

Planning Board Meeting Minutes – March 25, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, March 25, 2019 at 7:00 p.m.** in the Yorktown Town Hall Board Room located at 363 Underhill Avenue, Yorktown Heights, NY 10598.

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

- John Kincart
- John Savoca
- Bill LaScala
- Aaron Bock
- Rob Garrigan, Alternate

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 and will discuss further during the work session.

Meeting Minutes:

Upon a motion by John Kincart and seconded by Bill LaScala and with all those present voting aye, the Board approved the meeting minutes of March 11, 2019 with minor corrections.

Motion to Open Regular Session:

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

REGULAR SESSION

Lowe's Home Center

SBL: 26.18-1-17, 18, 19, 26.19-1-1, & 26.18-1-28

Discussion: Decision Statement – Guard Rail

Location: 3200 Crompond Road

Contact: Michael Grace, Esq.

Description: Approved amended site plan and a 5-lot subdivision for Lowe's Home Center with two adjacent restaurant buildings and a bank building on the former Costco Wholesale Club site.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that he is here as a follow up to the guide rail discussion at the previous Board meeting of 3-11-2019. Mr. Grace reviewed the resolution and had no comments. Chairman Fon asked if there were any other comments. Mr. Tegeder stated that Supervisor Gilbert mentioned, for informational purposes, that there were other issues within the Building Department that still needed to be addressed, however, all the issues from the site plan standpoint have been addressed. There were no other comments.

Upon a motion by Bill LaScala and seconded by Aaron Bock, the Board approved a resolution approving an amendment to the Lowe's Home Center Site Plan.

Fiore Subdivision

SBL: 26.15-1-69
Discussion: Public Hearing
Location: 2797 Carr Court
Contact: Site Design Consultants
Description: Proposed 2-lot subdivision on acres in the R1-20 zone.
Comments:

Upon a motion by John Kincart and seconded by John Savoca, and with all those present voting aye, the Board opened the Public Hearing.

Joseph Riina, P.E. and the applicant, Frank Fiore, were present. Mr. Riina stated that they are before the Board and the public this evening to present the plans for the proposed two lot subdivision located at 2797 Carr Court at the end of the cul-de-sac. The property is owned by Frank Fiore and is where he currently resides. Mr. Riina showed the plans to all. He pointed out the end of the cul-de-sac, the boundary lines of the property, the location of Mr. Fiore's house and the driveway entering the property. The entire property is improved with a series of tiered areas, with retaining walls which step down to the lower back area. The existing conditions were shown. Currently there are some stormwater management facilities which exist on the property that were installed by Mr. Fiore in 2008 as a result of some tree cutting and drainage issues. There is a catch basin at the end of the cul-de-sac which had a pipe that discharged into the back of the property and is now collected into a stormwater management infiltration system as shown on the plans. They also installed some additional infiltrator systems which pick up the roof run-off and driveway run-off from the existing house as well as the installation of a stormwater infiltration basin in the back. This system includes town run-off from Carr Court and includes runoff from existing impervious areas on the property.

The property is zoned R1-20 which requires 20,000 sf per lot. Each of the two lots will have in excess of 20,000 sf. Both lots will meet all zoning standards. The new lot and the new proposed residence were shown. The driveway will come in off the cul-de-sac, there will be a front entry garage, the home will be at a slightly lower elevation than the road with a walkout basement, a 4-foot retaining wall and a stormwater management infiltration system to treat all of the new impervious area and some adjacent areas are proposed. The improvement plan was shown which includes the proposed grading. All stormwater off the driveway and roof leaders will be collected and flow to an infiltrator system. All except one of the existing retaining walls on the property will be removed up to the property line. An erosion and sediment control plan was developed and updated per the Town Engineer's request for additional information and a detailed construction sequence. The stormwater management system will be installed prior to the creation of the retaining wall. The stormwater management system is a series of 33 infiltrator units which will lay side by side in several rows. The system is designed for the 25-year storm which is 3,350 cubic feet and should provide additional protection for the neighboring properties.

