

# Planning Board Meeting Minutes – July 16, 2018

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A meeting of the Planning Board, Town of Yorktown, was held on **Monday, July 16 at 7:00 p.m.** in the Yorktown Town Hall Board Room located at 363 Underhill Avenue, Yorktown Heights, NY 10598.

Chairman Rich Fon called the meeting to order at 7:00 p.m. with the following board members present:

- John Kincart
- Bill LaScala
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
  - Robyn Steinberg, Town Planner
  - Tom D'Agostino, Assistant Planner
  - Nancy Calicchia, Secretary
  - Kristen Wilson, Planning Board Counsel
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## **Correspondence / Liaison Reports:**

- The Board reviewed all correspondence with no comments.
- There were no liaison reports.

## **Meeting Minutes:**

John Kincart had one correction to the Bellamy Construction item, however, there was not a quorum of the Board to approve the minutes. The Board will review the minutes at the next meeting to be held on August 13, 2018.

## **Motion to Open Regular Session:**

Upon a motion by Chairman Fon, seconded by John Kincart, and with all those present voting aye, the Board opened the Regular Session.

Chairman Fon asked the audience if anyone was in need of an assistive listening device for their use during the meeting.

## **REGULAR SESSION**

### **Fieldstone Manor Subdivision**

**SBL:** 15.11-1-17

**Discussion:** Reapproval Subdivision

**Location:** Lexington Avenue/Strawberry Road

**Contact:** Site Design Consultants

**Description:** A 21-lot cluster subdivision on 22.94 acres in the R1-20 zone that received final subdivision plat approval by Planning Board Resolution #16-16 on August 8, 2016.

### **Comments:**

Joe Riina, P.E. was present. Riina is requesting a reapproval of the approved subdivision application which will expire in August. Riina stated that everything is in order to move the project ahead. He stated that the applicant is still working on securing funding to post the bonds for the project before the plat can be filed. There were no comments from the Board and the public.

Upon a motion by Chairman Fon and seconded by Bill LaScala, and with all those present voting aye, except Kincart who abstained, the Board reapproved the Fieldstone Manor subdivision.

### **Hearthstone Minor Subdivision**

**SBL:** 17.18-1-8

**Discussion:** Decision Statement

**Location:** 3138 Hearthstone Street

**Contact:** John Annicelli, Esq.

**Description:** Proposed to subdivide 0.98 acres into two building lots both to be serviced by public water and sewer lines.

#### **Comments:**

John Annicelli, Esq. was present. Annicelli updated the Board as to the project and noted that he submitted a proposed plat of the subdivision. He stated that all issues have been addressed with respect to the Engineering Department's comments.

Items discussed are as follows:

- EAF - It was noted that the Town Engineer had requested the EAF form be resubmitted with signature from a licensed professional. Annicelli stated that he had submitted this. John Tegeder stated that the Board did not need a revised EAF. The Board's review and draft resolution is based on the submitted form.
- Town sewer main extension consisting of one new sewer manhole and 200 linear feet of gravity sewer main - Annicelli has put in a request to the Town Board to be allowed access into the public sewer.
- Driveway slopes - The driveway slopes must be less than 10 percent to meet town code. Annicelli stated that the drawing shows 9.8% on one of the driveways. Tegeder suggested that a condition be added to the resolution requiring site plans be submitted for both lots for review and approval by the Planning Board prior to a building permit being issued.

Chairman Fon addressed the public and the Board for any comments of which there were none. The Board suggested that Mr. Annicelli meet with the Planning Department to review what is required.

Upon a motion by Chairman Fon and seconded by Bill LaScala and John Kincart, and with all those present voting aye, the Board adopted a Negative Declaration.

Upon a motion by Chairman Fon and seconded by John Kincart and Rob Garrigan, and with all those present voting aye, the Board approved the minor subdivision application for Hearthstone as amended.

### **PCSB Bank Commerce Street**

**SBL:** 37.14-2-52

**Discussion:** Public Hearing

**Location:** 1990 Commerce Street

**Contact:** Insite Engineering

**Description:** Proposed amended site plan to add a drive-thru window and canopy to the existing bank building located on the same parcel as CVS.

#### **Comments:**

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

Dawn McKenzie, landscape architect from Insite Engineering, and Stephanie Fox, project architect were present. McKenzie updated the Board and public on the project. The bank will be relocating from their Downing Drive location to 1990 Commerce Street located in the CVS plaza. This location works well as it is in a better location with more visibility and a better opportunity to provide drive-thru lanes. Visits by bank patrons will include walk-ins, drive-up teller and drive-up ATM. The drive thru lanes will consist of a canopy drive thru, second drive thru and a by-pass lane. As a result, two parking spaces will be removed. They are re-orienting and expanding the handicapped accessible spaces. The refuse enclosures, stormwater management and building renovation have all been addressed. Stefanie Fox updated the Board on the removal of the extension of the building as well as the construction of the new canopy. There will be an addition of two brick pillars; the new roof will be replaced with slate to match the existing roof; new siding; all trim will be replaced as necessary including the trim around the roof line. The landscaping and lighting plans are complete. Chairman Fon questioned if the cupola on the roof was still an option. Fox responded that it was discussed with ABACA and it was agreed that the new hardy board would be enough.

