

Planning Board Meeting Minutes – October 7, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, October 7, 2019 at 7:00 p.m.** at the Albert A. Capellini Community & Cultural Center 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
- Robert Garrigan, Alternate

Also present were:

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

Correspondence / Liaison Reports

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

Meeting Minutes – September 23, 2019

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 23, 2019 with corrections as noted.

Upon a motion by Bill LaScala, seconded by John Savoca, and with all those present voting in favor, the Board opened a Special Session.

SPECIAL SESSION

CVS – Crompond Road

SBL: 26.18-1-25
Discussion: Adjourned Public Informational Hearing
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. and Dan Patrick, Esq. of Cuddy & Feder, LLP and Dan Peveraro, P.E. of The Lauro Group were present. The Board had adjourned the Public Informational Hearing at the September 23, 2019 meeting due to a noticing error. All notices have now been posted correctly. Chairman Fon asked if anyone from the public had any comments on this application. No one came forward.

Upon a motion by John Savoca, seconded by LaScala, and with all those present voting in favor, the Board closed the Public Informational Hearing.

Lowe's Plaza Building Pad 'B'

SBL: 26.18-1-18
Discussion: Site Plan
Location: 3200 Crompond Road
Contact: Site Design Consultants
Description: Proposed retail building with a drive-thru lane on building pad 'B' of the approved Lowe's Home Center Site Plan.

Comments:

Michael Grace, Esq., Joseph Riina, P.E. of Site Design Consultants, and Bob Rosenberg of Breslin Realty were present. Mr. Tegeder asked about the tree mitigation and landscaping on the main Lowe's site. Mr. Rosenberg stated that they were meeting on site with the Town Engineer, Michael Quinn, tomorrow to walk the site. The trees that did not survive are under warranty and should be replaced. Mr. Tegeder stated that the landscaping is still conditioned on the last certificate of occupancy for the site.

Mr. Riina showed the Board a minor revision to the Landscape Plan that was made in response to the ABACA. On plan sheet L-100, along the west and north sides of the building strips of low platings were added. The last revision date on this sheet should be October 4, 2019. This revision date was added to the draft resolution.

Chairman Fon thanked the applicant for responding sufficiently to the comments of the Town during the review of this plan so quickly.

Mr. Rosenberg asked about any bonding for this site plan. Mr. Tegeder stated he would look into whether the original bond for the site included the site improvements for Pad B, but that the applicant would not be asked for a duplicate bond.

Mr. Grace stated the applicant is before the Zoning Board of Appeals for the front yard variance that was discovered after the plat was filed and property was deeded to the NYSDOT to widen the right-of-way. He expected this variance to be granted at the Zoning Board's next meeting at the end of October. The Planning Board's decision can be conditioned on obtaining the variance.

Chairman Fon asked the public if there were any comments and there were none.

Upon a motion by Bill LaScala, seconded by John Savoca, and with all those present voting in favor, the Site Plan for the Lowe's Building Pad B was approved.

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. of Site Design Consultants and Chris Roberta were present. Mr. Riina stated the only remaining comment was from the Tree Commission regarding the spacing of the screening trees. They wanted the trees spaced further apart (recommended 6 feet) so they would have room to grow. Mr. Tegeder read an email from the project landscape architect, Frank Giuliano. In his email, Mr. Giuliano stated that if the trees were spaced 6 feet apart, they would not grow to form the dense hedge that was intended. Mr. Riina stated that it looked like Giuliano had increased the spacing from 3 feet to 4 feet as a compromise. Mr. Tegeder asked that Giuliano write a letter to the Board explaining his recommendation would be to form the hedge as envisioned.

Mr. Savoca asked Mr. Riina to take the Board through the Town Engineer's memo dated July 12, 2019:

1. Closed.
2. Closed.

3. Mr. Riina stated he prepared and submitted a draft maintenance agreement that is being reviewed by the Town Attorney. The town Board approved the plan with the improvement shown on the right-of-way. The applicant is willing to maintain all of the improvements that would have been his if the right-of-way wasn't wider at this location.
4. Mr. Riina stated that his response was that the design will attenuate the 100 year storm on site, therefore no additional flow will be added to the drainage system. Mr. Riina felt a downstream capacity analysis and study of the existing line was a large undertaking. The applicant is willing to video the line if that is all that is requested.
5. Closed.
6. Mr. Riina has contacted the NYCDEP and submitted to them. A letter from the NYCDEP to Mr. Riina was submitted regarding the project. Mr. Riina described the NYCDEP's stance on calling projects in the main street area that are less than an acre, "small projects," and not holding them to the quantity and quality standards that were previously required. Because this is not an official NYCDEP policy yet, Mr. Riina has designed the stormwater system on the site to comply with the more stringent standards.
7. Closed.
8. A restaurant is no longer proposed because not enough parking could be provided. The average daily flow is not based on a restaurant. When Riina met with Quinn, he closed this item.
9. Closed.
10. The Landscape Plan buffer has been addressed.
11. Mr. Riina stated the loading area along Building 1 was widened and the applicant maintains that this area is adequate to serve the entire site.
12. Concerns the right-of-way issue again.
13. Truck turning movements were provided.
14. Mr. Riina confirmed the ADA parking for the residential part of the project meets the ADA standards for dimension.
15. Elevations of the walls are shown. The maximum expected height of the walls is 6 feet.
16. Concerns the right-of-way issue again.
17. The applicant agrees with the stormwater maintenance agreement.