Mr. Kincart stated that he appreciated the redundancy in the stormwater as it was a concern for the neighbors at the public informational hearing with the run-off. Specifically, the neighbors in the back as they are on the downhill side. Chairman Fon asked the public if there were any comments. Public comments as follows:

Michele Collins, resident, 2806 Strang Blvd – She stated that she lives directly behind the property. She said that when the trees were removed, she had three feet of water in her basement. All of Mr. Fiore's storm drains are directed at her house. She had to install an outside sump pump so that she would not get water into her basement.

Mr. Kincart asked Ms. Collins how long ago did this happen and she responded that it was during Hurricane Irene and that if the Fire Department had not loaned her a pump she would have had more water in her basement.

Ms. Collins said that when she bought the property 26 years ago, she could not see the Fiore house. Now she sees lights go on and off and does not want another house and infiltration system. She asked what happens if the infiltration system backs up and who will be responsible? She said that she went to the Town Board when she was flooded after the removal of the trees, but they did not help with the drainage. He did beautiful work but she is concerned about further disturbance

and the natural wildlife. When the trees were removed, she and her neighbors were flooded out and they all had to install sump pumps and/or curtain drains. She does not want to look at a concrete wall and pumping system. She is concerned that this will affect her property value.

The Board informed Ms. Collins that the pumping system is underground and she will not see it.

Ms. Collins said that the ground would be disturbed even more now and is concerned with rats and mice in her home. With respect to the tree removal, she said that the trees were removed on the weekends when no one was around. She noticed a large tree with a red line on it which was to be removed and called the town to report it and it was stopped. The only reason Mr. Fiore has the other drains is because she called him as she was being flooded out every time it rained. Her pump hasn't stopped running and she thinks his rain water is coming toward her property. She is against this subdivision. She asked the Board if they have seen the property. Her concern is if the system breaks down and there is a power outage, where will the water go.

Chairman Fon stated that they were not involved when the tree cutting took place. The Board has visited the site. He said that Mr. Riina is a licensed engineer who specializes in this type of work and has designed a stormwater system specifically that goes above and beyond what is typically required. Chairman Fon asked Mr. Riina to explain the system.

Mr. Riina stated that the original stormwater management that was put in was to address the neighbors flooding concerns after the tree cutting. The Engineering Department went to the site at the time when Mr. Fiore was clearing the property around 2008 in response to the flooding situation. A stormwater management system was then designed for the 100-year storm (the difference between existing and proposed as described previously) even though no new impervious area was created. It was designed as if it were a brand-new application and all the impervious area was accounted for. The town drainage which was coming directly off Carr Court and discharging out into the back of the property was picked up and put into an infiltrator system also.

Chairman Fon asked Mr. Riina if the area from the town's street drainage that goes into a basin is piped down to the lower property and how much area of Carr Court is diverted to that basin. Mr. Riina said that the high point of the street is probably a property or two before the cul-de-sac, and about half that area drains to it.

Chairman Fon said that if there were no development, this 15-inch pipe with no controls in place, was basically dumping water onto the property to get it off the road. He asked if there was an easement. Mr. Riina responded that there was not. Chairman Fon asked if there have been any issues with flooding on the neighboring properties since the infiltration system was installed. Mr. Riina responded that he has not heard of any incidents, but cannot speak to that. He stated that a full SWPPP had been prepared and submitted to the Town Engineer, Sharon Robinson, at that time. He said that this stormwater system goes above and beyond what is required for the proposed development. Mr. Riina explained the difference between the existing flow and the proposed flow for the 100-year storm. The likelihood of the system failing is extremely rare. There is an overflow that is directed into the infiltration basin located on the property and they are creating a cross easement to make this possible. In addition, they will be preparing a maintenance agreement with the town that is recorded with the County Clerk's office that stays with the property. It will state that the owner is required to maintain the system in accordance with the SWPPP. If the homeowner does not maintain it, this will allow the Town to get involved.

