

Town of Hamburg
Planning Board Meeting
August 2, 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, August 2, 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 Drew Reilly, Josh Rogers and Annalyse Paulsen, Planning Board Attorney Jennifer Puglisi and Town Engineer Camie Jarrell.

Excused: Kaitlin Chmura

WORK SESSION

Mike Montesano – Requesting Preliminary Plat Approval of a two-lot subdivision to be located at Greenfield Parkway

Mr. Mike Montesano from the law firm of Laufer Keenan, representing Ryan and Brianna Ellsworth, applicants, stated that the applicants own approximately 0.66 acres on Greenfield Parkway and would like to split 0.12 acres with the existing garage and merge it with adjacent property they own. He noted that this would leave .54 acres of vacant land they would like to sell.

It was determined that because the number of lots will remain the same, no Planning Board approval is required.

Chairman Clark made a motion, seconded by Mr. Szewc, that this is not a subdivision that requires approval from the Planning Board. Carried.

Matthew Lanfear (Ten Lives Club) – Requesting consideration of a Site Plan Waiver on a proposal to construct a 6,000 sq ft building addition at 3741 Lakeshore Drive

Mr. Matthew Lanfear from Ten Lives Club stated that Ten Lives Club is a 501(c)(3) dedicated to the promotion, furtherance and enhancement of cats of all types. He stated that it would like to construct an addition to the existing building in the rear of the site to house a state of the art veterinary clinic, administrative offices and cat rooms for recovery and adoption services, etc.

Mr. Lanfear stated that Ten Lives Club received a \$250,000 grant from New York State for a special air circulation unit that has to be installed in a facility like this. He noted that the grant expires in May 2024.

In response to a question from Ms. Gronachan, a Ten Lives Club representative stated that the veterinary clinic would be open to the public or other cat rescue groups at low cost. He further stated that it may be open for dogs as well but it will service just cats at first.

Ms. Valenti stated that she is supportive of the project but she is struggling with the fact that the expansion (accessory use) would be larger than the existing building.

In response to a question from Mr. Chapman, Mr. Lanfear stated that Ten Lives Club plans to take approximately ten (10) feet of grass and turn it into parking spaces.

Mr. Chapman asked what the guarantee is that if there is a change in this area this addition would not be visible from the street.

Ms. McCormick stated that there is a lot of development around this site and the rear building is not very visible from the road. She further stated that it appears that the parking lot layout might shift slightly, but the total number of parking spaces would not increase.

Ms. Gronachan stated that she is concerned that not enough parking would be available if the applicant opens a low cost veterinary clinic on site. She stated that the new clinic should be the Planning Board's main focus.

The Ten Lives Club representative stated that right now the thought is that only Ten Lives Club cats would be treated at the clinic but they would like to expand to other rescue groups and the public in order to bring in additional income.

It was determined that Board members felt that a Site Plan Waiver was warranted as long as the clinic is not open to the general public or other rescue groups.

Board members discussed where on the site additional parking could go if the clinic is opened up to the general public and/or other rescue groups and how that would affect the amount of landscaping.

Chairman Clark made a motion, seconded by Ms. Gronachan, to grant a conditional Site Plan Waiver with the following conditions:

1. If the veterinary clinic opens to the public, the applicant will have to return to the Planning Board for Site Plan approval related to parking.
2. All lighting shall be dark sky compliant.
3. The addition shall be built in accordance with the elevations presented to the Planning Board on August 2, 2023.
4. Dogs may not be boarded overnight.
5. The applicant must address the issues in the Engineering Department comment letter dated July 31, 2023.
6. The Building Department shall verify the proper number of handicapped parking spaces.

Carried.

Engineering Department comments have been filed with the Planning Department.

REGULAR MEETING

Ms. Valenti stated for the record that she did not join the Planning Board in its Executive Session, which was held prior to the commencement of the Regular Meeting.

