

Planning Board Meeting Minutes – August 12, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, August 12, 2019 at 7:00 p.m.** in the 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

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

Correspondence / Liaison Reports

- There were no liaison reports.
- The Board reviewed all correspondence. Chairman Fon asked about the Spirelli correspondence. Mr. Tegeder responded that comments will need to be formulated for the Zoning Board.

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala and seconded by John Kincart and with all those present voting aye, the Board approved the meeting minutes of July 15, 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

Colangelo Major Subdivision

SBL: 35.16-1-4
Discussion: Second 90-Day Time Extension
Location: 1805 Jacob Road
Contact: Site Design Consultants
Description: Approved 6 lot subdivision in the R1-160 zone by Planning Board resolution #18-23 dated November 19, 2018.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that they are currently in the process of getting DEP and Health Department approval and are requesting a second 90-day time extension. Chairman Fon asked the public and the Board if there were any comments of which there were none.

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

Gallinelli Minor Subdivision

SBL: 27.13-1-49
Discussion: Request for Reapproval
Location: 2777 Quinlan Street
Contact: Site Design Consultants
Description: Approved 2-lot subdivision on 1.48 acres in the R1-20 zone by Planning Board resolution #18-16, dated September 17, 2018.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that all is in place for this project, they have received all the approvals and the plat is completed and signed by the Health Department. He stated that the owner is currently working on getting the necessary fees and bonds in place to record the map.

Chairman Fon asked the public and the Board if there were any comments of which there were none. Mr. Kincart noted that this request for reapproval was made before it expires on September 13th.

Upon a motion by Bill LasScala and seconded by Aaron Bock, and with all those present voting aye, the Board approved the resolution re-approving subdivision plat titled Gallinelli Subdivision and full stormwater pollution prevention plan and tree permit.

Prestige Renovations

SBL: 16.10-4-8

Discussion: Request for Reapproval

Location: 3511 Buckhorn Street

Contact: Site Design Consultants

Description: Approved 2-lot subdivision on 1.47 acres in the R1-20 zone by Planning Board resolution #18-15, dated September 17, 2018.

Comments:

Chairman Fon recused himself from this item. Joseph Riina, P.E. was present. Mr. Riina is requesting a reapproval for this project. Mr. Kincart gave a brief history of the application to all. Mr. Kincart 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 resolution re-approving subdivision plat titled Prestige Renovations and Remodeling and a sediment and erosion control plan.

Crystal Court Subdivision

SBL: 27.11-2-43

Discussion: Public Informational Hearing

Location: Crystal Court

Contact: PANBAR Realty

Description: Proposed 4-lot subdivision on 5.07 acres in the R1-20 zone.

Comments:

John Barile and Louis Panny of PANBAR Realty were present. Mr. Panny stated that they are proposing to build on three lots. There is a 4th lot that runs along Crystal Lake of which they are willing to donate to the town if there is an interest. There was a discussion about this at a prior Board meeting and they are not sure where they stand on this currently. He stated that Town sewer and water is available. He said that they have complied with all of the zoning laws and have met any burdens that need to be met with this particular project.

Chairman Fon asked if there were any environmental issues, wetlands, water courses. The response was that there are no wetlands and that the 4th lot is the actual wetlands buffer. Mr. Tegeder asked if they were disturbing the buffer at all and the response was no.

Mr. Tegeder asked Mr. Panny to explain where the property is located and how you would get to the homes. Mr. Panny responded that the entrance to the site is from Evergreen Street to Crystal Court. Crystal Court was constructed to give access to this property and was designed to be a neighborhood when the existing homes were built on Evergreen. They are adding the cul-de-sac portion to the subdivision that wasn't done at that time. Chairman Fon stated that currently Crystal Court is a dead-end and there is no turn around. Chairman Fon noted that the memo from the Fire Inspector dated August 12, 2019 stated that there were no concerns at this time. Chairman Fon asked if all the houses are to be accessed off this court and the response was yes all three. Chairman Fon asked if there were any variances needed. Mr. Panny responded that the first house on the left as you come in was moved forward so that there would be more of a rear yard and that they need a variance for that 8 or 9 feet. He said that they could

move it back to comply with the code but they are trying to create a nicer backyard for the potential owner so that down the road they could install a pool, etc. without needing any special approvals. Mr. Kincart asked if there were any other trees that are going to be removed that haven't been removed already. Mr. Panny responded that most of the trees were removed for the original application when it was for a single home. There are a few more trees that need to be removed on the first lot on the right. Mr. Panny stated that they do have trees to replace as mitigation from the original project but are waiting for this action to conclude. Chairman Fon asked Mr. Panny if he has seen the memos from the Tree Commission and the Town Engineer and the response was yes. Mr. Barile stated that per the Board's direction with respect to the 4th lot, he reached out to a couple of organizations to see if there was any interest in acquiring this lot for open space but has not heard from any of them.