Chairman Fon asked Mr. Riina about the mechanics for the system and if there were any pumps? Mr. Riina responded that the only pump they have is for the sewer. There is an overflow tank with 24 hours of capacity in case there is a power failure for extra storage. The stormwater is completely a gravity system and no pumps are required.

Ms. Collins said that prior to Hurricane Irene, there was never an issue with the water. The water situation occurred after the tree removal. She asked if anyone could guarantee that she would not get water in her house from this property.

Chairman Fon stated that the Board understands and respects her concerns, however, actions were taken after this occurred. The town was taking road run-off and diverting it onto the property and all that has been addressed. The

engineer designed a solution and it doesn't appear that there have been any problems since then. Another system is also being created for the new development. Mr. Lascala asked Ms. Collins if any of the other neighbors had issues. Ms. Collins replied that they did and all had to address the issue either with curtain drains and/or sump pumps (Adams, Hanlons). Mr. Lascala asked if the drainage problem was resolved as a result of the measures taken and she said it helped but she still has concerns and this was never an issue prior to the tree removal.

Jay Kopstein, resident – Mr. Kopstein stated that his comment is not particular to the project. He spoke to Mr. Riina about the system being installed. There is going to be a covenant that goes with the deed that requires maintenance and there is also supposed to be a report to the Town Engineer on an annual basis that an inspection has been done. Mr. Kopstein said he spoke to the Town Engineer who said that there has never been a single inspection document filed with the town on inspecting these infiltration devices. In Mr. Kopstein's opinion, something needs to be done to require that the inspections occur perhaps, a bond. He has spoken to prior Town Attorneys and in order for them to go onto the property to do an inspection they have to go to the NYS Supreme Court and basically get a search warrant to gain access to the property. The town is not going to do that. Neighbors on any one of these properties have to go back against something and the only thing they can go back upon would be some type of bond that is put up. If need be the town can use the bond if they have to have the Town Attorney go into Supreme Court to get a search warrant order and then have town employees go on private property to do work that should be done by a private contractor.

Susan Siegel, resident – Ms. Siegel stated that she has heard of these infiltration systems being used many times on individual lots here and at the Town Board. On paper everything looks good, however, if the infiltration system doesn't work because it's not maintained, the problem would then be for the downhill people as it doesn't bother the owner. It's not much of an incentive for the owner to spend money to have someone inspect and clean it. She would like information from Mr. Riina as to exactly what is maintained and within the agreement. How often does it have to be inspected, does it have to be done by a qualified person, how much does it typically cost. What happens when downhill acres have problems? She said that the code enforcement in this town is non-existent. She leaves it up to the Planning Board and the Planning Board Attorney and the Town Attorney to figure out a better way that there is cash put up somehow that sits in an escrow earning interest during a certain period of years in the event that these systems do not work because the homeowners do not care about it. This seems to be coming up again and again and will come up at the Town Board meeting tomorrow. This does require maintenance and there is no incentive for the homeowner to maintain the system. On paper this all looks good and she is not questioning Mr. Riina's professional competency. She urges the Board to figure out something before proceeding on this application as this is a recurring problem.

Chairman Fon asked Mr. Tegeder and Mr. Buckley if they had any thoughts on this with respect to a performance bond. He said that these systems are common place now and the homeowners would be responsible for maintaining them just like they would maintain their boiler or septic tank, so his question is would a bond even be possible. Mr. Tegeder said that he was not sure how a bond in perpetuity would be feasible or practical.

Mr. Bock stated that if there is an element of drainage on this project that involves town water from the streets there should be an element of maintenance or inspection built into this approval somehow to deal with that problem because it goes beyond the two lots being discussed. Mr. Riina responded that the current mechanism that is in place in this area and throughout the state, is an individual stormwater maintenance agreement. The DEC put the framework of the language together and municipalities customize it to their needs. The maintenance agreement will provide an enforcement mechanism in the event that the homeowner does not maintain the system as a security measure for the town. The maintenance agreement will run with the property. With respect to inspection reports, he does not recall that the homeowner has to file inspection reports regularly but inspection reports have to be filed during construction weekly. Chairman Fon asked what about the town portion from the road. Mr. Riina said that it has existed this way for 10 years and could be addressed with an easement. The Board felt that it would make sense to clear this up. Mr. Riina stated that the houses around this property have no controls and their water is running out of their property. They are going above and beyond with the proposed stormwater control measures on this property. Mr. Savoca stated that the situation is compounded by the water coming from the street.