Public Hearing – 7:00 P.M., Nickolas Hoffman – Requesting a Special Use Permit to operate an AirBNB at 3400 Lakeview Road

Ms. McCormick reviewed with the applicant the specific criteria in the Town Code regarding Air BnBs as follows:

- The applicant confirmed that he is the owner and full time resident of the premises and that the bed and breakfast/tourist home will be subordinate and incidental to the residential use of the structure. He further stated that he lives in the main home and the area to be rented is located over the garage with its own bedroom/bathroom, private entrance and parking space.
- The applicant confirmed that the guest area would be contained in the principal structure and limited to the first and second floors of the structure.
- The applicant confirmed that no external modifications of the structure are planned and there would be no visible evidence of the conduct of the establishment other than the posting of one sign.
- The applicant confirmed that the architectural integrity and arrangement of interior spaces would be maintained and the number of guest rooms would not be increased except as required to meet health, safety and sanitation requirements.
- The applicant confirmed that accommodations would not exceed a maximum of four (4) guest rooms.
- The applicant confirmed that the length of stay for guests would not exceed seven (7) days.
- The applicant confirmed that guest room living quarters would not constitute a separate dwelling unit and would not be leased or rented as such.
- The applicant confirmed that the serving of meals at the premises would be limited to breakfast for lodgers only and there would be no cooking or cooking facilities allowed in the individual guest room.
- The applicant confirmed that smoke detectors would be installed in the guest room and adjacent hallways and corridors and all emergency exits would be obvious and clearly identified.
- The applicant confirmed that outside activities would not be permitted by guests where it would create a nuisance or in any way alter the character of the neighborhood.
- The applicant confirmed that all off street parking would be regulated in accordance with Articles XXXII and XXXV of the Town Code. He noted that there would be no off street parking and that one (1) parking space would be provided for the guest. He further stated that if the guest brings two (2) cars, there would be room for the second car on the premises.

Ms. Gronachan read the following public hearing notice:

“Notice is hereby given that the Town of Hamburg will conduct a public hearing on a proposal by Nickolas Hoffman to run an Air BnB at 3400 Lakeview Road. The public hearing will be held on August 2, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall.”

Chairman Clark declared the public hearing open. No one spoke.

Chairman Clark declared the public hearing closed.

In response to a question from Ms. McCormick, Mr. Hoffman stated that his neighbor does not object to his proposal, noting that there is more than 200 feet between them and it is difficult for anyone to see his property.

Board members reviewed the Short Environmental Assessment Form (EAF).

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

“**Whereas**, the Town of Hamburg received a special use permit application from Nickolas Hoffman to operate an AirBnB at 3400 Lakeview Road; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board in accordance with the New York State Environmental Quality Review Act (SEQRA) has done a thorough review of the project and its potential impacts, and

Whereas, the Hamburg Planning Board, in accordance with SEQRA has determined that the proposed special use permit and operation of the AirBnB 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.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit and operation of the AirBnB is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Planning Board Chairman is authorized to sign the EAF, which will act as the Negative Declaration.”

Carried.

Chairman Clark made the following motion regarding the requested Special Use Permit, seconded by Ms. Gronachan:

“**Whereas**, the Town of Hamburg has reviewed the special use permit application from Nickolas Hoffman for the operation of an AirBnB at 3400 Lakeview Road, based on a determination by the Town Code Enforcement Officer; and

Whereas, the Hamburg Planning Board held the required public hearing and received comments from the public; and

Whereas, the Hamburg Planning Board in reviewing the proposed project (special use permit), has determined, in accordance with Section 280-312 and 280-326 (Bed-and-breakfast establishments and tourist homes) 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.