Chairman Fon asked the public if there were any comments. Public comments as follows:

- **Patrice Letizia, 2777 Evergreen Street** – Ms. Letizia is the original owner of her home. She stated that the cul-de-sac was originally put in for fire department access to the lake. She noted that the lake has never been really taken care of and is disgusting. She said that the Town used to take care of this lake many years ago during the winter when there was ice skating but to her knowledge this has not been done in a very long time. She noted that there is wildlife there. She questioned who would take care of the 4th lot that they propose to donate to the town. Another concern for her is the drainage. Her backyard is always wet and is worried how the development will affect her.

Mr. Bock responded that with respect to the 4th lot, the Board has heard back from two Town Departments (*Engineering and Highway*) recommending that the town not take this property and it is his understanding that the Recreation Commission feels the same way. He stated that the applicant would have to figure this out. Mr. Kincart said that the alternative would be to include the back portion (*4th lot*) in the two proposed lots that border it.

Mrs. Letizia asked Mr. Panny what the size of the proposed homes are to be. Mr. Panny responded between 2,700 to 3,500 sf. She asked how they were going to take care of the water and drainage problem. Mr. Panny responded that as far as drainage they have worked with the engineer, and the water will go out to catch basins for those three lots, the stormwater will go to drainage systems and be directed out to Crystal lake. He said that as far as Mrs. Letizia's lot being wet, nothing will change. He noted that they are not bringing any water to any other property, nothing will drain to the neighboring properties, and everything drains to the lake. Whatever is wet, will stay wet and they are not disturbing the wetlands. Chairman Fon noted that the back lot is a wetland and stated that they are maintaining the buffer as per the code.

- **Jeanne Pollock, 41 Granite Springs Road** – Her concern is the mitigation of the damage that was done in October 2017, when many trees were removed. She questioned the credibility of this developer who had represented to the town that he would not remove trees from there and then did so. She doesn't think the Town should be responsible for maintaining lot 4. She asked how the town would gain access to that area to maintain it.

Mr. Bock responded that there is a strip that comes in at the northern edge of the lake as shown on the plans. Chairman Fon said that there is a letter from the Town Engineer regarding the replacement of 61 new trees to be completed by October 2018, however, this is still an open issue.

Ms. Pollock thinks it should be returned to the condition it was. The developer should be held responsible for that area and suggests that there should be monitoring of the mitigation to ensure that there is no further damage. In addition, they should be required to maintain the area with no additional clearing to be done for years. She is also concerned about the drainage. There is a slope that goes toward Granite Springs Road, right now there is a drainage ditch that runs there which has never been a problem but she is not sure if it will become a problem with the addition of the new homes. She is worried about the run-off from the new houses.

Chairman Fon responded that there is a series of reviews that must be completed for drainage. The Town Engineer and other agencies will be involved. There will also be a public hearing.

- **Carol Haims, 2785 Evergreen Street** – Mrs. Haims stated that her property is located at the corner of the cul-de-sac. She is also concerned about the drainage. She looked at the plans and the drainage is shown parallel to her property line, adjacent to her yard and there is a catch basin on the first lot which concerns her. There is already wetness in the surrounding area. What happens if the catch basin overflows and can't handle the water flow? Since it goes down the back of her yard she wants to ensure that it is done right and working properly. Another concern is the 4th lot and how it will be used. She heard Mr. Barile's comment about reaching out to organizations but is not sure what organizations were contacted. She can't imagine what the use would be for because of the wetlands. She also stated that she had an interaction with the property owners over a falling tree and it was not a positive one. She thinks it's important to try and keep things friendly and neighborly with the builders and if something is not right they should try and work together.

Chairman Fon stated that this is a Public Informational Hearing which is the first step in making the public aware of the application. He asked the public and the Board if there were any other comments. Mr. Bock asked about the number of lots on the application. Mr. Tegeder responded that applications for subdivisions are for buildable lots. This is a 3 lot subdivision only and is what the fee will be generated on, the 4th lot would not, at this point, be a building lot and would not be on the plat as a buildable lot. Mr. Bock questioned what happens to that 4th lot whether it goes to the town as a separate non-buildable lot or a conservation portion attached to the three lots. At what point does that determination get made. Mr. Kincart responded that it is in the Board's approval. Mr. Tegeder responded that the application should not move forward unless there is a determination for the 4th lot.

Additional comments from the public as follows:

- **Susan Siegel, resident** - Ms. Siegel questioned if it was possible to reconfigure the three lots with the 4th lot and make it a pure 3 lot subdivision. She thought that this was discussed previously with the Board and asked if the developer has come back with a conceptual plan on what that would possibly be. She said that the discussion was to make it three lots and extend the back lines. A conservation easement could be put over that part of the property. Chairman Fon responded that a 3 lot subdivision was the original layout submitted.
- **Jay Kopstein, resident** – Mr. Kopstein stated that if that 4th piece of property gets segregated from the other three and the developer says they are no longer in business who becomes responsible for the taxes. Second, why is the town even entertaining a piece of development when the Town Engineer stated in writing that a prior agreement had not been acted upon in good faith.

