

Town of Hamburg
Planning Board Meeting
June 2, 2021
Minutes

The Town of Hamburg Planning Board met for a Scoping Session regarding the proposed Dollar General store at 6:00 P.M., a Work Session at 6:30 P.M. and a Regular Meeting at 7:00 P.M. on Wednesday, June 2, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairman Kaitlin McCormick, Bob Mahoney, Doug Schawel, Megan Comerford, Dennis Chapman and Al Monaco.

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

SCOPING SESSION – PROPOSED DOLLAR GENERAL STORE

Ms. Tara Mathias from The Broadway Group stated that she and Mr. Frank Armento from Fisher Associates were there to hear the comments from the public.

Chairman Clark explained that this meeting was to receive input from the public regarding the submitted draft Scoping Document for the proposed Dollar General store to be located on the corner of Heltz Road and Southwestern Boulevard. He stated that the Scoping Session will narrow the issues that should be focused on as the project goes through the SEQR process. He opened up the Scoping Session and the following members of the public spoke:

- Mr. Frank Peluso, 6519 Heltz Road, stated the following:

“After a review of the draft scoping document we would like the planning board to consider the following recommendations.

1. Under section 2, Item 2.4, we would recommend that the word “detriments” be included after each mention of the word “benefits”. We understand that the planning board can't consider property valuations but if benefits are part of the scope the detriments of the proposed action should also be considered.
2. Under section 3, Item 3.1.2 we would recommend the wording to be changed to the proposed actions compliance and non-compliance with the requirements and regulations of the C-2 general commercial district.
3. Also under section 3, item 3.2 we don't see any possible way they will be able to mitigate the lighting impact of vehicles exiting the store from shining directly into our residence. That is why we would like to see continued negotiations with the NYSDOT to allow a road cut on route 20 as part of this scope.
4. Again under section 3 item 3.4.5 if any photos of the commercial properties are to be included in the scope the residential properties should also be included.
5. Continuing under the traffic and safety portion we would like to see a more detailed traffic impact study done using all new data. A specific time frame needs to be stipulated possible

over a 10 day period. Conditions have changed since the last study was conducted. It should include not only the traffic on RT. 20 but also Heltz Rd. Consideration should be given to the fact an existing school bus stop would be directly in front of the proposed entrance. The safety of my grandson getting on and off the bus needs to be addressed. Thank you for giving us the opportunity to present our comments.”

- Mr. Mark Cavacoli, 6253 Heltz Road, stated that the following items should be addressed:
 - o Not only should the volume of traffic be addressed, but also the type of vehicles that use Heltz Road including passenger vehicles, Town of Hamburg Highway Department large equipment trucks, construction vehicles from the subdivision being built nearby etc. on such a narrow roadway.
 - o The frequency of use of Heltz Road by the above vehicle types
 - o The width of Heltz Road and the fact that there are no shoulders to speak of or sidewalks
 - o The safety of walkers, joggers, bicyclists on Heltz Road heading to the Nike Base
 - o The fact that a gas station occupied this parcel many years ago
 - o The character of the community has always been rural in nature and should be addressed.
- Mrs. Kim Jablonski, 6550 Heltz Road, stated that she lives adjacent to the parcel being considered for construction and feels that the following issues should be addressed:
 - o The impact of the removal of trees and the construction of the building and parking area on her property, which is lower than the parcel to be developed
 - o The possibility that the construction of the building, etc. will cause there to be standing water on her property
 - o The impact of noise from the proposed building's air conditioner, which is proposed to be located five (5) feet from her property line
 - o The impact of this project on the nearby neighbors' ability to sell their homes in the future
 - o The potential environmental impacts of building on property that once contained a gas station and may still have fuel storage tanks or hazardous materials buried there
 - o The impact of this project on the daily lives of the nearby residents regarding noise, dust and vibrations since the homes are so close to where the project would be located
- Patricia Place, 7323 Southwestern Boulevard, stated that she resides not far from where the Dollar General building is proposed. She stated that her property is for

sale and would be a perfect spot for a Dollar General. She stated that an adjacent property owner has indicated that he would also be willing to sell and together their land would be approximately three (3) acres in size.

