

Town of Hamburg  
Planning Board Meeting  
February 15, 2023 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 PM on Wednesday, February 15, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Dennis Chapman, Jeb Bobseine, Margaux Valentin and Daniel Szewc.

Others in attendance included Town Planners Drew Reilly and Josh Rogers, Town Engineer Camie Jarrell and Planning Board Attorney Jennifer Puglisi.

Excused: Cindy Gronachan

## **WORK SESSION**

### **Perennial Properties, LLC – Requesting Sketch Plan Direction on a proposal to construct a two-story, 110-seat restaurant at 6666 Gowanda State Road**

Chris Wood from Carmina Wood Design, representing the applicant, stated that this site was previously occupied by a landscape nursery and the applicant proposes to retain part of the existing building, demolish a portion of it and construct a two-story addition. He stated that a stone parking lot exists on the site and the applicant proposes to pave it. He further stated that a variance would be required for the parking setback from South Creek Road, noting that the existing stone parking lot extend into the South Creek Road right-of-way and the applicant would pull the parking back from that right-of-way.

Mr. Wood stated that there would two (2) patios located in the front and a sidewalk connection to the nearby creek would be provided (a sidewalk already exists along Gowanda State Road).

Mr. Wood showed Board members proposed building elevations.

In response to a question from Mr. Chapman, Mr. Wood stated that the rear corner of the building would remain, the front portion of the greenhouse would be demolished and the greenhouse in the rear of the site would remain. He noted that the applicant may grow vegetables for the restaurant in that greenhouse.

Mr. Reilly noted that in the C-1 district restaurants cannot serve alcohol within 500 feet of a residential district and there is a restriction on live music.

Mr. Wood stated that per the Town Code, this parcel has two (2) front yards and therefore the parking must be at least 35 feet from both Gowanda State Road and South Creek Road.

It was determined that 40 parking spots are proposed for 110 seats.

In response to a question from Ms. McCormick, Ross Warhal, owner of the proposed restaurant, stated that there would be between eight (8) and twelve staff on site at any given time.

Mr. Reilly stated that the applicant will submit his explanation of why 40 parking spaces is appropriate for the project.

Mr. Bobseine stated that when the Water Valley Inn was in operation, people would park on the street, which seemed dangerous.

It was determined that the Acting Supervising Code Enforcement Official will have to determine whether an area variance or a use variance will be required in order for the restaurant to serve alcohol.

Chairman Clark made a motion, seconded by Ms. McCormick, to table this project. Carried. Engineering Department comments have been filed with the Planning Department.

### **Hamburg Lakeshore Overseas Veterans, Inc. – Requesting Sketch Plan Direction on a proposal to construct a new metal storage building at 2985 Lakeview Road**

Chairman Clark stated that the Planning Board could determine whether a Site Plan Waiver would be appropriate in this situation.

Mr. Reilly stated that the proposal is for a storage building for an existing use and meets the criteria for a Site Plan Waiver.

In response to a question from Chairman Clark, a representative of the project stated that the building would be 32' by 52' and would be located in an area that is currently paved.

In response to a question from Mr. Chapman, the representative stated that the building would be used to store equipment that is currently stored outside.

In response to a question from Ms. McCormick, the representative stated that the building would be green and beige, the current building is brick and the other building on the property is beige.

In response to a question from Ms. Valenti, the representative stated that the building would be constructed over parking spaces, but currently the equipment is stored in the area of those parking spaces so they are not used for parking anyway.

Board members agreed that they were comfortable with the Site Plan Waiver.

Engineering Department comments have been filed with the Planning Department.

### **Alchemy Shores – Requesting rezoning of property located at 3780 Hoover Road from M-2 (Light Industrial District) to MU1 (Mixed Use District)**

Anne Macintosh and TJ Mackintosh appeared on behalf of the applicant. Mr. Macintosh stated that they recently purchased this property and would like to use a portion of the exiting building on the site for event space for showers, etc.

Ms. Macintosh stated that Alchemy Wine Bar has 2,300 sq.ft. at its current location (20 Union Street). She stated that it has outgrown that space for events, noting that it hosted 75 events last year and they were held on Saturdays and Sundays. She stated that it is already booked for 2023 and there is a need for an larger event space. She further noted that they have been running this business for almost five (5) years and know how to host events very well.

In response to a question from Chairman Clark, Mr. Macintosh stated that future plans for the site include some condominiums, although the exact plans are not yet known.

Chairman Clark stated that the event space on the water is an exciting and interesting project and seems like a nice waterfront use that should be kept available to the public.

Chairman Clark asked the applicants if any part of this parcel includes public access to the lake.

Mr. Macintosh responded that there used to be an old boat house and ramp on the property and there is just a gate there now that the public uses. He noted that the gate would be closed off.

It was determined that this is private property and not available for public access to the lake.

