

Town of Hamburg  
Planning Board Meeting  
August 18, 2021  
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 18, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Doug Schawel, Bob Mahoney, Megan Comerford and Dennis Chapman.

Others in attendance included Town Planner Andrew Reilly and Planning Board Attorney Jennifer Puglisi.

Excused: Al Monaco

**WORK SESSION**

**David Braasch - Requesting a Special Use Permit to operate an Air B & B at 4708 Clifton Parkway**

Mr. Reilly noted that air B & Bs are included in the definition of “bed and breakfast establishments and tourist homes” and require a Special Use Permit.

David Braasch, applicant, stated that he rents the entire home at this location and noted that it has four (4) bedrooms, two (2) bathrooms and sleeps eight (8) people. He stated that he checks the backgrounds on anyone wishing to rent the home. He noted that this year there were a few renters he did not meet, but generally he attempts to rent to families and not to groups.

In response to a question from Chairman Clark, Mr. Braasch stated that he reviewed the criteria for a bed and breakfast with Town Planner desJardins.

Mr. Braasch stated that he did have a group of renters that was noisy and he went to the home and asked them to turn the music down, which they did.

In response to a question from Mr. Chapman, Mr. Braasch stated that he lives in the home when it is not rented. He stated that he usually rents the home for 2 to 2 ½ months in the summer. He noted that he has a second home he lives in when the home on Clifton Parkway is rented. He stated that the Clifton Parkway home is his primary residence.

In response to a question from Mr. Chapman, Mr. Braasch stated that he was not home when the Building Department visited the site and issued him a citation. He stated that he was told to speak to Mrs. desJardins to get on a Planning Board agenda for a Special Use Permit.

In response to a question from Mr. Chapman, Mr. Braasch stated that he did his research before renting and noticed that there are many homes rented in Hamburg and did not think there were any permits necessary to operate.

In response to a question from Ms. McCormick, Mr. Braasch stated that the citation he received did not indicate that he could not continue to rent out the home until he receives a Special Use Permit.

Chairman Clark stated that there are several criteria that must be met in order to obtain a Special Use Permit for this use, one of which requires that the guestroom living quarters not constitute a separate dwelling unit and not be leased or rented as such. He noted that in essence Mr. Braasch is renting a separate dwelling unit if he is not present in the home while it is being rented. He stated that it appears that Mr. Braasch is not meeting the criteria for a Special Use Permit.

Mr. Braasch stated that he would be willing to reduce the number of people he rents the home to, but there are other people who rent out their entire homes.

Mr. Reilly stated that if the Town gets a complaint about a home rental, it will act upon it. He further stated that the New York State Supreme Court has determined that this type of use is allowed in an R-1 zoning district with a Special Use Permit.

In response to a question from Mr. Mahoney, Mr. Braasch stated that the people who are currently renting his home will be there for seven (7) days. He further stated that he did rent to a group for three (3) months in 2020 because the family's roof blew off and they did not want to stay in a hotel.

In response to a question from Mr. Mahoney, Mr. Braasch stated that people park in the driveway or in a small parking area on his property.

Chairman Clark stated that Board members have questions about whether Mr. Braasch can meet all of the requirements of the Special Use Permit and Mr. Braasch should decide whether that is the case or not.

Mr. Braasch stated that he would not mind being in the home when it is rented so that he can make sure the renters are behaving properly. He stated that in the past he has always met with prospective renters and told them what the rules are. He noted that he has a new neighbor who has a baby and does not like noise and he understands that. He noted that he tries to be a good neighbor.

Mr. Chapman advised Mr. Braasch not to schedule anyone else to rent the home besides whoever is already booked until the Planning Board approves the Special Use Permit.

Mr. Braasch stated that going forward he will endeavor to keep his renters quiet.

It was determined that the applicant will review the criteria for a Special Use Permit for tourist homes and indicate how he will meet all of the criteria.

Ms. McCormick advised Mr. Braasch that he must submit information regarding how he will meet the Special Use Permit criteria no later than Friday, August 7, 2021.

## **REGULAR MEETING**

### **Hamburg Brewery – Requesting Planning Board consideration of a Site Plan Waiver for new bathroom facilities at 6553 Boston State Road**

Mr. Reilly advised Board members that the Supervising Code Enforcement Official, Roger Gibson, wanted input on this proposal regarding whether they feel a Site Plan Waiver is appropriate.

John Russo, Jr. from Hamburg Brewing stated that he would like to construct two (2) separate bathroom facilities at the brewery. He stated that one would be attached to the building and the other would be a free-standing structure. He noted that the bathrooms would match the existing

building and there would be a concrete walkway between the tent and the new free-standing bathroom building.

Chairman Clark made a motion, seconded by Mr. Mahoney, that a Site Plan Waiver is appropriate for this project with the condition that the path is shown on the final drawing. Carried.

**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 the document previously requested by the Planning Board regarding the preliminary environmental review of this project.

In response to a question from Mrs. Comerford, Attorney Hopkins stated that the submission was not made by the previous Friday because it was not done.

Attorney Hopkins stated that the submission responds to the comments from the subcommittee that came from the draft Part II of the Environmental Assessment Form (EAF) and the Table of Part III Considerations generated by the subcommittee. He noted that the submission focuses on those potential categories that were marked as being potentially significant.

