

Town of Hamburg
Planning Board Meeting
September 15, 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, September 15, 2021 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Doug Schawel, Bob Mahoney and Megan Comerford.

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

Excused: Al Monaco, Dennis Chapman

WORK SESSION

John Brokx – Requesting Site Plan Approval of a proposed new pole barn to be located at 6302 Moncton Drive

John Brokx, applicant, stated that he would like to construct a new warehouse for his electrical contracting business. He noted that it will be a close match to the color of the existing building on the site.

Mr. Brokx stated that he will keep his vans and supplies in the new warehouse.

In response to a question from Mr. Mahoney, Mr. Brokx stated that all of his work is done off site and deliveries will be made to the warehouse during daytime hours.

It was determined that the new building will not be located in the New York State wetlands or the 100-foot buffer area.

Chairman Clark made a motion, seconded by Mrs. Comerford, to schedule a public hearing to be held on October 6, 2021. Carried.

Board members agreed that the Planning Department should prepare draft resolutions for the October 6, 2021 meeting.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

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

Chairman Clark stated that this project would remain on the table as the applicant was not ready to present the requested information.

Bob Johnson - Requesting Site Plan Approval of a proposal to construct a brewery/restaurant on vacant land adjacent to 4046 Lake Shore Road

Attorney Sean Hopkins, representing the applicant, stated that the applicant's representatives are in the process of finalizing a cultural resource report. He noted that there are no protected cultural resources on the site.

Attorney Hopkins stated that the applicant is awaiting input from the New York State Department of Transportation (NYSDOT) on the project. He noted that as a result of conversations with a representative of the NYSDOT, the previously proposed curb cut onto Lakeshore Road has been removed.

Attorney Hopkins stated that the following minor changes were made to the Site Plan:

- A bike path has been added along the front sidewalk of the building.
- Stop bars have been added at the two (2) access points from the brewery parking lot to Peg's Place.
- New landscaping and shrubs have been added.
- The turning radii have been adjusted so that large busses and limos can be accommodated.

Ms. McCormick stated that the Traffic Safety Advisory Board (TSAB) should probably review the traffic flow.

Mrs. desJardins stated that the original Site Plan was submitted to the TSAB in early April and no comments were received.

It was determined that the Site Plan discussed at this meeting was dated 9-13-21 and the changes were based upon input received at the Board's previous meeting.

Chairman Clark stated that he is concerned about the area where the Peg's Place parking lot and the brewery parking lot would meet.

Board members agreed that Wendel's transportation engineers will review the internal traffic movements.

In response to a question from Mr. Mahoney, Bob Johnson stated that currently Peg's Place closes at 8:00 PM but his plan would be for it to close at 2:00 PM when the brewery/restaurant is constructed and have that do the dinner business.

Board members had a lengthy discussion regarding the existing and proposed internal traffic flow.

In response to a comment from Ms. McCormick, Attorney Hopkins stated that the easement between Mr. Johnson and the adjacent apartment property is for access and parking and is a generic easement that is not described.

Mr. Johnson stated that the easement is recorded and filed with the Town of Hamburg.

In response to a question from Ms. McCormick, Mrs. desJardins stated that the Waterfront Assessment Form had not been received from the Waterfront Revitalization Committee, which approved this project. She stated that she would make sure that the Chairman of that committee completes and submits the form.

In response to a question from Ms. McCormick, Attorney Hopkins stated that typically a Letter of Map Revision to remove a site from the flood plain is submitted after a project receives Site Plan Approval and a Negative Declaration.

In response to a question from Ms. McCormick, Mr. Reilly stated that permits and approvals do not have to be in hand for a project to receive Planning Board approval.

Board members agreed that the Planning Department will prepare draft resolutions for the Board's next meeting.

Ms. McCormick asked Attorney Hopkins to make sure Carmina Wood Morris, project engineer, submits its analysis for the parking calculations and what the analysis was to decide the internal traffic flow.

