

Planning Board Meeting Minutes – July 15, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, July 15, 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, Secretary
- Bill LaScala
- Aaron Bock
- Rob Garrigan

Also present were:

- John Tegeder, Director of Planning
 - Robyn Steinberg, Town Planner
 - Tom D'Agostino, Assistant Planner
 - Nancy Calicchia, Secretary
 - Richard Abbate, Esq. - Town Attorney
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Correspondence / Liaison Reports

- There were no liaison reports.
- The Board reviewed all correspondence.
- Chairman Fon noted that he and some of the Planning Board members attended the public hearings for the proposed Tree and Solar laws held during the Town Board meeting of July 9, 2019.

Motion to Approve Meeting Minutes

- Upon a motion by Aaron Bock and seconded by Rob Garrigan and with all those present voting aye, the Board approved the meeting minutes of May 6, 2019.
- 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 June 24, 2019 with corrections as noted.
- Upon a motion by Bill LaScala and seconded by Aaron Bock and with all those present voting aye, the Board approved the special meeting minutes of July 8, 2019 with corrections as noted.

Motion to Open Regular Session

Upon a motion by Chairman Fon and with all those present voting aye, the Board opened the Regular Session.

REGULAR SESSION

Faith Bible Church

SBL: 15.16-2-9, 10, 50, 53, & 54

Discussion: Request – Second One Year Time Extension

Location: Mohegan Avenue and Sagamore Avenue

Contact: Site Design Consultants

Description: Approved Special Use Permit, Site/Parking Plan, Stormwater Pollution Prevention Plan Permit, Wetland Permit, and Tree Removal Permit for an 8,000 sf, two-story church and parking granted by Resolution #14-08 dated May 5, 2014.

Comments:

Joseph Riina, P.E. was present. As a follow up to the June 24, 2019 meeting, Mr. Riina stated that he is here regarding his request for a second one year time extension. At the prior meeting, there was discussion that there was not enough notice time between the Planning Board request and the actual meeting time. Robyn Steinberg stated that the issue was that a letter submitted by the neighbor stated a letter requesting a time extension should be received 30 days before it expires. Mr. Kincart stated that at the prior meeting the Board also discussed the fact that they routinely extend approvals

without this notice and had done so several times already that night. The Board members present (*only three at this meeting*) decided to hold this item to the next agenda when all members and the Planning Board attorney were present to vote on the extension.

Mr. Abbate, Town Attorney stated that considering it has been the Board's practice in the past to waive that requirement, he thought it would be acceptable to waive at this time, especially as there is no prejudice to the community at large and it is an approved plan. Mr. Abbate stated that to require them to re-file an approved plan would not serve a useful purpose and has no objections to approving this request.

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

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting aye, the Board approved the request for a second one year time extension.

Stahmer Minor Subdivision

SBL: 59.10-1-10, 12, & 16

Discussion: Amendments to Subdivision

Location: 600 Birdsall Drive

Contact: Insite Engineering, P.C.

Description: Approved 3-Lot subdivision on 10 acres in the R1-80 zone by Planning Board Resolution #18-01.

Comments

Jamie LoGiudice of Insite Engineering was present. Ms. LoGiudice stated that she is here to request approval for a 90 day time extension and to review minor site plan amendments as part of the DEP approval recently received. The plans were shown to all. As indicated in their letter to the Planning Board dated June 27, 2019, there were minor changes to the site plan that revolved around the stormwater. The lot 1 underground infiltration system was revised to a stormwater cistern system. The cistern system would be a better practice in this area and they would also be using the water for the irrigation on site which would tie into the green infrastructure practices and minimize the water usage on the site. There were other revisions to the stormwater modeling such as tweaks to the calculations. The results of the modeling were not changed. There is still a decrease in the peak flows at all design points and lines. The drainage pipe located in the Birdsall Drive right-of-way has been revised to a 15 inch diameter pipe as requested by the Town Engineer.