Mr. Kincart stated that the Planning Board will not approve this project unless there is a determination for the 4th lot as mentioned previously by Mr. Tegeder. It will not be allowed to become a town owned property by default. In addition, various Departments and neighbors have expressed their opinions and concern with respect to this 4th lot.

- **Carol Haims, 2785 Evergreen Street** – Ms. Haims questioned that if it turns out that the town doesn't take the 4th lot would there be a possibility of this becoming more than a 3 lot subdivision. She said that per the Zoning Board minutes, when they were before the Zoning Board to obtain a variance for the original application for the single home, they were asked if they were going to come back for a subdivision to break it up and their response was that they were not going to subdivide.
- **Patrice Letizia, 2777 Evergreen Street** – Mrs. Letizia noted that the house on the other side of Crystal Court is owned by a Group Home and questioned if they were aware that this was going on. Chairman Fon stated that they would have received a notice. Mr. Kincart stated they may come to the Public Hearing and anybody is free to provide written comment to the Planning Board.

Chairman Fon asked the public and Board if there were any other 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 closed the Public Informational Hearing.

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 that as a follow up to the Public Informational Hearing held on July 15th, they are here this evening for a Public Hearing on the application. 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 on the border of Cortlandt bounded to the north by Crompond Road aka US 202 and to the south by Old Crompond Road. The property is in Yorktown Heights and currently zoned C4.

Mr. Pernick stated that at the Public Informational Hearing they addressed all the changes made to the site plan as previously requested by the Planning Board. They also received a response memo from their meeting with ABACA dated July 30, 2019. ABACA was pleased with the colored rendering and material board with samples. However, they did make some suggestions to the landscaping plan to incorporate more shade trees and native species in the surrounding areas of which they have addressed. The plans were revised to reflect these changes and submitted to the Planning Department on August 9th.

Mr. Pernick addressed the Fire Inspector memo dated July 11, 2019 regarding the installation of a fire hydrant at the property. He said that they spoke with the Fire Inspector and determined it would cost a substantial amount of money to install a fire hydrant. The closest water main to the property is on Old Crompond Road. There are fire hydrants east and west of the property lot lines approximately 150 feet. Mr. Pernick stated that their office along with the Fire Inspector came up with a plan to eliminate the need for a fire hydrant on the actual property. Instead of installing a fire hydrant they are proposing to install a 12 foot wide gate in the existing chain link fence on the south side of the property and that would be secured by a Knox Box lock system. The Fire Department and first responders would have a universal key to unlock the gate and access the fire hydrants on Old Crompond Road. This has been reflected on the revised site plans.

Mr. Pernick stated that as previously demonstrated to the Board, the proposed development consists of minor changes. The majority of the site improvements consist of the addition of a side by side drive-through on the south end of the property along with associated parking improvements. The development plan calls for the addition of a re-circulation lane on the north side of the lot to ease traffic flow. The existing restaurant façade and signage will be upgraded to match the McDonalds current design language. The signage application will be submitted to the Building Department once the site plan is approved.

Mr. Duarte, P.E. updated the Board with the site improvements. They will be installing two drive-through lanes where there is currently one. The purpose is to increase the efficiency of the site to better serve the current customer base. They are adding the re-circulation lane for any customer who has gone through the site and forgotten something. The customer will no longer have to go out onto the public roadway to get back into the site which, in turn, improves traffic safety on site. They are improving ADA access and re-configuring the parking spaces in front of the building to comply with current ADA standards. They are providing access to the public right-of-way conforming to the ADA standards. They will be replacing all site lighting to new modern LED fixtures which will improve the light illumination levels on site and are in conformance with the Town code. They are providing additional landscaping as mentioned previously. The interior building improvements are limited to the customer service. The dining area and bathrooms will be reconfigured and it will feel like a brand new building. The exterior improvements are limited to refinishing the exterior, removing the mansard style roof to provide a more modern look, new facades on all four sides of the building as well as new signage. They will be reducing impervious coverage by 1,700 sf.

Chairman Fon asked the Board if there were any comments. Mr. Tegeder asked Mr. Duarte to explain how the emergency gate will work, the location and what site work will be necessary. Mr. Duarte responded that it is directly behind the building. He said that they had a dialogue with the Fire Department as to the location that would be agreeable to them. The gate is 12 feet wide and will be at the very south of the property. It is a Knox Box system that only fire and emergency personnel have access to. Mr. Tegeder asked about the parking in front of the gate. Mr. Duarte responded that there is a parking space there currently of which they didn't have any concerns, however, this space could be restricted to employees only. Mr. Tegeder responded that if there is an emergency and a car is in that spot it will become a problem. Mr. Tegeder asked, in terms of the fire hydrant, since there is a water main running directly at the rear property line what would be the difficulty with providing a fire hydrant. Mr. Duarte responded that there was a substantial cost to install that hydrant. Mr. Tegeder asked if there was a discussion with the Fire Board in terms of what the preferred or required location of that hydrant would be. Mr. Duarte responded that they wanted it along Old Crompond Road at the rear of the site. Mr. Tegeder responded that essentially they are just doing a stub up to the surface and putting a hydrant there. Mr. Kincart stated that the original concern was that there was conversation about the north side of the property as it fronts on 202 and that would have been a tremendous project and expense. However, if the main is running on the north side of Old Crompond Road and not the south side, the expense would be minimized and costs may be acceptable. Mr. Tegeder stated that now the parking will need to be re-evaluated since they will need to remove at least one parking space in front of the gate. Mr. Tegeder asked if they were constructing an apron. Mr. Duarte said that the Fire Department did not request an apron only a gate for access. He said that they could relocate the gate further west or east to be aligned with the striping area so that it eliminates the chance of a car being parked there. Mr. Kincart stated that east would be better. Mr. Kincart asked how this would affect their landscaping plan. Mr. Duarte responded that there would be no affect as there is no landscaping in front of the gate. He said that gate will also have privacy slats.

