

Planning Board Meeting Minutes – December 3, 2018

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, December 3 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
- John Savoca

Also present were:

- John Tegeder, Director of Planning
 - Robyn Steinberg, Town Planner
 - Tom D'Agostino, Assistant Planner
 - Nancy Calicchia, Secretary
 - John Buckley, Esq. – Oxman Law Group, PLLC
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Correspondence / Liaison Reports:

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

Meeting Minutes

Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting aye, the Board approved the meeting minutes of November 19, 2018 with minor corrections.

Motion to Open Regular Session:

Chairman Fon motioned to open the Regular Session, and with all those present voting aye, the Board opened the Regular Session. ADA-compliant assistive listening devices were available to the audience.

REGULAR SESSION

Jefferson Valley Mall

SBL: 16.12-1-24 & 25
Discussion: First 90-Day Time Extension
Location: 650 Lee Boulevard
Contact: Cuddy & Feder, LLP
Description: Approved 2-lot subdivision on 50.4 acres in the CRC zone by Planning Board Resolution #18-07.

Comments:

Item removed from the agenda.

Breslin Realty Subdivision (Lowe's Subdivision)

SBL: 26.18-1-17, 18, 19, 26.19-1-1, and a portion of 26.18-1-28
Discussion: Decision Statement - Subdivision
Location: 3200 Crompond Road
Contact: Provident Design Engineering
Description: Proposed 5-lot subdivision for the Lowe's Home Center Plaza site.

Comments:

Michael Grace, Esq. was present. Chairman Fon stated that the public hearing is still open as it was adjourned previously. Mr. Grace reviewed the resolution for the subdivision with the Board. Mr. Kincart questioned whether the recreation fee on the site should be removed as well as the last sentence on top of page 5 stating “*that the town takes over roads within the subdivision, etc.*” and whether this was appropriate for this subdivision. Mr. Grace responded that there are no public improvements to be bonded. Mr. Tegeder stated that most of the bonding of that nature was taken care of in the site plan and could be removed. Mr. Tegeder stated that the mitigation associated with the project which is noted in the site plan resolution should be added to this resolution. Once the public hearing is complete, the Board requested that Mr. Grace work with the Planning Department to finalize the details of the resolution as discussed.

As a follow up from the last meeting, Mr. Grace updated the Board regarding the sewer extension agreement with the adjacent residential property owners. He is currently working with the property owners and expects to meet with them shortly to finalize the agreement. Chairman Fon stated that it was discussed but not attached to this application.

Mr. Kincart questioned the status of the maintenance agreement of which Mr. Rosenberg replied that it was done. Mr. Grace questioned the future maintenance and district taxes. Mr. Tegeder stated that it was a requirement of Lowes to have the water line looped around the building. Supervisor Gilbert stated the maintenance agreement was the town’s response to Lowe’s wanting the loop. He had conversations with the Board of Health who said that it was simply the way it was designed. As a result, a maintenance agreement was required.

Chairman Fon addressed the public for comments.

- Ann Kutter, resident – On behalf of her and her neighbors she is requesting not to close the public hearing tonight. She is still working on the final pieces of the sewer extension agreements. They have worked out a general agreement but need to work on “Schedule A” descriptions. She would also like to keep the public hearing open due to the road conditions. They have been living for months with the construction and have been very patient. It’s very noisy, getting in and out of the road is difficult, and the road conditions are appalling due to the width and surface. The roads are muddy due to the sewer work, construction at the site, and wet weather.

Chairman Fon responded that while sympathetic to the conditions that take place during construction all this should be brought to the attention of the developer, Building Inspector and Town Engineer as this is part of the site plan and is not what is before the Board presently. With respect to the agreement with the neighbors and the developer, the Board agreed at a prior meeting that it was part of the record and must be completed. Tonight the Board is dealing with the subdivision only.

There were no further comments from the public. Chairman Fon asked the Board if there were any comments or questions of which there were none.

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

Upon a motion by Bill LaScala and seconded by John Savoca, the Board closed the Regular Session and moved into the Work Session.

