

Town of Hamburg  
Planning Board Meeting  
August 16, 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 16, 2023 in Room 7B of Hamburg Town Hall. Those attending included Margaux Valenti, Dennis Chapman, Cindy Gronachan, Daniel Szewc and Kaitlin Chmura.

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

Excused: Chairman William Clark, Vice-Chairwoman Kaitlin McCormick

## **WORK SESSION**

### **Jason Redding – Requesting Planning Board Recommendation to the ZBA for a 3-lot subdivision at 3312 E Pleasant Ave**

Mr. Steve Smigielski from Lydon Architectural Services, representing the applicant, stated that 3312 East Pleasant Avenue is a 3/4 acre lot and zoned R-A. He stated that an existing home is located on the property and the northern adjacent property is a right-of-way owned by Niagara Mohawk, as well as the Thruway. He noted that the surrounding parcels are also zoned R-A and nine (9) of them are considered existing non-conforming lots because none meets the two-acre minimum lot size requirements.

Mr. Smigielski stated that the property is less than 1/4 mile from the R-1 zoning district.

Mr. Smigielski stated that the applicant would like to subdivide this property into three (3) lots with each parcel being approximately 1/4 acre in size. He noted that the existing home would remain on one (1) lot and a new single family home would be built on each of the two (2) new lots.

Mr. Smigielski stated that the applicant feels that this proposed subdivision would be in keeping with the character of the neighborhood and would not be detrimental to or alter the existing fabric of the surrounding area.

Mr. Smigielski listed the variances that would be required as follows:

- Lots must be two (2) acres in size. None of the three (3) lots would meet that requirement.
- Width at the building line must be 200 feet. None of the three (3) lots would meet that requirement.
- Width at the front line must be 100 feet. Two (2) of the lots would not meet that requirement.
- Side yard setback must be at least 30 feet. Two (2) of the lots would not meet that requirement.
- Rear yard setback must be at least 50 feet. One (1) of the lots would not meet that requirement.

- Front yard setback requirement is 40 feet. One (1) of the lots would not meet that requirement.

Mr. Smiglieski stated that the applicant feels that his proposal would not be out of character with the existing and adjoining parcels in the neighborhood.

In response to a question from Mr. Szewc, Mr. Smiglieski showed Board members the nine (9) nearby parcels that are below the two-acre minimum requirement.

Ms. Valenti noted that some of the nine (9) do not have homes on them. Mr. Smiglieski noted that there they are owned by individual people.

In response to a question from Mr. Chapman, Mr. Smiglieski stated that each lot would have its own curb cut on either Smith Road or East Pleasant Avenue and each would have its own utilities.

Regarding sewer and water, it was determined that the new lots would adhere to whatever the surrounding lots do in terms of wells and septic systems vs tying into public infrastructure.

Ms. Valenti stated that the Planning Board would have a hard time making a recommendation to the Board of Zoning Appeals without knowing whether the new lots would be on wells and/or septic systems and she questioned whether the lots would be large enough for a septic system.

A gentleman representing the applicant stated that the Planning Board should go on the assumption that all applicable codes regarding sewer and water will be adhered to and no variances will be requested.

Mr. Chapman stated that he is not comfortable recommending on the requested variances until the Planning Board knows whether septic systems and/or wells would be required.

Mr. Szewc stated that he is quite certain that septic systems are utilized on Smith Road.

Mr. Szewc stated that he would like to know what structure is located next to Parcel B.

Ms. Gronachan stated that several variances are required for the subdivision and it may be that if homes are eventually placed on the two (2) new lots they would require setback variances as well.

Ms. Valenti noted that it appears that the applicants have anticipated Ms. Gronachan's concern by requesting side, rear and front yard variances now.

The gentleman representing the applicant stated that the homes would be designed to meet whatever setback requirements relate to the new lots, depending on whether variances are granted for the setbacks.

Board members agreed that they need more information regarding the planned utilities for the new lots.

Ms. Valenti made a motion, seconded by Ms. Gronachan, to table this request to the Planning Board's September 6, 2023 meeting. Carried.

## **REGULAR MEETING**

**Public Hearing – 7:00 P.M., Bell Atlantic Mobile Systems LLC – Requesting Site Plan Approval of a proposal to install and operate a wireless telecommunications facility onto a replacement utility pole near 5600 McKinley Parkway**

A representative of Nixon Peabody, representing the applicant, stated that the applicant would like to replace an existing utility pole on land owned by the Erie County Ag District at 5600 McKinley Parkway with a new utility pole on top of which a small cell wireless communications facility would be located. He stated that this would relieve some capacity issues that the network is facing in this part of the Town especially during Fair season.