Chairman Fon noted the letter from the NYS DOT dated August 6, 2019 which recommends a consideration of connecting to Old Crompond Road and removing the left turning movement at the current driveway exit. The Board is not in favor of this. Mr. Tegeder recommended that the applicant obtain the accident data requested in the Dot letter to review and have for their record.

Chairman Fon asked the public if there were any comments. Public comments as follows:

- **Jay Kopstein, resident** – Mr. Kopstein commented on the NYS DOT letter that was referenced. He said that the DOT was following the law when they built that south bound piece and exit off the Taconic and, in his opinion, made a mistake. He feels it's a safety hazard, not the fault of McDonalds, but the fault of the DOT. He thinks they are probably trying to correct the situation. He also questioned if McDonalds anticipates any increase in traffic flow by adding an additional drive-through lane.

Mr. Pernick responded that they do not anticipate an increase in traffic going into the site, the double drive-through is to ease traffic flow internally.

Chairman Fon asked the public and the Board if there were any other comments. Mr. Tegeder stated that as mentioned previously by Mr. Pernick, a set of revised plans were submitted to the Planning Department late Friday afternoon and requested that the hearing be held open until the plan is reviewed before a final decision is made.

The Board agreed to adjourn the public hearing and place this item on the next meeting agenda.

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

Pied Piper Preschool Addition

SBL: 37.14-2-8

Discussion: Adjourned Public Hearing

Location: 2090 Crompond Road

Contact: Site Design Consultants

Description: Proposed 3,019 square foot addition to the existing 3,730 square foot preschool. The building is proposed to be a total square footage 6,749 square feet, on 0.68 acres in the R1-10 zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants, Michael Piccarillo of MAP Architects; Dr. Phil Grealy, Traffic Consultant of Maser Consulting; and the owners - Kathleen Dineen, Maxwell Dineen-Carey, and Mollie Dineen-Carey, Esq. were present. Mr. Riina stated that they are here this evening for a public hearing on the application which was previously adjourned. He noted that this daycare has been operating for 41 years. The last application that the Board reviewed was for a project of a much larger scale. The new application has been reduced in size for the proposed addition. The existing building is currently 3,730 sf and the proposed addition is 3,019 sf. The plans were shown to the Board. The main entrance is on the adjoining church property which is a shared entrance. They do not have any conflicts as their schedules are different. There is an agreement between the two properties to share access driveways and parking. The site operation was discussed. The staff parking area was shown. The proposed 1-story addition was shown on the plan. There is a roof covered area that extends off the back of the proposed addition which is a covered exterior play area open on three sides. The entire building and facility is fenced in for security purposes. The fire and emergency egress were shown at various parts of the building. An updated evacuation plan has been submitted for this current proposal. There is a secondary entrance which is rarely used. This entrance would be used by staff and service vehicles such as garbage pick-up. The route was shown on the plans. The site is essentially not changing. The layout of the parking and driveways will remain the same. However, they are proposing to pave the parking area which was not part of the previous proposal. As a result, they have increased the size of the stormwater management practice which is a sub-surface infiltration system. The maintenance of the Item 4 parking has been difficult especially during the winter and paving it would be easier to maintain. The building is serviced by public water and public sewer and the connections were shown on the plans. Overall, they are providing 42 parking spaces which is a combined count of what is on site and what is available on the church site.

Mr. Bock asked about the truck turning radius diagram provided and if this could be reconfigured. He said that in order for a truck to make a right turn into the western entrance they have to go out onto opposing lanes of traffic in order to come in and this concerns him. Mr. Riina responded that this diagram was provided for emergency vehicles. Mr. Bock asked about restricting the exits. Mr. Riina responded that sheet 1 of 10 in the plans shows a clear indication of a new "no left turn" to go out of that driveway so they would not be opposing traffic when they are making a turn out and that is the only exit point.

Mr. Riina stated that Dr. Grealy was available to discuss any questions regarding the traffic study. He noted that the traffic study that was done at the time for 137 students was significantly dropped. There would be no increase in traffic over the original proposal.

Chairman Fon asked Mr. Riina about the Town Engineer memo dated June 20, 2019 and if it was addressed. Mr. Riina responded that it was addressed and has not heard back as yet.

