

Planning Board Minutes March 12, 2018

A meeting of the Planning Board, Town of Yorktown, was held on March 12, 2018, at the Yorktown Town Hall Board Room, 363 Underhill Avenue, Yorktown Heights, NY 10598. The Chair, Richard Fon, opened the meeting at 7:00 pm with the following members present:

John Kincart
William LaScala
Robert Garrigan, alternate

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Town Planner; Tom D'Agostino, Assistant Planner; and Mark Blanchard, Planning Board Counsel.

Correspondence: The Board received the latest draft of the Declaration & Restrictive Covenants for the Lowe's Project. Tegeder stated that the developer would like to get the signed site plan released and this agreement is holding that up. If the Board would like to release the plan prior to the agreement being finalized, it can decide to do that. Tegeder stated that the water department was in favor of being the entity that performs the repairs to the water lines. The Town would then be reimbursed. The Board agreed to release the signed site plans.

Fon noted that the yearly letter from IBM reported that they had two helicopter flights over the past year.

Meeting Minutes:

Upon a motion by LaScala, seconded by Garrigan, and with Fon, LaScala, and Garrigan voting aye, Kincart and Tripodi abstained because they were not present at that meeting, February 26, 2018 Meeting Minutes were approved.

REGULAR SESSION

Ianuzzi Subdivision

SBL: 47.15-1-14, 15, 16

Request for Second 90 Day Time Extension

Location: 1189 Baptist Church Road

Contact: Albert A. Capellini, Esq.

Description: A 4 lot Subdivision approved by Planning Board Resolution #16-11 on December 13, 2016.

Joseph Riina, project engineer, was present. Riina stated the applicant is still working out legal issues with easement descriptions.

Upon a motion by Kincart, seconded by LaScala, and with all those present voting aye, a Second 90 Day Time Extension was granted for the Ianuzzi Subdivision.

Fiore Minor Subdivision

SBL: 26.15-1-69

Public Informational Hearing

Location: 2797 Carr Court

Contact: Site Design Consultants

Description: Proposed 2-lot subdivision on 1.13 acres in the R1-20 zone, where one home currently exists. New lot will be served by public water and sewer.

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Kincart, Garrigan, AIF Open PIH

Joseph Riina, project engineer, and Frank Fiore, the applicant, were present. Riina described the location of the property. The proposed lot is 20,000 square feet. The property is served by public water and sewer. There are no wetlands. The part of the lot where the home is proposed is currently improved as a yard with retaining walls.

Michelle Collins, 2806 Strang Boulevard

Collins stated that Fiore removed 40 trees on a Sunday afternoon when he built the walls on his property. It cost her \$5,000 to install drainage as a result of the flooding issues caused by the tree removal and wall construction. With a new house, he will have to remove the wall and this development will cause more flooding. Collins had to install an outdoor sump pump on her property. The tree removal occurred about 7 years ago on two separate Sundays. Collins stated that Mr. Fiore also had to make changes to the wall because it wasn't built properly. The property is on the top of the hill from us. Other neighbors have also installed French drains that drain out to the street. This development will affect the four existing residences on Strang Boulevard that are below it.

Riina stated Mr. Fiore claims he did not cut down as many trees as Ms. Collins stated. However a complaint was made to Engineering and he was required to design a stormwater system. Tripodi asked about the walls. Riina stated that the upper walls will be removed, not the wall at the property line. Stormwater will be required as part of the new development. Riina stated that he will most likely propose to increase the size of cul-tech units 3-fold. Fon asked how tall the walls are. Mr. Fiore stated the walls are about 4 feet high. Fon asked if the tree ordinance was in effect at the time of the tree cutting. Tegeder stated maybe, but that many trees would be caught in another ordinance.

Jay Kopstein, 2239 Van Cortlandt Circle

Kopstein asked if the stormwater cul-tech units need to be maintained. Riina, stated that the systems need to be inspected for sediment buildup. If there is sediment, a vacuum truck must clean out the chamber. A maintenance agreement is filed with the SWPPP for the work that has been done. Fon asked if there has been any maintenance on the existing system. Riina will check.

Bruno Franceschini, 2785 Carr Court

Franceschini stated that the sewer man hole is shown on the plans on the highest part of his property. When he purchased the property, he thought that the line was further down the slope. If the line is at the top of the slope, he is concerned about erosion and how the area will be excavated. Will there be any interruption of the sewer service when the connection is made? How will construction debris affect his property?

Riina responded that if the sewer manhole is further down the hill, this would be preferred. The information on the plan was obtained from the Engineering Department. Riina will confirm the location of the sewer. Riina stated that there is an easement around the sewer line. Any disturbance will be restored to original conditions. Kincart asked if there is already a spur to the Fiore property. Riina stated that he has asked the Engineering Department, but hasn't heard back.

