in fact is the area where concrete pads existing from the former golf driving range that was there years ago.

Mr. Schultz stated that there is an existing gravel driveway on the property that shows on the survey he received when he recently purchased the property. He stated that additional stone has been added to that existing gravel driveway. He noted that he plans to remove the old driving range and add concrete in that area. He further stated that in the future he would like to construct a shop where his trucks can be stored overnight.

Chairman Clark stated that there must have been some miscommunication with the Building Department about what Mr. Schultz planned to do with the old driving range.

In response to a question from Chairman Clark, Mr. Schultz stated that the office building in front would have electricity in it now if the recent wind storm had not blown the electric poles down. He noted that there is water and septic to the building and there will be electricity soon.

In response to a question from Chairman Clark, Mr. Schultz stated that the two (2) buildings in the rear of the site are in good shape and he plans on painting them and using them for storing the impounded vehicles. He noted that there will be vehicles stored inside the building and outside in the impound lot.

Mrs. desJardins read to the members attending via Webex the Engineering Department comment letter regarding this project.

Ms. McCormick stated that a grading plan should be submitted.

Mrs. desJardins reminded Board members that whenever the Planning Board approves a project, it is done contingent upon the Engineering Department’s comment letter. She noted that the Town Engineer will not sign off on a project until all issues in the comment letter are satisfactorily addressed.

In response to a question from Mrs. Comerford, Mr. Schultz stated that he will landscape the property once he is able to make the initial changes to the property.

Mrs. Comerford stated that a landscaping plan must be submitted.

It was determined that a landscaping plan was not submitted with Mr. Schultz’s previously approved project.

In response to a question from Ms. McCormick, Mr. Schultz stated that was existing lighting on the property until the wind storm blew them down. He stated that he plans to install new shielded lighting on the one pole that is left on the site.

Chairman Clark made a motion, seconded by Mrs. Comerford, to table this project to the Board’s May 5, 2021 meeting. Carried.

Boston State Holdings Co., LLC – Requesting Planning Board approval of a revised Site Plan for the Village at Cedar Valley to be located north of East Pleasant Avenue, west of the Thruway. Original Site Plan Approval was granted on July 15, 2015.

Attorney Sean Hopkins, representing the applicant, stated that this is an update to a plan that was approved in 2015. He noted that the applicant is proposing the same number of units as the previous plan that was approved.

Attorney Hopkins stated that the previously approved project was a more traditional layout with no sizeable green space area for onsite amenities, walking trails, etc. He noted that the current proposal has a substantial internal green space with walking trails and the look of the buildings has been upscaled. He stated that units would be townhomes with their own attached garage.

Attorney Hopkins stated that typically a third bedroom is used for an office, work space, etc. He noted, however, that the applicant, did add a number of additional parking spaces to the plan in response to input from the Planning Board in October 2020. He stated that the applicant is comfortable with the amount of parking that is proposed.

Attorney Hopkins stated that a variance was granted by the Board of Zoning Appeals on March 2, 2021 for the setback between two (2) of the buildings.

In response to a question from Chairman Clark, Attorney Hopkins confirmed that the people who are planning to construct new homes on the opposite side of Cedar Valley Way are aware that these apartments are being proposed.

Mr. Reilly stated that he would forward to the Board members a copy of the SEQR Negative Declaration issued by the Town Board relative to the rezoning approval of this property from R-A to R-2 and R-3.

In response to a question from Chairman Clark, Attorney Hopkins stated that the back of every unit would face the green space area. He noted that this feature helps to blend this use with the single family homes across Cedar Valley Way because the front of the units would face the front of the single family homes across the street.

It was determined that parking spaces are proposed parallel to Cedar Valley Way for visitors. It was further determined that each unit would have a parking space in the attached garage and a parking space in front of that garage.

It was determined that the development would have a jogging/walking trail, lap pool, fenced in dog walking area, fitness center, outdoor kitchen, etc.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on April 21, 2021. Carried.

Engineering Department comments have been filed with the Planning Department.

Apollo Concrete Coating - Requesting Site Plan Approval of a 6,791 sq.ft. building to be located on vacant land on the south side of Riley Boulevard, north of Southwestern Boulevard

Daryl Martin, architect, representing the applicant, stated that 1,300 sq.ft. of the building would be for the office. He noted that wall pack lighting is proposed on the building that would shine downwards and a landscaping plan was submitted.

