

# Planning Board Meeting Minutes – November 18, 2019

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A meeting of the Planning Board, Town of Yorktown, was held on **Monday, November 18, 2019 at 7:00 p.m.** at the Yorktown Town Hall Boardroom 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
- John Kincart, Secretary
- Bill LaScala
- Aaron Bock
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
  - Robyn Steinberg, Town Planner
  - Tom D'Agostino, Assistant Planner
  - Nancy Calicchia, Secretary
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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 John Savoca and seconded by Bill LaScala and with all those present voting aye, the Board approved the meeting minutes of October 21, 2019.
- Upon a motion by Aaron Bock and seconded by John Kincart and with all those present voting aye, the Board approved the meeting minutes of November 4, 2019 with corrections as noted.

## **Motion to Open Regular Session**

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

## **REGULAR SESSION**

### **Stahmer Minor Subdivision**

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

Discussion: Second 90 Day Time Extension

Location: 600 Birdsall Drive

Contact: Insite Engineering, P.C.

Description: 3-Lot subdivision on 10 acres in the R1-80 zone approved by Planning Board Resolution #18-01 on February 26, 2018.

Comments:

Rich Williams, P.E. of Insite Engineering was present. Mr. Williams stated that the subdivision plat has been signed by the owner, the Health Department and the town. All that remains is to deliver the recreation fee and one other fee to the town. They are in the process of obtaining letters from the Assessor and title company and will file the plat. He said that it should be complete this week but as the subdivision expires on the 20<sup>th</sup>, they wanted to be safe just in case the letter is delayed by the title company.

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

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

### **Fusco Minor Subdivision**

SBL: 16.14-1-10  
Discussion: First 90 Day Time Extension  
Location: 3477 Stony Street  
Contact: Ciarcia Engineering, P.C.  
Description: 2-lot subdivision on 2.72 acres in the R1-20 zone approved by Planning Board Resolution #19-11 on May 20, 2019.

#### Comments:

Dan Ciarcia, P.E. of Ciarcia Engineering and Laura DiGiovanni, applicant were present. Mr. Ciarcia stated that they were approved in May and are here for their first 90 day time extension while they are working on fulfilling the conditions of the resolution.

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

**Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting aye, the Board approved the first 90 day time extension for the Fusco Minor Subdivision.**

### **Colangelo Major Subdivision**

SBL: 35.16-1-4  
Discussion: Reapproval Subdivision  
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. of Site Design Consultants was present. Mr. Riina stated that since the Board issued the preliminary subdivision approval, they have been working on the Health Department approval which required an extension of the Peekskill sanitary sewer district as well as the town sewer district. He said that they are close to getting a sign off by the Town Engineer on the sanitary sewers so they can move to the Health Department. He noted that nothing has changed from a SEQR status regarding the environmental conditions. It is the same plan that was approved in the preliminary approval. They are also in the process of obtaining a SWPPP permit with DEP. They will return for a final subdivision approval once they obtain the outside agency approvals.

Chairman Fon asked the Board if there were any comments and there were none. Chairman Fon asked the public if there were any comments. Public comments as follows:

- Walt Daniels, resident – Mr. Daniels asked if the easement for the trail system is still in place. Mr. Riina responded that it is still part of the application. The location of the trail and easement will be finalized prior to the final approval and shown on the plat.

**Upon a motion by Aaron Bock and seconded by John Kincart, and with all those present voting aye, the Board approved the resolution reapproving preliminary subdivision layout titled Colangelo subdivision.**

### **Furci's Restaurant**

SBL: 37.18-2-75  
Discussion: Decision Statement – Restaurant Expansion  
Location: 334 Underhill Avenue  
Contact: ResReal Designs  
Description: Proposed conversion of the 798 sf second floor (*former office space*) to additional restaurant space in the C-2R zone.

Comments:

Carmine Furci was present. Mr. Furci submitted an application with plans to the Building Department for a conversion of the 798 sf second floor to additional restaurant space. He received his permit and obtained a certificate of occupancy. Mr. Furci stated that he found out later that he should have gone to the Planning Board for review prior to the building permit. He submitted the paperwork to the Planning Department to ensure everything is in order. He said that he thought he did everything right and was never told by anyone in the Building Department that he needed to submit to the Planning Department and apologized to the Board.

Mr. Tegeder informed the Board and the applicant that on the certificate of occupancy the additional second floor space is listed as a new dining hall. Under the code, dining halls, banquet spaces and restaurants have a higher parking requirement than retail or office space. Mr. Tegeder gave a brief history of the site. The site was originally approved in 2000 for five buildings, general commercial, under the C2 zone. At the time, the parking requirement was 5 spaces per 1,000 sf of gross floor area. There was 24,055 sf (*same as now*) which translated to 120 spaces, but was listed on the plans as 121 required parking spaces. At that time, the Planning Board approved the site at 108 parking spaces by using the section of town code that allowed them to reduce the parking up to 25% if certain conditions existed. The Planning Board reduced the parking by 20% (*18 spaces*) and there were supposed to be 103 spaces built with 5 conservation spaces. He could not find a plan that shows the 5 conservation spaces. There are 103 spaces available and existing on the site today. When Yogi's Restaurant came in it was determined the use increased the required parking for the site to 162 spaces. The applicant received a Zoning Board variance reducing the parking by an additional 36 parking spaces. Therefore, with the original 20% reduction from the Planning Board of 18 spaces and an additional reduction by the ZBA of 36 spaces, left the site again at 108 and legally operating with the 103 built parking spaces. Now with Furci's expanding the restaurant use to the second floor and the rest of the site now having a parking requirement of 4 spaces per 1,000 sf per the new code requirement, the required parking for Furci's is 35.6 parking spaces for the first floor, 15 parking spaces for the second floor and the required parking for the rest of the site is 83.4 parking spaces, therefore a total of 134 parking spaces are required for the site. Mr. Tegeder stated that since the use is still a restaurant operating continuously in the same way as Yogi's had, he thinks the Zoning Board variance for the restaurant still stands, therefore still reducing the parking by 36 spaces, which would bring the required parking for the site down to 98 parking spaces. For these reasons, the Planning Board may still feel comfortable that with 103 parking spaces the site still operates with adequate parking. Mr. Tegeder asked that signed and sealed plans be submitted showing these parking calculations.