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Kincart asked if the lots were separate at one point and joined. Riina stated yes, that's the information we have found. The original owner combined the lots and built the home across the original lot line.

Upon a motion by Tripodi, seconded by LaScala, and with all those present voting aye, the Board closed the Public Informational Hearing.

Hearthstone Minor Subdivision

SBL: 17.18-1-8

Public Hearing

Location: 3138 Hearthstone Street

Contact: John Annicelli, Esq.

Description: Proposed 2-lot subdivision on 0.96 acres in the R1-20 zone. Both lots are to be served by public water and sewer.

Upon a motion by Kincart, seconded by Tripodi, and with all those present voting aye, the Board opened the Public Hearing.

John Annicelli, project attorney, was present. Annicelli stated that the proposal is for a minor subdivision on a private right-of-way. The private right-of-way will be reconstructed for the existing homes using it, as well as the two new homes. Annicelli stated the fire department turn around was approved. The area is served by public sewer located within the private right-of-way. The public sewer will be extended approximately 350 feet. A public 8 inch water line to the proposed lots with a fire hydrant will also be installed. The homes are approximately 1,500 square feet in size. Fon asked if the adjacent lots can also connect to the sewer. Annicelli stated the two existing homes can connect if they want to. The same is true for the public water. Tripodi asked if all 4 homes connect to the sewer line, would there be additional capacity. Annicelli stated that the proposed easement will be for a maximum of four homes. If there is additional subdivision by the adjacent lot owners, they would need to request to be added to the easement. The applicant will reconstruct the entire private driveway. There will be a maintenance agreement. The two people that buy the proposed homes will have to maintain the private right-of-way. The existing homes will not have the responsibility to maintain it.

Rick Ackerman, 3115 Hearthstone Street

Ackerman was concerned about the sewer stating that when the newest home was built up front, they were grandfathered into the sewer system, but he was denied access. What has changed? The Board responded that the Sewer Moratorium has been lifted. Ackerman stated that the applicant had mentioned bringing in a gas line. Was this still proposed? Annicelli said no. Ackerman asked if there will be any other access during construction. The road is currently not wide enough for cars to pass each other. Construction can't block access to his property. Annicelli stated that the proposed homes have an easement on the other right-of-way as well, but that the plan was to access the property through the right-of-way Ackerman uses. Fon stated that other than constructing the sewer and water, the right-of-way should not be blocked.

Grace Siciliano, 3090 Gomer Street

Siciliano asked if the Board considered using the paper road as access to the property instead of the private driveway. Fon stated that the Board did consider this and building a new road would be

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more intrusive than improving the existing private driveway. There would be significant wetland disturbance and tree removal to build a road to town standards. Siciliano stated that the second private driveway, Hearthstone Court, is not in condition for construction traffic. This driveway was always called the cow path, when Siciliano was growing up. Fon stated that the private driveway to be improved should be used for access and it must be kept open for the neighbors during construction. Siciliano asked why the position of the proposed homes can't be mirrored. Annicelli stated the positioning of the homes was done to minimize construction. Siciliano stated that Sarubbi is building a home fronting on Homestead. There is water, electric, and sewer existing all on Homestead Road. How will this affect me? Kincart stated that the existing utilities in the road were probably marked, but any digging to make connections would be near the new home. Siciliano asked if the private right-of-way going to be item 4. The private right-of-way will be asphalt and there will be a maintenance agreement. Siciliano noted that the pumping station at Chelsea is in disrepair and this sewage will go into that plant.

Arleen Denis, 384 Homestead Road

Denis stated that the cow path private right-of-way is not wide enough and not maintained enough for construction traffic. Utility trucks constantly hit her fence and bulk trash from all the homes in the back is left on her corner, which blocks and makes it even smaller.

George Winsman, 3162 Gomer Street

Winsman stated that 38 years ago the cow path was supposed to become a town road. That never happened. Today when deliveries are made to these homes on the cow path, they use my driveway instead because the trucks cannot get through the cow path. Winsman needed a variance for 6 inches when he was building his home and was denied by the Zoning Board. The proposed homes need variances for frontage, which seems a significantly greater request than 6 inches he had asked for. Fon stated that he was not aware of the circumstances of Winsman's variance, but that the proposed homes will have no access to the private driveway or Winsman's property.

Ackerman

Ackerman stated that the new homes will all be bringing their garbage and bulk trash out to Homestead Road, just like he does now. This means there will be four homes worth of garbage on Homestead between the two Sarubbi homes.

Upon a motion by LaScala, seconded by Kincart, and with all those present voting aye, the Board adjourned the Public Hearing.