Mr. Garrigan asked Ms. LoGiudice where the 15 inch pipe discharges. The response was that it discharges to the existing culvert that goes underneath Birdsall Drive. She said that there was a conversation with the Town Engineer about the pipe itself. The town standards are 15 inch diameter and there is a 12 inch that goes across the road and the Town Engineer was ok with keeping the 12 inch pipe at this time given that their calculations didn't warrant a 15 inch pipe and they could even go less than 12 inch with the 100 year storm. She said that the Town Engineer was fine with leaving it and in the event that they ever needed to increase that 12 inch across the road the Town could do so in the future. Mr. Garrigan stated that a 15 inch pipe is now discharging into a 12 inch pipe and asked if the Town Engineer is ok with this. Ms. LoGiudice responded he was and that it was done at the Town Engineer's request.

Mr. Tegeder stated that the Planning Board will have to finally approve the stormwater plan. In the original approving resolution language one of the conditions is subject to submission of a final stormwater pollution prevention plan acceptable to the Town Engineer and approved by the Planning Board. With the DEP approval and the inclusion of the pipe request revision from the Town Engineer this would be the final step. This should be included in the first resolved paragraph of the amended resolution adding that the stormwater pollution prevention plan is approved by this Board. Mr. Tegeder stated that it has been approved by the NYS DEP, accepted by the Town Engineer, and will now be approved by the Planning Board as required by law.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting aye, the Board approved the request for a 90 day time extension.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting aye, the Board approved the resolution approving amendments to the Stahmer minor subdivision approving resolution #18-01 as amended.

RCB Development Subdivision

SBL: 36.05-2-60 & 62

Discussion: Stormwater Pollution Prevention Plan Permit

Location: 3655 and 3659 Old Crompond Road

Contact: DeMasi Architects, P.C.

Description: Approved 3-lot Subdivision on 10.8 acres in the R1-20 zone by Planning Board Resolution #08-01, dated January 14, 2008. The Applicant is seeking approval for Stormwater Permits for two of the lots to construct two single-family homes.

Comments:

Maria and Angelo Cipriano were present. Mrs. Cipriano stated that they represent JAM Real Estate Development and purchased the RCB development subdivision. They are here to request approval for a stormwater permit. They want to get building permits for two single-family dwellings.

Mr. Kincart stated that they ended up with two lots on almost 11 acres as the original subdivision application was for 4 lots. Mrs. Cipriano responded that it was 4 lots, however, the two back lots are wetlands and will not be built.

Mr. Kincart asked about the site work done. Mr. Cipriano stated that he removed a pile of dirt, and did an application to Con Edison to bring in the transformer. A trench was dug and a pipe was put in but there is no electric as yet. Now they are waiting for the building permit, so they can do the road and start building. Mr. Kincart asked if there have been any complaints from the Building Department so far. Mr. Cipriano stated that they got a complaint when they did the line for the electric. He said that they did not have the permit. They dug a trench and got an inspection from Con Edison but did nothing else. Mr. Kincart asked if they had any stop work order and the response was no. Mrs. Cipriano said that they were told not to do anything until the building permits are issued.

Mr. Kincart asked about the finished floor elevation change. Mr. Cipriano responded that it was changed as the house was too low and the hill on the back was too high. The water was pitching toward the basement so his engineer changed the elevation to eliminate any water in the basement. Chairman Fon asked Mr. Tegeder if there were any issues with the elevation change. Mr. Tegeder responded there were no issues.

The plans were shown to the Board. The setbacks were reviewed with no issues. The conservation area was addressed. Robyn Steinberg stated that Mrs. Cipriano is working on the conservation easement that was never filed by the previous owner. The lot line between them and Bonsignore is not the same as two different surveyors surveyed the stone wall and there seems to be a discrepancy. Mr. Tegeder stated that the survey on which the approved plat was predicated and now filed is incorrect or this later survey is incorrect. He suggested that there should be a final survey to eliminate the inconsistency and finalize the lot lines between the several properties. Mrs. Cipriano responded that she called the surveyor regarding this situation and was told that the second survey was for the two front lots only and the original survey included all four lots and that is why there may be a discrepancy with the metes and bounds.

