

Planning Board Meeting Minutes – October 21, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, October 21, 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 Savoca, Vice Chairman
- Bill LaScala

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 Report

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

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting aye, the Board approved the meeting minutes of October 7, 2019.

Motion to Open Regular Session

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

REGULAR SESSION

Fiore Subdivision

SBL: 26.15-1-69
Discussion: First 90-Day Time Extension
Location: 2797 Carr Court
Contact: Site Design Consultants
Description: Approved 2-lot subdivision in the R1-20 zone, by Planning Board Resolution #19-10, dated May 20, 2019.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina is requesting a first 90-day time extension for the application. He stated that they are currently working with the Health Department for the subdivision approval. The Health Department requested that additional information be added to the plat. Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

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

Mongero Properties, LLC

SBL: 37.14-1-44
Discussion: First 1-Year Time Extension
Location: Saw Mill River Road
Contact: Site Design Consultants
Description: Approved 3,848 SF bank on 2.2 acres in the C-1 zone by Planning Board Resolution #09-28.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina is requesting a first 1-year time extension for the application. He said that this application was approved several years ago. The owner is having difficulty in finding a tenant for a bank on their property. They would like to maintain their approval should a tenant become available. Chairman Fon asked the public if there were any comments. Public comment as follows:

Susan Siegel, resident – Ms. Siegel thinks the Board should have a policy about how long they should give time extensions. She does not have a problem with the original approval but the application is close to 11 years old and feels that there comes a point in time where things change. She said that it was approved for a bank but not sure if it will be a bank or another retail store. The site plan may change and be very different if it is not a bank. She suggested the Board close this out and not extend it. When the developer gets a tenant for the building they should come back with a site plan and proceed from there.

Mr. Riina responded that he would agree if the zoning changed or if for example the stormwater or wetland regulations have changed but they have not. The DEP extended their approval on the stormwater plan. The zoning has not changed. Chairman Fon stated that he thinks this plan is straight forward. Mr. Savoca did not have an issue with the extension. If another use is proposed, the applicant would have to come back to the Board.

Stewart Glass, Assistant to the Supervisor – He stated that he was confused about the first 1-year time extension as this project was approved a number of times prior and asked for an explanation.

Mr. Tegeder responded that there are a series of reviews. A project can be reapproved and then is eligible for two 1-year time extensions. This project was reapproved last year and now it is going for its first one year time extension on that reapproval.

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

Upon a motion by John Savoca and seconded by Bill LaScala, and with all those present voting aye, the Board approved the request for a first 1-year time extension from reapproval Resolution #18-17.

Popeyes Restaurant

SBL: 36.06-2-76
Discussion: First 1-Year Time Extension
Location: 3333 Crompond Road
Contact: JMC Site Development Consultants
Description: Approved site plan for a restaurant with a drive through at the Staple Plaza in the C-3 zone by Planning Board Resolution #18-18, dated October 15, 2018.

Comments:

No representative was present. Chairman Fon asked the public if there were any comments and there were none. After discussion, the Board motioned to table this item to the next meeting agenda in order for a representative to be present to provide an update on the application.

Hudson Valley Steakhouse fka Spark Steakhouse

SBL: 26.18-1-7.29
Discussion: Renewal – Special Use Permit
Location: 3360 Old Crompond Road
Contact: Klevis Tana
Description: Request for renewal of a Special Use Permit for outdoor dining, approved by Planning Board Resolution #16-17, dated August 8, 2016.

Comments:

Klevis Tana, restaurant co-owner was present. Mr. Tana stated that nothing has changed since the last approval. Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

Upon a motion by John Savoca and seconded by Bill LaScala, and with all those present voting aye, the Board approved the resolution approving the renewal of special use permit for outdoor dining for the Hudson Valley Steakhouse fka Spark Steakhouse at Crompond Crossing.

Trailside Café

SBL: 37.18-2-79
Discussion: Renewal – Special Use Permit
Location: 1807 Commerce Street
Contact: SI Design
Description: Request for a renewal of Special Use Permit for outdoor dining, approved by Planning Board Resolution #16-06, dated April 11, 2016.

Comments:

Chairman Fon motioned to move this item to the Work Session as there are two portions to this application.

CVS - Commerce Street

SBL: 37.14-2-52
Discussion: Decision Statement
Location: 1990 Commerce Street
Contact: Chuck DeMilo
Description: Proposed amended lighting plan for the subject location known as the CVS Plaza.

Comments:

Jim Pulvermiller was present on behalf of the property owner, Mr. DeMilo. Mr. Pulvermiller stated that the applicant is proposing to update the lighting in the CVS plaza parking lot and is here as a follow up to the October 9th Board meeting. Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Counsel if there were any comments and there were none. The Negative Declaration and resolution were reviewed.

