

Planning Board Meeting Minutes – May 6, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, May 6, 2019 at 7:00 p.m.** in the Albert A. Capellini Community & Cultural Center located at 1974 Commerce Street, Yorktown Heights, NY 10598.

Aaron Bock called the meeting to order at 7:00 p.m. with the following Board members present:

- Bill LaScala
- Rob Garrigan

Also present were:

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

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

Meeting Minutes:

The Board could not review the April 22, 2019 meeting minutes because there was not a quorum of members that attended the meeting present.

Motion to Open Special Session:

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

Ricciardella Estates, LLC

SBL: 59.14-1-18

Discussion: Adjourned Public Hearing – Special Use Permit

Location: 702 Saw Mill River Road

Contact: Site Design Consultants

Description: Approved site plan by Planning Board Resolution #13-21, dated September 9, 2013. Under new ownership, the Applicant is applying for a Special Use Permit to allow Residential Dwellings in the Country Commercial Zone.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated the Board had adjourned the Public Hearing of April 22, 2019 as a result of one missed notice in the original mailing notification. This parcel located on the other side of the bike path has since been noticed and a copy of the mailing was provided to the Planning Department. Mr. Riina reviewed the application with all and stated that no aspects of the approved plan are proposed to be changed. The applicant is seeking a special use permit for the residential use only. There were no comments from the public.

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

The Board reviewed the draft resolution. Mr. Bock asked if a condition limiting any additional bedrooms on the site could be added to the resolution. He noted that the accessory building should be used for storage by the owner or the unit owners, but no other entity should conduct business out of the building. This item will be placed on the next Board meeting agenda for a decision.

Motion to Close Special Session:

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

Motion to Open Work Session:

Aaron Bock motioned to open the Work Session and with all those present voting aye, the Board opened the Work Session.

WORK SESSION

CVS-Crompond Road

SBL: 26.18-1-25

Discussion: Site Plan

Location: 3320 Crompond Road

Contact: Cuddy and Feder, LLP

Description: Proposed construction of a 14,700 sf CVS/pharmacy with a drive-thru on 1.96 acres in the C-3 zone.

Comments:

Lucia Chiocchio, Esq. and Dan Patrick, Esq. of Cuddy and Feder; Dan Peveraro, P.E. of The Lauro Group and Dr. Phil Grealy of Maser Consulting were present. Ms. Chiocchio explained that the development team was present as a follow up from the November 5, 2018 Board meeting to present their preliminary application for the proposed CVS. The original application in 2015 was suspended until a flood study could be performed. Ms. Chiocchio stated that an updated survey was submitted and the wetlands were delineated. Dr. Grealy performed a traffic study that recommended improvements which are incorporated into the plan.

The plans were reviewed with the Board. The drive-thru was moved to the corner of the building per the Planning Department's suggestion. The rear site entrance was modified to be located fully on the applicant's property. The drainage, lighting plan, and landscaping plans were provided. Mr. Peveraro stated that in terms of flooding, there are no impacts to the existing conditions on the site. There will be a three-way stop at the drive-thru exit. Mr. Bock asked if the rear site access could be re-aligned with the access across the street, next to the Best Plumbing. Ms. Chiocchio responded that the property owner reached out to Adrian Autobody regarding the triangle piece of land, but they were not interested.

Mr. Peveraro stated that the truck loading and unloading, on the Crompond Road side of the site, will be in the front of the building. He said that the way the building is designed with the front door opposite the pharmacy window, the loading has to be in that location, but that they will look for ways to better conceal it. Mr. Bock asked for screening to block the view of the loading area. The garbage is also located on the east side of the building with the loading. Mr. Peveraro stated that the plans show two loading spaces because two are required, however two trucks will not be at the site at the same time. The truck route to the loading was discussed. Mr. Peveraro stated that the trucks can make all the turns shown on the site plan. Trucks must come across the front of the building. Mr. Tegeder asked if the loading area cannot be made parallel to the building so more landscaping can be added to possibly screen the area better.

Mr. Bock stated that the Town Engineer's memo dated May 3, 2019 noted that the water and sewer service in the area may not be able to handle this development. Supervisor Gilbert was present and described the problems at the Hunterbrook Pump Station and that funding may be needed to upgrade this facility. Mr. Tegeder asked if the applicant is in the sewer district and Mr. Peveraro responded that it was, but will confirm. The Board reviewed the full EAF answers for sewer and water estimated usage. Mr. Bock asked where the stormwater will go. Mr. Peveraro responded that the stormwater for the site was not completely designed yet. He said that this applicant did not perform soil testing as of yet, however, the previous applicant's engineer had performed testing and was proposing infiltration so they feel they will be able to as well. He stated that the drainage has been modeled to account for the flood zone.

