

Town of Hamburg
Planning Board Meeting
June 7, 2023 Minutes

The Town of Hamburg Planning Board met for a Work Session at 6:30 PM, followed by a Regular Meeting at 7:00 PM on Wednesday, June 7, 2023 in Room 7B of Hamburg Town Hall. Those attending included Chairman William Clark, Vice-Chairwoman Kaitlin McCormick, Margaux Valenti, Dennis Chapman, Cindy Gronachan and Daniel Szewc.

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

WORK SESSION

Pat DiChristopher – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 1814 North Creek Road

Ms. Patti DiChristopher, applicant, stated that she owns 8+ acres and would like to create a new one-acre parcel on North Creek Road.

It was determined that the newly created lot meets all Town requirements for size, etc.

Chairman Clark made a motion, seconded by Ms. Gronachan, to schedule a public hearing to be held on July 19, 2023, Carried.

Engineering Department comments have been filed with the Planning Department.

Blockbuster Costumes, LLC. – Requesting a Site Plan Waiver for a proposal to reuse the vacant building at 3701 McKinley Parkway for a Halloween and party goods store

It was determined that the building in question is the former Dick’s Sporting Goods Store.

In response to a question from Chairman Clark, a gentleman stated that there would be no changes to the exterior of the building and a new sign would be placed where the former Dick’s sign was. He noted that he has not designed or created the sign yet, but he does not anticipate it being lit.

The representative stated that he plans to seal the parking lot and re-stripe the spaces as they exist today.

Chairman Clark made a motion, seconded by Mr. Chapman, to authorize a Site Plan Waiver for this business. Carried.

Engineering Department comments have been filed with the Planning Department.

Revive Wesleyan Church – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at 5133 Bayview Road

In response to a question from Chairman Clark, a representative stated that the church would like to sell the home that is located on the church's 75-acre property and plans to create a new lot in order to accomplish that.

Chairman Clark noted that a few years ago when a cell tower was proposed on the church's property, some of the nearby property owners complained about the condition this home is in. He stated that selling the home will relinquish the church from the responsibility of maintaining it.

In response to a question from Mr. Chapman, the representative stated that the remaining 74 acres will include the church, four (4) other homes and some farm land.

Chairman Clark made a motion, seconded by Mr. Szewc, to schedule a public hearing to be held on July 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Board.

REGULAR MEETING

Benderson Development – Requesting Planning Board Approval of a Special Use Permit and Site Plan Approval of an 802,554 sq-ft, five building warehouse park to be located at 5220 Camp Road

It was determined that the applicant asked that this project be tabled.

Engineering Department comments have been filed with the Planning Department.

Benderson Development – Requesting Site Plan Approval for a drive-thru in McKinley Commons for a Crumbl Cookie at 4154 McKinley Parkway

Mr. Matthew Oates from Benderson Development stated that the Planning Board previously requested additional information and revisions to the Site Plan. He noted the following:

- Three (3) concrete flower pots have been added to the landscaped area next to the drive-thru to stop people from parking in that area.
- Two (2) additional crosswalk areas have been added.
- Representatives from Benderson visited the site on Thursday and Friday from noon to 3:00 PM and 5:00 PM to 7:00 PM and on Saturday from noon to 3:00 PM and counted vehicles. It was found that the maximum demand at the site for all of those time periods was 81 parking spaces, which occurred at 5:00 PM on Thursday. After construction there will be 189 parking spaces on this site and Crumbl Cookie only requires 14 spaces.

In response to a question from Mr. Chapman, Mr. Oates stated that people can walk inside a Cookie Crumbs and get cookies or use the drive-thru.

Mr. Oates noted that there are currently two (2) vacancies in this shopping center totally approximately 5,000 sq.ft.

In response to a question from Ms. McCormick, Mr. Oates stated that there are no seats inside Cookie Crumbl stores.

Ms. Valenti made the following motion, seconded by Ms. McCormick:

“In accordance with the New York State SEQRLaw, the Town of Hamburg Planning Board has reviewed the proposed site modifications at McKinley Commons, 4154 McKinley Parkway, which involve the removal of existing asphalt pavement and the construction of a drive-thru lane with curbing and landscaped areas for Crumbl Cookie and held the required public hearing on May 3, 2023. The project meets the criteria established in the SEQRLaw as a Type II Action (Section 617.5 (c) (7)) and therefore does not require completion of the SEQRLaw process.

The Planning Board hereby grants Conditional Site Plan Approval with the following conditions:

- Approval is contingent upon the Engineering Department comment letter dated June 2, 2023.
- Any new lighting must be dark-sky compliant.
- No additional sidewalks are required as they already exist in the area.”

Carried.

Engineering Department comments have been filed with the Planning Department.

Benderson Development – Requesting Site Plan Approval on a proposal to demolish the existing vacant Bank of America and construct a new 6,998 sf building at 5334 & 5340 Southwestern Blvd

Mr. Matthew Oates from Benderson Development stated that he sent Mr. Rogers a copy of the approved Site Plan for the Walmart building behind this site to make sure that Walmart has the existing striping and that can be taken care of.