In response to a question from Ms. Valenti, the representative stated that the existing utility pole is 34 feet above ground level and the new pole with the wireless communications facility on top would be 43 feet above ground level. He further noted that he has confirmed with the Town that no Special Use Permit is required.

It was determined that the land owner already had plans to replace or remove a number of poles on the grounds and the plan was to add lights to the pole the applicant proposes to replace. It was further noted that when approached by the applicant, the land owner thought it made sense to have a permanent solution to the wireless problems being experienced.

It was determined that the land owner gave the applicant permission for this project.

Ms. Gronachan 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 Bell Atlantic Mobile Systems LLC to install and operate a telecommunication facility near 5600 McKinley Parkway. The public hearing will be held on August 16, 2023 at 7:00 P.M. in Room 7B of Hamburg Town Hall.”

Ms. Valenti declared the public hearing open. No one spoke.

Ms. Valenti declared the public hearing closed.

Mr. Chapman made the following motion regarding SEQR, seconded by Ms. Gronachan:

“Whereas, the Town of Hamburg received a Site Plan application from Bell Atlantic Mobile Systems LLC to install and operate a telecommunication facility near 5600 McKinley Parkway, Hamburg Fairgrounds; and

Whereas, the Hamburg Planning Board held the required public hearing and received no 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 completed Part II and III of the FEAF; and

Whereas, the Hamburg Planning Board, in accordance with SEQRA, has determined that the proposed Site Plan Approval and installation and operation of the telecommunications facility 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 Site Plan Approval and installation and operation of the telecommunications facility is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Planning Board Chairperson is authorized to sign the EAF, which will act as the Negative Declaration.”

Carried.

Ms. Valenti noted that the recording was not restarted at 7:00 P.M. She further noted that the Bell Atlantic project discussion was not recorded and that the public hearing was conducted with no comments received.

Ms. Valenti made the following motion regarding Site Plan Approval, seconded by Ms. Gronachan:

“The Town of Hamburg Planning Board hereby grants Site Plan Approval for the Bell Atlantic Mobile Atlantic Mobile Systems LLC telecommunications project to be located near 5600 McKinley McKinley Parkway with the following conditions:

1. The owner will allow other users on the pole, if possible.
2. The Planning Board waives the installation of sidewalks.”

Carried.

**Public Hearing – 7:00 P.M., West Herr Automotive – Requesting Site Plan Direction on a proposal to demolish an existing single-family home and to construct a vehicle towing lot on a .5 acre lot at 3600 Sowles Road**

Mr. Rob Pidanick from Nussbaumer & Clarke appeared on behalf of the applicant, along with Mr. James Mulka, Facilitates Director for West Herr and Attorney Peter Sorgi from Hopkins, Sorgi and McCarthy.

Mr. Pidanick stated that drainage calculations and a Site Plan showing where the applicant proposes to relocate the driveway have been submitted to the New York State Department of Transportation (DOT) and comments are being awaited.

Mr. Pidanick stated that West Herr has confirmed that the hours of operation of this site would be from 8:00 A.M. to 6:00 P.M.

Mr. Pidanick stated that the Site Plan has been revised to show a setback from this site to the adjacent residential property located on Oregon Road of 23.8 feet, which is larger than the originally proposed 12 foot setback.

Mr. Pidanick stated that landscaping and trees along the north and east property lines have been added to the Site Plan.

Mr. Pidanick stated that a landscaping plan has been submitted and the plantings along Southwestern Boulevard have been modified to include less trees and more low plantings so as to not interfere with vehicular movements.

In response to a question from Mr. Chapman, Mr. Pidanick confirmed the hours of operation.

Mr. Mulka stated that West Herr’s internal towing service would use this site to earn moving vehicles that are incapacitated from one dealership to another.

In response to a question from Mr. Chapman, Mr. Pidanick confirmed that if new sewer and water utilities are required in the office building per the Town Code, they would be installed.

Attorney Sorgi noted that this is a Type II Action under SEQR because of the size of the building.

Ms. Valenti stated that this use requires a Special Use Permit and outlined the requirements of that Special Use Permit as follows:

- The use must be in harmony with the general purposes and intent of the chapter
- The use cannot create a hazard to health, safety or general welfare
- The use cannot alter the essential character of the neighborhood nor be detrimental to the the residents thereof
- The use cannot be otherwise detrimental to the public convenience and welfare

Mr. Pidanick acknowledged the above requirements.