Upon a motion by John Savoca and seconded by Bill LaScala, and with all those present voting aye, the Board motioned to declare the Planning Board as Lead Agency.

Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting aye, the Board adopted the Negative Declaration.

Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting aye, the Board approved the resolution approving the amended lighting plan for the CVS plaza.

Roberta Front Street

SBL: 48.07-2-11, 13, 15, & 17
Discussion: Decision Statement
Location: Front Street
Contact: Site Design Consultants
Description: Rezone and site plan approved by Town Board by Resolution #485, dated December 19, 2017, with conditions for approvals by the Planning Board. This property was rezoned from R1-20 to the Transitional Zone to construct two mixed use buildings consisting of commercial space and residential units on 0.8 acres.

Comments:

Joseph Riina, P.E. of Site Design Consultants and Chris Roberta were present. Mr. Riina stated that they are here to review the decision statement with the Board. Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting aye, the Board approved the resolution approving a stormwater pollution prevention plan, tree permit, refuse pickup times, lighting plan, and landscape plan for George Roberta Front Street.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

Trailside Café

SBL: 37.18-2-79
Discussion: Site Plan & Special Uses
Location: 1807 Commerce Street
Contact: SI Design
Description: Proposed additions to the outdoor dining in the back of the building and discussion of the outdoor dining in the Town Right of Way.

Comments:

Justin Fagan, restaurant owner was present. Mr. Fagan is requesting a renewal of a special use permit for outdoor dining in the rear yard and a legalization for a trellis built over the seating area. He stated that he was unaware that there was a renewal process.

Mr. Fagan gave a brief history of the front yard outdoor seating. He stated that he applied for a permit for the front yard and got it but not sure who gave it to him. He later increased the front yard seating from 8 seats to 16 seats and was told that he would need a license from the Town Board as the seating was increased and in the town right-of-way. He recalls working with John Winter and Alice Roker. He was told by the Town Attorney at that time, a license granting him special usage would be prepared for his signature but is not sure if this was ever done.

Mr. Tegeder stated that he reviewed the code section 300-80 for sidewalk cafes. He said that it his understanding that the former Town Attorney determined that this section did not apply to the front yard seating because the seats were in the town right-of-way and a license was required. There is no record of a license ever being granted. The rear of the building will require a renewal of the special use permit under this section of the code.

Chairman Fon stated that the front yard and rear yard outdoor seating are two separate permits and will be treated as such. However, they will be handled together in order to clear up this situation. The Planning Department will research this item further. Mr. Savoca stated that a license would be required even if there was one seat for the front yard seating. Discussion followed with respect to the code.

Chairman Fon asked about the trellis in the rear yard. Mr. Fagan stated that the trellis is already built because he was unaware that he needed a building permit. The trellis requires a variance for the rear yard setback.

Chairman Fon stated that a Planning Board member was concerned about the vehicle traffic and the tables in front that are in the town right-of-way. The outdoor seating is not protected by any barriers and suggests that bollards or planters surround the area. Chairman Fon suggested that the applicant meet with the Planning Department, Building Inspector and Town Attorney to review this item and come up with a plan.

Nantucket Sound, LLC – *Withdrawn at the applicant's request.*

SBL: 37.18-2-86
Discussion: Preliminary Site Plan
Location: 385 Kear Street
Contact: Site Design Consultants
Description: Proposed to construct a three story, 10,500 square foot building with a mix of residential and retail uses on 0.36 acres in the C-2R zone.

Atlantic Appliance

SBL: 37.15-1-31
Discussion: Site Plan
Location: 2010 Maple Hill Street
Contact: Site Design Consultants
Description: Proposed to construct a 2-story retail/office building on 1.57 acres in the C-2 zone.
Comments:

Joseph Riina, P.E. of Site Design Consultants and Joey Vako, property owner were present. Mr. Riina stated that the site is located between the post office and the medical/law office building across from the Triangle Center. The site is 1 ½ acres and zoned C-2. The proposal is to construct a two-story retail/office building. The preliminary plans were shown to the Board. There will be a warehouse in the lower level, retail space on the first floor and office space on the second floor. The footprint of the building will be 10,500 sf. The second floor will have less square footage as it will be in the roof structure. The truck traffic will be at the north entrance of the site. The circulation of traffic will be one way. The loading dock will be in the back of the building.

The parking spaces were shown on the plans. Mr. Riina stated that after reviewing the parking spaces, it seems that they have more than what they actually need and asked the Board if they would consider allowing the applicant to bank the parking spaces. Mr. Vako stated that he would prefer to use this space for more greenery and landscaping.

Mr. Riina said that there are no variances required and the wetlands have been flagged. This is the initial concept for the Board's review and will put together more detailed plans as the project progresses.

Stewart Glass, Assistant to the Supervisor asked about flooding on Greenwood Street. He noted that there have been concerns with the neighbors in the past.