Mrs. Cipriano stated that she spoke to her attorney regarding the two back lots and they are going to try and have them added to the two front lots. Her attorney will get in touch with the Town Attorney. The conservation easement will include parts of the two back lots. She stated that originally the two back lots were supposed to be given to the neighbors, however, the neighbors are no longer interested in purchasing the properties so they are just sitting in the back.

Mr. Tegeder suggested that since they own all four lots, they should have their survey updated to include the two back lots. They can then do a lot line adjustment that would attach those two lots to the two front lots. The lot line adjustment will go to the Assessor's office who will then circulate it to the appropriate departments for comments.

Chairman Fon asked if there were any other comments. Mr. Tegeder stated that the Planning Board's resolution needs to be amended to reflect that the foregoing issue is a condition of the resolution. A final conclusion on the metes and

bounds will need to be submitted to the Planning Department. The applicant was advised to speak to their attorney in order to start the lot line adjustment. No certificate of occupancies are to be issued until this is resolved. The resolution is to be amended to reflect this requirement.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting aye, the Board approved the change in the finished floor elevation for Lot #2.

Upon a motion by Aaron Bock and seconded by John Kincart, and with all those present voting aye, the Board approved the resolution approving the Stormwater Pollution Prevention Plan Permit and Wetland Permit for the RCB subdivision as amended.

McDonalds

SBL: 36.05-1-10

Discussion: Public Informational Hearing

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:

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

David Pernick, Esq. from Brown & Altman LLP; Tiago Duarte, P.E. from Dynamic Engineering were present. Mr. Pernick stated that as a follow up to the June 24th meeting, they are here this evening for a Public Informational Hearing. The notices and proof of mailings were submitted to the Planning Department. The signs were posted at the property location. The property is located at 3481 Crompond Road. The site is bounded to the north by Crompond Road aka US 202 and to the south by Old Crompond Road. The property is currently zoned C4. The site has been operating as a McDonald's restaurant for over three decades.

Mr. Pernick stated that the lighting and landscaping plans have been revised per the Board's comments. The revised lighting plan reflects a decrease in the maximum light intensity at the lot lines to below 1 foot-candle. The landscape plan was revised to increase the buffering on the south side of the property which includes the replacement of vinyl slats in the existing chain link fence. There will also be trees planted on the north side of that fence between 5 and 6 feet in height. The site plans have also been revised to reflect the current signage designs. The original plans called for a sign on the east side of the property which has been eliminated and that brings them in accordance with the town code for sign square footage. They have also added a vehicle circulation plan that depicts the garbage truck route through the property. There are very minor changes to the existing McDonald's restaurant and there will not be any additions to the building. The majority of the site improvements include the addition of a side by side drive-through with associated parking improvements. The development plan also calls for the addition of a re-circulation lane along the north side of the property. The existing restaurant façade and signage will be upgraded to match the current McDonald's design language. They currently have an application before the Advisory Board on Architecture and Community Appearance (ABACA). They have provided for 52 parking spaces where the property requires 52 spaces which includes 3 ADA compliant spaces.

Mr. Duarte, P.E. showed the site plans to the Board. Mr. Duarte stated that the main intent of the project is modernization. They are taking an existing McDonald's restaurant and improving it to better serve the customer base. Historically 50% of the customers are using the drive-through option for placing orders driving the need for the two drive-through lanes. Currently there are 65 parking spaces and they are proposing to reduce the parking to 52 spaces which meets the Town's requirements. They will be modernizing the lighting fixtures as well by replacing the existing fixtures with LED fixtures. The old mansard style roof will be removed and replaced with a squarer, modern looking building. Changes to the interior of the building will just be for customer service. There are no changes proposed to the kitchen. There will be changes in the customer service area to create a café feel with different seating elements. In addition to the drive-through, there will be ADA upgrades to be in compliance with the code, currently there are two spaces and there will now be

three as mentioned previously. They are providing pedestrian access to the existing sidewalk on Crompond Road. The proposed plan reduces the total impervious surface on the site.