Mr. Martin stated that a variance was granted by the Board of Zoning Appeals for portions of a few of the parking spaces that would infringe upon the required 35-foot parking setback from the right-of-way.

It was determined that a Findings Statement was issued by the Town Board in 2006 when the Hamburg Business Park was established and the property rezoned.

Ms. McCormick asked if there is full build-out information for the Business Park regarding pavement, buildings, etc. Mr. Reilly responded that this project and the proposed car wash facility are the first two (2) projects to be brought forward since 2005.

Chairman Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on April 21, 2021. Carried.

Engineering Department comments have been filed with the Planning Department.

JSEK Hamburg, LLC - Requesting a Special Use Permit and Site Plan Approval of a car wash to be located on vacant land, northeast of 4484 Southwestern Boulevard

Chairman Clark stated that this is the second proposal in the previously mentioned Hamburg Business Park and noted that the Findings Statement issued by the Town Board in connection with the environmental review when the property was rezoned specifically prohibits car wash facilities.

Attorney Sean Hopkins, representing the applicant, stated that when the rezoning was approved for this business park in 2005, it was envisioned that it would primarily be a 211,500 sq.ft. office park. He noted that he spoke with Mr. David Burke, landowner, and was informed that since then he has not had one (1) prospective user approach him about offices. He further stated that the Findings Statement issued by the Town Board did exclude some otherwise permitted C-2 uses including boat and marine sales and service, warehouses, dairies, wholesale sales and distribution, commercial swimming pools, theatres and drive-ins, golf driving ranges and miniature golf, new and use motor vehicle sales, truck terminals, laundry and dry cleaning plants, storage and sales of solid fuel, commercial car washes, filling stations, gasoline stations, automotive repair shops and public garages.

Attorney Hopkins stated that obviously the site will not be developed as an office park, as was intended 15 years ago. He noted that there was some forethought given at the time the Findings were issued because a section of the Findings Statement says "In the GEIS, the Hamburg Business Park is defined as the construction of 211,500 sq.ft. of commercial, retail and service businesses. Certain uses generally allowed under C-2 zoning are being prohibited in this location as part of the rezoning. However, the range of potential uses remains flexible. If site plan applications are submitted for projects that differ significantly in use or size or scale from the uses and scale described in evaluating the GEIS or if the property is subdivided in a configuration other than shown in Figure 3 of the DGEIS, additional environmental assessment or a Supplemental EIS may be required."

Attorney Hopkins stated that in his opinion, the Planning Board would have to either issue a Supplemental EIS or a Negative Declaration if it is adequately described why the Planning Board feels a car wash should now be permitted.

Mr. Reilly concurred with Attorney Hopkins' above statement.

Attorney Hopkins stated that a Traffic Impact Study (TIS) was submitted for this project and noted that the existing exit onto Southwestern Boulevard from this site is right in/right out only as a result of the environmental review 15 years ago. He further stated that access to Riley Boulevard would also be provided from this site.

Attorney Hopkins stated that fully engineering plans have been submitted to the Town Engineer and approval from Erie County Department of Public Works is forthcoming. He further stated that the New York State Department of Transportation has indicated that it does not believe this project would have an adverse environmental impact on Southwestern Boulevard.

In response to a question from Ms. McCormick regarding why the Town Board included car washes in the list of prohibited uses, Mr. Reilly stated that he would research that question.

Attorney Hopkins stated that it is possible that the applicant offered the list of uses that he would be willing to exclude at the time.

It was determined that the Mr. Burke's father installed Riley Boulevard and then there was no demand for offices.

Chairman Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing on the minor subdivision request and continue the public hearing on the Special Use Permit and Site Plan Approval on April 21, 2021. Carried.

Engineering Department comments have been filed with the Planning Department.

David Manko – Requesting Preliminary Plat Approval of a 67-lot subdivision to be located on the west side of Parker Road

Glenn Wetzl - Requesting rezoning of vacant land located on the south side of Big Tree Road, east of 4255 McKinley Parkway from C-1 to R-3

It was determined that the above listed projects would be discussed concurrently.

Attorney Sean Hopkins, representing both applicants, stated that these are two (2) separate projects but ones that are somewhat related. He stated that one is a 67-lot residential subdivision on Parker Road, which is at the point of requesting Preliminary Plat Approval, and the other is a proposed rezoning on contiguous property, which involves 156 apartments and 20.1 acres of permanent open green space.

