

Planning Board Meeting Minutes – August 13, 2018

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, August 13 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
- Tony Tripodi
- John Savoca
- Rob Garrigan, Alternate

Also present were:

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

- The Board reviewed all correspondence. Chairman Fon questioned the Envirogreen correspondence (*1851 E. Main Street*) of which John Tegeder responded that they will be placed on the agenda for the next meeting to discuss the possible next steps. There were no further comments from the Board.
- There were no liaison reports.

Meeting Minutes:

- Upon a motion by Tripodi and seconded by Kincart, and with all those present voting aye, the Board approved the meeting minutes of June 25, 2018 as amended to the Bellamy item with respect to the trees.
- Upon a motion by Lascala and seconded by Kincart, and with all those present voting aye, the Board approved the meeting minutes of July 16, 2018.

Motion to Open Regular Session:

Chairman Fon opened the Regular Session.

REGULAR SESSION

Stahmer Minor Subdivision

SBL: 59.10-1-10, 12, 14

Discussion: First 90 Day Time Extension

Location: 600 Birdsall Drive

Contact: Insite Engineering

Description: Approved 3-Lot subdivision on 10 acres in the R1-80 zone by Planning Board Resolution #18-01 on February 26, 2018.

Comments:

Rich Williams, P.E. was present. Mr. Williams is seeking a first 90 day time extension. Mr. Williams stated that since receiving approval from the Board, the applications were submitted to the Health Department and DEP.

The Health Department application is complete with no substantial revisions. The DEP has deemed the application complete and they are currently awaiting comments from them. They are hopeful that this will be the only extension requested. Chairman Fon addressed the public for comments of which there were none. Chairman Fon asked John Tegeder and Mark Blanchard if they had comments, which they did not.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting aye, the board approved a first 90 day time extension for the Stahmer subdivision.

Hilltop Associates

SBL: 37.06-1-25

Discussion: Second 90 Day Time Extension

Location: 450 Hilltop Road

Contact: Site Design Consultants

Description: A 3-Lot subdivision approved by Planning Board Resolution 08-02 on January 14, 2008.

Comments:

Mike Blank was present. Mr. Blank is requesting a second 90 day time extension. He stated that last year, Mike Quinn, Town Engineer submitted a priority list for sewerage different areas in Yorktown with DEP funding of which Ridge Street was in the upper 50%. He stated that the Town Supervisor's office indicated that the town is going to solicit input from residents. Mr. Blank believes that they will be sewerage eventually and is hopeful this will occur within the next year.

John Tegeder, Planning Director, stated that this project has been going on for a while and this would be their second extension. His suggestion to the Board is to review this project in detail at the next request for reapproval regarding the proposed sewer project.

Chairman Fon addressed the public for comments. Public comment as follows:

- Susan Seigel, resident, addressed the Board, stating that she has been following this sewer discussion for some time and would like to add additional information with respect to this issue. She stated that nothing will be done within a year. There are 650 homes of which a limit of 450 homes can actually be sewerage and a decision will need to be made with respect to this. In addition, there is a lengthy design phase and state comptroller review to be done. She stated that this will not be happening within a year and that Mr. Blank may have to make a tough decision when the 90 day extension is complete which ties into Mr. Tegeder's comment to the Board.

Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting aye, the board approved a second 90 day time extension for the Hilltop subdivision.

Dubovsky Site Plan

SBL: 59.14-1-18

Discussion: First One Year Time Extension

Location: 702 Saw Mill River Road

Contact: Site Design Consultants

Description: Approved Site Plan in the Country Commercial zone by Planning Board Resolution #13-21 on September 9, 2013.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that since the last approval, the property has changed hands. The current owner is working with the Town Board with respect to the three apartments. The original approved plan reflected two apartments and retail space on the first floor. They are changing the plan to three apartments with no retail space. The Health Department approval has been secured. Kincart questioned if the building would change of which Mr. Riina responded that the footprint will remain the same. Chairman Fon addressed the public for comments of which there were none. Chairman Fon asked John Tegeder and Mark Blanchard for comments of which there were none.