Chairman Fon addressed the public for any comments of which there were none.

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

**Upon a motion by John Kincart and seconded by Rob Garrigan, and with all those present voting aye, the Board adopted a Negative Declaration.**

**Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting aye, the board approved a site plan and stormwater pollution prevention plan for PCSB Bank.**

#### **Anderson Subdivision**

**SBL:** 58.09-1-20

**Discussion:** Public Hearing

**Location:** 1695 Croton Lake Road

**Contact:** Ciarcia Engineering

**Description:** Proposed 2-Lot subdivision of 15.72 acres in the R1-80 zone, where one residence currently exists.

#### **Comments:**

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

Dan Ciarcia, P.E. was present. Ciarcia updated the Board on the project. He is representing Mr. & Mrs. Anderson who are the owners of 1695 Croton Lake Road. The property is unique as it sits on the corner by the Fahey bridge and consists of 15.72 acres. The Anderson's reside in a house located on the property. The objective of the applicant is to downsize and move into a smaller home built on the second lot. 11 acres are to remain with the existing home and the remainder will be for the new lot. The area to be developed is by the reservoir. An application for a zoning variance for the rear yard setback, against the reservoir, was submitted to the Zoning Board for their meeting on July 26, 2018.

Chairman Fon addressed the public for any comments of which there were none. Chairman Fon stated that a site visit was made to the location and the house is beautifully set in a great location and very well done.

**Chairman Fon stated that the public hearing will remain open pending the ZBA hearing and decision.**

**Motion to Close Regular Session:**

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

**Motion to Open Work Session:**

Upon a motion by John Kincart, seconded by Bill LaScala, and with all those present voting aye, the Board opened the Work Session.

**WORK SESSION**

Chairman Fon motioned to go into an Advice of Counsel Session and requested the public to exit the boardroom for a short period of time.

**Lowe's Home Center - Off-Site Sewer Extension**

**SBL:** 26.18-1-17, 18, 19, 26.19-1-1, and a portion of 26.18-1-28

**Discussion:** Sewer extension

**Location:** Old Crompond Road

**Contact:** Ann Kutter, Resident

**Description:** Request from adjacent residential property owners to discuss the approved sewer extension.

**Comments:**

Bob Rosenberg of Breslin Realty, Nickitas Panayotou, P.E. of PDE Engineering, Michael Grace, Esq. and Ann Kutter, resident were present. Ms. Kutter, a resident of the area affected by the sewer extension, is seeking a response from Lowes to honor the commitment made to her and the neighbors by the developer of Lowes to connect their homes to the sewer extension that will be constructed by Lowes. Kutter specifically refers to the original resolutions of approval from the Planning Board and Town Board.

Rosenberg is unsure as to why he was called in to this meeting. Rosenberg feels that the resolution language is not clear, specifically the connections to property owners. It does not indicate in the resolution who will fund the connections. Rosenberg also stated, that in his opinion, there is no document supporting Kutter's request. Rosenberg stated that they will do their part, but no where in the document does it state that Lowes will install at their expense. They have offered Ms. Kutter and the residents two options; a cash payment or if within two years, the homes are not under contract, his company will come back and make the connections. However, Rosenberg stated that Kutter and the neighbors turned both options down. Rosenberg mentioned that with the rezoning there could be potential sales and possible tearing down of the homes.

Discussion regarding the Crompond Terraces application and the potential for development of the residential properties followed. The off-site sewer plan does not show sewer laterals.

Chairman Fon stated that the Board, Planning Director and Planning Board Attorney are of the opinion that the language was very clear in the Town Board resolution that all the homes would be connected and are in support of this. However, they do feel that the details of connecting the homes were not discussed at the time. Chairman Fon stated that while he respects and understands both positions, after hearing from the Planning Board counsel and Planning Board director, it is clear in the resolution that this would be done. The Planning Board recommended that Kutter and Breslin meet for further discussion in order to resolve this issue. Chairman Fon also suggested the applicant's engineer determine what the connections might involve (*length, if pumps are needed, etc.*).

Kristin Wilson, Esq., attorney for the Planning Board, stated that it was implicit in the Town Board approval that the connections would be made to the structures. Grace stated that Breslin is willing to do what was promised but needs clarification for the expectation from Breslin.

### **Unicorn Contracting Corporation**

**SBL:** 37.1-2-73, 74, 85 & 86

**Discussion:** Approved Site Plan and Subdivision

**Location:** 355 Kear Street, 360 Underhill Avenue, 366 Underhill Avenue

**Contact:** Ciarcia Engineering

**Description:** Approved demolition of the existing restaurant and barn to construct a three story, 40,000 square foot building with a mix of retail and office uses by Planning Board Resolutions #17-19 and #17-20 on December 18, 2017.