For Bed-and-breakfast establishments and tourist homes:

No special permit for a bed-and-breakfast establishment or tourist home shall be authorized unless the applicant's project meets the requirements of § 280-312B(1), (2), (3) and (4) and the following:

- A. The applicant shall be the owner and full-time resident of the premises, and the bed-and-breakfast or tourist home use shall be subordinate and incidental to the residential use of the structure.
- B. All guest rooms shall be contained within the principal structure and limited to the first and second floors of said structure.
- C. No external modifications of the structure shall be allowed in conjunction with the creation of a bed-and-breakfast or tourist home use, and no visible evidence of the conduct of the establishment other than the posting of one sign, in accordance with Article XXXVI, shall be present.
- D. The architectural integrity and arrangement of interior spaces must be maintained, and the number of guest rooms shall not be increased, except as required to meet health, safety and sanitation requirements.
- E. Accommodations shall not exceed a maximum of four guest rooms.
- F. The length of stay at a bed-and-breakfast or tourist home establishment shall not exceed seven days.
- G. Guest room living quarters shall not constitute a separate dwelling unit and shall not be leased or rented as such.
- H. The serving of meals at the premises shall be limited to breakfast for lodgers only; no cooking or cooking facilities shall be permitted in individual guest rooms.
- I. Smoke detectors shall be installed in each guest room and in adjacent hallways and corridors. All emergency exits shall be obvious and clearly identified.
- J. Outside activities shall not be permitted by guests where it will create a nuisance or in any way alter the character of the neighborhood.
- K. All off-street parking shall be regulated in accordance with Articles XXXII and XXXV of the Town Code. Parking areas for four or more vehicles may require adequate screening from adjacent residential uses, if deemed necessary by the Town.
- L. The special permit shall be issued only after a public hearing and upon the determination that the proposed use is in compliance with the conditions and limitations of this section.
- M. The special use permit shall be valid for a period not to exceed two years and shall be renewed for a bi-annual fee of \$200. This permit may be revoked at any time by the Building Inspector upon noncompliance with the conditions and limitations set forth in this section or in the permit itself.
- N. A certificate of occupancy shall be issued by the Building Inspector only after it has been determined that the structure meets the New York State Uniform Building and Fire Prevention Code, and after the special permit has been issued by the Town Board.

Now, Therefore, Be It Resolved, that the Town of Hamburg Planning Board hereby determines that the proposed special use permit is in accordance with the requirements of the Town of Hamburg and therefore a special use permit is hereby issued with the following conditions:

- The project must remain in compliance with Town Code Section 280-326.”

Carried.

Hamburg Brewing Company – Requesting a Site Plan Waiver at 6553 Boston State Road

Chairman Clark stated that the Site Plan Waiver is being requested for a proposed hallway between two (2) existing buildings. He further stated that Code Enforcement has asked the Planning Board to review the fact that the applicant also proposes to remove the train layout and replace it with a bar and storage.

Mr. Reilly stated that the Code Review Committee and the Town will have to consider amending the Special Use Permit law regarding this type of business because it does not allow full service food.

It was determined that an additional area for serving beer is proposed.

In response to a question from Ms. McCormick, the applicant stated that the use is not technically changing but rather it is expanding. He further stated that this expansion would be more focused on the winter months and could be used for meetings, etc. upon request. He noted that some additional parking spaces are planned.

It was determined that 26 additional parking spaces are planned.

The applicant stated that a gravel overflow parking area is located in the rear of the property.

In response to a question from Ms. Gronachan, the applicant stated that he does not expect a larger number of guests as a result of this expansion. He stated that the expansion would be to move people from outside to inside in the winter months.

In response to a question from Chairman Clark, the applicant stated that the only time guests park on Boston State Road is for the brewery's anniversary party and he tries to avoid that scenario.

Ms. McCormick stated that her concern is that there may not be enough parking spaces for the times the brewery is used as an events space.

It was determined that there are currently 46 parking spaces on the site plus an additional 16 spaces, an additional 26 are planned and there is the overflow parking area in the rear of the site.

Ms. McCormick noted that when events are being held at the brewery, it would still be open as usual for regular business.

Chairman Clark stated that in his opinion if there are not enough parking spaces but it is not creating a dangerous situation, that is a business decision to be made by the business owner.