Sandvoss Minor Subdivision

SBL: 59.07-1-6, 7 & 8

Adjourned Public Hearing

Location: 1005 Hanover Street

Contact: Site Design Consultants

Description: Proposed 3-lot subdivision on 18.62 acres in the R1-80 zone. Lots to be served by private wells and septic systems.

Upon a motion by Garrigan, seconded by Kincart, and with all those present voting aye, the Board reconvened the adjourned Public Hearing.

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Joseph Riina, project engineer, and Steve Marino, project wetland consultant, were present. Riina stated that since the applicant was last before the Board, they have been addressing the comments made at the Public Hearing and comments from staff. Riina stated that the subdivision is adding two lots. Lot 8 is an existing lot that could obtain a building permit today. The private driveway will go across this lot and so it is included in this discussion. The impact to the wetland has been reduced to 120 square feet. Riina stated that he increased the span of the culvert over the stream to reduce the effects on the stream. The culvert has an open bottom with footings on either side. The improvements for the three homes are the driveways, the septic systems, the homes. All of these proposed improvements are outside the wetland buffer. The only thing in the buffer is the driveway and the stormwater basin handling the runoff from the driveway.

Riina stated that he met with the Conservation Board on February 21, 2018 and thought the Board was fine with the application and revised plans. Riina stated that he had not received their memo dated December 14, 2017 and that is why those comments were not addressed. Riina read his letter addressing the Conservation Board memo dated March 12, 2018 (attached).

Tegeder asked if the condition and health of the wetland has been reported on. Marino stated he could, however most of the wetland has not been disturbed. Except in the north east corner of the property where there was previous disturbance. In Marino's opinion, Lot 8 would be the best location for traditional wetland mitigation.

Fon asked what other agencies outside the town must issue permits for the proposed development. Riina stated that the NYC DEP must issue a Stormwater Permit. The NYS DEC accepts the Town's approval and issues their permit. The NYS DEC developed the stormwater regulations for the State. The Town is an MS4 and the town's ordinance follows the DEC rules. The NYC DEP also follows the state regulations, but has additional requirements above and beyond what the DEC requires. Marino has contacted the NYS DEC Habitat Division to determine whether an Article 15 Permit will be required for the stream crossings. The development falls under the Army Corps of Engineers nationwide permit. Received a letter from NYS OPRHP, in terms of archaeology, stating the development would have no impact. Fon stated that all of these agencies will also review the subdivision outside of the licensed professionals designing the project and on the town staff reviewing the project.

Riina stated that this project has been revised several times since the close of the original public hearing, resulting in a plan that has even less potential impact to the site and surrounding areas. The applicant continues to maintain that this project meets the requirements of the Town Code and does not in any way represent a significant adverse impact.

Riina stated that the public comments that were made in the original public hearing should be included in the proceedings of this public hearing. Fon stated that the project has been going on for a long time because the applicant has come and go over the years.

Jay Kopstein, 2239 Van Cortlandt Circle

Kopstein stated that Riina mentioned town stewardship of the conservation area. Is it accessible from the road? If not, how does the town inspect this area? In Kopstein's opinion, the deeds should give authorization for inspection by town staff seven days a week. Kopstein stated that both the

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Conservation Board's memo and Riina's response were submitted today therefore he requests that the hearing not be closed until the documents can be reviewed by the public. Kopstein also asked how maintenance agreements are enforced.

Tim Glass, 270 Colonel Greene Road

Glass stated that he attended the 02/21/18 meeting of the Conservation Board and in his opinion the meeting did not go as Riina stated. The only member of the Board that had comments or questions was Phyllis Bock. Then the Board adjourned because they stated they had not had time to read the Tim Miller Associates habitat study. Then the next meeting was canceled. In addition, Glass stated he thought the Conservation Board was waiting for a letter from Mr. Quinn. This letter came out before the meeting yet was not mentioned at the meeting, nor were any of the comments raised at the Public Hearing. Glass stated he was puzzled at why there is this lack of communication between the Boards of the town. Glass requested the hearing be kept open to review the Conservation Board's memo and Riina's response.

Riina stated that the applicant has responded to every memo they are aware of, including the Conservation Board memo from today.

Susan Siegel, 174D Long Hill Drive

Siegel commented that property owners have come back to the Planning Board for relief from Conservation Easements, so easements are not completely permanent.

The Board agreed, but stated that in some instances, there are valid reasons to change an easement. In one instance, the stream the easement was protecting had moved, therefore the easement was no longer protecting anything.

Elizabeth Barton, 392 Colonel Greene Road

Barton asked the Board to protect environmentally sensitive lands. So many trees are dying. We need to protect the ones we have.