Dr. Grealy reviewed his recommendations for traffic improvements. He noted that Saturday westbound left turns into BJ's backs up the hill. This back up can be handled with timing adjustments. Old Crompond Road will be widened by using land from this site and will include a third lane to accommodate the additional traffic from the site. Along the portion of Stony Street between the site and the Chase bank, another lane will be added. By adding this lane it would allow the through traffic from Staples Plaza to come straight across and there will be three lanes southbound on Stony Street, which will reduce the queue that backs up around the Chase Bank. The mast arm of the traffic light located on the site will have to be relocated to accommodate the road widening. Grealy stated that all of these recommended improvements are a part of this project. The study included the use of the rest of the land to the east of the site and the land that was part of the Crompond Terraces application. Dr. Grealy showed a master plan for future traffic conditions in the entire BMP Triangle that he developed during the Crompond Terraces application. Mr. Bock asked Dr. Grealy about updating his study to include the opening of Lowe's. Dr. Grealy responded that he could do this now, but does not think the results would be any different.

Mr. Bock asked about the paved and painted areas shown on the site plan and if landscaping could be used instead. Mr. Peveraro stated that the painted areas are either needed for truck radii or grading, but he would confirm this.

Additional Comment on Lowe's – Dr. Grealy stated there was a meeting last week on the Lowe's traffic improvements. The signals at the Lowe's site are still operating on a fixed time schedule because the loops have not been added to the roadway. The entire roadway (Route 202) from Old Crompond to Strang Blvd., needs to be milled, resurfaced, and restriped. Then the actuation will be added so that the lights adapt to the amount of traffic waiting at the signals. The Strang Boulevard signal timing has finally been adjusted.

McDonalds

SBL: 36.05-1-10
Discussion: Preliminary Site Plan
Location: 3481 Crompond Road
Contact: Keith Brown, Esq.
Description: Proposed to construct a two lane drive-thru on 1.05 acres in the C-4 zone.

Comments:

Tiago Duarte from Dynamic Engineer and David Pernick, Esq. were present. The proposal is to add dual drive-thru ordering lanes on the site. They are also proposing to add a recirculation lane to circle the building should you need to, without going out on the road. This site is company owned, not franchised. Updating ADA parking spaces.

Mr. Bock asked Mr. Buckley, the Planning Board's Attorney, if the application will be affected with regards to the project being within the 100 foot buffer of the Hunterbrook as shown on the 1995 plan. The applicant is not making any changes to the building. Mr. Tegeder stated that if they are doing work in the buffer, they will need a permit. Mr. Bock asked the applicant to show the buffer line on the plan. Mr. Duarte stated that there are no changes to the side of the building near the brook. The proposal will reduce the impervious surface by 200 square feet with added landscaping.

Anderson Subdivision

SBL: 58.09-1-20
Discussion: Minor Subdivision
Location: 1695 Croton Lake Road
Contact: Ciarcia Engineering, P.C.
Description: Proposed 2-Lot subdivision of 15.72 acres in the R1-80 zone, where one residence currently exists.

Comments:

Dan Ciarcia, P.E. and Mr. & Mrs. Anderson were present. As a follow up to the previous Board meeting of April 22, 2019, they are here to review the recently submitted subdivision plans and tree mitigation plan with the Board. Mr. Ciarcia described how the stormwater integrated into the plan. They will be adding 14 trees to intercept the stormwater

on the low side of the driveway in a pretreatment swale. On the higher side of the driveway, where the trees are not in the channel, the channel will act as a conveyance. The wetland mitigation plan prepared by Kellard Sessions was shown. The trees to be used will be dogwoods and river birches, which can grow in shade or sun. The applicant is proposing a 3-year monitoring schedule, which stipulates that if 50% of a tree dies, it will be replaced. The plan includes a list of native species that can be used as replacement trees, should the original choice not be available. The mitigation plan includes removing vines and invasive species in several locations; on the west side of the driveway entrance; along the 3rd bio filter; near turnout for the fire trucks (most vine removal); and below the house heavy barberry. On the property around the existing house, the applicants have already been removing vines and invasive species for a many years.

Mr. Garrigan asked about the tree survey and pointed out how over half the trees are listed as not healthy, and asked if the removal of these unhealthy trees counts towards the tree mitigation that is required. Tegeder responded that the current and proposed tree laws exempt out the removal of unhealthy trees, therefore there are really only about 23 healthy trees being removed that would require mitigation. Mr. Garrigan stated that he wanted to make sure the applicant wasn't being heavily penalized for removing trees that are mostly not healthy. The Board agreed they were happy with the details offered by the applicant's comprehensive mitigation plans.

The Board reviewed the draft resolution. Mr. Ciarcia stated that percolation testing was completed on the site, however the Engineering Department was not present to witness them, and therefore the testing will need to be performed again. The pervious pavement is being treated as a lower run-off co-efficient in the SWPPP for now, unless good soils are found, then Ciarcia will use the pavers as an infiltration practice. Mr. Ciarcia stated that a more complete SWPPP will be submitted in the next week.

