

Town of Hamburg
Planning Board Meeting
August 4, 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 4, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairman Kaitlin McCormick, Doug Schawel, Bob Mahoney, Megan Comerford and Dennis Chapman.

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

Excused: Al Monaco

WORK SESSION

Moe Gillezeau - Requesting Planning Board consideration of a Site Plan Waiver for a new garage to be constructed at 3383 Big Tree Road

Mr. Moe Gillezeau, applicant, stated that he would like to construct a garage to house his personal vehicle on this commercial property he owns. He noted that it would conform to all requirements regarding its location.

It was determined that the applicant has a chiropractic business on this property and also leases space to an automotive detailer.

Mr. Chapman made a motion, seconded by Mr. Mahoney, to authorize a Site Plan Waiver for this project with the condition that the garage be the same color as the existing building on the site. Carried.

REGULAR MEETING

Public Hearing – 7:00 P.M., Bob Johnson - Requesting Site Plan Approval of a proposal to construct a brewery/restaurant on vacant land adjacent to 4046 Lake Shore Road

Mrs. desJardins stated that she received the completed Waterfront Assessment Form from the applicant and forwarded it to the Waterfront Revitalization Committee Chairman.

Attorney Sean Hopkins, representing the applicant, stated that in addition to the Waterfront Assessment Form, updated Site Plans and Part I of the Environmental Assessment Form (EAF) were submitted to the Planning Department.

Mr. Anthony Pandolfe from Carmina Wood Morris, project engineers, stated that the previously proposed sidewalk and retail building have been removed from the Site Plan. He noted that one of the detention ponds has also been moved slightly to the east in order to provide recreational space adjacent to the building. He further stated that the plans have been submitted to the New York State Department of Transportation (NYSDOT) for review of the proposed curb cut onto Route 5.

In response to a question from Mr. Reilly, Attorney Hopkins agreed to provide projected peak hour traffic for the project.

In response to a question from Mr. Mahoney, Attorney Hopkins stated that the corner of the proposed building would be approximately 140 feet from the nearest resident.

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 Bob Johnson to construct a brewery/restaurant on property located adjacent to 4046 Lake Shore Road. The public hearing will be held on August 4, 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. Mahoney, to table this project. Carried.

Engineering Department comments have been filed with the Planning Department.

LOE Trailers – Requesting Planning Board approval of a revised Site Plan (original Site Plan granted on 9/16/20)

Chris Wood, project engineer, stated that the applicant would like to limit the extent of the fence to the area in front of McKinley Parkway and then wrap it around the sides. He noted that the applicant would like to install a wooden split rail fence instead of the previously approved vinyl fence and not install the previously proposed monument sign and the landscaping associated with it.

Ms. McCormick stated that the trailers are stored tilted up and are 15 or 16 feet high. She stated that this is very visible and was not contemplated by the Board when originally considering the visual impact of the project.

In response to a question from Mr. Chapman, Mr. Wood stated that the trailers are displayed in that fashion to show potential customers that they have the ability to go that high.

Mr. Chapman stated that the site looks like a dump yard with the trailers stored tilted up.

Mr. Wood stated that the applicant would probably be amenable to being limited to where he can store the trailers tilted up.

Ms. McCormick stated that the applicant indicated originally that this is not a drive-up business but now it seems that he wants to display the trailers to attract drive-up business. She stated that the conversation about the landscaping would have been different originally if Board members were aware that the trailers would be stored in this way.

It was determined that the originally approved landscaping has been installed.

Mr. Mahoney stated that he understands that business owners have a right to do what they have to do to sell their product. He noted that he should not give the business owners direction on how to advertise that product.

Mr. Chapman stated that people visiting this site are in the business and already know what the trailers can do.

Chairman Clark stated that his concern is how the trailers look, and he does not think they look terrible tilted up. He noted that he disagreed with Mr. Chapman's assessment of what they look like and noted that the landscaping looks better than what was there before.

Attorney Puglisi stated that the Planning Board cannot dictate a business's operation.

Ms. McCormick stated that the landscaping on either side of the area where the monument sign was originally going should be connected.