Mr. Piccarillo of MAP Architects presented the renderings to the Board. He stated that the concept is to maintain a residential feel to the building and to contain everything the program requires them to have especially the outdoor play area at the rear of the building. They maintained the narrow frontage of the building with the addition in the rear of the building, therefore, it will not be visible from the street. It blends in with the residential feel and scale of the neighborhood. He noted that the addition is significantly less than what was originally proposed as mentioned by Mr. Riina previously. Chairman Fon asked if the new building will be code compliant and meet all the current fire codes and the response was that it will meet the NYS code and the daycare code. Mr. Piccarillo stated they

received a positive memo from ABACA dated July 30, 2019. They are scheduled for the August 27th meeting agenda during which they will present a material board and colored rendering as requested in their memo.

Kathleen Dineen, owner of Pied Piper, stated that they are family owned and operated and have been in business for 41 years. All of their employees are local people. She stated that there is a large need for this service within the community and that three other schools have closed within the last two years. Since they are not a chain, they are far more affordable to area families. Their current waiting list is for 100 families for school aged children and 50 families for before and after care. They follow the school calendar as 98% of the families are teachers and are open from 7:00 a.m. to 6:00 p.m. in order to accommodate their schedules. She stated that two years ago the number one concern from the Board was the parking, so they eliminated the two programs that required most parking – the special education program and infant program. They ended up adding three classrooms in the rear which will be used for the pre-school program during the 9:00 a.m. to 3:00 p.m. school hours (*3 classrooms of 16 each*) and will change the two classrooms in the front to 2 two-year old programs eliminating 5 students (*instead of 12 and 15 it will go to 10 and 10*). They will go from 66 to 104 students during the day and 116 students if the after-school program is full, and if the state allows them the number of children they are proposing for the back rooms. They will need to meet with them when the camp is over just to confirm this as they have different requirements in terms of square footage for the older children. The three classrooms will be used for additional after school programs for the children that are bussed in from three elementary schools – Mohansic, Crompond and Brookside. The outside playground allows them to be outside all year round. They tried to make the building look as residential as possible to fit in with the neighborhood and feel they have achieved this goal. The windows go all the way around so there is visibility and natural light all around the perimeter. She thinks it's a great building and hopes the Board feels the same.

Mr. Riina added that new landscaping was done in the front yard to enhance the existing building. All this landscaping will remain and they will provide additional landscaping along the parking at the fence line to create a green buffer.

Chairman Fon asked the public if there were any comments. Public comments as follows:

- **Jay Kopstein, resident** – Mr. Kopstein noted that at prior meetings the Board asked if the applicant had a lease or easement from the church to use their property. He did not hear a response about this. Second, with respect to the “no left turn” sign mentioned, he would like to know whose sign it is. In his opinion, if it is the school's sign it is useless. He feels that it needs to be a sign approved by the NYS DOT as they are the only ones who could put a traffic controlled device on a state road. He asked for Dr. Grealy's response. He also noted that Mr. Bock asked about trucks turning and Mr. Riina responded that it was for fire trucks. What about delivery trucks who may have to make that same wide turn going in and coming into opposing traffic. How are they going to do that or are they going to be coming east bound and making a left turn in across all of the west bound traffic and would like to hear a response to this.

Dr. Grealy, Traffic Consultant – Dr. Grealy responded that he believes a copy of the easement agreement was set forth in the submission of July 25th. In response to the “no left turn”, there is already a “no left turn” sign that is in existence on Route 202. To bring it into current conformance with NYS DOT requirements you need to have a “near side” sign also. The signs are just reinforcing the current condition. In terms of delivery vehicles they have a shorter turning track – FedEx and UPS type deliveries don't need to swing into the opposite lane. They were looking at fire truck type vehicles having to maneuver to come in which is all spelled out in the turning tracks that they looked out.

Minnie Dineen-Carey, Esq. – Ms. Carey stated that she is the attorney for the Pied Piper Pre-school and would like to respond to the issue about the easement. She was an associate in her uncle's law firm (*Jerry Dineen*) who was also a former Chairman of the Planning Board for many years. She was able to locate his old files and find a copy of the original easement signed by everybody at the closing and dated August, 2003. She was at the closing and was there when it was signed. Both parties can stipulate that nobody is contesting the fact that this easement exists. It has been in existence since 2003 and they have been operating under it since that time. A copy was submitted to the Planning Department for their records. She noted that all the markings are

recorded on the back. She contacted the title company who was in charge of recording it, they have it listed as going out but because it was 15 years ago, they do not have a copy and they can't find it in the county land records. The only answer was that it must have been mis-indexed or somehow lost because at that particular closing there were several easements, sewer, etc. but somehow this easement is lost. To rectify this situation, even though technically they have one, the church and Pied Piper have decided to get one re-recorded. The problem is since the church is a religious organization they fall under RCL, religious corporations law, section 12 requiring them to get approval on anything that is going to encumber their property. They have begun that process with the Attorney General but it is going to take some time. She has drafted a Letter of Intent so that the Planning Board knows that both parties are moving forward and has attached a copy of the easement they are signing and as soon as they get the approval it will be recorded. A copy of the Letter of Intent was submitted to the Planning Department for their records.