Upon a motion by John Kincart and seconded by John Savoca, and with all those present voting aye, the board approved a first one year time extension for the Dubovsky site plan.

Mohegan Court – fka RPG Properties**SBL: 15.15-1-22****Discussion:** Decision Statement**Location:** 3574 Lexington Avenue**Contact:** Phil Sanders**Description:** Proposed 8 unit townhouse development on 1.1 acres in the R-3 zone.**Comments:**

Doug Hahn, P.E. of Hahn Engineering and Phil Sanders were present. John Tegeder stated that he worked with the person responsible for the architectural items and she stated that the company made the modifications requested. He stated that if you look closely in the resolution, there are a number of repetitive drawings with different dates. Tegeder received a set of drawings over the weekend with a last revised date of August 6 and another of August 3rd which are in conflict with each other. The condition is to submit a final packet with consistent dates. Chairman Fon stated that there have been ongoing issues with inconsistency on the drawings, hand drawn items, date issues, etc. The drawings need to be complete and the dates accurate. Tegeder replied that he has worked with the applicant and they have agreed to all the terms. The new packet is to have correct dates (*revised list of dates*) and drawings. Chairman Fon addressed the Board for comments. Kincart stated that he is fine with the drawings as long as all the dates are correct and all the conditions are within the resolution. Tegeder confirmed that all conditions are in the resolution.

Upon a motion by John Kincart and seconded by John Savoca, and with all those present voting aye, the board adopted a Negative Declaration.

Upon a motion by Bill LaScala and seconded by Tony Tripodi, and with all those present voting aye, the board approved a residential site plan, stormwater pollution prevention plan and tree permit.

Anderson Subdivision**SBL: 58.09-1-20****Discussion:** Adjourned 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:

Dan Ciarcia, P.E. was present. He is representing the applicants Greg and Liz Anderson. Ciarcia updated the Board with respect to the adjourned public hearing from the July 16, 2018 Board meeting. The variance has been approved by the Zoning Board for the rear yard setback. He has received correspondence from the Planning Board, Conservation Board, Town Engineer and a report from Bruce Donohue confirming the wetlands flagging. The Planning Department did not receive the report from Donohue but was given a copy from Mr. Ciarcia at the meeting. Ciarcia explained that Kellard Sessions did the wetlands flagging last year. Jan Johanssen of Kellard Sessions met with Bruce Donohue and concurred with the flagging which is shown on the plan.

Chairman Fon reviewed the Conservation Board memo of 7-23-18 and Town Engineer memo of 7-11-18 with Ciarcia. With respect to the Engineering memo, Ciarcia stated that all items have been addressed and some will be included in the approving resolution. However, he does have a question with item #5 (*as a procedural issue*) which seems to imply that there is a site plan approval. He also stated they are finalizing the house selection; the architectural design and grading will conform to the house selection. John Tegeder replied that there is no other approval other than the Planning Board, however, some of the points are valid and he suggested that Dan meet with the Planning Department to discuss details and the process going forward. With respect to the Conservation Board memo, Ciarcia stated that there seems to be a few issues in the wetland assessment but it does not imply a tree survey is required. There will be mitigation for disturbance of the wetland buffer. Tegeder stated that the wetland mitigation plan should be a condition of the approval but will address this issue once a plan is submitted. Ciarcia has not submitted the new plans. Tegeder stated that there is a building permit process and if there are significant changes, he will need to come back for review. Ciarcia requested to close the public hearing if there are no further public comments.

Chairman Fon addressed the public for comments of which there were none. Kincart stated that his biggest concern was getting the variance approved which was done. The location of the house and driveway is acceptable. Chairman Fon suggested that Mr. Ciarcia meet with the Planning Department to review this project.