A majority of Board members agreed that the newly proposed fence and location are acceptable.

Mrs. Comerford stated that she had reservations about allowing changes to a previously approved Site Plan that change its initial character. She stated that she is not as concerned about the trailers being stored tilted up as she is about the Site Plan being changed after approval was granted.

Chairman Clark made a motion, seconded by Mr. Schawel, to approve the submitted revised Site Plan with the following conditions:

1. If the applicant wants to add a sign, he will have to return to the Planning Board for review.
2. An additional landscaped island will be required. The island will be the same as the ones put in along McKinley Parkway but will be adjacent to the northwest corner of the fence.
3. Any additional changes to the fencing will require Planning Board approval."

As there were five (5) ayes and one (1) nay (Mr. Chapman), the motion carried.

Bloom Creative Arts – Requesting a Special Use Permit and Site Plan Approval of a proposal to utilize a vacant building located at 3674 Commerce Place for a preschool

Mrs. desJardins stated that the applicant received three (3) variances from the Board of Zoning Appeals on August 3, 2021. She noted that a condition of the variance relative to the location of the play area is that the applicant must submit to the Building Department a plan stamped by a licensed professional showing the location of the boulders that are to be placed on the outside of the play area fence before the business opens.

In response to a request from Ms. McCormick, Mrs. desJardins stated that she will forward a copy of the letter that is sent to the applicant indicating the variances that were approved and the condition previously mentioned.

In response to a question from Chairman Clark, Megan Coltoniak, applicant, stated that this business is a 4410 program through the New York State Department of Education that provides special education services to children with special needs such as autism, central processing disorder, down syndrome, etc. She noted that these children cannot be in a typical daycare or preschool setting and are referred by the children's' school district. She stated that the school district attempts to help these children in the least restrictive environment.

Ms. Coltoniak stated that there also would be two (2) integrated classrooms that could accommodate up to 18 children who are typically developing.

In response to a question from Ms. McCormick, Ms. Coltoniak stated that the total number of children who could be on site at any given time is 62 and the number of staff would be between eighteen and twenty.

In response to a question from Chairman Clark, Mike Cross, project contractor, stated that the play area would be 2,400 sq.ft. in size.

In response to a question from Ms. McCormick, Ms. Coltoniak stated that New York State Department of Children and Family Services (OCFS) requires that children be outside at least 30 minutes per day. She noted that it also requires that only one group is allowed on the playground at any time and only 19 children can be on the playground at any time.

In response to a question from Ms. McCormick, Ms. Coltoniak stated that OCFC stipulates that the children have access to a green space, whether it be on site or within walking distance.

In response to a question from Ms. McCormick, Ms. Coltoniak stated that "gross motor time" is not just running. She stated that it includes being outside or in the gross motor room, participating the "move and groove" program, etc. She noted that the indoor recreation space is approximately 250 sq.ft.

Mr. Schawel stated that this business is regulated and inspected by New York State and asked why Board members were so concerned about how the business is run.

Ms. McCormick responded that she wants to make sure that the Planning Board is authorizing something that the applicant can execute.

Chairman Clark stated that because the Town Code dictates that a certain amount of square feet of play area is required per child and that square footage is not going to be provided, the Planning Board must distinguish this business from a regular preschool.

In response to a question from Chairman Clark, Ms. Coltoniak stated that it would be accurate to say that all aspects of this proposed business fall under the 4410 category.

Ms. McCormick stated that she would be comfortable with 19 children being in the play area since the required square footage per Town Code would be provided in that scenario.

In response to a question from Attorney Puglisi, Ms. Coltoniak stated that the hours of operation would be from 8:30 AM to 2:30 PM.

Ms. McCormick expressed concern about placing the boulders in the National Fuel easement and whether National Fuel will allow that.

In response to a question from Mrs. Comerford, Ms. Coltoniak stated that typically the children who are dropped off by parents are siblings and staff children. She stated that when a visitor wishes to come in to one of the programs, the administrative assistant schedules the visit. She further stated that there is an arrival and dismissal program in place.