It was determined that this project meets the criteria for a Site Plan Waiver.

Chairman Clark made a motion, seconded by Mr. Chapman, to approve a Site Plan Waiver for the hallway. Carried.

Engineering Department comments have been filed with the Planning Department.

West Herr Automotive – Requesting Sketch Plan Direction on a proposal to demolish an existing single-family home and to construct a vehicle towing lot on 0.5-acre lot at 3600 Sowles Road

Rob Pidanick from Nussbaumer & Clarke, representing the applicant, stated that detailed drawings have been submitted for Site Plan Review of a proposal to demolish the existing home on the site and construct a towing lot there. He stated that in accordance with Town Code Section 280-325 a Special Use Permit is required for the towing and impoundment area.

Mr. Pidanick requested that a public hearing be scheduled for Site Plan Review and the requested Special Use Permit.

Mr. Pidanick stated that part of the proposed site improvements include relocating the driveway from its current location to 114 feet east of the intersection of Sowles Road and Southwestern Boulevard. He noted that this would improve traffic flow and safety in the area and address New York State Department of Transportation (DOT) ongoing concerns about driveways being located as far from intersection as possible.

Mr. Pidanick stated that 23 parking spaces are proposed in the towing area, which would be fully enclosed by a fence, and in accordance with the Town Code an eight-foot high stockade fence is proposed along the north and east property lines. He noted that a chain link fence is proposed along the west and south property lines.

Mr. Pidanick stated that the existing home on the site would be demolished but the existing garage would be remodeled and used as an office.

Mr. Pidanick stated that there is a retention basin on a 6.7- acre parcel on the west side of this site and the applicant has had discussions with the DOT about utilizing that for this project's storm drainage. He noted that drainage calculations have been submitted to the DOT and to the Town Engineering Department and the applicant is awaiting input from the DOT on those calculations.

Mr. Pidanick stated that new lighting for security would be dark-sky compliant.

Ms. McCormick stated that when this project was last discussed, she asked if the side yard setback to the occupied residential property (12.3 feet) could be increased to 20 feet, which is what would be required if the adjacent property was zoned residential (it is zoned C-2). She noted that a larger setback would provide more of a buffer for that residential neighbor.

Mr. Pidanick stated that Ms. McCormick's request was duly noted. He stated that he did not think increasing that side yard setback to 20 feet would have a major impact on the plan.

Mr. Reilly suggested that landscaping be added to help the project blend into the area better.

In response to a question from Mr. Szewc, Mr. Pidanick stated that he was not sure what the hours of operation would be and would get clarification from West Herr. He noted that there are occasions when a vehicle needs to be brought to the site at all hours.

Ms. Valenti stated that she would like additional information about the potential noise generated from operations at the site, noting that the Town noise standard is a nuisance standard meaning that it cannot be sleep disturbing. She stated that if vehicles are brought to the site in the middle of the night and unloaded from tow trucks, that might disturb nearby residents' sleep.

Ms. Gronachan stated that she was of the understanding that this lot would just be for the overflow from West Herr Ford and not an actual impound lot.

Mr. Pidanick stated that he would get additional information from the applicant regarding Ms. Gronachan's question.

Ms. McCormick stated that there are a number of areas on the submitted Site Plan adjacent to the residential homes that simply say “proposed landscaping” and are not specific. She stated that a landscaping plan should be submitted that is more specific.

In response to a question from Ms. Valenti, Mr. Pidanick stated that a preliminary plan has been submitted to the DOT regarding the relocation of the driveway and the applicant is awaiting the DOT’s input on that issue.

In response to a question from Chairman Clark, Ms. Paulsen stated that she has not received any input from the nearby residents regarding this proposal.

Chairman Clark made a motion, seconded by Mr. Chapman, to schedule a public hearing to be held on August 16, 2023. Carried.

Engineering Department comments have been filed with the Planning Department.

