

Planning Board Meeting Minutes – September 9, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, September 9, 2019 at 7:00 p.m.** at the Albert A. Capellini Community & Cultural Center at 1975 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

Motion to Approve Meeting Minutes

Upon a motion by Aaron Bock and seconded by Bill LaScala and with all those present voting aye, the Board approved the meeting minutes of August 12, 2019 with corrections as noted.

Motion to Open Work Session

Chairman Fon motioned to open the Work Session with all Board members present voting aye.

WORK SESSION

McDonalds

SBL: 36.05-1-10
Discussion: Public Hearing
Location: 3481 Crompond Road
Contact: Keith Brown, Esq.
Description: Proposed to construct a two lane drive-thru and associated parking lot improvements on 1.05 acres in the C-4 zone.

Comments:

David Pernick, Esq. from Brown & Altman LLP; Tiago Duarte, P.E. from Dynamic Engineering were present. Mr. Pernick stated they are here as a follow up to the adjourned Public Hearing held on August 12, 2019. Mr. Pernick addressed the issue regarding the fire hydrant. He said that they came up with a plan that they feel will work for all and are meeting with the Fire Advisory Board directly after this meeting to discuss the proposed plan. As discussed previously, they were proposing a 12 foot-wide gate along Old Crompond Road that interfered with several parking spaces and are now proposing to move the gate further west and shift the parking spaces down towards the east so there is no conflict. They will make a driveway for a truck to pull in. Mr. Tegeder asked if the reason for the gate is for trucks to get in or to access the fire hydrant on Old Crompond Road. Mr. Pernick stated the hydrant is 100 feet down the road and they feel they can gain access. Chairman Fon stated that the issue was the parking. The Board stated that if the Fire Board is satisfied with the proposed plan, then they will be as well.

Mr. Pernick stated that they will address the Town Engineer’s memo dated August 29, 2019. With respect to landscaping, he noted that they have addressed ABACA’s comments regarding the native plants and revised the

plans accordingly and submitted to ABACA for review. The most recent memo from ABACA dated September 5, 2019 suggests that the applicant consider planting a shade tree (maple tree) in front of the property. However, they do not agree as they feel it will reduce visibility of the building. Chairman Fon asked the Board if they had any thoughts on this. Mr. Tegeder suggested that the applicant propose a different type of landscaping such as a specimen tree with varied landscaping underneath it. Chairman Fon suggested that the applicant talk to their landscape architect to come up with a plan. Mr. Kincart asked if the restaurant will remain open during construction and Mr. Duarte responded it will not.

Chairman Fon asked the Board if there were any other comments of which there were none. The Board requested that the applicant be placed on the agenda for the next Board meeting.

Unicorn Contracting Corporation

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

Discussion: Approved Site Plan Amendments

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:

John Savoca recused himself from this agenda item. Dan Ciarcia, P.E. was present. Mr. Ciarcia updated the Board with respect to the project as a follow up to the August 12th meeting. The plans were shown to the Board. Mr. Ciarcia stated that they are in the final stages for completion of the project. He said that the building interior is almost complete. The parking spaces were discussed. The landscaping was reviewed with the Board from what was originally approved and almost complete. Mr. Ciarcia stated that ABACA had made some suggestions of which were included in the plan. He noted that some plantings were relocated and they have included additional landscaping. Mr. Ciarcia stated that the changes to the landscaping plan were implemented but the plan was never updated. Discussion followed regarding the landscaping and screening. Mr. Ciarcia stated that they are scheduled to meet with ABACA on September 10th to review the final landscaping plan and discuss the adjustments made. The monument signs were also discussed.

Mr. Ciarcia stated that the as-built survey will be submitted shortly. He noted that in terms of security, a \$50,000 cash performance bond was submitted to the town to guarantee final completion of the project and this can be held as security should there still be open items when the certificate of occupancy is granted. He met with Mr. Tegeder at the site last week and since then there has been even more progress. He also met with the Town Engineer to address all outstanding issues in order to get the facility up and running.