Patricia Johnson, 427 Spring Drive

Johnson stated it is good to hear that Tim Miller Associates doesn't deny habitat will be fragmented. Johnson is still dismayed how the applicant opted to do minimal research. Why can't they use the ebird website? In Johnson's opinion, a proper habitat study has not been completed. Johnson has monitored the box turtle population in the Croton Heights area and reported to the NYS DEC. A Conservation Easement around wetlands is important, but in her opinion the easement doesn't meet the 1:1 requirement. The applicant is including wetland buffer in the easement, which is already protected. Proper mitigation should be considered. Pocket wetlands are good in urban areas. Building something artificial isn't the same and isn't safe for the animals. The buffer function needs to be maintained wild for the wetland to function. Fallen trees and debris should be left to rot unless creating a dangerous situation.

Fon asked Riina to address Quinn's memos. Riina stated that on January 31, 2018, he responded to Quinn's memo from Jan 8th, in a letter that also addressed some neighbor comments and Board comments. Riina responded to Quinn's memo dated February 12, 2018 on March 1st.

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Glass again requested the Board not close the public hearing because it is difficult to make spoken comments once it is closed.

Upon a motion by Kincart, seconded by LaScala, and with all those present voting aye, the Board closed the Public Hearing allowing a written comment period for 10 days.

Upon a motion by LaScala, seconded by Garrigan, and with all those present voting aye, the Board closed the Regular Session.

WORK SESSION

Building Department Referral – Hill Boulevard Diner

SBL: 16.08-1-1

Discussion Site Plan

Location: 3667 Hill Boulevard

Contact: Nixon Architecture

Description: Proposed food service in an existing retail building. No exterior work is proposed.

Tegeder explained the diner is proposed in the same plaza as the Frankie & Augie'Z on Hill Boulevard. The diner requires 50 parking spaces. The overall site was approved at 99 spaces at 5 parking spaces per 1,000 square feet ratio. There would now be 69 parking spaces required at 4 parking spaces per 1,000 square feet ratio. Tegeder assumed both restaurants have similar patron and prep space areas to determine that with both restaurants 140 spaces are required. With the Board's ability to allow a 25% reduction, if warranted, this reduces the required parking to 106 parking spaces. The Board discussed the other uses in the building and how a diner would have long hours. The Board requested an analysis of the parking lot and current use. Bruce Zarzesky was present for Nixon Architecture. His client is Maria Luca, owner of the Somers Diner. In this location, Zarzesky stated that Luca does good business before 5 am, the lunch crowd, and then after 5 pm. Luca would like to have the diner open 24 hours. The Board discussed how the parking between both buildings is empty a lot of the time and that the site may have adequate parking, but patrons try to park as close to the restaurants as possible. LaScala asked if the restaurant could be smaller. Tegeder will verify the parking for both Biffer buildings to see if there is overflow parking available. The Board requested the applicant perform parking counts every 15 minutes on a Friday night from 5:30 – 7:30 pm and return to the next meeting.

Town Board Referral – Invasive Species Control Program

Discussion Wetland Permit

Location: New Croton Reservoir

Contact: NYCDEP

Description: The NYCDEP is proposing to conduct a pilot program to control the invasive species of Hydrilla Verticillata in the New Croton Reservoir.

The Board had no planning objections to this permit being issued.

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Town Board Referral – Town Owned Parkland on Illington Road

SBL: 69.08-1-11

Discussion Alienation of Parkland

Location: Illington Road

Contact: Marcia Saunders

Description: Proposed purchase of Town owned parkland by adjacent property owner.

Tegeder stated the Saunders have taken care of the graveyard on the site. Tripodi asked what happens when the current owners sells. The Board was just interested in conditions on the ownership so it is preserved. The applicant is proposing to purchase the property for \$10,000. Tegeder will draft a memo to the Town Board for the Planning Board to review.

Town Board Referral –Trailway Extension to FDR Park

SBL: 37.14-1-43

Discussion Wetland Permit

Location: Between Downing Drive and Baldwin Road

Contact: Town Board

Description: Proposed trailway connecting the Route 118/Downing Drive intersection to Baldwin Road just south of the French Hill Elementary School.

The Board had no planning objections to this permit being issued.

Town Board Referral – Journey’s End Road

SBL: 69.10-1-22

Discussion Wetland Permit

Location: 1515 Journey’s End Road

Contact: Johnsen Landscapes and Pools

Description: Proposed to remedy a Notice of Violation of unauthorized tree removal.

Tripodi asked if the proposed plants would soak up the same amount of water the trees had. Twenty-five trees were cut down including pruning, dead trees, and saplings. The Board had no planning objections provided the Conservation Board is okay with the proposed plants.

Upon a motion by LaScala, seconded by Kincart, and with all those present voting aye, the Board voted to close the meeting at 10:30 pm.