- Brandi Gerace, 6547 Heltz Road, stated that the following should be addressed:
 - o The impact of the project on the animals in the area, specifically deer, that travel through the Heltz Road yards trying to get to the other side of South-western Boulevard

Mrs. desJardins stated that comments on the draft Scoping Document would be received through Friday, June 4, 2021 and the Planning Board will adopt the Final Scoping Document at its June 16, 2021 meeting.

WORK SESSION

Maureen Buckley – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 3542 South Creek Road

Mrs. desJardins stated that Mrs. Buckley plans to subdivide her large parcel into two (2), sell the existing home on lot # 1 and build a small home on the newly created lot.

Paul Wodzinski, the applicant's builder, stated that he plans to locate the new home 125 feet from the road, 80 feet from the westerly property line and centered on the lot (9.66 acres).

In response to a question from Chairman Clark, Mr. Wodzinski stated that the applicant's existing home on lot # 1 is approximately 50 feet from the road.

Mr. Reilly suggested that a conservation easement be placed at the rear of the site to ensure that no development occurs in the area along 18-Mile Creek.

Chairman Clark stated that perhaps small markers can be placed in the rear of the new lot indicating where the conservation easement begins.

Board members discussed how far from 18-Mile Creek the conservation easement should be located.

Mr. Wodzinski suggested that the conservation easement be 100 feet from the top of the bank of Eighteen Mile Creek. Board members agreed that this is reasonable.

Chairman Clark made a motion, seconded by Mr. Mahoney, to schedule a public hearing to be held on June 16, 2021. Carried.

REGULAR MEETING

Public Hearing – 7:00 P.M., Bloom Creative Arts – Requesting a Special Use Permit and Site Plan Approval of a proposal to utilize a vacant building located at 3674 Commerce Parkway for a pre-school

Mrs. desJardins stated that the applicant submitted a revised plan showing as much play area as can possibly be provided. She noted that the Planning Department received a letter from the owner of the property indicating that the 27 parking spaces located on the west side of the building will be allocated to this business.

Attorney Puglisi stated that she spoke with Roger Gibson, Supervising Code Enforcement Official, about how to categorize this use and was told that this use is a nursery school and daycare facility and therefore the play area square footage requirement must be applied.

Mrs. desJardins stated that the applicant plans to apply for a variance from the size of the play area and a variance to allow the play area to be located in the front yard.

Megan Coltoniak, applicant, stated that this facility is licensed as an approved agency through the New York State Department of Education and hires special education teachers, speech pathologists, occupational therapists, music therapists, etc. to provide special educational programming to children who are not able to go to a typical preschool.

Mr. Chapman stated that he does not think the applicant should be allowed to request the variance for the size of the play area.

Mrs. Comerford read the following notice of public hearing:

“Notice is hereby given that the Town of Hamburg Planning Board will conduct a Public Hearing on a proposal by Bloom Creative Arts to operate a preschool/daycare facility at 3674 Commerce Parkway. The Public Hearing will be held on June 2, 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 Ms. McCormick, to table this project to July 7, 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

Attorney Sean Hopkins, representing the applicant, submitted a letter from the farmer who has been farming this property for the past 15 years indicating that to the best of his knowledge, it has been more than 15 years since any fertilizers, pesticides, etc. have been used. Attorney Hopkins noted that the farmer has been growing organic crops there.

Attorney Hopkins stated that he is waiting for the draft Part II of the Environmental Assessment Form (EAF) prepared by the sub-committee to be finalized before he submits a response to the additional topics that were identified that will require additional analysis.

Attorney Hopkins stated that revisions were made to the proposed cluster layout based on input received at the Board's May 19, 2021 meeting as follows:

- The permanent open space, which consists of 14.65 acres, will remain in its natural state.
- The 3,800 linear feet of onsite recreational trail that is shown provides opportunities to connect to the adjacent Wetzl parcel and the adjacent Town-owned property. The trail would be accessible to the public.