Mr. Oates stated that he received from Chipotle Grill its average national data regarding stacking and it showed that on average it has two (2) customers at a time with a maximum queue of approximately four (4). He stated that Benderson then looked at the new Chipotle Grill at 3030 Niagara Falls Boulevard in Amherst and found that its maximum queue at the window was three (3) and over the span of three (3) hours there were 35 customers in the drive-thru. He stated that this shows that this site has ample stacking space since there would be space for eight (8) to nine (9) vehicles.

Mr. Oates stated that the architectural brick has been brought around to the rear of the building to break up that area. He further stated that landscaping is also proposed up along the building.

It was determined that an exterior eating area is planned and that the front of the building is facing Southwestern Boulevard.

In response to a question from Chairman Clark, Paul McQuillin, Traffic Safety Advisory Board (TSAB) Chairman, stated that the TSAB has no comments on this proposal.

In response to a question from Chairman Clark, Mr. Oates stated that a bike rack can be added to the site.

Board members reviewed Part II of the Environmental Assessment Form (EAF).

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

“In accordance with the New York State SEQRLaw, the Town of Hamburg Planning Board has reviewed the Benderson Development project, which involves the construction of a 7,000 SF retail/restaurant building along with associated parking, utility, drainage, lighting and landscaping improvements at 5334 and 5340 Southwestern Boulevard and held the required public hear-

ing on May 3, 2023. Based on this review, the Planning Board has determined that the project's environmental impacts have been avoided or mitigated to the maximum extent practicable and is not anticipated to result in any significant adverse environmental impact and a Negative Declaration is hereby issued."

Carried.

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

"Based on the review of the Benderson Development project materials and having completed the SEQR process, the Hamburg Planning Board hereby approves the project with the following conditions and determinations:

- Approval is contingent upon the Engineering Department comment letter dated June 2, 2023.
- The installation of sidewalks is waived, as sidewalks already exist in this area.
- The landscaping plan shall be approved by the Planning Department.
- A bike rack shall be installed on the right side of the building."

Carried.

Engineering Department comments have been filed with the Planning Department.

Hutton ST 21, LLC – Requesting a Special Use Permit and Site Plan Approval of a car wash facility to be located at 5363 Southwestern Boulevard

Attorney Frank Pavia from Harris Beach and Rob Spiak from Hutton St 21 LLC appeared on behalf of the project. Attorney Pavia stated that Mr. Jason Atkas, project engineer, intended to attend the meeting but his flight was cancelled and he was in the process of driving. He noted that unfortunately Mr. Atkas had the renderings and diagrams that he wanted to show Board members, although they were largely replications of the submission made the previous week.

Attorney Pavia stated that, as requested by the Planning Board, he submitted a letter addressing the comments that were raised at the public hearing by nearby residents and a site specific noise study, as well as a revised Site Plan that incorporates a six-foot high solid wood fence around the southern property line along with the previously proposed tree planting.

Attorney Pavia stated that the purpose of the proposed fence is to avoid further potential noise impacts from the dryers and vacuums that would be operated and to help with visual avoidance. He noted that in addition to the fence, there would be a wall constructed more interior to the site to help with noise and visual avoidance.

In response to a question from Chairman Clark, Mr. Spiak stated that the fence would be on the applicant's property and the applicant would be responsible for its maintenance.

Attorney Pavia stated that the modeling in the noise study shows that with the incorporation of the wood fence, the potential decibel levels from the car wash would be below or consistent with the base line noise levels without the vacuums and dryers.

Attorney Pavia stated that with the additional element of the fence, he feels that this application meets the requisite criteria for a Special Use Permit and Site Plan Approval.

In response to a question from Ms. Gronachan regarding Table 2A and Table 3A, Mr. Spias stated that the results in those tables reflect a dryer model that is more expensive but one that he is willing to consider (the Predator model) in order to mitigate issues with the neighbors in the rear of the site.

Chairman Clark noted that it has been determined that the pre-wash would be done inside the building, there have been some changes to the dryers so that they are quieter and a fence has been added to the Site Plan to help with the screening.

Attorney Pavia stated that Mr. Atkas has indicated that he is very close to obtaining all the applicable County and State approvals for the project.

Ms. McCormick stated that she visited the area and noted that this is a really tight lot for a use such as a car wash. She stated that from the existing adjacent Mavis parking lot one can see the adjacent residential property owner's pool and noted that the Mavis site and the car wash site are much lower than the adjacent residential properties, resulting in them looking down on the commercial sites.

It was noted that the fence and the new trees would be located on top of the existing berm along the property line.

Ms. McCormick stated that she would like to see an elevation of the berm and fence to better understand the impact on the neighbors.

Attorney Pavia stated that he does not shy away from the fact that this is a tough and tight lot, but he believes that his client has gone over the top in adding landscaping and fencing and committing to using the more expensive vacuums and dryers. He further stated that the applicant plans to plant trees at a height of 10' to 12' in the southern portion of the lot.

Attorney Pavia noted that this property is zoned commercial and car washes are specially permitted uses in the zoning district.

Mr. Chapman stated that he would not want to live adjacent to this car wash, which is not the right business for this area.