Frank Fiore, resident and property owner – Mr. Fiore said that the improvements that he has made levels off his property and he does not feel there is runoff on any of the adjoining properties. Everything is tiered and leveled off. The issue he had initially is that he is responsible for the town run-off from the street. He should not have to do that; the town should take care of its own water and direct the water somewhere else. He feels he is being penalized because he took a step to resolve this issue. He put in two areas of run-off, the biggest part of the run-off is in the extreme right corner of his property nowhere near any of the rear properties that's where 90 percent of the run-off from the street goes, the rest is a little bit from the street around the property line. There is very little rain run-off coming from his house. If you are going to look at this, try and get the town to take care of its own water and not penalize any homeowner.

Chairman Fon agreed that the town is responsible for its own infrastructure and stated that the Board will look into it.

Susan Siegel, resident – She said that she wanted to make it clear that she is not talking about the town water issue and simply dealing with this issue. She said the points were well taken about homes years ago with different standards but we have new construction and minor subdivisions that are not going into an existing stormwater system and that is why it should be brought up. She would like research to be done on the amount of inspections that the homeowner has to get and how much it will cost. This is not like a failing septic system, etc., this affects the homeowner. She is not criticizing what looks good on paper. She is suggesting to maybe look into an annual fee for the homeowner.

Michele Collins, resident – She asked if the homeowner does not maintain the system, how will you know if it fails? When the neighbors complain? Will the town follow up?

Mr. Kincart asked Mr. Riina to explain the system. Mr. Riina responded that the way the system works is that once the water is collected from the catch basins, roof leaders, etc., it goes into a pre-treatment structure which acts as a sediment trap and is the main collection point for leaves and small branches that possibly can get in there, etc. There is a manhole cover which is easily accessible for removal of leaves, etc. This is all detailed in the SWPPP. The trap is to be opened bi-annually for maintenance. The diagram of the treatment system was shown to all. The overflow was explained.

Ms. Collins stated that she did not receive her letter via certified mail and thought that this was required.

Robyn Steinberg informed the Board that it is not a requirement any more to send the letters via certified mail. Chairman Fon assured Ms. Collins that the Planning Department follows the proper procedures.

Jay Kopstein, resident - He noted that Mr. Riina said that there is twice yearly requirement to open up the manhole to make sure it's not clogged. That requirement should be enforceable in the maintenance agreement and the enforcement mechanism must be spelled out with the cost of the enforcement on the homeowner and not on the town.

Supervisor Gilbert – Thanked the Board for their work and for hearing him. He said that this issue may become more common than in the past. Tomorrow they may have an application before them on a steep slope lot development where this may become an issue as well. They may table it also as they don't know what to do with that aspect as yet. The two Boards should be consistent with each other from one project to another.

Chairman Fon asked if there were any other comments Mr. Riina stated that every project has stormwater and some include major stormwater improvements. Chairman Fon asked about septic inspections by the County and what the process is. Mr. Riina responded that the County requires that you register your septic tank. You can go to the GIS website and check to see the properties that are registered and when they were pumped out. Chairman Fon stated that back-flow devices get inspected as well. Chairman Fon stated that there are mechanisms in place out there for other systems such as septic systems, fire sprinkler systems, etc. and there may be a way to get this done with a permit system. Mr. Riina said that the town has an MS4 system and there are compliance requirements. Chairman Fon stated that the town will need to look at this as this is now common place.

Chairman Fon asked Mr. Tegeder what steps are needed to move forward. Mr. Tegeder responded that the draft maintenance agreement needs to be reviewed and revised and make sure that they have the proper access. They will pull the original subdivision to look at the town portion to see if there are any easements. Mr. Riina said that a copy of the

maintenance agreement is in the SWPPP document in the last appendix and is the town template. Chairman Fon suggested tabling the public hearing until they hear further information about the easement for the town drainage and further information from the Planning Department and Counsel with respect to the maintenance agreement.