- The area of the permanent open space, excluding the storm water management areas, would be 13.2 acres. The storm water management areas may not be as large as currently shown once the project is engineered.
- Scott Livingstone from Earth Dimensions will provide input on a plan to provide a riparian buffer along the ditch that bisects the site.

Attorney Hopkins stated that the applicant, as well as the nearby residents, prefers the cluster layout over the regular R-1 layout.

In response to a question from Mrs. Comerford, Chris Wood, project engineer, stated that 50% of the site would be 14.65 acres and 13.2 acres (approximately 48% of the site) of open space is proposed not including the storm water management areas.

Mr. Wood stated that when the owner agreed to sell this property to Mr. Manko, he wanted some sort of buffer between the subdivision and his remaining property. He noted that he (Mr. Wood) plans to speak with the owner to see if he would be agreeable to a buffer on the north side of the creek to serve the same purpose.

In response to a question from Chairman Clark, David Manko, applicant, stated that he believes that the property owner would be agreeable to vegetation screening instead of a berm for a buffer.

Attorney Hopkins stated that the proposed cluster lots are not all that small, noting that the R-1 zoning requires lots that are at least 15,000 sq.ft. and the cluster lots are on average 11,000 sq.ft.

Ms. McCormick stated that she would like to see a landscaping plan that details the plan for maintaining vegetation near the storm water ponds and a long term management plan for the permanent open space.

In response to a question from Chairman Clark to Board members, Ms. McCormick stated that she needs more information before she decides whether to support the cluster layout.

Mr. Wood showed Board members a lot detail plan showing the largest home the builder plans to construct. He noted that this home and a 12' X 12' shed fit on the smallest proposed lot. He stated that there would be between 50 and 55 feet between the back of the home and the five-foot rear setback line for accessory structures. He further stated that there are three (3) other models that are smaller.

Chairman Clark noted that the Planning Board's goal would be to make sure that there is enough room on the lots for accessory structures, etc. that would not require variances.

Attorney Hopkins stated that the difference between this proposed cluster subdivision and others is that no matter what the Planning Board does, property owners would have a usable back yard.

It was determined that the Planning Board would determine what the minimum setbacks would be if a cluster layout is allowed. It was further determined that the closest any two (2) homes would be to each other would be 17' and no home would be closer than 8.5' to a side property line.

Ms. McCormick asked Mr. Wood for information relative to what the trail would consist of and how and by whom it would be maintained.

In response to a question from Mr. Reilly, Attorney Hopkins stated that there are no plans to install sidewalks along Parker Road in front of the open space. He acknowledged that sidewalks will be required unless waived by the Planning Board.

Mark Lorquet, Conservation Advisory Board (CAB) Chairman, stated that the CAB would like the storm water runoff into Rush Creek reduced because there are nine (9) existing subdivisions, Clark Street, Southwestern Boulevard and McKinley Parkway that drain into Rush Creek. He stated that when the storm water containing pesticides and herbicides is released into Rush Creek, it kills all of the marine life. He stated that the CAB would like the impact of the storm water reduced on drinking water.

Mr. Wood stated that the bio-retention areas required by the New York State Department of Environmental Conservation (NYSDEC) are part of the filtration that is associated with the retention basins.

Attorney Hopkins stated that the NYSDEC requires developers to enter into and record a storm water management agreement as part of the long term maintenance plan.

Ms. Jarrell stated that all storm water management agreement must be in place through construction and must identify the entity that is in charge of it. She noted that if the owner (HOA) fails to maintain the storm water management areas, the Town can do the maintenance and charge the HOA the cost.

Mr. Lorquet stated that the CAB also is concerned about the loss of agricultural land for subdivision. He stated that the Planning Board needs to decide if it is going to continue to allow farmers to give their land to developers. He stated that the Planning Board should send a letter to the Town Board indicating that the Town must come up with a plan to preserve and protect the character of Hamburg.