Mr. Tegeder stated that it appears that the development is substantially complete with a few minor items remaining. Mr. Ciarcia stated that the applicant will do what is necessary as the tenants are ready for occupancy and are hoping for a temporary certificate of occupancy.

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 Chiochio, Esq. of Cuddy & Feder LLP, Daniel Peveraro, P.E. of The Lauro Group and Dr. Philip J. Grealy of Maser Consulting were present. Ms. Chiochio stated that since the May 6th meeting, their team has been working on responding to comments. The revised submission incorporates landscaping areas to screen the loading and refuse enclosure areas. There will be an additional landscaping island and they will be adding a lot of greenery to the area. The drawings include the details of the landscaping plan.

The site plan includes a truck turning diagram to show that the delivery trucks can access and maneuver the site safely. They talked to CVS to schedule loading schedules so as not to conflict with traffic.

The submission packet also includes traffic mitigation measures contemplated by Dr. Phil Grealy of Maser Consultants. Details of the improvements are shown in the site plan. Improvements include the widening and restriping of Stony Street and traffic signal upgrades. A portion of the premises for the widening will be dedicated to the town. Dr. Grealy stated that there will be changes made to the signaling and the existing pole will have to be replaced. The new sidewalk and the widening will take place, the whole area will be resurfaced and restriped. He noted that it will be a mirror image of the modifications done at BJ's. There will be additional widening along Old Crompond Road. He said that the study was based on projections because Lowes was not open. Now that school is back in session, they are doing another count to update the study. There will be three lanes towards BJ's and one lane heading in the opposite direction.

Mr. Tegeder asked about the ingress from Route 202 and if it is intended to serve the adjacent property as well. In terms of how this configuration will work, it could serve that property and there would have to be additional improvements along Old Crompond Road if that property is developed. A shared entrance would have to have an easement that favors both properties. The Board suggested that the applicant research the property to see what easement is necessary for access. All property lines should be shown on the site plan.

Mr. Bock asked Dr. Grealy about the Town Engineer's memo of May 3, 2019 with respect to traffic. Dr. Grealy replied that he responded to the Town Engineer in his letter of May 17, 2019. Dr. Grealy stated that a new traffic count will be done this month now that school is in session and he will provide comments about the proposed widening and striping as well.

The Board requested that the applicant submit architectural drawings with elevations, keeping in mind screening for rooftop units. Mr. Tegeder suggested adding street trees to the landscaping plan to mirror the BJ's frontage. The Board requested that a Public Informational Hearing be scheduled for the September 22nd meeting.

Lowe's Plaza Building Pad 'B'

SBL: 26.18-1-18
Discussion: Site Plan
Location: 3200 Crompond Road
Contact: Site Design Consultants
Description: Proposed restaurant/professional office building with a drive-thru lane on building pad 'B' of the Lowe's Subdivision.

Comments:

Joseph Riina, P.E., Bob Rosenberg, Michael Grace, Esq. and Abigail Adams were present. An alternate layout plan was proposed to the Board in order to address the parking. Starbucks requested a longer stacking lane and as a result, they will lose some parking. The plan has been reconfigured to address this change. The dumpster was moved to a new location. The loading zone and trash enclosures became parallel parking spaces. Mr. Grace stated that they have an application before the Zoning Board for the front yard setback. Mr. Tegeder asked where the menu board for Starbucks will be located. Mr. Riina pointed out the location of the menu board on the plan.

Ms. Adams stated that the landscaping plan was updated to reflect the site plan changes. Screening was added around the dumpster. They have also added a trellis on the property as suggested by ABACA. Discussion followed regarding additional landscaping opportunities.

Chairman Fon asked the Board if there were any comments. Mr Tegeder stated that he would like to see a final iteration of the plan.

Roberta Front Street

SBL: 48.07-2-11, 13, 15, & 17

Discussion: Site Plan

Location: Front Street

Contact: Site Design Consultants

Description: Rezone and site plan approved by Town Board by Resolution #485, dated December 19, 2017, with conditions for approvals by the Planning Board. This property was rezoned from R1-20 to the Transitional Zone to construct two mixed use buildings consisting of commercial space and residential units on 0.8 acres.