Upon a motion by John Kincart and seconded by Bill LaScala and with all those present voting aye, the Board adjourned the Public Hearing.

Mr. Bock stated that we need to do something more formal and have the town look at this issue in a general sense. He also said that maybe some conditions could be put in the approving resolution for this application. Chairman Fon stated that it may be as simple as putting language in place to the existing agreement which may be there already. The Board discussed the maintenance agreement and questioned if any other subdivisions had an agreement. Robyn Steinberg stated that the Orchard View subdivision had an agreement. Mr. Savoca asked the Planning Department to send a copy of the proposed Fiore maintenance agreement to the Board members for their information and review.

Motion to close Regular Session and Open Work Session:

Upon a motion by John Savoca and seconded by Bill LaScala, and with all those present voting aye, the Board closed the Regular Session and opened the Work Session.

WORK SESSION

Novecento Restaurant

SBL: 16.09-2-13

Discussion: Amended Site Plan

Location: 1410 East Main Street (Shrub Oak Plaza)

Contact: Vincent Gaudio

Description: Proposed amended site plan for a 4,100 square foot restaurant in the C-1 zone.

Comments:

Barbara Degaltini, co-owner, Vincent Gaudio, co-owner and Tom Pomposello were present. Ms. Degaltini stated that due to a recent site visit by Mr. Tegeder for her new restaurant she was told that the Planning Board would need to approve an amended site plan as the restaurant (*formerly Campagna Restaurant*) was expanded into the adjacent vacant space (*formerly a gym*). She was unaware of the process and that this application was to come before the Planning Board. Mr. Tegeder informed the Board that this all came about due to a sign application that was submitted to ABACA for review that stated a sign was to be placed in the center of the expanded restaurant. As a result, this application prompted a site visit. Mr. Tegeder stated that the square footage was increased with this expansion which led to conversations with the Building Inspector and references to the town code. The approving resolution for the site was in 2002 for the three food service establishments totaling 5,700 sf. The Planning Board at that time, reviewed the parking and determined that three food service establishments could be supported on the site. However, the Board determined to restrict the total amount of food services on this site to 5,700 sf. Mr. Tegeder stated that after review of the instant application, the new total square footage of restaurants is just under 5,700 sf, therefore, the restaurant complies with the restriction within the 2002 resolution. Mr. Tegeder said that, therefore, the Board did not have to review the parking demand.

Chairman Fon asked the applicant if the restaurant was already expanded and the response was yes. He asked if the Building Department confirmed that the restaurant was doubled and the response was yes. Chairman Fon told the applicant that the reason they are on the agenda is to ensure that all the work that has been done is legal as this should have been routed to the Planning Board initially. Chairman Fon asked the Board and Mr. Tegeder if there were any comments with respect to the approving resolution and there were none.

Upon a motion by Bill LaScala and seconded by John Kincart, the Board approved a resolution approving an amended site plan for Novecento Restaurant at the Shrub Oak Plaza.

Anderson Subdivision

SBL: 58.9-1-20

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., Dave Sessions of Kellard and Sessions, and the applicants Mr. & Mrs. Anderson were present. Mr. Ciarcia stated that the site plans and a tree mitigation report and photos were provided to the Board for their review.

Mr. Sessions reviewed the plans with the Board. He showed the wetlands, water course, and disturbance on the plans. The proposed house was shown along with the drainage course from the hill. The run-off from Route 129 will feed the wetland. The access to the property was shown across from Bridgepoint Lane. The property borders the Croton Reservoir with a consequence of two setbacks which are the shore of the reservoir and the other is the reservoir stems, which in turn, prohibits impervious surface. The house will be situated on a narrow band between these setbacks, as shown on the plan. A variance was granted by the Zoning Board for the rear yard setback.