It was determined that the number of designated parking spaces for this business exceeds the number required by Town Code.

Attorney Puglisi advised the Planning Board that the Board of Zoning Appeals required the applicant to place boulders outside the play area fencing for safety and the Planning Board's input beyond that is somewhat limited.

In response to a question from Ms. McCormick, Mrs. desJardins stated that the Planning Department did not have the plan showing the placement of the boulders because the Board of Zoning Appeals just required it the previous evening.

Ms. Coltoniak stated that she did not have the time to wait for approval until the Board's next meeting.

Mr. Chapman stated that the applicant's timeline is not his problem.

Board members agreed to table this project until later in the meeting so that the applicant could mark up the Site Plan to show the designated parking spaces and correct square footage of the play area.

Ms. McCormick stated that the Town Code requires that a Site Plan be prepared, signed and stamped by a design professional. She stated that she believed that the Planning Board should hold a Special Meeting once that requirement has been met because she was not comfortable granting approval without that.

Attorney Puglisi stated that if, given the circumstances of this particular applicant, the Planning Board determines that the applicant's situation is particularly different in comparison to what the Town Code requires, the Planning Board could temporarily table this project, hold a Special Meeting or determine that that particular requirement of the Town Code is not relevant in this situation.

Mrs. desJardins advised the Board that a Special Meeting in the next week is not an option because it would have to be advertised.

Mr. Chapman stated that there are other issues of concern besides the Town Code requirement, specifically the fact that this use changes the character of the neighborhood.

It was determined that the applicant must receive a Certificate of Occupancy in order to open, and the Special Use Permit and Site Plan Approval must be in place for that to happen.

Ms. Coltoniak stated that COFS does not require a play area to be fenced.

Mr. Chapman stated that the Planning Board was rushing this project through no fault of the Planning Board or the applicant. He stated that he still had issues with the size of the play area, which had not been discussed.

Chairman Clark stated that the size of the play area had been discussed several times previously.

Mr. Cross showed Board members where the boulder would be located on the site.

It was determined that this project would be temporarily adjourned until the end of the meeting.

JSEK Hamburg LLC - Requesting a Special Use Permit, Site Plan Approval and Preliminary Plat Approval (two-lot subdivision) of a new car wash facility to be located on vacant land northeast of 4484 Southwestern Boulevard

Attorney Sean Hopkins, representing the applicant, stated that the date on the landscaping plan was updated to March 30, 2021 and the plan itself was updated to include native plantings.

Mr. Chapman stated that this car wash would be too close to other car wash facilities and there are too many such facilities.

Ms. McCormick made the following motion regarding SEQR, seconded by Mrs. Comerford:

"The Town of Hamburg received a site plan, minor subdivision and special use permit application from JSEK Hamburg LLC to construct a standalone car wash on property located northeast of 4484 Southwestern Boulevard. The Hamburg Planning Board has reviewed the plan and

held the required public hearing. The project is located in the Hamburg Business Park, which was the subject of a GEIS and Findings, and recently Amended Findings were issued by the Town Board. The Hamburg Planning Board, in accordance with SEQRA, has reviewed the project against the Amended SEQR Findings and have determined that the proposed action is in accordance with the SEQR Findings and therefore will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public and is consistent with social and economic considerations. The Planning Board Chairman is authorized to sign the Amended Findings Form to document this conformance.”

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Chapman), the motion carried.

Mr. Mahoney made the following motion, seconded by Ms. McCormick:

“The Town of Hamburg received a minor subdivision application from JSEK Hamburg LLC to construct a standalone car wash on property located northeast of 4484 Southwestern Boulevard. The Planning Board, in accordance with the New York State SEQR law and the SEQR regulations contained in 6NYCRR Part 617, has found the project in accordance with the amended Findings issued for the business park. The Planning Board has reviewed the subdivision application against the subdivision requirements of the Town. The input received from various departments was held prior to the public hearing. The Hamburg Planning Board hereby issues Preliminary Subdivision Approval in accordance with Chapter 230 with the following conditions:

1. The project will address the comments in the Town Engineering Department memo dated 7-23-21.
2. In accordance with the Town's subdivision requirements, sidewalks shall be waived.