### **Comments:**

Dan Ciarcia, P.E., Alan Rothman, from Unicorn, and Michael Grace, Esq. were present. Ciarcia stated the Board approved a subdivision and a site plan for the project. He stated that there are conditions in the subdivision resolution that are redundant in the site plan resolution and would like to clear this up by removing the conditions from the subdivision resolution. The applicant will then be able to file the plat and will still need to meet the conditions for signature of the site plan. Discussion regarding the bonding requirements for the on-site storm water infrastructure followed. Grace stated that they do not feel this bond is necessary as the town is fully protected and would never pull a bond to complete an applicant's stormwater infrastructure. Bonds should only be taken for public infrastructure. Ciarcia stated that an 8% inspection fee, which will be about \$80,000, will be required for the site plan. The inspection fee is not a bond. The town keeps this money to perform inspections during construction. Tegeder stated that the town is authorized to collect a bond on the stormwater infrastructure on the site because it will connect into the public system.

Chairman Fon requested the applicant determine a reasonable figure and return for the August 13<sup>th</sup> meeting to discuss further. The Board was in agreement that the bond did not have to be in the form of a letter of credit.

**Upon a motion by John Kincart, seconded by Rob Garrigan, and with all those present voting aye, the Board opened a Special Session.**

**Upon a motion by Chairman Fon and seconded by John Kincart, and with all those present voting aye, the Board agreed to amend the subdivision resolution to remove the redundant bonding conditions also required by the site plan resolution.**

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

### **Mohegan Court fka RPG Properties / Mohegan Court**

**SBL:** 15.15-1-22

**Discussion:** Amended Site Plan

**Location:** 3574 Lexington Avenue

**Contact:** Phil Sanders

**Description:** Proposed 8-unit townhouse development on 1.1 acres in the R-3 zone.

**Comments:**

Phil Sanders and Doug Hahn, project engineer, were present. Discussion regarding the project and submitted plans followed. Tegeder stated that the architectural plans, in his view, were not in an approvable form as there were hand written notes on them. The plans were not stamped by a design professional. Tegeder stated that the plans from the modular company do not match the rendering that was carefully considered by the Town Board in making their rezoning decision. Sanders stated photometrics were not available for the building mounted fixtures. After discussion, the Board decided that the applicant must meet with the Planning Department to review the project and submitted plans before returning to the Board.

**Popeyes – Staples Plaza****SBL:** 36.06-2-76**Discussion:** Amended Site Plan**Location:** 3333 Crompond Road**Contact:** JMC Consultants**Description:** Proposed 2,350 sf restaurant building, where a 2,500 sf building was approved in the Staples Plaza in the C-3 zone.**Comments:**

There were no representatives available to attend the meeting.

**Mohegan Audi Addition – ZBA Referral****SBL:** 15.16-1-44 & 45**Discussion:** Variance Request**Location:** 1791 East Main Street**Contact:** Site Design Consultants**Description:** Requested variance for an additional 22 vehicles to be stored on the lot, where the maximum of 84 vehicles is allowed pursuant to Town Code Section 300-71.**Comments:**

Joe Riina, P.E. and David Steinmetz, Esq, project attorney were present. Riina stated that the applicant applied to the Zoning Board for a variance from the required parking and the buffer. There are three existing locations where there is not the required buffer to the property line. Riina stated that they are working with the DOT of which they have received correspondence. The DOT is pleased with the closure of the two existing driveways that served the former deli parcel. The existing Mohegan Audi driveway to Route 6 will remain open. Riina will revise the plan to show the sidewalk will be in the right-of-way. Riina stated the applicant also received a letter from the DEC as part of SEQR and there were no concerns. They have submitted all information required, drainage and SWPPP are complete. Currently waiting on the landscaping and lighting plans to be completed. The applicant requested a public hearing be scheduled for the Board's August 13<sup>th</sup> meeting.

There were no comments from the Board. **The Board agreed to place the public hearing on the August 13<sup>th</sup> agenda.**

**Jefferson Valley Mall – ZBA Referral****SBL:** 16.12-1-24 & 25**Discussion:** Variance Request**Location:** 650 Lee Boulevard**Contact:** Cuddy & Feder LLP**Description:** Approved site plan and subdivision with conditions to obtain two variances from the Zoning Board of Appeals.

**Comments:**

There was no representative present. The Board approved the subdivision provided that the applicant obtained the requested variances, therefore the Board had no objections.

The Planning Department will send a memo to the Zoning Board.

**Motion to Close Meeting:**

Upon a motion by Bill LaScala, seconded by Rob Garrigan, and with all those present voting aye, the Board voted to close the meeting at 8:50 p.m.