Mr. Sessions said that the Conservation Board did a site visit in January and had a few questions in which they have responded with a description of the conditions of the site along with testing information that was done. A generic wetland mitigation plan was discussed with specific tree locations, tree sizes and types, however, they would like to come up with a process to plant in a responsible way and present a more detailed tree and mitigation plan once the driveway and grading is done, tree removal accomplished, and house is up. They feel it would be more realistic to start the process then. He stated that they have committed to plant an additional ten trees. Mr. Anderson said that the driveway will be going through a woodland and they would need to make a determination on what types of trees to plant, sun or shade loving trees, as well as the moisture of the soil for the final landscaping plan. They had an arborist inspect the site and have come up with a list of trees to be removed. Mr. Anderson stated that the Conservation Board requested to see a more detailed planting plan in their latest memo of 1-14-19 but has not provided plans as yet. Mr. Ciarcia said that they have received a response from the Tree Commission on 2-12-19 referring to requirements in the tree law for a tree replacement plan and to identify all trees by genus and species. He said that they have no forest management plan as yet. Mr. Tegeder asked the Andersons if they have come up with tree mitigation and Mr. Anderson replied they have to a certain extent. It does not involve simply replacing trees as they are leaving a woodland that is very much intact, he feels that the efforts would be better spent working with the existing conditions and other forms of mitigation. Mr. Sessions stated that the Conservation Board seems to be very receptive but has not seen this detailed plan as yet. Mr. Sessions submitted copies of the plan to the Planning Department and stated they would be referred to the Conservation Board.

Mr. Sessions stated that two bio-retention basins are being proposed and as part of the stormwater DEC manual has to be planted with certain species consisting of herbaceous, shrubs and trees as well as a bio-retention planting scheme. Plantings were discussed. The green area is generally an area of invasive species due to the relocation of the bridge, and areas to the west will not be disturbed. They would like the entire area west of the driveway up to the watercourse to be planted with non-invasive species. A total of 20 shrubs will be added within the wetland buffer. Mr. Tegeder asked what are the basins capturing and if two basins are necessary. Mr. Ciarcia pointed out the areas on the plans and stated that once the mitigation plan is submitted, they will look at whether basins on both sides of the driveway are necessary.

Mr. Ciarcia stated that a few items need to be addressed per the Fire Prevention Board memo of 3-22-19 with respect to the fire trucks access (turnaround and turnout) and the driveway grade. He said that the 12% driveway grade currently shown will be flattened out to 10% so a variance is not required. The driveway will be 12 feet wide.

Chairman Fon stated that the applicant is to address the fire memo, the driveway grade and submit the plans to the Planning Department for review and referral to the Conservation Board. Mr. Anderson mentioned that they have a buyer and contract for their current home and is hoping to finish this process soon.

Fusco Subdivision

SBL: 16.14-1-10
Discussion: Minor Subdivision
Location: 3477 Stony Street
Contact: Ciarcia Engineering
Description: Proposed 2-lot subdivision on 2.72 acres in the R1-20 zone.

Comments:

Dan Ciarcia, P.E. and Laura DiGiovanni, applicant were present. Mr. Ciarcia stated that they have received responses from the Fire Inspector dated 3-22-19 and the Conservation Board dated 3-21-19. The Conservation Board sees no adverse environmental impacts and the Fire Inspector is satisfied with the proposed fire access. As requested by the Planning Board, Mr. Ciarcia distributed a revised plan showing the proposed house closer to the front yard property line by 20 feet than what was originally proposed. The elevation lines on the driveway profiles were discussed. Mr. Ciarcia stated that he will provide the existing and proposed elevations. A plat was already submitted. The SWPPP will be updated when the house location is confirmed. Chairman Fon asked Mrs. DiGiovanni if she was comfortable with moving the house forward and she responded she was fine with the new location. The Board had no issues with this application moving forward. A public hearing will be scheduled for April 22nd.

Unicorn Contracting

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

John Savoca recused himself from this item. Aaron Bock disclosed that he has represented an entity on an eviction case that has the same name of the applicant - Unicorn.