Finally, the Hamburg Planning Board waives the filing of a Map Cover and the Planning Board Chairman is authorized to sign the Preliminary Plat once the Town Engineer signs off on the Plat.”

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Chapman), the motion carried.

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

“The Town of Hamburg received a Special Use Permit application from JSEK Hamburg LLC to construct a standalone car wash northeast of 4484 Southwestern Boulevard in the Hamburg Business Park.

The Planning Board, in reviewing this proposed Special Use Permit application, has determined and documented, in accordance with Article XLVI, Sections 280-312 and 280-323, that:

(1) Will be in harmony with the general purposes and intent of this chapter.

These are: to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare. These general goals include, among others, the following specific purposes: to provide adequate light, air and convenience of access; to prevent undue concentration of population and overcrowding of land; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to enhance the environment by the conservation of certain open land areas with certain desirable or unique characteristics worthy of preservation; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve and promote the attractiveness of the community. This project is in accordance with these purposes and intent of this chapter.

(2) Will not create a hazard to health, safety or the general welfare.

The Planning Board has reviewed the information submitted and requested the Town Board's consideration of this use within the Park and the Town Board has modified their SEQR Findings and rezoning. The car volume of this type of car wash will not create traffic over the thresholds in the Findings document. The project will not have other impacts to the health, safety and welfare of the community.

(3) Will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.

The site and surrounding lands on Riley Boulevard and Southwestern are all zoned Commercial. The architecture of the structure has also been upgraded to better fit into the area and Business Park.

(4) Will not otherwise be detrimental to the public convenience and welfare.

The project, being located in a planned Business Park will not impact the walkability of the area and should result in minimal impacts to the public convenience.

For Commercial Car Washes:

A. These facilities shall not be located within 200 feet of any residential structure or within 500 feet of another such facility.

The proposed car wash is over 200 feet from the nearest residential structure, and there are no other car washes within 500 feet of this site.

B. Architectural features of the car wash buildings and other buildings on the property be in harmony with the surrounding uses.

The type and architecture of the building will fit into the overall architectural scale of the Business Park and its location will not be visible to any surrounding residential areas.

C. Visibility from the road shall be minimized through proper siting, setbacks, existing topographic features, berming and landscaping features.

The project will front on Riley Boulevard, a Business Park road, and is located and will be landscaped to minimize and improve views from surrounding areas.

Based on the information submitted and the Special Use Permit discussion, the Planning Board approves the issuance of a Special Use Permit to construct and operate a car wash on property located to the northeast of 4484 Southwestern Boulevard (within the Hamburg Business Park) with the following conditions:

1. It is based on the Site Plan to be approved by the Planning Board, with any conditions attached to that Plan.
2. Lighting will be as shown on the approved site plan, and internal and building lighting will be shielded and not neon or flashing color lights.
3. The noise level will meet Town ordinances and will not exceed 85 decibels at the location of the equipment."

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Chapman), the motion carried.

Ms. McCormick made a motion, seconded by Mrs. Comerford, to amend the three (3) prior authorizations for the Special Use Permit, SEQR resolution and minor subdivision approval to describe the property as being northeast of 4484 Southwestern Boulevard". Carried.

Mrs. Comerford made the following motion, seconded by Ms. McCormick:

“The Planning Board, based on its determination that the project is in conformance with the amended Findings and conditional rezoning of this business park, review of the project in accordance with Article XLIV Site Plan Approval and the C-2 zone district requirements of the Town of Hamburg Zoning Code, having received and considered input from Town departments, committees and advisory boards and having completed the required public hearing, hereby grants Conditional Site Plan Approval for the JSEK Hamburg LLC project to be located north-east of 4484 Southwestern Boulevard with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated 7-23-21.
2. The final landscaping plan shall be reviewed and approved by the Planning Department and the Conservation Advisory Board.
3. Neon lighting shall be shielded and dark sky compliant as shown on the plan.
4. Neon flashing colored lights shall not be utilized in the building or outside of the building.
5. No outdoor storage will be allowed.
6. The construction of sidewalks is waived as they are already located along the road.
7. Noise will not exceed 85 decibels at the site of the equipment.
8. The applicant will submit noise level specifications from the equipment manufacturer to the Planning Department prior to the installation of the equipment.”