- **Sergio Esposito, Resident and President of the Chamber of Commerce of Yorktown** – Mr. Esposito wanted to say a few positive words about this project and the school. His children went to this school and can attest to the fact that the exchange is quick for drop off and pick up. Parking is not an issue and the only time that there may be an issue, and there never was, is when there is a school event. Even so, they do a fantastic job at staggering the events so this way only some people are allowed at the school at certain times. As far as the traffic pattern, he never had a problem getting in and out. He has never seen any trucks swinging in to the opposite lane to get in there. He doesn't think this project is changing any of the traffic pattern that already exists. He asked the Board if they have heard of any issues with trucks going in and out because he doesn't think there has been. He understands these are legitimate concerns but if you look at the past years he doesn't recall this ever being an issue. The paving for the parking lot is a fantastic idea as the item 4 produces a lot of dust and isn't good for the kids. He feels that it is a vast improvement on an already fantastic piece of property. He recommends that the Board seek to approve this project as soon as possible. There is a need in town for this kind of service especially since our town is family oriented. In addition, this would be a big help to working parents.

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

The resolution was reviewed with the Board. Chairman Fon asked about not receiving a response from the Town Engineer's comments that were answered by Mr. Riina. Mr. Tegeder responded that prior to the signing of the site plan, those items can be worked out provided that they are not items that would substantially change the layout of the site. Mr. Kincart asked Mr. Buckley, Planning Board Attorney, if they should qualify what they are doing here - should they resolve to approve this with the recording of the deed or are they ok with having a copy. Mr. Buckley responded that he is comfortable with both the existing easement and the easement to be recorded. Mr. Bock stated that it should made a condition that the Attorney General approved the cross-easement agreement and filed in the county. Discussion followed regarding an approval with a one-year period so the applicant does not have to wait. Mr. Tegeder responded that in this case we have a valid easement between two property owners, it's just not recorded in the county with the land records. Mr. Buckley stated that it might have been recorded and thinks they have a valid easement. Mr. Bock stated that it should be referenced in the resolution. The Board noted that this will be referenced in page 5 of 5, under resolved, item #4 under additional requirements adding a one-year requirement.

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

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting aye, the Board approved the resolution approving site plan, stormwater pollution prevention plan, and building addition for Pied Piper Pre-school as amended.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

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:

Dan Ciarcia, P.E. was present. Mr. Ciarcia stated that as discussed at the May 6, 2019 Board meeting, adjustments were made to the signed site plan and submitted to the Planning Department for a final go around. The hair salon building was removed and there were curb adjustments.

The issue of the two monument signs need to be addressed. A rendering was shown for the monument sign on Kear Street with its location. Robyn Steinberg noted that the easement needs to be modified to include the sign on this property. She said that there was an old site easement for utilities and to allow access to the property for the sidewalk. The Board agreed that a second free standing sign made sense on the Kear Street property because the site has two entrances and because it was the same location of a previous sign for the site. Since the properties are no longer in the same ownership, an easement allowing the sign should be filed.

Mr. Ciarcia stated that the Underhill monument sign must be 5 feet from the property line of which they do not have. He said that they need to discuss the ultimate location and showed the location on the plans to the Board. Mr. Ciarcia asked the Board if there was a preference as to where to place this sign. Mr. Tegeder stated that it makes sense to have a sign and to try and comply with the regulations and if it cannot be done, they will need to get a zoning variance. Mr. Ciarcia noted that it is not a site distance issue. Chairman Fon stated that they agree there needs to be a sign. Mr. Ciarcia stated they can reposition the sign to comply with the code and show it on a blown up section of the plan.

Mr. Ciarcia stated that the tenants are hoping to be in the building in September and is requesting to be on the September agenda in order to update the Board.

Battery Storage Facility for Rooftop Solar System (Staples Plaza)

SBL: 36.06-2-76

Discussion: Amended 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 two parking spaces along the west side of the Staples Plaza.

Comments:

Paul Jeun and Pranavi Prathigupta of IPP Solar were present as a follow up to the January 14, 2019 Board meeting. Mr. Jeun stated the proposal is for a battery storage facility to support the rooftop solar installation that was approved. The plans were shown to the Board. He said that the battery units will occupy three parking spaces in the back as shown on the plans (*160 sf of parking lot space*). They are proposing to restripe the existing spaces at a smaller width so the total number of parking spaces will not be impacted. Mr. Bock asked if they could use the reserved parking spaces and leave the other spaces alone. Mr. Tegeder noted that the parking spaces will need to be reviewed and calculations will need to be provided if they reduce the size of the parking spaces. It may make more sense to leave the existing spaces as striped and reduce the parking by 3 spaces.

Mr. Jeun explained how this facility could help mitigate power outages in the area. He also noted that there will be outlets to charge cell phone on the property for public access.