Ms. Gronachan 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 West Herr Automotive to demolish an existing single family home and construct a vehicle towing lot on a .5 acre lot at 3600 Sowles Road. The public hearing will be held on August 16, 2023 at 7:00 PM in Room 7B of Hamburg Town Hall.”

Ms. Valenti noted for the record that comments have been received from the public and the Conservation Advisory Board (CAB).

Ms. Valenti declared the public hearing open. The following people spoke:

- Santino Carnevale stated that this project is being proposed right under his bedroom window. He stated that this area has a very bad traffic problem with many traffic accidents occurring there. He stated that a traffic study is warranted. He stated that this project does not fit in the area and the applicant has many other locations on which to put a towing lot. He stated that a pond exists alongside the project site that the applicant proposes to use for drainage, but it is poorly maintained and does not accept the water that currently runs into it, so he is worried that the water from the project site will not be able to drain into it. He stated that three (3) families live on Oregon Road and the homeowner at the end of the road has flooding problems all the time relative to his driveway. He stated that the pond drains into a small ditch that is stagnant and smelly and has mosquitos. He stated that he took pictures of this ditch to the Engineering Department to show them what happens to it when it rains hard. He stated that getting in and out of Oregon Road is impossible. He asked the Planning Board to direct the applicant to look elsewhere for property on which to locate the project. He stated that noise, traffic and lights are big concerns.
- David Carnevale stated that he has concerns about traffic, safety and the condition of the existing building on the property that would be retained.
- Mark Wittman stated that he lives at the end of Oregon Road and asked what the zoning of the project property is. He stated that the residents of Oregon Road are being encroached upon and he is concerned that if he tries to relocate he may not be able to sell his property as residential and might have to try and rezone it commercially in order to sell it. He stated that he is also concerned about snow removal and when/how it would be done for this project site. He noted that the snowplows for Lowe’s operate all hours of the day and night. He stated that he is concerned about noise and light trespass, as well as the encroachment upon his property and his ability, or lack thereof, to sell it.
- Leona Rockwood, CAB member, stated that the CAB has submitted its concerns and suggested mitigations to the Planning Board in writing.

Ms. Valenti declared the public hearing closed.

Attorney Sorgi noted that a rezoning is not required for this project, as the site is zoned C-2. He further stated that traffic from this project would be very minimal and it seems that the nearby residents are concerned more about existing traffic in the area. He noted that there are other uses that could be put on the project site that would conform to the C-2 zoning district that would produce much more traffic than what the applicant proposes. He noted that only three (3) tow trucks would be utilized.

Attorney Sorgi stated that the applicant respects the residents' comments and will respond in writing, as well as work with the neighbors.

Mr. Pidanick stated that he received the written comments from the CAB and will respond to them. He noted that he is waiting to address the drainage concerns until the DOT comments are received in connection with the proposed new curb cut and the drainage calculations. He stated that he has spoken to Ms. Jarrell about the drainage calculations.

Ms. Rockwood stated that the CAB asked that the Traffic Safety Advisory Board (TSAB) review the traffic situation in this area.

Ms. Valenti made a motion, seconded by Mr. Szewc, to table this project to the Planning Board's September 20, 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**

Attorney Peter Sorgi, representing the applicant, stated that the Highway Department has no problems with the proposed turnaround and snow removal plan.

Ms. Valenti made the following motion regarding SEQR, seconded by Mr. Chapman:

“Whereas, the Town of Hamburg received a Site Plan application from Liberatore Management to construct two (2) 16,000 sq.ft. warehouses and one (1) 12,000 sq.ft. warehouse on a 3.7 acre parcel; 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 construction of the three (3) warehouse buildings 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 Site Plan Approval and construction of three (3) warehouse buildings is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Planning Board Chairperson is authorized to sign the EAF, which will act as the Negative Declaration.”

Carried.

Ms. Valenti made the following motion regarding Site Plan Approval, seconded by Ms. Gronachan:

“Based on the review of the Burke Parkway warehouse development project 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 August 11, 2023.
- The landscaping plan shall be approved by the Planning Department.”

Carried.

Engineering Department comments have been filed with the Planning Department.

### **OTHER BUSINESS**

Mr. Szewck made a motion, seconded by Mr. Chapman, to adjourn the meeting. Carried.

The meeting was adjourned at 7:45 PM.

Respectfully submitted,  
Cindy Gronachan, Secretary

Date: August 23, 2023