As the vote on the motion was five (5) ayes and one (1) nay (Mr. Chapman), the motion carried. Engineering Department comments have been filed with the Planning Department.

At this point in the meeting, the Board revisited the Bloom Creative Arts project. Ms. McCormick made the following motion, seconded by Mr. Mahoney:

“**Whereas**, the Town of Hamburg received a Special Use Permit application from Bloom Creative Arts to utilize an existing building for preschool and school age children that specializes in children with special need at 3674 Commerce Place; and

Whereas, on June 2, 2021 the Hamburg Planning Board held the required public hearing; and

Whereas, the Hamburg Planning Board in reviewing the proposed project (special use permit), has determined, in accordance with Section 280-312 and 280-315 that:

1. The project will be in harmony with the purposes and intent of Section 280-312 (Special Use Permits).
2. The project will not create a hazard to health, safety and general welfare.
3. The project will not alter the essential character of the neighborhood, nor will it be detrimental to its residents.
4. The project will not otherwise be detrimental to the public convenience and welfare.
5. The preschool is licensed by the State of New York.
6. A variance was granted by the Board of Zoning Appeals to allow the applicant to provide 2,400 sq.ft. of outdoor play area plus approximately 250 sq.ft. of indoor gross motor movement area for the children. Per New York State, no more than 19 children will use the outdoor play area at any given time.
7. The preschool will not abut a residential property or an area zoned residential.
8. Child discharge and pick up areas will not be located in the public right-of-way.

9. 27 parking spaces have been provided, inclusive of at least one off-street parking space for each full-time staff person, as well as a minimum of three (3) spaces for parents and visitors.

This Special Use Permit will expire if this facility is not used as a 4410 facility.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed Special Use Permit is in conformance with the requirements of the Town of Hamburg and therefore a Special Use Permit is hereby issued.”

Carried.

Ms. McCormick made the following motion, seconded by Mrs. Comerford:

“The Planning Board, based on its review of the project in accordance with Article XLIV Site Plan Approval and the C-1 zone district requirements of the Town of Hamburg Zoning Code, having received and considered input from Town departments, committees and advisory boards, having completed the required public hearing and having the applicant address the Planning Board’s comments, hereby grants Conditional Site Plan Approval for the Bloom Creative Arts project to be located at 3674 Commerce Place based on the exigent, unique and unusual circumstances of the applicant due to the Board of Zoning Appeals’ delays and the New York State educational deadlines with the following conditions:

1. The installation of sidewalks shall be waived as they already exist along Camp Road.
2. Before the preschool opens, a final Site Plan prepared and signed by a licensed architect or engineer shall be submitted to the Building and Planning Departments identifying exclusive parking areas and addressing the Board of Zoning Appeals’ conditions.”

Carried.

OTHER BUSINESS

Mrs. desJardins stated that the Building Department asked her to review a proposed project with the Planning Board that involves a building in Blasdell located at 3611 South Park Avenue that up until eight (8) or nine (9) months ago was occupied by a retail business. She stated that someone would like to put a smoke shop in a portion of the building and proposes no structural changes to it.

Board members agreed that a Site Plan Waiver is appropriate in this instance.

Mrs. Comerford made a motion, seconded by Ms. McCormick, to approve the minutes of July 21, 2021. Carried.

Mrs. Comerford made a motion, seconded by Mr. Mahoney, to approve the minutes of July 7, 2021. Carried.

Mr. Reilly stated for the record that he did not have a conflict of interest with the Bloom Creative Arts project. He stated that he would have conflict of interest if he was a member of the Planning Board. He stated that his company was involved in the architecture of the building.

Mr. Schawel made a motion, seconded by Ms. McCormick, to adjourn the meeting. The meeting was adjourned at 9:25 P.M.

Respectfully submitted,
Megan Comerford, Secretary
August 10, 2021