Attorney Hopkins noted that an updated Site Plan, updated Landscaping Plan and an updated Turning Plan were submitted to Board members at the meeting.

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

Engineering Department comments have been filed with the Planning Department.

JSEK Hamburg – Requesting Planning Board approval of minor modifications to an approved Site Plan for a new car wash facility on vacant land northeast of 4484 Southwestern Boulevard

Attorney Sean Hopkins, representing the applicant, stated that this project was approved by the Planning Board a few months ago for JSEK Hamburg. He noted that subsequently that applicant and Royal Car Wash (the Danielle Family Companies) decided to work together on this project.

Anthony Danielle from Royal Car Wash stated that there are 13 operating Royal Car Wash facilities in western New York.

Attorney Hopkins stated that several minor modifications are being proposed as follows:

- The building footprint was changed from 130' X 30' to 128' X 32' (4,030 sq.ft. to 4,096 sq.ft.).
- The office has been relocated from the exit side of the interior tunnel to the entrance side.
- Concrete was added from the entrance to the pay stations to the vacuum units.
- Five (5) parallel parking spots along the east side of the building were added and the queuing lines were shifted to the east.
- The site entrance was extended east to align with the queuing lanes.
- The exit lane from the car wash tunnel was revised to be right turn only.
- The vacuum stalls have been angled based on the angled parking.
- Four (4) feet of sidewalk was added adjacent to the vacuum stalls.
- One (1) tree type was changed on the landscaping plan from five (5) red maple trees to five (5) Zelcova trees (on the Town's list of approved landscaping).
- Three (3) additional light poles have been added to the Site Plan to make the lighting more uniform, which is consistent with the Royal Wash program. There will be no lighting spillover onto adjacent properties.
- The building will be the typical Royal Wash building and is consistent with the appearance the Town of Hamburg is trying to create.

Ms. McCormick stated that she has been requesting trees that are a native species and that is what she prefers.

Mr. Danielle showed Ms. McCormick what a Zelkova tree looks like. He stated that they are easier to maintain than maple trees.

Ms. McCormick stated that the proposed style of building is very different from what was approved as part of the JSEK Hamburg project.

Mr. Danielle stated that the style of building is colonial western New York and it is what all of the Royal Car Wash buildings look like.

In response to a question from Mrs. Comerford, Mr. Danielle stated that there probably will be less impervious surface with this layout than there would be with the previously approved layout.

Ms. McCormick asked Mr. Danielle if they could meet in the middle regarding the elevation of the building and use some of the elements the Board liked from the previously approved building on this building. Mr. Danielle responded that from a marketing perspective, what is proposed is what all of the Royal Car Wash buildings look like.

In response to a question from Ms. McCormick, Attorney Hopkins stated that the owner of the new car wash facility will be an entity owned by the Danielle Family Companies.

Mr. Danielle stated that he has been working with Mr. Spino (JSEK Hamburg) for the past few months.

In response to a question from Ms. McCormick, Attorney Hopkins stated that the current rendering of the building was not proposed by JSEK Hamburg because at that time the Danielle Family Companies was not involved in the project. He further stated that the proposed building is different because it is being proposed by a different project sponsor.

In response to a question from Mrs. Comerford, Attorney Hopkins stated that a ground sign is planned.

Mr. Mahoney stated that he likes the look of the current building but what the Board was presented with previously is quite different.

Mrs. Comerford stated that she would like to know if the applicant anticipates different traffic numbers than what was originally presented.

Attorney Hopkins stated that the traffic numbers, noise levels and equipment are the same as the previously approved project.

Ms. McCormick and Mrs. Comerford indicated that they thought that the building that was previously approved was more in keeping with a residential character and the character of the existing neighborhood.

Ms. McCormick stated that she feels this was a bait and switch regarding the look of the building. Attorney Hopkins responded that this was a business transaction that occurred and Royal Car Wash wants all of their locations to have the same look for branding and marketing purposes.