WORK SESSION

Fusco Subdivision

SBL: 16.14-1-10
Discussion: Minor Subdivision
Location: 3477 Stony Street
Contact: Ciarcia Engineering
Description: Proposed 2-lot subdivision on 2.72 acres in the R1-20 zone.

Comments:

Dan Ciarcia, P.E. and Laura DiGiovanni were present. Mr. Ciarcia reviewed the changes from the original application of 2011 with the present plan. He stated that not much has changed from the original plan. The driveway was shortened because the detached garage is no longer proposed, the subdivision line has changed and, therefore, the SWPPP will need to be revised. The Town Board approved a variance to allow a driveway grade of 14% and all fees were paid during that time. A public informational hearing and public hearing were held in 2011, no resolution was adopted. The Town Engineer's memo of 11-30-18 was reviewed. Mr. Tegeder stated that there is enough record to rely on and the application can be picked up where the Board feels it is appropriate. Mr. Tegeder asked about the tree removal. Mr. Ciarcia responded that a few will be removed for the driveway and pad. The Board decided to re-review the existing application. The Board requested that Mr. Ciarcia address the Town Engineer's memo of 11-30-18 in writing to the Planning Board. A new public hearing will be held.

The Board requested that Mr. Ciarcia be placed on the January 14, 2019 Work Session agenda. A public hearing will be scheduled in January.

Colangelo Major Subdivision

SBL: 35.16-1-4
Location: 1805 Jacob Road
Contact: Site Design Consultants
Description: Proposed to subdivide the subject property into 5-lots utilizing the "Flexibility" provision in the Town Code. The remainder of the 47 acre parcel is to provide for a single-family residence, open space and lands to be used for agricultural use.

Discussion: Decision Statement – Preliminary Subdivision

Comments:

Joseph Riina, P.E. and Maria Costanzo were present. As a follow up to the previous meeting, they are here to update the Board with respect to the Westchester Land Trust. Ms. Costanzo stated that she spoke with John Baker of the Westchester Land Trust who informed her that his attorney reviewed the Planning Board's approving resolution and has an issue with the conservation easement being mentioned as part of the subdivision approval. As a result, they will not sign the paperwork the applicant will need for tax purposes. Ms. Costanzo stated she understands the donation is not a requirement, however, the Westchester Land Trust still would like this line removed from the resolution. Discussion followed regarding the easement, tax abatement, and recreational requirement for the subdivision. The creation of the trail, donation of 5 acres and 4 parking spaces is in lieu of the 10% active recreation donation. Mr. Tegeder stated any determination of the recreation for the subdivision could be removed from the preliminary approval resolution. Then during the review for final approval, the recreational requirement will be determined, at which time the conservation easement should already be executed. This satisfied the Board and the applicant's concerns.

The Planning Department will revise the resolution as discussed and place the applicant on the December 17th Work Session agenda.

Spirelli Subdivision

SBL: 16.10-4-10
Discussion: Minor Subdivision
Location: 3435 Buckhorn Street
Contact: Site Design Consultants
Description: Proposed 2-lot subdivision on 1.64 acres in the R1-20 zone.

Comments:

Joseph Riina, P.E. and Pat Spirelli were present. Mr. Riina stated that they are here as a follow up to the previous Board meeting and the discussion regarding the existing variance which states subdivision of the property is not allowed. Mr. Spirelli submitted a letter to the Planning Department stating his position. He would like to keep the 3-family dwelling as is and is not in favor of eliminating one of the units as this will affect him financially. Mr. Spirelli is asking for a supportive response from the Planning Board to the Zoning Board to keep the 3-family dwelling and subdivide for an additional dwelling. Chairman Fon stated that the neighborhood would benefit from the improvement and that the applicant has already made improvements by connecting to the sewer. Discussion followed regarding the zoning requirements and code issues.

The Board requested that the Planning Department draft a memo (*considering the subdivision, conceptual plan, septic versus sewer, further enhancement to the area, etc.*) to the Zoning Board.