Attorney Hopkins stated that the Planning Board has expressed an interest relative to SEQR to consider some of the impacts of these two (2) projects on a cumulative basis primarily because of the fact that they are geographical adjacent to one another. He stated that in light of the above, the following has occurred:

- The Planning Board asked the Town Board (which will ultimately make the decision on the rezoning request) to allow the Planning Board to be the Lead Agency for the Wetzl rezoning application and the Town Board agreed.
- The Planning Board recommended that the Town Board hold a public hearing on the Wetzl rezoning project, which it did on March 22, 2021. He noted that this public hearing was left open.

Regarding the cumulative impacts, Attorney Hopkins stated that Chris Wood, project engineer, received approval of the downstream sanitary sewer capacity for both projects via a letter from Erie County Division of Sewerage Management issued on March 10, 2021. He further stated that the Parker Road project already had a downstream sanitary sewer capacity analysis and the approval is for both projects. He noted that the Erie County Division of Sewerage Management has concurred that there is adequate downstream sanitary sewer capacity for both projects.

Attorney Hopkins stated that because both projects would generate more than 2,500 gallons of sewerage per day, both would be subject to the New York State Department of Environmental Conservation's standard I & I policy, which would mean that the downstream sanitary sewer capacity would be improved.

Attorney Hopkins stated that a Traffic Impact Study (TIS) considering the cumulative impacts of both projects was prepared that showed that there is adequate capacity on the surrounding

roadway network to handle the apartment project and two (2) recommendations were made regarding the Wetzl project as follows:

1. There should be restriping within the right-of-way of Big Tree Road in the area of the Wetzl apartment project to accommodate a turn lane for left hand turns. This would require the concurrence and approval of the New York State Department of Transportation (NYS-DOT) and the applicant has no problems complying with this recommendation.
2. The western driveway of the Wetzl project should include two (2) exiting lanes. The applicant has no problem complying with this recommendation.

Attorney Hopkins stated that no mitigation was required in the TIS, which is not surprising given that the Parker Road subdivision access would be onto Parker Road and the Wetzl apartment project would access Big Tree Road.

Attorney Hopkins again reiterated that there would never be any access of any kind to Wilson Drive from the Wetzl apartment development.

Attorney Hopkins stated that in his opinion, all of the cumulative impacts have been addressed and there are no potentially significant adverse environmental impacts. He stated that in terms of the Parker Road project, the biggest concern that has been raised by the nearby neighbors is asking if the cluster layout could be considered. He noted that the applicant is willing to discuss that if the Board so desires and if not, the applicant has a project that complies with the Town Code that would contain 67 lots, adequate storm water management and Code compliant public infrastructure.

Attorney Hopkins stated that Mr. Wood submitted a detailed letter to the Planning Board summarizing how the storm water management would be handled. He noted that both projects would have independent on-site storm water management systems that comply with all of the standards that are cited in Mr. Wood's letter, primarily storm water quality and quantity.

Attorney Hopkins stated that the Planning Board asked that a plan be prepared showing the two (2) projects and he showed Board members that plan. He stated that the 20.1 acres of permanent open space in connection with the Wetzl project is shown and noted that several of the proposed sublots in the Parker Road subdivision would be contiguous to that open space.

Ms. McCormick stated that Mark Lorquet, Conservation Advisory Board (CAB) Chairman, who expressed a concern about Rush Creek and its tributaries and the high levels of phosphorus and other matter, as well as the fact that they are walleye spawning grounds. She stated that she still has not been given an answer relative to how Rush Creek and its tributaries would be protected from any non-point source pollution, particularly phosphorus that could come from residential property owners spraying their lawns.

Mr. Wood stated that the applicant would be taking a farmer's field, which is probably a very large source of fertilizer, and replacing it with houses with a storm water system that would treat that water before it goes into a ditch. He noted that currently the farmer's fertilizer runs off the property uncontrolled.

Ms. McCormick stated that she needs more specifics on how phosphorus would be retained or removed from the subdivision's storm water.

Mr. Wood stated that any of the New York State Department of Environmental Conservation's green infrastructure and water quality methods include phosphorus removal techniques associated with them. He noted that bioretention is a method of removing phosphorus before it is discharged.