Chairman Clark made a motion, seconded by Mrs. Comerford, to schedule a public hearing to be held on October 6, 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, stated that he provided a comprehensive SEQR submission in August 2021, the purpose of which was to respond to the potential identified environmental impacts that the subcommittee of the Planning Board identified as being potentially significant. He further stated that he received no comments on the submission from any Board members.

Attorney Hopkins stated that the SEQR Coordinated Review was conducted and none of the Involved Agencies expressed any concerns about potentially significant adverse environmental impacts.

Attorney Hopkins stated that the applicant's preference is still the 60-lot clustered subdivision.

Attorney Hopkins stated that the riparian buffer has been updated to address comments made by Ms. McCormick.

Attorney Hopkins stated that in his opinion the Planning Board is in the position to consider issuing a Negative Declaration for this project.

Chairman Clark read the following memo from Mark Lorquet, Conservation Advisory Board (CAB) Chairman:

"After contacting Mr. Hopkins regarding the proposed Manko Wetzl subdivisions last week, I was assured that I would receive pdf documents for these subdivisions for our CAB to review. We haven't received them as of today.

We cannot make any changes to our current determination that both these proposed subdivision should be a full EIS. Both of these subdivisions will have major impacts on the Rush Creek/Lake Erie watershed. If you feel that is not correct, our decision should be tabled for at least 2 weeks for the CAB to fully review this information page by page. These are major subdivisions and huge impacts to infrastructure and fresh water impact on the Rush Creek corridor and Lake Erie Watershed and deserve careful consideration.

Please read aloud and add this letter into the Town of Hamburg Planning Board minutes."

Attorney Hopkins stated for the record that he had provided Mr. Lorquet with the requested documentation when the above memo was submitted to the Planning Department. He further stated that Mr. Lorquet acknowledged after the memo was written that this was the case. Attorney Hopkins also noted that he provided an extra binder at the Board's August 18, 2021 meeting for the CAB.

Ms. McCormick indicated that she hand delivered the extra copy provided by Attorney Hopkins to Mr. Lorquet on August 18, 2021.

Ms. McCormick clarified for the record that both projects were described as subdivisions in Mr. Lorquet's memo and one is actually a multi-family development.

Attorney Hopkins stated that there would be no wetland impact resulting from the Manko subdivision. He further stated that based on the implementation of the riparian buffer plan and the fact that the project would comply with the New York State Department of Environmental Conservation's strict storm water quality and quantity standards, he disagrees with Mr. Lorquet's comment that this subdivision would have huge impacts to infrastructure and the Rush Creek corridor, etc. He noted that the applicant has provided very competent evidence prepared by a licensed civil engineering firm demonstrating that this subdivision will not result in adverse impacts to offsite waterways.

Attorney Hopkins stated that based on conversations he has had with the landowner and his counsel, the property is not today nor has it been in 2021 used for agricultural purposes.

Attorney Hopkins stated that when the applicant has received questions from the Board and requests for additional information, he has done his best to respond.

Mrs. desJardins asked the Board to identify which layout is being addressed if a SEQR determination was to be made.

It was determined that any SEQR determination made at this time would be on the regular 67-lot subdivision layout.

Attorney Hopkins stated that the applicant has been advocating for the clustered layout and if the Board issues a Positive Declaration on the regular layout, that will force the applicant back into that layout. He further stated that if a Positive Declaration is issued, the alternative that will have to be reviewed is the clustered layout the applicant has been advocating for.

Ms. McCormick stated that the most efficient way for the Board to look at mitigations to avoid the applicant having to restart the application process is to issue a Positive Declaration on the regular layout, which will allow the Board to consider the No Action alternative, the regular layout and the clustered layout that has evolved over several iterations.

Chairman Clark stated that the Board can review the clustered layout as mitigation if a Positive Declaration is issued.