Chairman Clark questioned what the Planning Board or the Town Board can legally do to stop farmers from selling their land.

Mr. Reilly noted that this property is not located in a State or County Agricultural District.

Ms. McCormick stated the loss of agricultural land has been a continued cumulative trend along Parker Road and could put pressure on the Miller farm at the southern end of Parker Road.

Mr. Reilly stated that although the sub-committee deemed the loss of agricultural land a moderate to large impact in the Part II of the Environmental Assessment Form, the Planning Board must determine if that impact is significant. He noted that this property is considered to be fragmented agricultural land.

Attorney Hopkins stated that currently this land is not being used in an economically productive agricultural way. He noted that the current owner is allowing someone to lease and use this property for some nominal value. He stated that the owner did not plan on leasing it this year but is allowing the farmer to use it at no cost because of the ongoing review process of the proposed subdivision.

Attorney Hopkins stated that the Planning Board has no legal authority to say that this land must continue to be used for agricultural purposes.

Attorney Hopkins stated that many of Mr. Lorquet's comments are on a macro level thought process. He noted that the applicant can only deal with this particular parcel and past decisions cannot be rectified.

Mr. Chapman stated that it is not true that the residents are all in favor of the cluster layout. He noted that that is not what the Planning Board heard at the public hearing.

Chairman Clark stated that he believes that the newly proposed cluster layout has much more potential and is worth the Planning Board's time than the regular layout.

Ms. McCormick stated that there is information that has been requested of the applicant that the Board would want to see before it makes a decision between the cluster layout and the regular layout.

Chairman Clark confirmed with Ms. McCormick that she wants to see a long term maintenance plan, a landscaping plan, a riparian corridor, agricultural options, information on what the plan is for sidewalks and information on traffic at intersections (adding a new intersection on Parker Road).

Mrs. Comerford stated that she is concerned about the cumulative effect of this project and the Wetzl rezoning project on traffic.

Mr. Wood stated that the Traffic Impact Study that was done considered both projects together.

Attorney Hopkins stated that he reviewed the entire Traffic Impact Study and from an overall perspective there is no substantial degradation of the overall turning movements at any of the intersections.

Ms. McCormick stated that she would like information on how the intersection and the sight lines were designed in terms of safety standards for the primary flow of traffic both at the emergency access and the main entrance.

Mr. Wood stated that the new intersection would line up with Marilyn Drive.

In response to a question from Mrs. Comerford, Mr. Reilly stated that the Planning Board could have a traffic consultant come to a meeting and talk about traffic studies and how to interpret them.

Ms. McCormick asked Board members to send comments to Mrs. desJardins by Thursday, June 10, 2021 regarding this project and consistency with land use plans and community character. She noted that the sub-committee would be meeting to discuss significance on the other items.

Mr. Reilly stated that he would like to see a visualization of what Parker Road would look like once this subdivision is constructed.

Chairman Clark made a motion, seconded by Mrs. Comerford, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

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

Chris Wood, project engineer, showed Board members an updated Concept Plan for the project, as well as the No Impact letter from the New York State Office of Parks, Recreation and Historic Preservation.

Attorney Hopkins stated that a comprehensive traffic impact study was prepared by SRF Associates both for this project and the proposed Manko subdivision. He stated that Edward Rutkowski, SEQR Site Plan Coordinator for the New York State Department of Transportation (NYSDOT), indicated that he does not see any issues related to traffic impacts themselves on the State Highway system, but that the NYSDOT's policy is to limit or restrict access onto State highways. Mr. Rutkowski noted that the Site Plan should be revised to only provide one (1) driveway onto Big Tree Road and that the applicant should attempt to line it up with the apartment development on the north side of the road.

Attorney Hopkins stated that the Site Plan was revised to reflect Mr. Rutkowski's input, which results in a reduction in the number of proposed units from 156 to 150.

Attorney Hopkins stated that once he receives the final draft of Part II of the EAF from the sub-committee, he will make a comprehensive submission.