Comments:

Joseph Riina, P.E. and George Roberta were present as a follow up to the August 12th meeting. Mr. Riina showed the plans to the Board. The Tree Conservation Advisory memo dated September 9, 2019 was reviewed. The memo suggests that the trees be spread out to allow for growth. Mr. Kincart stated that the applicant has satisfied the Boards' issues to the best of their abilities and appreciates their cooperation. Mr. Tegeder asked if the SWPPP was complete and the response was yes. Mr. Kincart stated that the site is less than one acre in size. Mr. Riina stated that the DEP considers developments of less than one acre of disturbance small projects, however, the site was designed with a full SWPPP that addresses water quality as well as quantity.

Envirogreen Associates

SBL: 15.16-1-30

Discussion: Negative Declaration

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:

Joseph Riina, P.E. and Rick Cipriani were present. Mr. Cipriani stated that they are here to discuss the Negative Declaration that is required by the NYS DEC. Discussion followed. The Board requested that the applicant be placed on the next agenda for further discussion.

Town Board Referral – Stormwater Permit at 1690 Amazon Road

SBL: 25.12-2-28

Address: 1690 Amazon Road

Description: Request for a Stormwater Permit and Tree Permit for a single family house to run on private septic. The project is in the R1-20 zone.

Comments:

James Cronin was present. Mr. Cronin is proposing a single-family residence on an existing lot on Amazon Road. He stated that the lot is conforming and has septic approval. He is requesting a stormwater permit for the property. He said that there were some changes made to the plan per the Engineering Department. Mr. Cronin stated that he is on the September 10th Town Board agenda. Mr. Savoca asked if there were any planning issues. Mr. Tegeder asked if any plans were submitted. Mr. Tegeder asked Mr. Cronin if he was planning on developing the property behind and if any thought was put into developing access to this property. He also asked if there was a variance for frontage or an easement in place for the rear property. Mr. Cronin responded that he has no current plans to develop the rear property. The parking area, street access and common driveway were discussed. Mr. Tegeder stated that the rear parcel would be landlocked if the front property was developed and an easement is not established. Mr. Tegeder stated that he will review the application further for response to the Town Board.

ZBA Referral – Spirelli Subdivision

SBL: 16.10-4-10

Address: 3435 Buckhorn Street

Description: Request for an amended variance for a parcel located at 3545 Buckhorn Street, in the R1-20 zone, to allow a proposed subdivision with an existing multi-family house.

Comments:

Joseph Riina, P.E. and Mr. Spirelli were present. Mr. Riina stated that they have an application before the Zoning Board to see if they will amend their original decision made in 1985 that restricted subdivision of this property. The Zoning Board has referred them to the Planning Board for comments. Mr. Kincart asked if the ZBA found any other documentation with respect to this decision and the response was no and that they voted unanimously to re-open this variance based on that one sentence. Mr. Tegeder noted that the Planning Board had varying opinions with respect to this application. Mr. Savoca stated that it is not a decision that the Planning Board should make. The Zoning Board should make the decision. Mr. Buckley stated that the Zoning Board voted to re-open this variance and as part of this process, they referred it back to the Planning Board.

After discussion, the Board agreed that if the Zoning Board amended the variance to remove the restriction on subdivision, then the Planning Board will consider reviewing the subdivision application. Mr. Spirelli added that in 1985 there was no sewer. Mr. Tegeder noted that there is still the question of density established by the zoning district.

ZBA Referral – Yorktown Energy Storage Facility

SBL: 6.17-1-24

Address: 3901 Gomer Court

Description: Proposed Special Use Permit for a Public Utility Substation under Town Code Section 300-57. This project is located at 3901 Gomer Court.

