

Planning Board Meeting Minutes – October 1, 2018

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, October 1 at 7:00 p.m.** in the Albert A. Capellini Community & Cultural Center located at 1974 Commerce Street, Yorktown Heights, NY 10598 in Room 104.

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
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
 - Tom D'Agostino, Assistant Planner
 - Robyn Steinberg, Town Planner
 - Nancy Calicchia, Secretary
 - Mark Blanchard, Planning Board Counsel
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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 September 17, 2018.

Motion to Open Work Session:

Upon a motion by Chairman Fon, and with all those present voting aye, the Board opened the Work Session.

ADA-compliant assistive listening devices were available to the audience.

WORK SESSION

Biffer Enterprises

SBL: 16.08-1-1

Location: 3642 Hill Boulevard

Discussion: Amended Site Plan

Contact: Helen Biffer

Description: Amended site plan to allow storage sheds and to relocate the refuse enclosure

Comments:

Helen Biffer, owner of property; Francesco Zegarelli, owner of Frankie & Augie's Restaurant; and Bruce Zarzeski of Nixon Architecture, representative for the incoming diner were present. Mr. Zarzeski inquired as to when the certificate of occupancy would be issued. The diner is all set to open within two weeks and is expected to pay rent as of October 1st. Mr. Zarzeski stated that it does not seem reasonable for his client to pay for a space that cannot be occupied.

Helen Biffer presented the revised site plans to the Board (*in the absence of her architect*). Ms. Biffer stated that as instructed by the Planning Board at the last meeting and during the site visit, the sheds will be removed prior to the next Board meeting (*within two weeks*) so that the certificate of occupancy can be issued and the diner can open. Ms. Biffer stated that she asked Mr. Zegarelli to clear out the sheds as they are filled with his merchandise. Mr. Zegarelli stated that he cleaned out two of the sheds but will need time to clear out the others as he needs to create some type of storage within his restaurant for all the items. He feels that this will take more than two weeks.

Chairman Fon stated that they conducted a site visit and walked the entire area to assess the shed situation. The intent is not to hold up the incoming diner, however, the sheds were never part of the approved site plan and are illegal. Ms. Biffer gave permission to the restaurant for these storage sheds with no town approval. Fon stated that there was a discussion with the architect and the planning director to create a single, larger shed or structure for the restaurants' use as a solution to the storage issue. However, Ms. Biffer stated that she does not have the funds to do so. Mr. Zegarelli also stated that they do not have the funds. Chairman Fon stated that Ms. Biffer and Mr. Zegarelli should work together regarding the removal of the sheds. Ms. Biffer stated that once the sheds are empty she will have someone remove them. The shed with electricity was also addressed. Mr. Tegeder stated that it is important to know that the sheds are a site plan violation and subject to legal action.

Chairman Fon stated that a resolution will be drafted approving the modified site plan pending the removal of all sheds. A site visit is to be scheduled within two weeks to confirm the removal of the sheds before the applicant returns to the Board.

Popeyes (Staples Plaza)

SBL: 36.06-2-76

Location: 3333 Crompond Road

Discussion: Amended Site Plan

Contact: JMC Site Development Consultants

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

Comments:

Umberto Balducci, P.E., Rob Aiello, P.E. and Vijay Ghei were present. Mr. Aiello stated an amended site plan was provided at the previous Board meeting which included additional landscaping and parking spaces. As a follow up, they are here to address all comments made by the Board.

Per the Board's request for additional green space, Mr. Aiello stated that the landscaping has been expanded by widening the island 3 ½ feet and fewer parking spaces. In addition, they have reconfigured the islands at the corner based on road conditions due to Popeye's requirements. Suggestions were made with respect to the landscaping and what to plant (*i.e. - grass, fountain grass, etc.*) The Board requested the landscaping to be green and attractive. In addition, a 4 season maintenance plan is required. Mr. Aiello responded that he will create a revised landscaping plan with details based on all the feedback from the Board. Mr. Tegeder stated that as a condition of the resolution, the landscaping design and details should be to the satisfaction of the Planning Board.

Mr. Tegeder also suggested to add more landscaping near 202, along the right-of-way or at the corner. Mr. Aiello stated that the 2 parking spaces in the striped area at the corner could be removed and landscaping added to soften the streetscape where the DOT had done a taking to widen 202. Two parking spaces shown as conservation spaces would be added back to the plan to replace the spaces at the corner.

The loading spot and requirements were discussed. Deliveries will be twice a week during non-peak hours. Mr. Tegeder stated that the zoning code is not explicit in requiring a loading space for each building or shopping center sites such as this. There are many pad sites that don't have a loading spot in town. While it makes sense to have a loading space, he believes that this is not a hard requirement.