Mr. Bock asked if the landscaping was sufficient. Mr. Kincart stated that they discussed at the prior meeting that screening was important. Mr. Tegeder stated that it will be referred to the Advisory Board on Architecture and Community Appearance (ABACA) for the landscaping aspect. Mr. Bock noted the Fire Inspector memo dated July 11, 2019 with respect to a need for a fire hydrant. The memo was given to Mr. Duarte for his information.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Mr. Tegeder if there were any comments. Mr. Tegeder stated that they will continue to look at the application.

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

The Board asked the Planning Department to schedule the Public Hearing for the August 12th meeting.

Motion to close the Regular Session and open the Work Session:

Upon a motion by John Kincart 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

Crystal Court Subdivision

SBL: 27.11-2-43
Discussion: Minor Subdivision
Location: Crystal Court
Contact: PANBAR Realty
Description: Proposed 4-lot subdivision on 5.07 acres in the R1-20 zone.
Comments:
Withdrawn at the applicant's request.

Roberta - Front Street

SBL: 48.07-2-11, 13, 15, & 17
Discussion: Site Plan
Location: Front Street
Contact: Site Design Consultants
Description: Approved rezone and site plan by Town Board by Resolution #485, dated December 19, 2017, with conditions for approvals by the Planning Board. This property has been rezoned from R1-20 to the Transition 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. Mr. Riina is here as a follow up to the June 24th Board meeting. Chairman Fon requested to see the 2017 Town Board minutes which were not available. Mr. Bock asked to see the original approved site plan by the Town Board, Resolution #485. Mr. Riina stated that the plans shown to the Board are the original site plans. He said that other than tweaks made based on the most recent comments made by the Planning Board, this is the original plan approved by the Town Board in 2017.

Mr. Riina noted that the whole proposed streetscape is John Tegeder's concept - the plaza, entry area, loop, etc. The idea to create the streetscape was always intended to be in the town right-of-way. The proposed streetscape has been approved by the Town Board as part of the transitional zone change for the site. The size of the buildings have not changed. They have reduced impervious area in the plaza to get below the threshold for requiring stormwater approval from DEP. Mr. Riina stated that since this is zoned transitional and the Town Board already had a hearing on this, he is

not sure what the process is. Mr. Tegeder responded that it will be treated as a regular site plan with a SWPPP review and approval, lighting and landscaping plan review and approval, refuse pick up times and details, etc.

Mr. Abbate, Town Attorney, stated that he does not see any objection with the license agreement for the town right-of-way. Mr. Tegeder said that he provided a sketch that everyone seemed to like and the use of the right-of-way serves the site but also allows access to the adjacent parcel in an attractive way.

The Town Engineer's memo dated July 12, 2019 was discussed. Mr. Riina stated that he will respond to the Town Engineer's comments. He stated that a restaurant is not proposed for this site. ADA parking spaces were discussed. Mr. Tegeder asked what type of infrastructure will be provided. Mr. Riina responded that it will be a green infrastructure with rain gardens of which some will be in the right-of-way. There will be porous pavement in the parking spaces. A discussion followed regarding the buffer and screening. Mr. Riina stated that screening already exists, and they will fill it in with more screening and continue all the way down, or if the Board prefers, they can install a fence. Mr. Tegeder asked about the stormwater management system. Mr. Riina stated that the stormwater system has been designed to provide zero increase in the peak run-off for the 100-year storm. Mr. Roberta stated that the stormwater management system improves the run-off that exists. Mr. Riina stated that the soil testing was performed and witnessed by the DEP. The SWPPP will be updated with this information.