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

Mohegan Audi Addition**SBL: 15.16-1-44 & 45****Discussion:** Public Hearing**Location:** 1791 & 1805 East Main Street**Contact:** Site Design Consultants**Description:** Proposed 11,000 sf addition to an existing 16,000 sf car dealership.**Comments:**

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

David Steinmetz, Esq; Joseph Riina, P.E.; Barry Rost, Principal of Mohegan Audi; Dr. Phil Greal, Traffic Engineer; and Roberto Martinez, Project Architect were present. David Steinmetz reviewed the project with the Board and the public. Mr. Rost acquired the property to improve the facility. An 11,000 square foot state of the art service facility will be added to the existing dealership to compliment the sales and lease building. Two curb cuts on Route 6 were eliminated. The on-site parking areas were discussed. He stated that they appeared before the Zoning Board and secured the required variances. In Steinmetz's opinion, all issues have been resolved with the NYS DOT and Planning Board.

Joseph Riina, P.E. presented the plans to the Board. The site location was pointed out along with the visibility from the street. Lot 44 was recently acquired which is in the C-3 zone. The existing dealership parcel is in the C-4 and R1-40 zones. No development is proposed in the R1-40 zone. This is a proposal to add an 11,000 square foot service center to the existing building dedicated to show room, parts and services and administrative office. The flow of traffic, exits and entrance, curb cuts, loading and reloading areas were addressed. The existing parking will be realigned and renovated. There will be a safe egress. There is no existing stormwater management on the property. Areas will be added for treatment. They will maintain the sewer, water and power connections. There will be minimal disturbance overall. The sidewalk will be extended down Lakeland Street. The landscape plan has been submitted. Nothing extra is planned along the front of the new building and along the street side.

Phil Grealy stated that most of the details have been covered. They are working with the DOT and have received responses. They are currently working on the land transfer as part of the permit process and the ADA requirements in terms of the sidewalk.

Chairman Fon expressed his concern about the drop off of vehicles. Grealy responded that there is an assigned off site location for drop off of vehicles. It was mentioned that this could be a condition of the resolution regarding the auto delivery area.

Tony Tripodi questioned the DOT's conveyance process. Grealy responded that the State of New York requires that the sidewalk must be in an easement or within the state right-of-way. He is working with the DOT regarding an interim easement ahead of an actual dedication to the right-of-way.

Roberto Martinez reviewed the architecture and materials for the addition. The design is modern and tasteful and will be a nice addition to the town. The front elevation of the building is the same size. There will be a "lightbox" at the corner to showcase the new cars. The addition on the side will continue with the same elements and same height.

Mr. Steinmetz stated that this was the end of their presentation and if there were any questions. Chairman Fon addressed the public for any comments. Public comments as follows:

- Gerry Schwalb, resident, questioned if the storage of the vehicles in front of the new building are new vehicles or vehicles coming in for service. The response was that the vehicles in front of the building would be for certified pre-owned car display only. She also questioned the location of the bus stop. The response was that it was close to the corner.
- Tony Grasso, Chamber of Commerce member, stated that they have followed the development from the beginning and are happy to see this extension. This is a big improvement to the area. It was well thought out and the members are happy with this application and encourage the passing of this application.

Chairman Fon asked John Tegeder and Mike Blanchard if they had any comments. Tegeder discussed the landscape and streetscape in front and advised that they needed additional review and amendment. He cited needed screening to the residential property at the rear and potentially better landscape design at the street frontages. Tegeder also stated that the right-of-way dedication process to NYS DOT needs to be finalized. Tegeder suggested a meeting with the design team to finalize these issues. Steinmetz agreed to set up a meeting with the Planning Department.

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

Motion to Close Regular Session:

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

Advice of Counsel 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.

Motion to Open Work Session:

Chairman Fon opened the Work Session.