The Board requested that the applicant be placed on the agenda for the following Board meeting.

Unicorn Contracting Corporation

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

Discussion: Approved Site Plan

Location: 355 Kear Street

Contact: Ciarcia Engineering, P.C.

Description: Approved site plan and minor subdivision to construct a three story, 40,000 square foot building with a mix of retail and office uses.

Comments:

Dan Ciarcia, P.E. and Paul Guillaro were present. Mr. Ciarcia reviewed the amendments to the recently submitted plans with the Board as a follow up from the Board meeting held on March 25, 2019. Mr. Ciarcia submitted a photo of a proposed bus shelter to replace the gazebo near the bus stop on Underhill Avenue. When asked about the possible demolition of the hair salon building Mr. Guillaro responded that the site was too congested and he would like to remove the structure from in front of the new building. In addition, there recently was a leak on the second floor of the hair salon building and when the Fire Department came they were not happy with quite a few changes made within the building without approvals. As a result, the tenants, the hair salon and the Sports Attic, vacated the building. At this point, Mr. Guillaro has decided to remove the building and not replace it. Removal of the building reduces the required parking for the site. The site now requires 198 parking spaces, where 182 parking spaces are being provided, therefore the Board's reduction in the required parking has decreased to 8% (where 25% is allowable). An updated landscaping plan that includes the bus shelter, the proposed signs, and the proposed plantings, was shown.

Mr. Tegeder asked if the generator could be screened from the east between the unit and the wall because it is up in the air. The Grace sign is proposed to remain as is. The proposed signs will be lit from the ground. The Planning Board agreed to authorize the Building Department to issue a demolition permit for the hair salon building ahead of the Board's amended site plan approval. The Board will take up this approval at its next meeting.

Nantucket Sound, LLC

SBL: 37.18-2-86

Discussion: Preliminary Site Plan

Location: 385 Kear Street

Contact: Site Design Consultants

Description: Proposed to construct a three story, 10,500 square foot building with a mix of residential and retail uses on 0.36 acres in the C-2R zone.

Comments:

Joseph Riina, P.E. and Patrick Murphy were present. Mr. Riina discussed the proposed development with the Board. The parcel has an access easement over the main driveway with the Unicorn property. The proposed building has 3,200 square feet for retail/commercial on the first floor. A drive-thru is shown. The second and third floors are 3,500 square feet, which would constitute 6 apartments. Mr. Riina stated the development would need a variance or reduction in the required parking from the Planning Board. The proposed retail/commercial and apartment uses would complement the medical use on the Unicorn site therefore the applicant hopes to have a shared parking agreement. Mr. Bock asked if there is a maximum number of units in the C-2R zone. Mr. Tegeder stated that no, there is no FAR in the C-2R zone. Mr. Bock noted that there is no outdoor space associated with the building for the residential tenants and asked what the required parking for the site would be. Mr. Riina stated that the proposed building requires 34 parking spaces, however this includes a portion of the first floor being a restaurant use so that would be the worst case scenario. The plan shows 16 parking spaces on the site. Mr. Tegeder said that most likely the food use would not be considered under the restaurant parking requirements if it were only a counter service use with little or no seating. The restaurant parking requirement is typically used for sit down style restaurants where customers stay for about an hour.

Supervisor Gilbert stated that it appears that there is segmentation with the Unicorn project that was just completed. Maybe if these two applications were reviewed together, this amount of development may not have been approved on the corner property. Mr. Tegeder stated that the Unicorn approval did initially include a development on this property. A bank was originally proposed on this corner.

Supervisor Gilbert mentioned that the Town Board is at its rolling average with capacity of the Hallock's Mill Sewer Permit. The NYSDEC notified the Town that we are nearing capacity on the permit because the permit is for 1.5 million gallons/month, where the plant has the capacity to treat 2.5 million gallons/month. There may be infiltration studies required to mitigate the circumstances at the plant. The Town Board will try to get the permit increased to at least 2 million gallons/month. Supervisor Gilbert also noted that the rolling average probably spiked due to all the heavy rains which add flow into the plant because people run sump pumps that flow into the sewer system.

The Board thought the scale of the building might be too large, however the applicant still needs to figure out the details.

Fiore Subdivision

SBL: 26.15-1-69

Discussion: Stormwater Plan

Location: 2797 Carr Court

Contact: Site Design Consultants

Description: Proposed 2-lot subdivision on 1.14 acres in the R1-20 zone.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that he is here as a follow up from the previous Board meeting of April 22, 2019 to review the stormwater maintenance agreement with the Board. The Board was comfortable with the proposed Schedule B, paragraph 9, where there is enforcement, but does not require a bond. The Board requested there be another Schedule B for the existing property. The Board suggested that Mr. Riina set up a meeting with the Planning Department to review all conditions prior to the following Board meeting.