Camp Road Interchange Recommendation and Report

Chairman Clark stated that based upon comments the Planning Board has received from residents, the Board would prefer that this area be rezoned something that would not allow warehouses. He stated that the problem is that the only way to access this site is through another property.

Mr. Reilly stated that the map shown to the Planning Board of this area does not show the parcel Chairman Clark mentioned as part of the rezoning request. He stated that the Planning Board can recommend to the Town Board that other parcels be included in the rezoning.

Mr. Reilly stated that the process has already begun to rezone the Thruway property because that was specifically recommended in the new Comprehensive Plan.

Mr. Reilly asked Board members for their input.

In response to a question from Ms. Valenti, Mr. Reilly stated that the Camp Road Interchange Zoning District exists and is a floating zone that was created to be attached to properties in the area of the Camp Road interchange.

Chairman Clark stated that this issue would be tabled to a later meeting and in the meantime Board members can email Mr. Reilly identifying the properties they think should be included in the Camp Road Interchange Zoning District or another zoning district.

Chairman Clark made a motion, seconded by Ms. McCormick, to table this discussion to the Board’s September 20, 2023 meeting. Carried.

AL Asphalt – SEQR Status Update

Kim Nason, special counsel to the Town on this matter, stated that the public comment period on the AL Asphalt DEIS concluded on July 28, 2023 and Board members were provided comment summaries and copies of all of the that comments that were submitted in writing, as well as at the two (2) public hearings. She stated that there were expert reports provided by GHD on noise, traffic and storm water, as well as an air and water report from EA Consultants.

Ms. Nason stated that Board members received the comments from the New York State Department of Environmental Conservation (DEC), Erie County, the Village of Hamburg and the Village and Town of Orchard Park.

Ms. Nasson stated that there are a number of significant comments with respect to the inadequacy of the analysis that was provided and a host of mitigation measures proposed that were not included in the original documentation (DEIS).

Ms. Nasson stated that Board members have a copy of the draft Table of Contents to move forward with the drafting of the FEIS (Final Environmental Impact Statement).

Ms. Nasson stated that the comments should be provided to the applicant with some information about what the Planning Board, as Lead Agency, is looking for from them.

Ms. Nasson stated that Board members will be provided with updates to the FEIS as they are drafted, but there is a lot of information that is missing that needs to be addressed in the meantime.

Ms. Nasson stated that much of the proposed Table of Contents is based on the regulatory requirements of SEQR for an FEIS. She stated that because there were a number of deficiencies noted in the DEIS, there are two (2) sections of the Table of Contents that address those.

Ms. Nasson reviewed the draft Table of Contents with Board members.

In response to a question from Ms. McCormick, Ms. Nasson stated that when Board members receive preliminary documents to review depends on what they may or may not get from the applicant.

In response to a question from Chairman Clark, Ms. Nasson stated that mitigation can be addressed as responses to comments because the summary of comments will indicate all of the mitigation that was mentioned by the public, the DEC and the expert reports and the Planning Board as Lead Agency will have to respond to that.

In response to a question from Chairman Clark, Ms. Nasson stated that the fact that there was a lack of information provided to be able to make certain decisions could be its own stand alone section.

In response to a question from Chairman Clark, Ms. Nasson stated that the expert reports and transcripts from the first public hearing were provided to the applicant.

Chairman Clark stated that the Planning Board should provide to the applicant what it has with a cover letter indicating that the transcript of the second public hearing is coming.

Chairman Clark made a motion, seconded by Ms. Gronachan, to table this discussion to the Board's September 6, 2023 meeting. Carried.

OTHER BUSINESS

Chairman Clark made a motion, seconded by Mr. Chapman, to approve the July 19, 2023 Planning Board minutes. As the vote on the motion was four (4) ayes and two (2) abstentions (Ms. McCormick and Mr. Szewc) , the motion carried.

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

The meeting was adjourned at 8:50 PM.

Respectfully submitted,
Cindy Gronachan, Secretary

Date: August 17, 2023