Mr. Reilly stated that a Positive Declaration only has to identify one (1) potentially significant adverse impact. He noted that during the Scoping Session, more detail can be added.

Chairman Clark made the following motion, seconded by Ms. McCormick:

“Whereas, the Town of Hamburg received a Subdivision application from David Manko for the development of a +- 67 lot subdivision on Parker Road near the intersection with Big Tree Road; and

Whereas, the Hamburg Planning Board reviewed the application and revisions to it at meetings from August 2020 to September 2021; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board initiated the SEQRA Coordinated Review Process for this Unlisted Action to establish the Planning Board as SEQR Lead Agency; and

Whereas, the Hamburg Planning Board has received input from various Involved and Interested Agencies and Town departments and held a public hearing on the subdivision application; and

Whereas, the Hamburg Planning Board has reviewed the EAF submitted by the applicant, comments and input from the Planning Department, Planning Board members, other Involved Agencies and the public, information submitted by the applicant on the project and revisions to the project and has considered cumulative impacts from an adjoining proposed project and has reviewed the Town of Hamburg’s Zoning Code and Comprehensive Plan; and

Whereas no objections were made to the Hamburg Planning Board acting as SEQR Lead Agency and the Planning Board therefore has been established as SEQR Lead Agency; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has completed part 2 of the FEAF and analyzed those impacts identified in Part 2 as potentially “moderate to large” in an expanded Part 3 document and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR and has determined the following:

1. The proposed project may have a significant adverse impact on surface water (stream corridor running through the north end of the site).
2. The project may have a potentially significant adverse impact on agricultural resources.
3. The project may have a potentially significant adverse impact on transportation.
4. The proposed project may have a significant adverse impact on and is not consistent with the character and quality of the existing area and neighborhood; and

Whereas, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed approval of the proposed Parker Road subdivision may include the potential for at least one significant adverse environmental impact.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues a Positive Declaration and authorizes the Planning Board Chairman to sign the EAF, which will act as the SEQRA Positive Declaration; and

Be It Further Resolved that the Hamburg Planning Board authorizes the Planning Department to file the proper Notices concerning this determination.

Be It Further Resolved that the Hamburg Planning Board will begin the EIS process once the applicant submits a draft scoping document.”

As the vote on the motion was four (4) ayes and one (1) nay (Mr. Schawel), the motion carried.

Chairman Clark stated that he believes that Mr. Chapman and Mr. Monaco were leaning towards a Positive Declaration.

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

Chairman Clark stated that the previously discussed CAB memo dealt with this project as well as the Manko project.

Attorney Sean Hopkins, representing the applicant, stated that the proposal is for 150 apartment units with one (1) curb cut to Big Tree Road.

Attorney Hopkins noted that the New York State Department of Transportation (NYSDOT) has indicated that neither this project, nor the Manko project, will result in any potentially significant adverse traffic impacts on the State highway system.

Attorney Hopkins stated that although C-1 is the existing zoning classification on the portion of the site that is developable, the Town of Hamburg did produce a report indicating that there is no demand currently for speculative commercial development. He noted that what is proposed for this site would be much better in terms of community character than a commercial project such as a big-box retail project.

Attorney Hopkins stated that the applicant has addressed via multiple submissions the topics or impacts that the Board has identified as potentially significant. He noted that the riparian buffer plan was updated so that the entire creek corridor that crosses both this project and the Manko project would be protected.

Attorney Hopkins noted that a letter was prepared by Chris Wood, project engineer, in August 2021 addressing how the applicant would comply with the strict NYSDEC standards for storm water management.

Attorney Hopkins stated that he proposed several zoning conditions as follows:

- The applicant would convey a conservation easement to the Town of Hamburg for the 20.1 acres of permanent open space.
- The applicant would deed restrict that 20.1 acres of open space from any future development.
- No building on the site shall be located within 200 feet of the closest residential lot on Wilson Drive.
- The on-site storm water management system will comply with the NYSDEC's storm water quality and quantity standards.