It was determined that input from the Waterfront Revitalization Committee will be required.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this rezoning request to the Board's March 15, 2023 meeting.

**Park Grove Realty – Requesting Sketch Plan direction on a proposal to construct a 70-unit multi-family development, west of Riley Boulevard**

It was determined that this property was rezoned by the Town Board from C-2 to NC (Neighborhood Commercial) in 2022 to allow for this type of use.

Tim Crilly from Park Grove Realty stated that the proposed site plan for this project is largely unchanged from what the Planning Board reviewed in 2022 in conjunction with the request to rezone the property. He noted that the project is in conformance with the Town Code.

Mr. Crilly stated that the applicant has attempted to create a buffer between this project and the adjacent school district property.

It was determined that green space and a play ground would be located on the western side of the site and open space would be provided on the eastern side of the site for children to throw a football, etc. It was further determined that per the Town Code, 35,000 sq.ft. of open space is required and 38,000 sq.ft. is provided.

Mr. Bobseine asked Mr. Crilly if the applicant researched a possible path from this development to the adjacent school. A representative of the applicant stated that that had not been researched yet but the applicant would be willing to do that if the Planning Board thinks it would be a good idea.

Chairman Clark suggested adding a community garden to the open space.

It was determined that sidewalks are proposed in front of the buildings and around to the proposed community building, as well as in front of the property along Riley Boulevard.

Chairman Clark stated that the applicant should consider adding a walkway to the balance of the site that was rezoned in case whatever is constructed there is compatible with this project.

Ms. McCormick asked the applicant for a landscaping plan.

Mr. Crilly showed Board members renderings of the proposed buildings including color and material schemes.

It was determined that 15 parking spaces are proposed in front of each building and additional parking is proposed in the area of the community building.

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

Engineering Department comments have been filed with the Planning Department.

**REGULAR MEETING**

**Continuation of Public Hearing – 7:00 P.M, DATO Development – Requesting Preliminary Plat Approval of a 96-unit townhome subdivision on vacant land west of Briercliff Drive**

Chairman Clark stated that a lot of input has been received on this project.

Mr. Chapman asked if Planning Board members could get copies of the agreements from the past that nearby homeowners and the applicant have spoken of during Planning Board meetings.

Mr. Reilly stated that he will put a summary document together for Board members that includes all the documents that have been received.

Ms. McCormick stated that the company she works for uses Hodgson Russ as outside counsel and Hodgson Russ is representing some of the homeowners.

Attorney Peter Sorgi, representing the applicant, stated that once the public hearing is closed, the applicant will respond to all comments received. He further noted that the developer has reached out to the Briercliff Homeowners' Association (HOA) to try and arrange a meeting.

Chairman Clark stated that after the public hearing is closed, the Planning Board will continue to accept email and written correspondence regarding this project.

Chairman Clark asked if anyone in the public wished to speak. The following people spoke:

- Don Grundtisch, president of the Briercliff HOA, stated that the HOA does not think there is any reason to meet with the developer because the HOA's issue is green space and that will not change. He stated that all of the evidence presented by the HOA to the Planning Board indicates that the developer is short on green space. He stated that the developer's recreation fees were waived in consideration for giving the HOA more green space and the numbers provided by the developer indicating that the green space was provided were not legitimate because the green space was not usable (wetlands, cliffs, etc.).
- Dan Sullivan, 3011 Cloverbank Road, stated that he is the president of the Sawgrass Court Townhouse Community HOA. He stated that the HOA supports the Briercliff HOA in all aspects that the HOA has raised, specifically green space, the railroad tracks, the Heart Trail, density and traffic. He stated that he understands that the traffic study included the Saw Grass road, which is a private road with a 15 mph speed limit with speed bumps. He stated that his HOA feels its community should not be part of any traffic study related to this project. He noted that this HOA wants to make sure it is clear that its road is not a cut-through from Briercliff to Walmart and it is a private community.
- Pat Michalek, 5327 Briercliff, stated that this is a very complex and confusing matter and the Briercliff HOA has presented the Planning Board with information that is all documented. She asked if the Planning Board's solution to this confusion is going to be to add another layer of bureaucracy. She stated that the Briercliff HOA has identified years of disingenuous information and the applicant's attorney previously indicated that he would meet with the nearby owners and they have not heard from him. She stated that this is the HOA's opportunity to bring the Planning Board two (2) issues and asked how long it is going to take for the Board members to catch up.

Chairman Clark stated that reorganizing how the Planning Board receives information will not hold up the process and is simply an internal issue.

Ms. Michalek asked Mr. Reilly if he has the 1988 document that indicates that the Planning Board advised the developer at that time (Ed Burke) that he did not have to provide the required acreage.

Mr. Reilly responded that he is going through the files, just as the residents have done, to try to get all that data to the Planning Board.

Ms. Michalek asked Mr. Reilly what the basis is for him to say that the 2003 document is the controlling document.