The Board was pleased with the concept and advised Mr. Riina and Mr. Vako to meet with the Planning Department to review the proposed plans.

Taco Bell – 3605 Crompond Road

SBL: 36.05-1-16
Discussion: Preliminary Site Plan
Location: 3605 Crompond Road
Contact: JMC Site Development Consultants
Description: Proposed Taco Bell restaurant and drive-thru on 1.06 acres in the C-4 zone at the former Thyme Restaurant/Snap Fitness location.

Comments:

Paul Dumont of JMC Site Development Consultants was present. Mr. Dumont stated that the applicant is proposing to reoccupy the existing building with a Taco Bell fast food restaurant with a drive-thru lane and another to be determined retail tenant to share the space. The site was formerly occupied by Taste of Italy Deli and more recently Thyme Restaurant and Snap Fitness. The site is located at 3605 Crompond Road just to the south of the Route 6 intersection and is zoned C-4. The site is a little over an acre in size. The plans were shown to all.

They are proposing to add a dedicated drive-thru lane and reconfigure the parking lot. They will resurface and restripe the existing parking lot in addition to ADA accessibility improvements. They will also be providing a bypass lane out of the drive-thru. They are proposing a new curb cut onto Crompond Road to accommodate the drive-thru exit. It was noted that there was an existing curb cut years back (*dating back to the 2000's*) and they are now proposing to re-open this curb cut and will work with the NYS DOT.

They are reconfiguring the sidewalk and proposing an outdoor seating area. The reconfiguration will decrease the impervious area by 1,100 sf. The reconfiguration of the parking lot results in 39 spaces where 49 spaces are required. They are asking for a waiver of the reduction of 10 parking spaces which is 20% of the requirement.

The wetland on site has been flagged. Mr. Dumont stated that there is a stream that actually crosses the property and is associated with a bio-filter stormwater practice that was implemented as part of the original site plan for the former Taste of Italy Deli and over the years has now overgrown. They have reached out to the original designers, Evans Associates, to see if they can restore it back to its original function.

Mr. Dumont stated that there are several other outside agencies that have jurisdiction on the property redevelopment. They will need to coordinate with NYS DOT for the curb cut onto Crompond Road. In addition, since they are creating some new impervious surfaces they must provide a SWPPP for DEP approval.

The applicant is proposing interior and exterior modifications to the building. They are replacing the sloped roof with a flat roof.

They have received the Planning Department memo dated October 17, 2019 and will address all items as part of the site plan application. The landscaping and lighting plan will be provided with the application.

Mr. Savoca stated that the site plan notes that there is one lane coming in and exiting. He asked if Crompond Road has a left turn lane to make a left turn into the site. He questioned if the width is adequate for incoming and outgoing vehicles. Mr. Savoca feels that this may be problematic.

Mr. Tegeder asked about reduction of impervious surface. Mr. Dumont stated that the landscape island is new pervious area where it was impervious before. Discussion followed.

Chairman Fon asked about the stream that runs under the property and what carries it. Mr. Dumont responded that it is an 84" culvert made out of corrugated metal. Chairman Fon stated that the condition of the pipe and easement need to be investigated. It was noted that the culvert itself was not replaced and may be more than 30 years old dating back to the 90's or earlier.

Chairman Fon suggested that a site visit be scheduled with the Conservation Board for preliminary input once a full application is submitted.

Battery Storage Facility for Rooftop Solar System (Staples Plaza) – Adjourned

SBL: 36.06-2-76

Discussion: Site Plan

Location: 3333 Crompond Road

Contact: Maziar Dalaeli, IPP Solar, LLC

Description: The Applicant is proposing a battery storage facility to support the rooftop solar energy system installation. The facility would take up three parking spaces along the west side of the Staples Plaza.

Comments:

The applicant was at the Fire Advisory Board meeting. The Board motioned to adjourn this item to the next meeting.

McDonalds – Adjourned

SBL: 36.05-1-10

Discussion: Amended Site Plan

Location: 3481 Crompond Road

Contact: Keith Brown, Esq.

Description: Proposed to construct a two lane drive-through and associated parking lot improvements on 1.05 acres in the C-4 zone.

Comments:

The applicant was at the Fire Advisory Board meeting. The Board motioned to adjourn this item to the next meeting.

Proposed Battery Storage Law - Additional Agenda Item:

Stewart Glass updated the Board on the status of the proposed battery storage law. Mr. Glass stated that the Town Attorney has the draft of the proposed law based on the model for review. As an alternative, a moratorium was proposed. This will be discussed at the Town Board Work Session. Discussion followed with respect to applications and the moratorium. The safety issue was discussed. Mr. Glass stated that he reached out to NYSEG and Con Edison regarding safety issues and their only concern was how it would impact their system.

Motion to Close Meeting

Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting aye, the Board closed the meeting at 8:19 p.m.