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

WORK SESSION

Nantucket Sound, LLC – *ITEM WITHDRAWN AT APPLICANT'S REQUEST*

SBL: 37.18-2-86
 Discussion: Pre-Preliminary Application
 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.

McDonalds Restaurant – *ITEM WITHDRAWN AT APPLICANT'S REQUEST*

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

Battery Storage Facility for Rooftop Solar System (Staples Plaza)

SBL: 36.06-2-76
Discussion: Site Plan
Location: 3333 Crompond Road
Contact: Maziar Dalaeli, IPP Solar, LLC
Description: The Applicant is proposing a battery storage facility to support the rooftop solar energy system installation. The facility would take up three parking spaces along the west side of the Staples Plaza.

Comments:

Mazier Dalaeli, Paul Jeun, and Damian deCaires from IPP Solar, and Candace Rossi from NYSERDA were present. Mr. Dalaeli reported that the Applicant team met with town staff including the Building Inspector, Fire Inspector, and the Planning Department and asked Ms. Rossi to explain her role. Ms. Rossi stated she is a representative from NYSERDA and is available to be used as a trusted advisor for the municipality during the review process. Mr. Tegeder reviewed the items that were discussed at the meeting with town staff, which included a discussion regarding accessory use vs. main use. Mr. Tegeder stated that this installation will be owned by the property owner behind the meter. This is more in keeping with an accessory use. There was also a discussion about emergency response and Mr. Tegeder had asked the applicant to prepare and submit an emergency response plan for exactly what should be done by first responders in the case of an emergency. Ms. Rossi explained the standards by which facilities approved for NYSERDA funding incentives are held. When battery facilities first began many were approved by the 2015 Building and Fire code standards which included very limited safety measures. NYSERDA pushed the NYSDOS to adopt an emergency ruling on July 1, 2019 to adopt the 2021 Fire Code. Chairman Fon asked Ms. Rossi if there are other battery storage installations already installed in New York. Ms. Rossi stated there is a 20 MegaWatt installation in Saratoga. Even before the special ruling, NYSERDA held projects that were granted incentives to the 2021 code. Mr. Tegeder asked the applicants what the emergency plan is for this site. The applicant said the plan is to stay away and let it burn out. Mr. Tegeder asked how far away should parking spaces be from the installation. Mr. deCaires stated the distance should be 10 feet. Each cabinet is hermetically sealed and has a chimney at the top for heat to escape. The batteries are the same ones within vehicles. They are 5-star crash tested. They are contained on a rack with antifreeze around them. Chairman Fon asked if the cabinets could possibly leak anything, that could contaminate the town's drainage system. Mr. deCaires stated the antifreeze is a glycol water mix that is not a pollutant. The applicant explained how the battery storage will supply the grid with extra power to use when demand is high. The batteries last for 4 hours. LaScala doesn't understand why these installations can't be surrounded by concrete walls to prevent any danger to the public. Savoca asked about Con Edison's process. The applicant stated they received an "approval to install" letter from Con Edison and will submit it to the Town. Mr. Tegeder stated that if the applicant cannot say 100% there can't be an explosion, then there has to be a plan for if one does occur and asked the applicant again to submit a plan that states what should be done in case of an emergency.

Stewart Glass, assistant to the Town Supervisor, stated the Town Attorney was not at the meeting with staff, the Town Board will be reviewing the draft model ordinance at its October 15th meeting. Mr. Glass stated it is possible to require a team to respond to an emergency that's not necessarily the local force, although they should be trained. Mr. Glass has been in contact with Con Edison and wanted to clarify that their main consideration is that the installation is compatible with their system and does not damage their equipment. Con Edison may not necessarily be as concerned with the overall safety of the installation.

Chairman Fon stated the Building Inspector will make sure the installation meets the minimum Building Code. The Board likes the project, but makes sure the plan addresses safety. The applicant agreed to set up a meeting with the Planning Department and the Fire Inspector, Ed Kolisz.

The Planning Board would like a meeting with Ms. Rossi regarding energy projects in general. Kincart asked if she could give an overview or bullet points as to the measures added that resulted in the 2021 code. Ms. Rossi stated there is a PDF document of the supplement she can send to the Board.