After much discussion, the Board requested that the applicant submit a formal site plan application stating that this project is for an accessory use in the C-1 zone along with a short EAF. In addition, the applicant is to provide a description with the purpose, specifications and safety precautions that will be installed with the project. The site plan should indicate which solar panels on the building roof are currently in operation and which additional panels, if any, will be brought on-line in the future and connected to this project.

The Board noted that a public hearing will need to be held. Chairman Fon requested that the applicant have a NYSERDA representative come and talk about the storage facility to the public.

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 July 15th meeting. Mr. Riina stated during that meeting they addressed the Planning Department and Town Engineer memos. He met with the Town Engineer on the main issues which were the status of the site plan approval and stormwater capacity off site. The significant changes to the plan are the increases to the loading area to 10 feet wide, and the one-way travel lane to 17 feet wide. Trees to be removed were located on the plan. There are 25 trees to be removed. It was noted that 5 of those trees are off the property in the right-of-way but are necessary in order to get the loop access. There were no other changes. There will be a sub-surface stormwater management system, 4 rain gardens with two in the right-of-way as well as porous pavement. Mr. Riina stated that they need to finalize portions of the property with regards to the license agreement between the town and the property owner.

Mr. D'Agostino noted that the trash enclosures are not noted in the details and Mr. Riina responded that he will clarify this on the plans. Mr. Tegeder asked Mr. Riina about the stormwater plan. Mr. Riina responded that they did a full SWPPP and are waiting to hear from the Town Engineer.

Discussion followed regarding a dedication or license agreement for the property within the Front Street right-of-way. Mr. Kincart asked if any other utilities are in the town right-of-way that would affect the property owner. Mr. Riina responded that there is a drainage easement. Mr. Kincart noted that Mr. Abbate, the Town Attorney, stated at the last Board meeting of July 15, 2019 that he did not see any objection with the license agreement for the town right-of-way. The Board decided that the licensing agreement makes sense. Mr. Riina stated that they are agreeable to taking responsibility for the improvements. Mr. Roberta stated that he will have his attorney draft a license agreement.

Chairman Fon asked the Planning Department if there were any comments. Mr. Tegeder stated that the stormwater infrastructure and rain gardens that are in the town-right-of way should be licensed. He also noted that they will need to review the code to see if a public informational hearing is needed for the stormwater and lighting plan. Mr. Riina noted that there was a public hearing in 2017 and questioned if the public informational hearing could be waived as notices were sent out for the public hearing at that time. Mr. Bock thought that the PIH should be waived. The Board stated they will check with the Town Attorney. The Board stated that a public hearing will be tentatively scheduled for September 23rd.

Lowe's Plaza Building Pad 'B'

SBL: 26.18-1-18
Discussion: Site Plan
Location: 3200 Cropmond 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., Abigail Adams and Frankie Campione were present as a follow up to the July 15th meeting. Mr. Riina stated that he received a memo from the Town Engineer dated July 25, 2019. He noted that they had a meeting but has not formally responded to the comments as yet. The main concern was the sewer flow. Mr. Riina stated that the calculations will be below the projected calculations as part of the original approval. Mr. Tegeder requested that Mr. Riina provide the revised calculation to the Planning Department.

Discussion followed regarding the parking lot circulation and the parking spaces. Mr. Kincart stated that they already reduced the number of spots and with this plan they are shy of one parking space that was allotted on the pad of what was originally approved. Mr. LaScala noted that he has observed that the Lowe's parking lot is never full and to burden the applicant for one parking space does not seem reasonable. Discussion followed regarding the shared parking plan. The Board noted that the spaces of concern that conflict with the site entrances could be striped.

Abigail Adams reviewed the overall landscaping plans to the Board. She provided site sections for the elevations along different angles as requested at the previous Board meeting. All areas with proposed landscaping were shown to the Board (*parking area, street side, top of wall along main entrance, back access drive, property line, etc.*) The site facing Lowe's will be treated as a second front and not a back. On the east side, there was a request for some greenery, so they have added a trellis with roses and creepers. The parapets will be higher and continue all the way around to screen rooftop units. The Board was pleased with the landscaping plan.

The Board requested that the Planning Department draft a resolution for review at the next meeting.

PANBAR – Bonsignore Subdivision

SBL: 36.05-2-57.1
Discussion: Approved Subdivision
Location: 2475 Hunterbrook Road
Contact: PANBAR Realty
Description: Proposed amendment to the retaining wall, originally a part of approving resolution #16-04, dated March 14, 2016.

Comments:

John Barile and Louis Panny were present. Mr. Panny stated that they are before the Planning Board for an approval for the retaining wall in order to get a building permit. Photos of the retaining wall were shown to the Board. Mr. Panny said that they are waiting for an approval from John Landi, Building Inspector who in turn is waiting for the Planning Board approval. They need to finalize the walls in order to get the final inspections for the house.

Mr. Kincart gave a brief history on the project. He stated that there was an issue with the wall and its appearance as it was not attractive and was described as "mafia blocks". As a result, this is the new softened look. He said that the Building Inspector also felt that it was not adequate and required an engineer review it.

