

Planning Board Meeting Minutes – June 10, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, June 10, 2019 at 7:00 p.m.** in the Albert A. Capellini Community & Cultural Center located at 1974 Commerce Street, Yorktown Heights, NY 10598.

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

- John Savoca, Vice Chairman
- John Kincart, Secretary
- Bill LaScala
- Aaron Bock

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

- There were no liaison reports.
- The Board reviewed all correspondence.
- John Kincart asked about the pad sites at Lowes, including Popeyes, with respect to the sewer capacity. He said that the pad sites were approved by the Town Board, Planning Board and County legislature in 2015 and 2018. What if the flow becomes more than anticipated or the restaurants were to expand? He also asked about Thyme Restaurant and although it is closed now, what if a new restaurant were to take its place. Mr. Tegeder stated that the Town Board has a resolution on their next meeting agenda to buy new pumps for the Hunterbrook pump station. Mr. Tegeder also stated that it was recommended that the Town Engineer prepare a report for the Town Board and Planning Board on what is happening and why they believe it is at its capacity. It was noted that the exceptionally rainy weather of last year has had an impact.

Motion to Approve Meeting Minutes

- Upon a motion by John Kincart and seconded by Aaron Bock and with all those present voting aye, the Board approved the meeting minutes of April 22, 2019 with corrections as noted.
- 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 May 20, 2019.
- The Board could not review the May 6, 2019 meeting minutes because there was not a quorum of members that attended the meeting present.

Motion to Open Work Session

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

WORK SESSION

Hearthstone Minor Subdivision

SBL: 17.18-1-8
Discussion: Approved Minor Subdivision
Location: 3138 Hearthstone Street
Contact: John Karell, P.E.
Description: Approved 2-lot subdivision on 0.98 acres in the R1-20 zone by Resolution #18-10, dated July 16, 2018.

Comments:

William Besharat was present. Mr. Besharat has returned as a follow up to the May 20, 2019 meeting regarding the discussion of the variance of which the owners obtained before they came for the subdivision for the single lot that existed. He is seeking a response from the Board as to whether or not that variance from the NYS Town Law, section 280-a is adequate for both lots. He stated that the location of the access is the same and will not change. At the previous meeting, the Board deferred to Mr. Buckley, Planning Board attorney, for input.

Mr. Buckley stated that he researched this item and the Zoning Board did issue the variance, however, he has reservations about extending the variance to two lots. The variance is granted for a building on one lot not multiple lots. His recommendation is to go back to the Zoning Board for a variance for the second lot as it was not contemplated originally. Mr. Buckley noted the NYS Town Law Section 280-a language talks about permit for a building. He said that they are proposing to take one lot and split it into two lots and will now have multiple buildings, which is contrary to the language of that section.

The Board agreed that no building permit will be issued for the second lot until a variance is obtained and advised Mr. Besharat to return to the Zoning Board for the second lot. The Board will modify the condition in the resolution so that work can proceed on the first lot. Mr. Besharat stated that he will start the procedure with the Zoning Board for the second lot.

345 Kear Street

SBL: 37.18-2-84

Discussion: Special Use Permit

Location: 345 Kear Street (*Brookside Park*)

Contact: Esat Gashi

Description: Proposed outdoor seating for a new restaurant at the former Kirby's Grill & Bar.

Comments:

Eric DiBartolo and Jeton Selemaj, restaurant owner were present. The applicant is requesting to install an outdoor seating area for the new restaurant, The Gramercy (*formerly Kirby's Restaurant*). A survey and patio plan with details were shown to the Board for their review. The telephone pole and sewer line were also shown on the plans as requested previously by the Board. The Board had no objections to the plans as shown. The resolution was reviewed with the applicant and the Board members. Chairman Fon stated that the resolution should note that the applicant will verify the field conditions with respect to all building codes, and that the foundation design will be to the satisfaction of the Town Engineer regarding the existing sewer lateral.

Upon a motion by Bill LaScala and seconded by John Savoca, the Board opened a Special Session.

Upon a motion by Bill LaScala and seconded by Aaron Bock, the Board approved a resolution approving special use permit for outdoor seating at The Gramercy Restaurant as amended.

Upon a motion by John Savoca and seconded by John Kincart, the Board closed the Special Session.

Southern NY Beagle Club

SBL: 46.12-1-1, 2 & 47.09-1-25

Discussion: Special Use Permit

Location: 1875 Hunterbrook Road

Contact: Vince DiCarlo Home Improvements

Description: Request for Special Permit to construct a new garage for tractor storage.