Comments:

Robert Gaudio, Esq. of Snyder and Snyder, LLP; Tyler Kiss and Melissa Samaroo of Borrego Solar Systems Inc. were present. Mr. Gaudio stated that they are here as a follow up to the August 12th meeting. They modified the plans based on comments from that meeting. They re-oriented the facility to the western portion of the site; are providing a shadow box screen fence and planting a total of nine 6-8 ft. Norway spruces along the southern portion of the site for screening. They have also provided visual profiles and photos from Route 6 and East Main Street to show the sight lines for drivers and pedestrians passing the site. Mr. Gaudio stated that there were no issues with the Building Department. Mr. Gaudio stated that they are scheduled for the September 26th Zoning Board agenda and are requesting that the Planning Board send their comments before then.

Mr. LaScala stated that this is a new system and questioned the potential for fire. He asked if the battery storage system were to explode how would they suppress the fire. He noted that we require an underground fuel system to be enclosed in concrete and asked if they would build a concrete wall around this system. Tyler Kiss stated that with Con Edison and the state of New York, they are safety-first oriented and follow safety guidelines. Ms. Samaroo stated the attached HVAC system will keep the batteries cool while charging and explained the process to the Board. She noted that the four containers will have full fire suppression systems. Stewart Glass, Assistant to the Town Supervisor, stated that an updated handbook was issued in July for model ordinance to address these types of programs (*all consistent to fire department, first responders, etc.*). Mr. Glass said that Rich Abbate, the Town Attorney, is reviewing the handbook.

Mr. Tegeder asked what will be the material at grade around the units and what the total disturbed area will be. The response was that gravel will surround the units and the total disturbed area was .416 acres (18,000 sf). Mr. Tegeder said that gravel is good for infiltration, however, there may be some mitigation required for the disturbed wetland buffer area. This application needs the town wetlands delineated and should be referred out to the environmental boards for review.

The Board requested that the applicant provide a copy of the NFPA (*National Fire Protection Association*) code for review. The Board requested that this item be placed on the next agenda to address the items discussed this evening.

ZBA Referral – Sarlo

SBL: 59.14-1-20,21,22

Address: Saw Mill River Road

Description: Request for a Special Use Permit for parking of commercial vehicles on the three lots located at 675-695 Saw Mill River Road.

Comments:

Joseph Riina, P.E. and Anthony Sarlo were present. Mr. Riina stated that this property is located on Saw Mill River Road behind Jennifer’s Restaurant. They are seeking to obtain a special use permit for the parking of commercial vehicles on the three properties located in the R1-200 and Country Commercial zones. One lot is zoned country commercial (*almost 1 ½ acres*), the second lot is zoned R1-200 (*2 ½ acres*) and the third lot is zoned R1-200 (*2 acres*) and contains two structures. They have received a violation for parking commercial vehicles on the site and are currently working to remedy this situation. They have an application before the Zoning Board for a special use permit.

The Board asked what type of vehicles are parked there. Mr. Sarlo responded that they are landscaping vehicles only. He said that the property is used for vehicle storage by four companies for local work. There are no offices located at this location. Mr. Sarlo said that there are no bulldozers, tanker trucks or log storage at this location. He mentioned that there were some containers with tools. Mr. Sarlo stated that it is hidden from the road and never had any complaints. He noted that the Town Board did a walk-through. Mr. Sarlo said that he originally requested a re-zone but the Town Board felt a special use permit would probably be more appropriate.

Mr. Bock asked about the surface areas and the response was Item #4. Mr. Bock questioned how this would impact the reservoir and if DEP should be involved. Mr. Kincart stated that it is an already existing condition. Mr. Riina responded that it depends on what conditions the ZBA puts on them. Chairman Fon stated that he does not feel the site is a proper location for storage of commercial vehicles. Mr. Tegeder asked what special permit section of the code are they applying under. Mr. Riina responded that this is up for discussion. He said that there is some allowance in two residential zones under 10% of the lot area. Mr. Tegeder stated that there are special uses allowed in this zone and what is being proposed is not allowed in the zone.

The Board is not in favor of this application and asked the Planning Department to prepare a response to the Zoning Board stating that they are not in favor of industrial use on this property and that the environmental impacts need to be addressed.

Motion to Close Meeting

Upon a motion by Aaron Bock and seconded by John Kincart and with all those present voting aye, the Board closed the meeting at 9:30 p.m.