The Board feels that the one way lane needs more consideration. Instead of one way, the Board is suggesting to keep it two-way and prohibit left turns at the main exit. Discussion regarding signage followed (*raised, epoxy paint, etc.*)

Mr. Aiello addressed the traffic concerns from the last meeting. He reviewed the SEQR history related to this project. As mentioned at the previous meeting, the traffic signals were modified to put in additional heads and the timing was modified to provide a split phase for the secondary sides of the intersection. This was all completed before the BJ's gas station certificate of occupancy was issued.

The trash enclosure and truck access was discussed. The area will be tweaked to create more buffer and improve the sight lines for exiting vehicles from the drive-thru lane.

The Planning Department will create a resolution with all conditions discussed for approval at the next Board meeting.

Unicorn Contracting Corporation

SBL: 37.18-2-73, 74, 85, & 86

Discussion Approved Site Plan

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

Contact: Ciarcia Engineering, P.C.

Description: Approved site plan and minor subdivision by the NYCDEP with minor amendments to the site.

Comments:

Removed from agenda as applicant was unavailable to attend.

Perez Subdivision

SBL: 17.18-2-2

Location: 3232 Gomer Street

Discussion: Proposed 12 lot subdivision on 12.3 acres in the R1-20 zone

Contact: Ciarcia Engineering

Comments:

John Kincart recused himself from this item. Dan Ciarcia, P.E. and a realtor from Houlihan Lawrence representing the owner were present. Mr. Ciarcia stated the applicant is proposing a subdivision on 12.3 acres formerly known as the Karagouzian farm. The wetlands flagging is complete and the 100 foot buffer is shown. There will be 12 lots in total (*5 structures off Cordial and 7 structures off Gomer*). Discussion regarding drainage, access, several right-of-ways and road constraints followed. Mr. Ciarcia stated that Tim Miller will provide a report to address the functionality of the wetland. Mr. Tegeder suggested to do the cluster calculation and develop a cluster plan. The Board suggested reducing the number of lots and raised the possibility of townhomes. Mr. Tegeder stated that the clustering and flagging need to be looked at and a survey is required.

The Planning Board asked the Planning Department to schedule a site visit possibly next month after additional information regarding the wetlands is submitted.

Adrian Auto Body

Dan Ciarcia updated the Board with respect to Adrian Autobody. He will be submitting an amended site plan shortly. Ciarcia stated the NYC DEP deemed the application complete and he does not expect any changes. He is requesting to discuss the resolution at the next meeting.

Town Board Referral – Solar Power Generations and Facilities

Discussion: Proposed Town legislation to allow the use of harnessing solar power for both residential and commercial properties. It is proposed that projects under this legislation would go through a Special Use Permit and/or the Site Plan application process.

Comments:

The Board discussed the proposed solar law. Mr. LaScala discussed the carbon credits. Discussion regarding site visits followed. Mr. Tegeder has reached out to Orange County and Clarkstown regarding possible site visits to solar farms in those areas and is awaiting responses. He stated that Clarkstown would be the desirable location to visit due to its size (5 acres) and height of panels. Orange County is equal or slightly larger than what is being proposed for Yorktown and is still under construction. The Board is in agreement that a site visit will help them to gain a better understanding of what is being proposed. Tom D'Agostino mentioned that there was a solar farm in Broome County of which he may be able to schedule a site visit. Discussion of how a solar farm operates followed.

The Board requested that the Planning Department continue to research solar farms in the area for a site visit and send any information they have currently to them.

Town Board Referral – Tree Ordinance

Discussion: Proposed Town legislation to amend the current Town Tree Ordinance, Town Code Chapter 270.

Comments:

The Board reviewed the proposed amendment to the current Tree law. A lengthy discussion followed. Some issues of concern were:

- Homeowners of one acre or less should not be burdened with this law.
- Property rights of the owners need to be addressed.
- Removal of diseased or dead trees without consequences.
- Definition of a woodland – language clarification.
- Mitigation clarification.
- Who will enforce this law?
- Legislative intent – Item A of the local law
- Acreage issues.
- Approval authority for subdivisions.
- Referral process, Page 9, 3C.

Susan Seigel, resident stated that the Town Board will be discussing the tree law during their work session on October 9. She stated that comments have been received from the Conservation Board, Tree Commission and DEP.

Mr. Tegeder will compose a first draft of comments from the Planning Board with all items discussed. The Planning Board is requesting a joint meeting with all the Boards (*Town Board, Conservation Board, Tree Commission*) to review and discuss in detail all concerns before making any comments.

Motion to Close Meeting:

Upon a motion by Bill LaScala, seconded by John Savoca and with all those present voting aye, the Board voted to **close the meeting at 9:25 p.m.**