Attorney Hopkins stated that as he understands it, the cumulative impacts that have been identified by the sub-committee are as follows:

1. Traffic - A Traffic Impact Study was submitted.
2. Sanitary sewer capacity – A downstream sanitary sewer capacity analysis report was performed for both this project and the proposed Manko subdivision by Carmina Wood Morris and on March 10, 2021 it was approved by the Erie County Division of Sewerage Management. That analysis was done based on wet weather conditions. Both projects would have to comply with the New York State Department of Environmental Conservation's Inflow and Infiltration mitigation requirements. The storm water management system for this project is completely separate from that of the proposed Manko subdivision

project and will comply with the applicable standards both storm water quality and storm water quantity.

3. Community character – No access is proposed from this development to Wilson Drive or Tomaka Drive. 20.1 acres of permanent open space is proposed that would be subject to a conservation easement and a declaration of restrictions. A riparian buffer will be proposed along the ditch that runs through the property.

Attorney Hopkins stated that the layout complies with Appendix D of the New York State Fire Code and the buildings would be fully sprinklered. He noted that a Jurisdictional Determination was submitted issued by the U.S. Army Corps of Engineers dated June 11, 2021 that agreed with the results of the wetland delineation prepared by Earth Dimensions. He further stated that Wetland 1, which is 7.51 acres, is jurisdictional and the 1,153 feet of linear ditch that bisects the site is also jurisdictional, but Wetland 2, 3 and 4 are not subject to Federal jurisdiction.

Attorney Hopkins stated that the only impact to the wetlands would be .04 acres and because that is less than 1/10 acre, per the US. Army Corps of Engineers' regulations the applicant is not required to provide on-site or off-site mitigation.

In response to a question from Ms. McCormick, Mr. Wood responded that 190 cubic yards would be moved out of the wetland area.

Glenn Wetzl, applicant, stated that only organic lawn treatments would be used on the lawns in the development.

Ms. McCormick asked the applicant to quantify the projected electricity usage for the project.

In response to a question from Ms. McCormick, Mr. Wood stated that the total square footage of buildings would be approximately 150,000 sq.ft.

Ms. McCormick asked for an explanation of the NYDOT's comments regarding access to this site and what the changes are to the plan as a result.

In response to a question from Mrs. Comerford, Mr. Wood stated that 150 garages are proposed, as well as 168 open parking spaces. He further stated that the average size of the apartments would be 1,000 sq.ft.

Ms. McCormick asked Board members to send comments to the Planning Department regarding # 7g of Part II of the EAF ("The proposed action may substantially interfere with nest-

ing/breeding, foraging or over-wintering habitat for the predominant species that occupy or use the project site”) and # 7h (“The project action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat”).

Ms. McCormick asked Board members to provide their opinion on the project’s consistency with community plans and community character.

In response to a question from Chairman Clark, Attorney Hopkins stated that originally two (2) curb cuts were proposed onto Big Tree Road. He noted that Mr. Edward Rutkowski from the NYSDOT indicated that neither this project nor the proposed Manko Subdivision would have any adverse impact on the State highway system. He stated that Mr. Rutkowski further reminded him of the NYSDOT’s policy regarding controlled access and noted that the NYSDOT would prefer than one of the two (2) proposed curb cuts be eliminated and the resultant single curb cut be located opposite the existing apartment development on the north side of Big Tree Road.

Attorney Hopkins stated that the updated Site Plan shows the relocated single curb cut. He noted that a dedicated left-hand turn and a dedicated right-hand turn are provided for vehicles exiting the site.

Attorney Hopkins noted that eliminating a curb cut and relocating the remaining curb cut results in the loss of six (6) units.

In response to a question from Ms. McCormick, Mr. Lorquet stated that he is concerned about preserving the character of the community and the integrity of the Lake Erie watershed and the Rush Creek corridor.

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

OTHER BUSINESS

Mr. Schawel made a motion, seconded by Mr. Monaco, to adjourn the meeting. The meeting was adjourned at 9:00 P.M.

Respectfully submitted,
Megan Comerford, Secretary

June 17, 2021