Attorney Hopkins stated that the applicant would also welcome a condition relative to the riparian buffer.

Attorney Hopkins stated that based on the submission made on August 18, 2021, those topics that were identified as being potentially significant were addressed in great detail.

Attorney Hopkins stated that the applicant has spent considerable time with the owner of 4755 Big Tree Road, adjacent to the project site, and the property owner provided a support letter on August 26, 2021. He further noted that the adjacent property owner would like screening in the form of evergreen trees and the applicant has agreed to that.

Attorney Hopkins stated that this property has been on the market for a few decades and from a community character perspective this proposed use would be better than a commercial project. He further noted that based on a market study performed for the applicant, there is more than adequate for these units.

Chairman Clark stated that the Planning Board could issue a Negative Declaration and a recommendation to the Town Board on the rezoning request.

Ms. McCormick stated that there are impacts that the subcommittee has identified and the SEQR decision must be independent of the recommendation on the project to the Town Board.

Chairman Clark made the following motion, seconded by Ms. McCormick:

“Whereas, the Town of Hamburg received a rezoning application from Wetzl Development, LLC for the rezoning of 16.4 acres of land from C-1 to R-3 and 6 acres of land from R-1 to R-3 in order to construct 150 multi-family units south of Big Tree Road adjoining areas off of Wilson Drive); and

Whereas, the Hamburg Town Board referred this application to the Planning Board for review and recommendation on the rezoning application; and

Whereas, the Hamburg Planning Board reviewed the application and revisions to the application at meetings from September 7, 2020 to September 2021; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board, after being authorized by the Town Board, and after the Town Board conducted a Coordinated Review process, assumed Lead Agency designation; and

Whereas, the Hamburg Planning Board has received input from various Involved and Interested Agencies and Town departments and held public meetings on the application; and

Whereas, the Hamburg Planning Board has reviewed the EAF submitted by the applicant, comments and input from the Planning Department, Planning Board members, other Involved Agencies and the public and information submitted by the applicant on the project and revisions to the project and has considered cumulative impacts from an adjoining proposed project and

has reviewed the Town of Hamburg's Zoning Code and Comprehensive Plan; and

Whereas, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Planning Board has completed part 2 of the FEAF and analyzed those impacts identified in Part 2 as potentially “moderate to large” in an expanded Part 3 document and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR and has determined the following:

1. The proposed project may have a significant adverse impact on surface water (stream corridor running through the north end of the site, and wetlands in the area).
2. The project may have a potentially significant adverse impact on plants and animals as the site contains important habitats.
3. The project may have a significant adverse impact on open space and the ecosystems of this area.
4. The project may have a potentially significant adverse impact on transportation.
5. The rezoning/ project may not be consistent with the Town's Comprehensive Plan
6. The proposed project may have a significant adverse impact on the natural landscape and may not be consistent with the character and quality of the existing area and neighborhood.

And,

Whereas, the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed approval of the proposed Wetzl rezoning application and the subsequent development of a 150 unit multi-family housing development may include the potential for at least one significant adverse environmental impact.

Now, Therefore, Be It Resolved, that the Hamburg Planning Board hereby issues a Positive Declaration and authorizes the Planning Board Chairman to sign the EAF, which will act as the SEQR Positive Declaration; and

Be It Further Resolved that the Hamburg Planning Board authorizes the Planning Department to file the proper Notices concerning this determination.

Be It Further Resolved that the Hamburg Planning Board will begin the EIS process once the applicant submits a draft scoping document.”

As the vote on the motion was four (4) ayes and one (1) nay (Mr. Schawel), the motion carried.

OTHER BUSINESS

Ms. McCormick made a motion, seconded by Mrs. Comerford, to approve the September 1, 2021 minutes. Carried.

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

Respectfully submitted,
Megan Comerford, Secretary

September 23, 2021