Mr. Reilly stated that the applicant has made that statement and the Planning Board has to go through all that information and decide if it is accurate.

Ms. Michalek stated that changing Boards and changing people has made it even more difficult, noting that losing Sarah desJardins was a huge loss.

- Frank Bogulski stated that what the developer wants to do is to overdevelop an area that is already overdeveloped. He stated that the nearby residents have a dispute with the developer relative to the green space in the PUD. He stated that there already are cars that speed up and down the road because of the way it was designed and he is worried what will happen if a couple of hundred more units are added to the area with respect to safety and the quality of life of the residents. He stated that it would be dangerous to develop adjacent to the existing railroad tracks and noted what happened recently in Ohio. He stated that the project would encroach on the Heart Trail. He stated that there is not one (1) good reason to develop this project other than greed.
- Joe Zuchlewski stated that he is a homeowner in Briercliff and he urged Planning Board members to visit the site to see firsthand how cramped the area can be and the congestion that would result from the project.
- Lisa Makowski, 5172 Briercliff Drive, stated that she lives quite close to the railroad tracks and invited Board members to visit her home and see for themselves. Regarding a meeting between the residents and the developer, she asked if the Planning Board would be negotiating with the developer or with the residents.

Chairman Clark stated that the Planning Board does not negotiate with anyone. He stated that the idea behind a meeting between the developer and the nearby residents would be for the residents and the developer to negotiate, but the HOA president indicated that there would be no purpose in a meeting.

Chairman Clark declared the public hearing closed.

Chairman Clark stated that the developer will take all of the input received as part of the public hearing process and submit a response to it. He stated that the response letter will be posted on the Town's website when it is received.

Mr. Reilly stated that the PUD designation by the Town Board nearly 40 years ago set the zoning of this site and as part of that process an Environmental Impact Statement (EIS) was prepared and the Town Board issued a Findings Statement based on the EIS that indicated that this project would not have an impact on the environment. He stated that every project in the PUD that has been proposed has had to be reviewed against the Findings Statement.

Mr. Reilly stated that the Planning Board is in the process of deciding whether this proposal is in accordance with the PUD and the original Findings Statement for the PUD.

Mr. Reilly stated that this area of the PUD has always been labeled "multi-family development". He stated that the Planning Board is asking for updated information.

Chairman Clark made a motion, seconded by Mr. Chapman, to table this project to April 5, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

### **David Manko – Requesting Site Plan Approval of Phase 4 of the Mission Hills development located on the east side of Camp Road**

Attorney Peter Sorgi appeared on behalf of the applicant. He stated that renderings of the proposed buildings were submitted to the Planning Department.

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

"Whereas, the Town of Hamburg received a Site Plan application from David Manko for the construction of Phase IV of the Mission Hills project; and

Whereas, the Mission Hills project was the subject of an EIS and Findings were issued by the Town; and

Whereas, the Planning Board has reviewed the SEQR Findings and has determined that the project, which is in substantial accordance with the original site layout, is in accordance with SEQR Findings; and

Whereas, the Hamburg Planning Board has reviewed this application and project at several meetings and held the required public hearing and received no adverse comments from the public and received input from Town departments.

Now, Therefore, Be It Resolved that the Hamburg Planning Board grants Conditional Site Plan Approval with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated February 10, 2023.
2. Any new lighting will be dark sky compliant.
3. The construction of sidewalks is to be as shown on the plan and shall include striped crossings.
4. Wetland areas and other conservation areas shall be delineated in the field and protected from construction impacts.
5. The landscaping plan is to be approved by the Planning Department.”

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

Engineering Department comments have been filed with the Planning Department.

## **OTHER BUSINESS**

Chairman Clark stated that the Planning Board previously approved the multi-family development on Southwestern Boulevard. He noted that small changes have been made since then and the Planning Board should decide whether re-review is required as a result.

Chris Wood, project engineer, stated that the revisions are based upon NYSDOT comments. He noted that the NYSDOT is requiring that one (1) driveway be removed and that resulted in some minor changes to the site. He stated that the compactors were moved to a different site, the clubhouse is smaller than what was approved and one (1) of the duplex units was moved to a different location. He noted that the number of units would remain the same.

Board members agreed that re-review is not required for this project based upon those minor revisions to the site plan.

Board members discussed the fact that a public Scoping Session will be scheduled for the Glenn Wetzl rezoning request to be held on March 1, 2023.

Chairman Clark made a motion, seconded by Mr. Chapman, to approve the minutes of January 18, 2023. As the vote on the motion was four (4) ayes and two (2) abstentions (Ms. McCormick and Mr. Szewc), the motion carried.

Ms. McCormick made a motion, seconded by Ms. Valenti, to adjourn the meeting. Carried.

The meeting was adjourned at 8:20 P.M.

Respectfully submitted,  
Jeb Bobseine, Secretary

Date: February 18, 2022