1961 Commerce Street

SBL: 37.14-2-63
Discussion: Preliminary Site Plan
Location: 1961 Commerce Street
Contact: Axis Architectural Group
Description: Proposed façade improvements to the existing building on the site. There are no proposed changes to the building footprint.

Comments:

Ken Schier of Axis Architectural Group, project architect, and Paul Dumont of JMC, project engineer, were present. Mr. Dumont explained the current drainage problems on the site that affect the building. A field investigation of the found that the pipe and catch basin in the parking area adjacent to Commerce Street are both collapsed and deteriorated. In a rain event, the pipe is not collecting the flow and therefore the rain is collecting and spilling out onto Commerce Street. Mr. Dumont stated the proposal is to replace the pipe and existing structure and to curb the north edge of the parking lot to stop water from flowing onto Commerce Street. There is also an issue with ponding water on the sidewalk along Veteran's Road. The sidewalk sits lower than the curb line on Veterans Road therefore the water is trapped and when it gets high enough can enter the building. Mr. Dumont proposes to reconstruct the sidewalk to pitch it away from the building towards a slotted drain. Then make up grade change to the road with a landscaped area instead of the brick paved area. The curb will remain as is.

This project is on the ABACA agenda for tomorrow night so Mr. Schier brought material samples which he showed the Board. The existing roof drains are connected to the existing catch basin.

When asked the length of sidewalk to be replaced, Mr. Dumont replied the proposal is to replace the sidewalk to the extent of the building on either side on Veterans Road, but not the entire length of the property. The curb is not proposed to be replaced. Resurfacing of the entire parking lot is also not proposed. Mr. Tegeder recommended the applicant consider replacing the entire sidewalk along Veterans Road.

CVS-Commerce Street

SBL: 37.14-2-52
Discussion: Amended Lighting Plan
Location: 1990 Commerce Street
Contact: Beatrice DeMilo
Description: Proposed amended lighting plan for the subject location known as the CVS Plaza.

Comments:

Paul Fitzpatrick, sales manager from Tital LED Lighting Solutions, was present. Mr. Fitzpatrick stated the plan calls for new 15 foot poles on the site. The lights will have T3 lenses on them to distribute the light, but not behind the pole when at the edges of the parking lot. There are 3 existing LED light poles near the bank that were added about 3 years ago by a previous owner. The proposal is to add the new poles, trench connections between poles, and repave the entire parking lot. There are 8 lights on 7 poles near the bank. The plan calls for 9 lights on 7 poles to add light in the center of the parking lot. The Planning Department will prepare a resolution to approve the Lighting Plan for the next meeting.

ZBA Referral – 3717 Crompond Road

Description: Request for an interpretation of the Town Code as to whether an active main use is required to allow for the use of an approved parking lot to be used for parking of vehicles and/or in the alternative for a variance to allow for the accessory use of the site for purposes of parking vehicles without an active main use.

Comments:

Michael Grace, Esq. was present. Mr. Savoca asked how long cars have been parked at this location. Mr. Grace was not sure, however the general consensus was at least two years. Mr. Grace stated that the issue is whether you need a main use to have an accessory use. In Mr. Grace's opinion, a main use is not necessary to have an accessory use. There is an existing parking lot on the site and cars are parked on the site. His client is willing to propose fencing and screening towards the property to the west. Mr. Savoca asked about the movement of the cars. Mr. Grace was

not sure how or when the cars are moved. Mr. Kincart stated the site is being used for parking, but is completely filled. Mr. Grace asked the Board if they would require screening for a restaurant parking lot on this site. Chairman Fon stated the parking is for the storage of vehicles, not a parking lot for a restaurant. Chairman Fon also stated that any determination on this site will have a broader impact because other sites will want to do the same. The Board didn't want to comment on privacy fencing or screening at this time. Mr. Tegeder asked the Board if they thought there should be conditions in a special permit to allow this use. The danger of a long term accessory use is that it becomes the main use indefinitely leaving the building vacant and unused. The Board would not want to see vehicle storage lots all down the street. Mr. Kincart suggested that maybe there should be a special use permit with a site plan so that there is screening and also a sunset period on the approval so that eventually a main use should be sought. The Board decided to recommend these as special permit conditions to the Zoning Board.

Additional comments:

Mr. Kincart made comments regarding a copy of correspondence the Board had received on the Trailside Café. In his opinion, the seating on the front sidewalk should be only the 8 seats that were approved and bollards should be installed to protect the patrons.

Mr. Kincart also pointed out the ABACA memo on the Unicorn landscaping plan. In their memo, the ABACA stated that although different from the approved plan, they felt the installed landscaping was equal to what was proposed and that they were extremely pleased with the final construction. Further, redevelopment of the site has transformed the down town and should be used as a model for new developments.

Motion to Close Meeting

Upon a motion by Bill LaScala and seconded by John Kincart and with all those present voting in favor, the Board closed the meeting at 9:00 p.m.