Town Board Referral – The Weyant

SBL: 37.14-2-32

Location: 2040 Crompond Road

Contact: Site Design Consultants

Description: Petition to rezone the 2.62 acre property from the R1-10 Zone to the Transition Zone to construct 23 rental apartments in 4 one and two-story buildings.

Comments:

Joseph Riina, P.E. and the applicants John Devito and Kyle Devito were present. Mr. Riina stated that they are here as a follow up from the previous Board meeting of April 22, 2019 to review the recently submitted plans with the Board.

The Board reviewed how the applicant addressed their memo. Mr. Riina stated that he added 90 degree emergency exit onto Hamblyn to the plan in red. The landscape plan now includes the streetscape trees. The applicant is proposing an entrance signage/statement which will be a large stone pillar on each side of the access to the homes with a bronze plaque saying “The Weyant” and the address. They chose to move the historical stone post into the center of the site so all of the residents will be able to see it.

This rezone application will be back at the Town Board meeting on May 14th, which is a work session. The public hearing has not been closed. The Transitional Zone approval requires a Negative Declaration, which can then be taken to the NYCDEP. Then the Town Board can come back and approve the site plan after the NYCDEP.

Neighbors that were present at the meeting did not feel the Board was hearing their concerns by recommending the access on Hamblyn be changed back to a regular 90 degree access after several years of review. They prefer the curved entrance away from their neighborhood. Mr. Tegeder stated that because over those several years of review the density of the development was reduced and because the access on Hamblyn will no longer be the main access, but a closed emergency access only, that there was no reason to construct the curved access drive. Further, the curved off ramp style access could be more dangerous.

Town Board Referral – Solar Power Generations and Facilities

Description: 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:

As a follow up to the previous Board meeting of April 22, 2019, the Board continued their discussion of the proposed solar law. Mr. Bock stated that Alan Rothman, the Underhill property owner, is a client of his firm and will recuse himself from that portion of discussion, however, he can participate in the solar law discussion.

Mr. LaScala asked resident Paul Moskowitz his opinion on the proposed solar law. Mr. Moskowitz stated that he walked the two properties at the April site visit and was surprised someone would consider building anything on these sites. He said that the Underhill Avenue site is very steep; 94% is over 15% grade. The law specifically says that large scale solar installations will go on R-1, R-2, and R-3 sites. In Moskowitz’s opinion, the town has commercial properties that could allow for solar installations. Mr. Tegeder clarified that solar installations on commercial property would be as an accessory use only, not a main use. Mr. Moskowitz does not agree that large scale installation should be on residential property. Individual homeowners should be allowed to install panels, but not large scale installations. Moskowitz stated that he read a report from Scenic Hudson that recommended not giving blanket authority to entire zones, but to identify certain sites where large scale installation projects could work. Mr. Moskowitz said that solar is an industrial use and felt that once you open residential properties to industrial uses, when a new one is invented, why not allow that too. Mr. Tegeder clarified that any new invented technologies aren’t permitted yet and the town may not permit them.

Mr. LaScala again requested to see google maps of similar size installations from the applicant.

Mr. Bock requested a map of vacant residential properties that would be affected by the proposed solar law.

Kathy Haake and John Miller from Clean Energy Collective were present. Ms. Haake stated that her company would negotiate a PILOT with the town and that the lower taxes they will pay will be more impactful than residential development. Mr. Miller stated that solar is not an industrial use. Industrial uses involves workers, traffic, waste, etc. Solar is a commercial application.

Ms. Haake stated that the Foothill site was originally cleared when all the stone walls were built therefore there is not an old growth forest on the site and that a residential development would remove more trees forever.

Ms. Haake stated that the property owner of the Underhill site has expressed using the land as a horse farm and other agricultural uses like for growing grapes. Ms. Haake stated that in her opinion the Underhill site will look better after the proposed landscaping is installed. You will only see a driveway entrance. Mr. Tegeder stated that the concern is from the higher elevation of the homes on the other side of Underhill Avenue. Ms. Haake stated that she hiked up Turkey Mountain and could only see the site from the power lines. Mr. Tegeder stated that he could see the homes on the other side of the street and the power lines from the site therefore the site can be seen from the reverse direction.

Ms. Haake stated that she is hoping to move forward with these two sites. She requested that the Planning Board send their comments to the Town Board for the May 14th meeting.

The Board decided to discuss the law again at their next meeting, when hopefully the rest of the Board members would be present. The Planning Department will create a list of issues that have come up over the past few meetings for the Board to discuss.

Motion to Close Meeting

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting aye, the Board closed the meeting at 9:30 p.m.