WORK SESSION

Biffer Enterprises

SBL: 16.08-1-1

Discussion: Certificate of Occupancy

Location: 3642 Hill Boulevard

Contact: Biffer Enterprises

Description: Approved Diner and Lot Easements in the Biffer Enterprises complex by Planning Board resolution #18-03 on May 7, 2018.

Comments:

No representative was present. John Tegeder updated the Board with respect to the Building Inspector's report of the site. Per the Building Inspector all the sheds have been permitted and are ready for C/O's. The diner believes it will be ready for a certificate of occupancy by October 1st. The Board must finalize the applicant's request to relocate the refuse enclosure and whether the storage sheds can remain. The application will be on the agenda for the next meeting.

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

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. As a follow up to the previous meeting of July 15, 2018, all have returned to try and reach some sort of agreement with respect to the ongoing sewer connection discussion. Mr. Grace stated that at the last meeting there was a discussion to try and come up with a decision. The home owners believe there was an obligation on Breslin's part. Breslin did not necessarily agree. They are reviewing what the full extent of the obligation would be. Grace indicated that Breslin is willing to go along with his word and connect the residents to the sewer, however, there needs to be an understanding of what the full extent of work will be. There is a definite potential for unforeseen problems during the hookups such as finished and unfinished basements, rock removal, septic removals, driveway repair – this could easily become an open checkbook. Clear parameters need to be set.

Kutter stated that she walked the area with 3 different contractors. She also presented notes and records with regard to this issue. She is reluctant to accept the word of anyone. There have been no negotiations as yet.

Mr. Savoca stated that he would prefer to have the Planning Board attorney explain the situation and what exactly has been agreed to do. Chairman Fon stated that we have the EIS record and the Town Board resolution which states the residents will be connected. He asked the Planning Board attorney to speak about this.

Mark Blanchard, Planning Board attorney stated that from the Board's perspective they are looking at the EIS and the resolutions of 2014 and 2015. He stated that we have the record on this side of the table and that the obligation is pretty clear. It would make sense to have something in writing as opposed to an open air debate. What would be most helpful is a statement from the applicant's attorney outlining what they feel the obligation is, citing records and then return to the Board. He is encouraged that Breslin does see there is an obligation and is looking for something in writing. Mr. Blanchard has offered to speak with the applicants and Mr. Grace to review and sort out the issue.

Chairman Fon stated that this Board is not here to debate and are looking at the record which seems to be clear. All issues will need to be worked out among the parties. He requested that the applicants come back to the next Board meeting with a written statement of some sort as suggested by the Planning Board attorney.

Prestige Renovations and Remodeling

SBL: 16.10-4-8

Discussion: Subdivision and Easements

Location: 3511 Buckhorn Street

Contact: Site Design Consultants

Description: Proposed 2-lot subdivision on 0.95 acres in the R1-20 zone.

Comments:

Chairman Fon recused himself from this session. Joseph Riina, P.E. was present. Mr. Riina stated that the applicant would like to donate land (15,700 *sq*) in lieu of the recreational fee. This donation would be over the required 10%. Discussion regarding trail connections to the parcel owned by a mortgage company and the site plan followed. The Board agreed to accept this donation.

Clean Energy Collective

SBL: 15.07-1-5

Discussion: Preliminary Site Layout

Location: 3849 Foothill Street

Contact: Joe Shanahan

Description: Proposed solar farm on 34.62 acres in the R1-40 zone.

Comments:

Kathy Haake, Director of Real Estate and Permitting was present. She is here to review their application and answer questions relative to the draft solar law. Discussion regarding the solar farm followed. The preliminary site plan is for a 34.62 acre property located on Foothill street and owned by William Lockwood. This property is located on the northwest corner of the town, south of Putanam Valley Middle School. The farm would utilize 16 acres only. There is a 100 foot buffer on the plan of which 25 feet is a natural vegetation area, and 75 foot buffer to eliminate shade. They will leave natural vegetation and will add additional screening as necessary. A 7 foot fence is required by state code which will enclose the 16 acres. Currently there is no maximum impervious surface restriction in the R1-40 zone. Haake explained that the area under the panels

would remain pervious. Panels and their dimensions were discussed. The panels are relatively small, similar in size to a backyard umbrella. Mega-watts rating of the proposal was also discussed. Residents would initially sign on to the plan for savings in their electric bill.