2040 Greenwood Street – Envirogreen Associates

SBL: 37.15-1-38
Discussion: Site Plan
Location: 2040 Greenwood Street
Contact: Site Design Consultants
Description: Proposed 1 1/2 story commercial building and associated parking on 5.71 acres in the C-4 and R1-40 zones. Project will require wetland buffer disturbance.

Comments:

Joseph Riina, P.E., Rick Cipriani and Steve Marino were present. Mr. Marino reviewed the landscaping, lighting and mitigation plans with the Board. With respect to the landscaping plan, plantings will be close to the building. The Engineering Department's memo of 11-30-18 was reviewed. Mr. Marino stated that he walked the site with Bruce Donohue, the town's wetlands consultant. The building has been moved so there is more buffer from the wetland. The only wetland disturbance is the crossing for the driveway. The buffer and the wetlands will be cleaned up as part of the mitigation plan. All stones, debris and non-native vegetation will be removed and native plants will be added to re-colonize the area to make it look more natural. Mr. Marino stated there is approximately 40,000 sf of proposed wetland mitigation in the form of clean up and new plantings. This lot was previously disturbed/developed.

The Board requested that the applicant address the Town Engineer's memo of 11-30-18 in writing to the Planning Board. A public hearing will be scheduled for the January 28th meeting.

PANBAR – Bonsignore Subdivision

SBL: 36.05-2-57.1
Discussion: Approved Subdivision
Location: 2483 Hunterbrook Road
Contact: Site Design Consultants
Description: Proposed elevation changes to lot 57.1 of an approved 3-lot subdivision by Planning Board Resolution #16-04.

Comments:

Louis Panny, John Barile and Joseph Riina, P.E., were present. Mr. Panny stated that when he began construction on the home, he thought splitting the foundation would allow for less excavation on the site. Mr. Riina stated that the house was shifted so the northern wall of the foundation is part of the retaining wall that was previously shown. Also, Mr. Panny did not grade back above the wall and, therefore, did not cut several existing trees down. Mr. Riina stated the split foundation raised the finished floor elevation of the first floor by 5 feet. The Town Engineer's memo of 12-3-18 was reviewed. Mr. Panny stated that there are no further impacts to what was previously approved and works better for the site. The limits of disturbance are the same. The grading impacts have been reduced by the changed floor plan. The wetland impact is not different than what was approved in the subdivision.

The Board requested that the applicant address the comments made in the Town Engineer's memo of 12-3-2018 in writing to the Planning Board. The applicant will be placed on the December 17th work session. A resolution will be drafted for review.

PANBAR - 332 Homestead (Sarubbi Subdivision)

SBL: 17.18-1-11.1
Discussion: Approved Subdivision
Location: 332 Homestead Road
Contact: Jack Karell, P.E.
Description: Proposed changes to lot 11.1 of an approved 2-lot subdivision by Planning Board Resolution #06-16.

Comments:

Louis Panny and John Barile were present. Mr. Panny stated he was not aware the Planning Board had approved plans for this home when he applied for a building permit. The Building Inspector required the house be turned to comply with the setbacks. Mr. Panny stated that the Town Engineer thought a variance for road frontage was required, but the Building Inspector determined it was not. The house is complete. When Mr. Panny requested the final inspection for a certificate of occupancy, he was told he had never received an erosion control permit and, therefore, they will not inspect the house. The first floor elevation has changed. The Town Engineer's memo of 12-3-18 was reviewed.

Upon a motion by John Kincart and seconded by Rich Fon the Board opened a Special Session.

Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting aye, the Board approved the resolution approving site plan and a sediment and erosion control and tree permit for lot 17.18-1-11.1 within the Sarubbi subdivision.

Upon a motion by John Kincart and seconded by John Savoca and with all those present voting aye, the closed the Special Session.

Motion to Close Meeting

Upon a motion by John Kincart and seconded by John Savoca and with all those present voting aye, the Board voted to **close the meeting at 9:02 p.m.**