Comments:

Vince DiCarlo, Board of Trustees member of the Southern New York Beagle Club was present. Mr. DiCarlo is requesting a special use permit for the purpose of installing a pre-fabricated two door garage to store heavy equipment

that the club keeps on the grounds for maintenance. A survey, photos and garage specs were provided to the Board. The proposed garage will be located to the right of the clubhouse. The Board had no objections to the plans as shown. The Planning Department will draft a resolution for the next Board meeting.

Envirogreen Associates

SBL: 15.16-1-30
Discussion: Site Plan
Location: 1851 ,1867,1875 East Main Street
Contact: Site Design Consultants
Description: Proposed redevelopment of a portion of the referenced property by removing one of the existing buildings and parking area, and constructing a new 6,000 sf and 10,000 sf retail centers with associated parking.

Comments:

Rick Cipriani was present. Mr. Cipriani said that this application started in 2015 and he has been working with the NYS DEC for the last few years since the Planning Board worked on the preferred site plan. He updated the Board with respect to the NYS DEC letter received on May 3, 2019. The DEC will not approve the plan with the interconnection to both parking lots. Per his conversations with John Petronella at the NYS DEC, a determination of significance from the Planning Board pursuant to SEQR is required to make this a complete application. Once this is done, he can then request a hearing with an administrative judge for a resolution. Mr. Cipriani noted that the previous Planning Board attorney, Mark Blanchard, responded to the DEC on December 20, 2018 stating that they have satisfied all the requirements noted in order to get a permit.

Chairman Fon asked the Planning Department to review the file and prepare a Negative Declaration. Mr. Bock noted that the Negative Declaration should address the DEC concerns.

Building Department Referral – 1131 Stonegate Road

Description: Proposed deck on a lot of the Stonegate Townhouses Subdivision approved by the Planning Board on July 8, 1971. The Planning Board determined setbacks for accessory structures on the lots of this subdivision via resolution #15-15, dated November 9, 2015.

Comments:

Timothy Lener and Michael Lener were present. Timothy Lener stated that they are in front of the Board to legalize a deck in the rear yard of this property which was constructed 5 years ago. The owner is seeking to sell this residence which is a corner lot. The deck is 2.7 feet from the side property line where the Planning Board allowed 3 feet. The neighbor's deck is further away. The deck was constructed without a permit originally and a permit has since been issued by the Building Department, however, they were referred by the Building Department to the Planning Board due to the setback. The survey and deck specifics were shown to the Board.

Discussion regarding the setback requirements and flexibility standards for this development followed. The concern was to be able to get around to maintain these structures. Mr. Tegeder stated that only this particular property would be modified, all the other properties would have to maintain the 3 foot setback. The Board had no objections.

Upon a motion by John Kincart and seconded by John Savoca, the Board opened a Special Session.

Upon a motion by Bill LaScala and seconded by Aaron Bock, the Board approved a resolution determining the side yard setback for accessory structures for 1131 Stonegate Road at the Stonegate Townhouses.

Upon a motion by John Kincart and seconded by John Savoca, the Board closed the Special Session.

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:

Kathy Haake was present. As a follow up to the May 20th meeting, the Board continued their discussion regarding the Solar Law. Mr. Kincart requested an updated version of the map distributed at the previous meeting be provided to the Board.

The Board discussed criteria with regards to the law such as lot size, topography, wetlands, disturbed sites, brown fields, and parking lots, etc. Discussion followed regarding residential and commercial use. The access to commercial would be wide open. It was noted that solar is a clean use with no pollutants and very low impact.

De-commissioning of the solar farms was discussed. The Board asked what would happen if the solar farm was no longer producing energy. Ms. Haake responded that it would have to be one year without electrical energy generation before de-commissioning. Also, if a company should go out of business, the farm would be de-commissioned by the company or if they were not able to do it, the bond in place would cover this.

Supervisor Gilbert informed the Board that the Tree Committee commented on a section within the Tree Law ordinance with respect to the permitting process and the general principal of the tree law which would take precedent. Mr. Tegeder stated that if a solar farm proposal goes against the intent of the tree law, then it will need to be looked at. Mr. Kincart stated that we need an opinion on the Tree Ordinance.

After discussion, the Board decided that their recommendation to the Town Board would be to not allow solar arrays as a main use in residential zones; accessory use would be acceptable. Mr. Savoca inquired as to where the approvals would go. Mr. Tegeder responded that they would go to the Building Department and that the Planning Department would see applications under certain circumstances (*i.e. – ground mounted or front yard*).

The Planning Department will revise the memo and circulate to all for finalization at the next meeting.

Motion to Close Meeting

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting aye, the Board voted to **close the meeting at 8:07 p.m.**