Bill Lascala questioned if there was a guaranteed savings. His opinion is that this would not be appropriate for Yorktown. This solar farm would be the largest in New York State. He is not against solar power and agrees that a personal homeowner should have the option to install solar panels. He also questioned the tax credits that the applicant sells in order to make a profit. Haake responded that all new industries use tax credits and this would be no different. She also stated that solar power reduces more carbon emissions than what the extant forest would absorb.

Chairman Fon stated that the location of this project does not seem appropriate as it is in a residential area and next to a school. Haake responded that being next to the school makes sense and it could be viewed as a learning project. She also stated that the solar farm does not make noise, has no lights, no sewage and will be a clear use of space. Chairman Fon suggested that instead of residential properties, why not look into partnerships with public entities for community solar.

Chairman Fon stated that the Board will need to formulate comments for the Town Board regarding the Solar Law and this application. Savoca stated that he would like the Town Board to have a public hearing on the statute to ensure that it is vetted properly. They will request more time from the Town Board and discuss the proposed solar law at a future meeting.

Popeyes (Staples Plaza)

SBL: 36.06-2-76

Discussion: Amended Site Plan

Location: 3333 Crompond Road

Contact: JMC Site Development Consultants

Description: Proposed 2,350 sf restaurant with a drive through at the Staple Plaza in the C-1 and C-3 zones.

Comments:

Rob Aiello, P.E., Umberto Baldinucci, P.E., James Smith, architect, David Wallace, Vijay Ghei, Andrew Albreicht, and Ashley Olson were present. Mr. Aiello stated that they were here before the Board for approval previously for the gas station and restaurant pad in the Staples plaza. The gas station is complete. SEQR is complete for the entire application. Improvements have been made to the traffic signal. The improvement near the Dunkin Donuts includes a 2,350 sf restaurant and drive thru. The amended site plan application, lighting and landscaping plans are all complete. Parking remains as is. The building is smaller (*narrow and deeper*) with a drive-thru. The applicant is proposing a one-way main access as opposed to a two-way which was on the original plan. The one way lane will have signage and be striped. The preliminary approval of DEP required improvements which were partially built. The Board questioned the width of the one way lane. Response was that it was designed this way for backing out as there would be more room.

Jim Smith, architect discussed the design details. A packet was distributed to the Board with renderings of the new restaurant and details. He stated that all conforms with the regulations and requirements as part of the approved and signed master sign plan. Tegeder questioned if the orange color of the building could be softened. Smith responded that ABACA approved and preferred the orange color. Tegeder requested an update on the lighting. Response was that the lighting will have cobra head lights throughout and all have been retrofitted to LED lights. This is the same for the BJ's parking lot. New fixtures will be installed and will match what was

installed near the middle building. There are 35 foot poles existing currently. The new poles will be 25 feet. Discussion regarding impervious areas and stormwater management followed.

Mr. Aiello questioned the lead agency and SEQR. Tegeder stated that all impacts on this project are covered in the original record of approval. He suggested that Aiello examine the SEQR record to ensure that the proposal does not create impacts that were not studied in the original approval.

Chairman Fon inquired as to the next steps. Tegeder responded that provided no further environmental study is needed, an amending resolution can be drafted for consideration. The application can move forward and a public hearing can be held.

The Board agreed to place the public hearing on the September 17, 2018 agenda. Chairman Fon suggested that the applicant meet with the Planning Department to review what is needed for the public hearing.

Motion to Close Meeting:

Upon a motion by John Savoca, seconded by John Kincart, and with all those present voting aye, the Board voted to **close the meeting at 9:39 p.m.**