Attorney Hopkins proposed that this project be placed on the Planning Board agenda for September 15, 2021 so that Board members have time to review the submission. He asked that any questions Board members have on the submission be relayed to him and he will try and answer them in advance of that meeting.

Jody Celeste from Earth Dimensions, who prepared the riparian buffer plan requested by the Planning Board, gave an overview of the plan. She stated that there are 81 tree plantings that will be placed in the gaps along the edges of the creek adjacent to the development anywhere there is disturbance. She stated that there are 66 shrubs to be planted in addition to the trees further out to further protect the stream and there is a seed mix that was added for 25 feet on either side of the stream to enhance the stream channel.

Attorney Hopkins stated that the riparian buffer plan pertains to both this project and the Wetzl project.

In response to a question from Chairman Clark, Ms. Celeste stated that this plan would enhance the waterway because it prevents erosion and stabilizes the stream channel.

In response to a question from Ms. McCormick, Ms. Celeste stated that the 25-foot width of the riparian buffer is sufficient based on her firm's observations of the stream channel. She further stated that her firm usually uses a 4:1 ratio for impact to the channel.

Attorney Hopkins stated that the stream channel has a width of four (4) feet. He further stated that the applicant would be willing, prior to commence of construction activities, to install a construction fence to ensure that the stream channel area is not impacted.

Chris Wood, project engineer, agreed to add some trees on the north side of the stream on the property the applicant does not own as a buffer.

Mr. Reilly stated that the Town would probably want the 50-foot stream corridor buffer to be placed in a conservation easement.

Attorney Hopkins stated that if the cluster layout is approved, a conservation easement in the name of the Town of Hamburg would be placed on all of the permanent open space. He further stated that a homeowners' association would be formed.

Attorney Hopkins stated that from a SEQR perspective and a neighbor perspective, the clustered layout makes more sense. He noted that in either case, a homeowners' association would be formed for responsibility of the storm water management facilities.

Ms. McCormick stated that when one crosses over onto the Wetzl property, there is no buffer between the stream channel and the closest proposed apartment building. She asked if there is a 25-foot buffer commitment only on the Manko property.

Mr. Wood responded that the apartment building in the area Ms. McCormick was referencing may be closer than 25 feet to the stream channel.

Ms. McCormick asked Mr. Wood to provide the minimum buffer width proposed on each side of the stream channel in those areas where the apartment buildings may be closer than 25 feet to it. She stated that there should be plantings between the apartment building and the stream channel in those areas.

Attorney Hopkins stated that the riparian buffer plan is not meant to be the landscaping plan.

Attorney Hopkins stated that previously it has been discussed that the plans cannot be advanced to the fully engineered phase until the applicant knows whether the Board will authorize the use of cluster.

Ms. McCormick stated that the Board has been waiting for the applicant's responses to the draft Part II and the Table of Part III Considerations. She stated that Board members will have to review the submission made by Attorney Hopkins that evening.

Mr. Reilly stated that the application currently before the Board is for a regular layout, so the SEQR decision must be on that layout unless it changes.

Mr. Reilly stated that if the Board issues a Positive Declaration on the regular layout, it will look at alternatives like a clustered subdivision.

Attorney Hopkins stated that the applicant's preference would be that the SEQR determination be based on the clustered layout.

In response to a question from Ms. McCormick, Mr. Reilly stated that the Board previously resolved to not authorize cluster development. He stated that in order to reconsider the cluster development, the applicant would have to amend his application and the Board would have to vote again on whether to allow the use of cluster.

Attorney Hopkins noted that if the Board authorized the use of cluster, that would not mean it would be approving the subdivision, but rather it would allow Mr. Wood to prepare the engineered drawings.

Ms. McCormick asked Ms. Celeste to submit a document from Earth Dimensions indicating what its best practices for design are and what it based the riparian buffer on.

Chairman Clark made a motion, seconded by Ms. McCormick, 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**

Attorney Sean Hopkins, representing the applicant, submitted the document previously requested by the Planning Board regarding the preliminary environmental review of this project.

Attorney Hopkins stated that the submission responds to the comments from the subcommittee that came from the draft Part II of the Environmental Assessment Form (EAF) and the Table of Part III Considerations generated by the subcommittee. He noted that the submission focuses on those potential categories that were marked as being potentially significant.

Attorney Hopkins asked that if Board members, as they review the documentation, have questions they be directed to him so that he can be prepared to discuss them at the next meeting.

Ms. McCormick asked Ms. Celeste to submit a document from Earth Dimensions indicating what its best practices for design are and what it based the riparian buffer on.

Attorney Hopkins stated that he received comments from the New York State Department of Transportation (NYSDOT) regarding the fact that the project has been revised to only provide one (1) curb cut onto Big Tree Road. He noted that the NYSDOT indicated that this is acceptable and that these projects (Manko and Wetzl) will not have any potentially significant adverse impacts on the State highway system.

Attorney Hopkins stated that the revision to the plan reducing the number of curb cuts resulted in the reduction in the density of the overall development from 156 units to 150 units.

Attorney Hopkins stated that, although he does not always agree with some of the preliminary findings, he believes that it is clear that the subcommittee spent a lot of time and effort preparing the document and it was thoroughly prepared and well organized.

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

## **OTHER BUSINESS**

Mr. Schawel made a motion, seconded by Mr. Chapman, to adjourn the meeting. The meeting was adjourned at 7:40 P.M.

Respectfully submitted,  
Megan Comerford, Secretary

August 26, 2021