Mr. Riina updated the Board with respect to the NYC DEP. The DEP is updating their regulations and have already been implementing these new policy changes. One of the new policy changes is that in a designated main street area, no SWPPP permit will be required for sites that have a disturbance less than one acre.

The Board requested that Mr. Riina provide a list documenting all 8" trees to be removed on the site. The Board also suggested that Mr. Riina meet with the Planning Department to review the proposed plans.

Lowe's Plaza Building Pad 'B'

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

Discussion: Site Plan

Location: 3200 Cropmond Road

Contact: Site Design Consultants

Description: Proposed restaurant building with a drive-thru lane at the approved building pad 'B' lot of the Lowe's Subdivision.

Comments:

Joseph Riina, P.E., Bob Rosenberg, Michael Grace, Esq., Abigail Adams, Landscape Architect and Frankie Campione were present. Mr. Riina showed the plans to all. The site was originally approved on the signed site plan for a 4,500 sf building with 44 parking spaces and is now proposed to be increased to 5,800 sf. with 37 parking spaces. The building is partitioned into 3 rental spaces of which two have potential tenants – Starbucks and Triple AAA. The third space is unknown at this time. All areas have been leveled out for the future pads. The main entrance with Lowes directly behind was shown. The access ways into and out of the site were shown on the plans. A drive-through window is proposed for Starbucks. The menu area and all the electric ordering will be in the back of the building. There will be a patio area facing the 202 side.

Mr. Riina stated that in order to increase the size of the building, they must push the parking area towards the front yard about 15 feet. Mr. Tegeder stated that with the additional square footage, the parking spaces have now been reduced and additional spaces would be required. Chairman Fon asked if a variance is required for the increase. Discussion followed regarding shared parking spaces. The front yard setback was also discussed. Mr. Grace stated that they will go to the Zoning Board. Mr. Riina noted there was a land strip given to DOT, the set back shown on the approved plan was taken from the original property line.

The retaining wall will be higher. The utility pads and transfer boxes were shown on the plans with an island wrapping around each. Starbucks is requesting their own garbage, the other containment areas will need to be discussed. The proposed loading area was shown on the plans.

Mr. Campione showed the building renderings to the Board. Ms. Adams showed the landscaping plans to the Board. Ms. Adams stated that the concept for the entire site is a 4 season plan in order to create visual interest throughout the site during the year. The plan was reviewed in detail. Along the main entry they are proposing low evergreens and flowering trees. Evergreens are also proposed along the sidewalk and some shade trees will be transplanted to existing islands. The slope and transfer pads will also be addressed.

Mr. Tegeder asked what the difference in grade is through the parking lot to the planting area. Mr. Riina responded that they would be looking at a 10 foot wall. Mr. Tegeder asked about the landscaping on the street side and how it will present to the street and passing cars. Mr. Tegeder suggested a site section showing the landscaping effect from Route 202. Mr. Kincart stated that there should be landscaping in the back along the main drive and screening of trash enclosures.

Mr. Garrigan noted that the rooftop is below grade and the rooftop equipment would be visible. Mr. Tegeder stated that the rooftop equipment needs to be screened and it may change the architecture. Mr. Campione discussed heights of parapets for screening. Mr. Tegeder requested that preliminary work on the rooftop equipment be done.

Ms. Steinberg noted that the existing free standing sign will need to be moved from its current location. A new location needs to be provided.

Mr. Tegeder asked about the sewer and flow. Mr. Riina responded that it will be below what was projected for the original approved site plan.

The Board noted that the middle store vacancy can change the situation and were concerned. Mr. Tegeder noted that there will be some restriction on a future tenant so it does not impact the parking.

Motion to Close Meeting

Upon a motion by Aaron Bock and seconded by Rob Garrigan, and with all those present voting aye, the Board closed the meeting at 9:00 p.m.