Dan Ciarcia, P.E. was present. Mr. Ciarcia stated that in reviewing the as built-survey and the approved plans it appears that there is a 2 foot difference from what the Planning Board originally approved. He is reviewing all the digital files from the surveyor as the building changed several times with the removal of the drive through and the change of the building shape. Mr. Tegeder stated that the DEP approved plans and the Planning Board's approved plans are consistent. Mr. Ciarcia stated that the as built survey was submitted to the Building Inspector. He said that the difference would not be a zoning issue as the drive through was part of the Planning Board approval and will not be built. The 2 foot difference is on the south side of the building where a parking area is between the new building and the Grace building. Chairman Fon's concern is that the building may have increased in size and questioned how a site could still be under construction. Mr. Bock stated that this should have been caught at the foundation with the as built survey and that we need to come up with what was done and what was supposed to be done. Chairman Fon questioned whether a stop work order was in order. Mr. Bock stated that a stop work order should not be issued unless it turns out to be a problem. The Board suggested that another stamped survey be submitted that shows the new location and the data that the plat is filed with. Mr. Ciarcia said that he will follow up with the surveyor to figure out the as built with meets and bounds description to see if it shifted or increased and if the parking count will be affected. He will report back to the Planning Department as soon as possible.

Mr. Ciarcia stated that he sent a letter to the Board on 3-14-2019 with respect to the modifications required by NYC DEP. Items discussed as follows:

- Drive-through window – The window was eliminated.
- Trash enclosures – There will be two trash enclosures on the site. One will be a new location and the other will be modified but in the same location from the original approved plan.

- Trash enclosure locations for the existing buildings – Mr. Tegeder’s concern was that there was no room for backing up. He asked Mr. Ciarcia how many yards the dumpster would be and the response was 1 ½ yards which will be used for office waste. The medical facility will be larger. It was suggested that one parking space be eliminated and to find a new parking spot elsewhere. Different locations for the relocated parking space were discussed.
- Transformer - The transformer will have bollards surrounding it.
- Generator – The generator will be located behind the building with the addition of a pad and all is in compliance.
- Retaining wall – The retaining wall on the eastern property line was eliminated and a new single wall was built.
- Signs - Mr. Ciarcia showed the signs and location to the Board. The original location was moved due to the water service and backflow revision in the building which has to be located within 100 feet of the property line. It was noted that the monument sign should be located within the landscaping plan as plants will have to be shown around the signs. The Board suggested engaging the project’s landscape architect to produce a sign location plan.

Chairman Fon suggested that Mr. Ciarcia meet with the Planning Department to review the project.

Correspondence:

- **Sandvoss Subdivision** – E-mail from Tim Glass, resident on 270 Colonel Greene Road dated 3-15-19 with memo attachment from the Town Engineer. Mr. Tegeder informed the Board that a negative declaration was done and this is still at the DEP for approval. Mr. Tegeder stated that he will respond to Mr. Glass specifically to the points as outlined in the memo. The responses were reviewed and sections of the code were referenced with the Board. The Board had no issues with the responses as discussed. Mr. Kincart stated that there seems to be a lot of fill on the neighbor’s lot and water being piped into this subdivision from that lot and that a site visit may be in order. The Planning Department will schedule a site visit to assess the current conditions.
- **Spirelli Subdivision** – Mr. Tegeder informed the Board that they are currently searching for the ZBA minutes for some history with respect to this proposed application.
- **Popeye’s** – The Town Engineer will not release the Planning Board’s approval to the Building Department unless the applicant addresses his memo from 9-11-18 of which the Planning Board has already addressed. As a matter of procedure, all items are addressed prior to Planning Board approval. Examples cited with past applications in which changes were made after the Planning Board’s approval were Hearthstone and Sarubbi subdivisions. A discussion on the code prescribed procedures for approvals ensued. The concern expressed revolved around whether modifications to plans and/or conditions approved by the Planning Board are practical and legal. The Board questioned if this could be done or was even allowed and asked Mr. Buckley, the Town Attorney if he had any thoughts on this. Mr. Buckley stated that he will look into it.

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 10:00 p.m.**