Attorney Pavia responded that although he respects Mr. Chapman's opinion, his statement is arbitrary. He stated that the applicant has provided credible technical data to show that it is avoiding potential impacts associated with this car wash to the maximum extent practicable. He further stated that the applicant has made multiple modifications and is committed to making further modifications to address comments and concerns.

Chairman Clark asked Board members if there is anything else the applicant can do to mitigate the issues.

Mr. Chapman stated that there is nothing else the applicant can do, noting that when asked to redesign the project the applicant refused.

Ms. McCormick stated that the challenge is that the Planning Board did not have the renderings and elevations to review. She further stated that the new trees that the applicant process to plant will still take time to grow to a maturity where they better aid with screening for the neighbors. She asked that the applicant submit a plan to make sure the trees that are planted are successful.

Attorney Pavia stated that he believes that no matter how the building is oriented, there will still be setback issues.

Attorney Pavia stated that the applicant is willing to put the trees and the fence wherever the Planning Board thinks is the best location, whether the fence is nearest the neighbors or the trees are.

Attorney Jay Pohlman stated that he he had new information that is based on the applicant's updated plans.

Attorney Pavia stated for the record that the public hearing was closed and he responded to the comments received. He stated that if Attorney Pohlman had additional comments, he would prefer that they be submitted in writing and he be given another opportunity to respond to them.

Chairman Clark stated that Attorney Pohlman's comments should be submitted to the Planning Board in writing and Attorney Pavia will respond to them.

Ms. Valenti stated that she is struggling with the view the neighbors would have.

Mr. Szewc asked for information on the lifespan of the fence and its maintenance.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this project to the Planning Board's July 19, 2023 meeting. Carried.

Engineering Department comments have been filed with the Planning Department.

Liberatore Management – Requesting Site Plan Approval on a warehouse development project to be located at Burke Parkway

Chris Wood from Carmina Wood Design, representing the applicant, stated that two (2) 16,000 sq.ft. warehouse buildings and one (1) 12,000 sq.ft. warehouse buildings are proposed on the 1.7-acre site. He stated that this would be a continuation of the Liberatore Management development on Burke Parkway.

Mr. Wood stated that 56 parking spaces would be provided for the warehouse buildings and the majority of the site is already paved so the amount of impervious surface would not be increased.

Mr. Wood noted that building elevations were submitted to the Planning Department.

Mr. Wood stated that an easement is proposed for snow plow turnaround on Burke Parkway.

Chairman Clark made a motion, seconded by Ms. Gronachan, to authorize the Planning Board to initiate the SEQR Coordinated Review process and schedule a public hearing to be held on July 19, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Camp Road Interchange Recommendation and Report

Chairman Clark stated that the property owned by the NYSDOT across from the current Thruway off ramp at Camp Road is not zoned and cannot be sold until a zoning classification has been assigned to it. He stated that the Planning Board must make a recommendation to the Town Board on which zoning classification should be assigned to this parcel.

Board members discussed the adjacent parcel, 5220 Camp Road, which is currently zoned C-2. It was noted that some nearby properties are zoned C-1.

Chairman Clark stated that the Planning Board should think about what use(s) it would like to see on this site and then recommend the corresponding zoning classification for it.

Mr. Chapman noted that automobile dealerships can only be located on Camp Road so the Planning Board may not want to zone this property something that precludes them.

It was determined that a new Camp Road Interchange zoning classification has been proposed.

Ms. McCormick noted that this site is in an area that is one of the Town's key entryways and could be part of a gateway revitalization and a feature area. She further stated that residents seem to prefer that this area be a public destination than a commercial or industrial area.

Ms. McCormick stated that the suggested Camp Road Interchange district seems to be in line with what she has heard from residents.

Ms. Valenti made a motion, seconded by Mr. Champan, to table this issue so that additional information can be gathered. Carried.

AL Asphalt – SEQR Status Update

Chairman Clark stated that the public comment period has been open and the Planning Board is accepting written comments that can be mailed to the Planning Department in care of Josh Rogers. He further stated that comments via email should be sent to jrogers@wendelcompanies.com.

Chairman Clark stated that the first of two (2) public hearings on the project will be held on June 14, 2023 at 6:00 PM at Hilbert College Swan Auditorium. He stated that the second public hearing will be held at the same location on July 12, 2023 at 6:00 PM. He noted that the public hearings will be live streamed on Facebook, but it will be difficult to use the comments received via Facebook so he asked that people refrain from commenting through that forum and instead email comments to Mr. Rogers.

Chairman Clark stated that the Planning Board will continue to accept public comment until the public comment period closes on July 28, 2023.

Chairman Clark stated that the consultants that the Planning Board authorized the Town Board to hire are on board and working on the reports they have been asked to produce.

In response to a question from Ms. McCormick, Attorney Puglisi stated that since the Board was last updated on this issue, no correspondence has been received from the applicant.

OTHER BUSINESS

Ms. Gronachan made a motion, seconded by Ms. McCormick, to approve the May 17, 2023 Planning Board minutes. Carried.

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

The meeting was adjourned at 8:25 PM.

Respectfully submitted,
Jeb Bobseine, Secretary

Date: June 12, 2023