Mr. Tegeder stated that there was a complaint about the appearance and they have since changed the look as shown in the photos submitted. He also mentioned that the applicants do not have a building permit because they had to provide engineering calculations.

Mr. Tegeder informed the Board that when they approve this wall, they are approving what they are looking at in the photos (*location, color, visual aspect*). Mr. Panny responded that the new look is that of a concrete stain. The vegetation in that area will grow in front of the wall to block it eventually.

Chairman Fon reiterated that the Town is legalizing the wall that was built. The Planning Board is only being asked to comment on the way it looks. Chairman Fon advised the applicant to follow the rules and always check with the town before doing anything (*i.e. – changing walls, removal of trees, etc.*) as these unexpected items puts the Board in a predicament that they should not be in. The Board now has to review something they should not have to do.

Chairman Fon asked the Planning Department if they have all the necessary information on the wall. Mr. Tegeder responded that the location is correct, the new look is concrete stain and the color was pending. With respect to the structural aspect, the Building Department is reviewing for Building code compliance. The Board requested that the Planning Department submit a memo to the Building Department with their comments.

Robyn Steinberg noted that the finished floor elevation for this lot also needs to be approved by the Board. Mr. Tegeder stated that the Board had no issue with the finished floor elevation change, but had not actually voted on a resolution approving it.

Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting aye, the Board opened a Special Session.

Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting aye, the Board approved the resolution approving the finished floor elevation for lot 57.1 of the Bonsignore-Ryder subdivision.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting aye, the Board closed the Special Session.

Town Board Referral – Sunoco Station / 7-Eleven

SBL: 16.08-1-16

Address: 3640 Lee Boulevard

Contact: Nancy Forrest, GNS Group Ltd.

Description: Request for a special use permit for the gasoline filling station located at 3640 Lee Boulevard.

Comments:

Nancy Forrest of GNC Group Ltd. was present. The plans were reviewed with the Board. After discussion, the Board had no objection to the proposed building signage for the proposed 7-Eleven but stated that they would defer to the comments received from ABACA for this sign. The Board suggested replacing the proposed 16' free standing double pole sign with a monument sign. The Board feels that a monument sign would be more aesthetically pleasing than what is currently proposed and create less visual pollution. The Board requested that the Planning Department submit a memo to the Town Board with their comments.

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 Gregory Gibbons of Borrego Solar were present. Mr. Gaudio stated that they were referred by the Zoning Board for a special use permit. They are proposing to install a public utility substation at 3901 Gomer Court. The proposed public utility substation will consist of a utility-owned standalone energy system that will be used to supplement power to the local power grid at peak hours by utilizing New York State's Value of Distributed Energy Resources (*VDER*) mechanism. The plans were shown to the Board. They are not intruding on the wetlands and meet all setbacks. The points of inter-connection were shown on the plans. The site is completely screened from Route 6 as there is existing vegetation. The energy storage

system will be in the southwest corner of the site near Rt. 6 and will be enclosed by a 7 foot tall chain link fence. It was noted that the Zoning Board has scheduled a site visit for August 21st.

Mr. Tegeder asked who the owner was and the response was Yorktown Energy Storage 1, LLC a subsidiary of Borrego Solar Systems, Inc. Mr. Tegeder asked if this was strictly battery storage and if they were selling the energy to Con Edison and the response was that it was not Con Edison owned currently but could be. Mr. Tegeder asked if they were regulated by the Public Service Commission and the response was they were not but they met with NYSEERDA to tie into the grid. Mr. LaScala asked where they get their power from and the response was from the grid.

The Board asked how they came to be under the Chapter 300-57 code. Mr. Gaudioso responded that they met with the town's Building Inspector and this determination was made as they believe they are with the public utility station and feel it is clear under the code. Chairman Fon requested a copy of the Building Inspector's determination. Mr. Gaudioso responded that they received a response from the Building Inspector via e-mail dated July 10, 2019. The e-mail was submitted with the packet.

Mr. Tegeder asked if the interconnection to the grid is underground. Mr. Kincart asked if the batteries were enclosed by a container system and not accessible from the outside. He also asked if they require fire suppression. Discussion followed regarding the life cycle and gigawatts of the batteries.

The Board asked how the batteries are disposed and the response was that there is a de-commissioning plan. The Board recommended that a de-commissioning bond be put in place.

Mr. Tegeder noted that although there is vegetation along Route 6 the repair shop is still visible during certain times of the year. The chain link fence would be an extra measure, however, the Board suggested a decorative fence as an alternative to the chain link fence as they are trying to move away from the look of a chain link fence. The Board requested that the applicant provide photos of what it would look like during the winter in addition to renderings for the proposed facility. The Board also requested that the applicant provide screening along the property line and around the cabinets with planting details. The Board requested that the applicant be placed on a future agenda for further review.

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:

Withdrawn at the applicant's request. This item will be placed on the September 9th meeting agenda.

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 10:25 p.m.