Mr. Lorquet read the CAB's concerns about the proposed Parker Road subdivision as follows:

- "Continuation of destroying the character of a once quiet farm road with another 67 homes on top of the 200 already constructed.
- The impact of the homes on the environment, storm water contamination of herbicides and pesticides from cosmetic lawn care chemicals being washed down stream via Rush Creek to Lake Erie. Rush Creek is a spawning area for walleye and drinking water for residents.
- The added stress on southtowns sewage treatment facility. Heavy rains force them to dump raw sewage by way of SPDES permits.
- These developers come in and leave with no responsibility to our community. They have added approximately 200 homes that have two to three cars per family. Parker Road has no shoulders to walk on or ride a bike. This problem should not fall on Town taxpayers. The developers who are making a money grab in our Town haven't spent any money upgrading Parker Road!
- The massive amount of sheet storm water runoff from all these homes with impervious surfaces creates. The engineers say they're following guidelines, but when you add all the output leaving this area it is causing erosion and water problems downstream, which by NYS DEC is illegal when creating a hardship to private landowners downstream of these Parker Road subdivisions. One inch of rain water on one acre of impervious material concrete blacktop roofing etc. equals 27,000 gallons of storm water, and that doesn't include all the basement sump pumps.
- CAB recommends a full environmental impact statement (EIS)."

Mr. Lorquet read an additional memo from the CAB regarding the Wetzl project as follows:

"After reviewing the proposed site plan for the Proposed Parker Road Subdivision Project 19.241 at 4825 Big Tree Road and walking the site on 25 March 2021, the Hamburg Conservation Advisory Board recommends and advises the Town of Hamburg Planning Board, as follows:

1. The proposed project does not appear to include any green space per the Town's Comprehensive Plan.
2. There is concern that the runoff from multiple existing subdivisions is impacting the Rush Creek headwaters, local water quality, and ability of the community to participate in best uses, and that the proposed development will only exacerbate the degradation of Rush Creek. Rush Creek is on the NYS DEC Section 303(d) List of Impaired Waters for pathogens and phosphorus from combined sewer overflow, urban runoff, and municipal sources.
3. A review of stormwater detention/retention plans across the town. Who will maintain these structures? Who is responsible for keeping water quality levels in accordance with

NYS DEC stormwater regulations?

4. CAB recommends a Positive Declaration, as there is concern that there is potential for significant impact.”

Ms. McCormick asked how the Board was going to cumulatively review these projects.

Mrs. Comerford stated that because of the size of these two (2) projects, the Planning Board needs a more organized, systematic approach in analyzing the data presented.

Ms. McCormick stated that looking at other projects in the past that involved large tracts of land, there is probably precedence within the Town, given the large area being proposed for development, for the consideration of a GEIS (Generic Environmental Impact Statement) based on the level of impact of both projects.

Attorney Hopkins stated that the difference between these projects and the projects Ms. McCormick referenced that required Environmental Impact Statements (EIS) is that the previous projects had GEISs done because the specifics of those projects were not known. He noted that these are very specific projects.

Attorney Hopkins offered to take all of the studies, reports, etc . that have already been submitted and put that information in binders for Board members for review.

It was determined that Ms. McCormick, Mrs. Comerford and Chairman Clark would form a subcommittee to review the information submitted by the applicants in the binder Attorney Hopkins offered to put together. It was further determined that Attorney Puglisi would attend any meetings of the subcommittee.

Attorney Hopkins asked that before the subcommittee makes recommendations to the Board as a whole, he and Mr. Wood be allowed to meet with the subcommittee in case there are questions they can elaborate on.

Attorney Puglisi stated that the applicant would have to meet in a public setting with the Board as whole.

Chairman Clark stated that the subcommittee will work on compiling a list of additional information needed. He stated that once the list is complete the list will be sent to the entire Planning Board and become part of the public record and then sent to the applicant. He further stated that the applicants will respond, more work will be done by the subcommittee and then it will be presented at a public meeting.

It was determined that the applicants will supply the subcommittee with what it already has so that it can see what might be missing. It was further determined that the information will be supplied both electronically and physically.

Chairman Clark made a motion, seconded by Mr Schawel, to table both projects. Carried.

Engineering Department comments have been filed regarding the Parker Road Subdivision with the Planning Department.

OTHER BUSINESS

Ms. McCormick made a motion, seconded by Mr. Chapman, to approve the March 17, 2021 minutes. Carried.

Mr. Schawel made a motion, seconded by Mr. Mahoney, to adjourn the meeting. The meeting was adjourned at 8:50 P.M.

Respectfully submitted,
Megan Comerford, Secretary
April 17, 2020