Mr. Tegeder added that there is a special permit for outdoor seating and asked the applicant if they still use it. Mr. Furci responded that they do. Mr. Tegeder stated that this is a further consideration as now there are three areas for seating. The applicant was advised to update the permit to make sure that the original approval for six tables with four seats each is still being adhered to. In addition, the applicant was asked to do some research with respect to the peak time of usage for the first floor, second floor and outside dining. If they are all operating at once, it could make a difference and monopolize the site. The Board noted that the other businesses on the site are not operating after hours. Mr. Kincart asked about the municipal lot across the street for the overflow if needed. Mr. Tegeder stated the Board did consider the municipal lot when reducing the parking by 20% in their original approval, but now that the parking requirement for the general commercial space has been reduced it isn't necessary. It could be discussed again if needed when you take into account the outdoor seating.

The Board informed the applicant that the reason for all this information is for the record to ensure that all parking requirements are met. Mr. Tegeder stated that the resolution will note all the information discussed this evening. Another condition should be added to the resolution requesting that the applicant have an engineer draw up plans to show the parking analysis and table with calculations for an understanding of how they have arrived back at the 103 parking spaces for the two dining areas. This analysis will act as the operating approval for the site in its present condition.

The Board requested that the applicant be placed on the next agenda to ensure that all is in order. Mr. Furci will have his engineer contact the Planning Department for the parking analysis information.

### **Battery Storage Facility at Staples Plaza**

SBL: 36.06-2-76  
Discussion: Decision Statement  
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 four parking spaces along the west side of the Staples Plaza.

#### Comments:

Maziar Dalaeli was present. Mr. Dalaeli reviewed the resolution with the Board. Chairman Fon stated that at the Town Board presentation there was a discussion of a peer review offered by the state for the Building Department heads and requested that this be added to the resolution. The resolution should also include that the training for the two Fire Departments is required for final approval prior to its operation. Line #13 is to be updated to include that the applicant is to be in compliance with the NFPA and UL 540, National Electric code, NYSEERDA specifications and the NYS model law. Line #7 is to be expanded to say Uniform Fire Prevention of building code, 2019 supplement. Mr. Bock stated that the plan has a notes page which talks about compliance and operation and could be referenced in the resolution. Mr. Dalaeli stated that he was satisfied with the resolution as amended.

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

- Susan Siegel, resident - Ms. Siegel stated that since the Board is making a condition in the resolution to be compliant with the NYSEERDA model law, they should consider making it compliant with the eventual law that the town will pass which may or may not have some differences with the NYSEERDA law. She has no issue about training our local fire departments but asked if anyone knew how mutual aid works. When other fire departments come over to aid a fire situation, she assumes our local fire department is in charge and everyone else would follow their instructions. The other municipalities (*i.e. Somers, Cortlandt, Bedford, etc.*) may not have this training. The Board responded that they can't make the applicant comply with a future law. Chairman Fon responded that the local municipalities that have jurisdiction would be in charge.
- Jay Kopstein, resident – Mr. Kopstein stated that the resolution references the model law and NYSEERDA. He is asking that the resolution specifically cover fire mitigation personnel as to what independent Fire Company is on retainer to respond as per the code. The resolution should also state that the owner file a copy of their contract annually with the fire company, not Yorktown fire districts, but the paid personnel that would come in to sit there when it burns out which could be up to two days. Chairman Fon responded that at the town board meeting, the gentleman working with NYSEERDA talked about peer review and part of the resolution talks about the state coming down for review with their checklist to ensure that everything is in place. Mr. Kopstein does not think the peer review will cover what is in the resolution. The paid personnel, as the model code requires, should be part of the resolution and if they fail to have a contract in place then the penalty should be that they cannot operate until they have a contract in place.

**Upon a motion by Bill LaScala and seconded by Aaron Bock and with all those present voting aye, the Board approved the resolution approving an amended site plan for a Battery Storage Facility at Staples Plaza as amended.**

### **McDonalds**

SBL: 36.05-1-10  
Discussion: Decision Statement  
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:

Keith Brown, Esq. of Brown and Altman, LLP was present. Mr. Brown reviewed the application with the Board. They have addressed all comment letters and memos received from the Town's various boards and departments. Mr. Brown stated that he has reviewed the proposed resolution with the applicant and has no objections.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board if there were any comments. Mr. Tegeder noted that he would like to add to the resolution under modified plans to provide a loading space on the site plan and hours of operation and also include the details of the gate to the satisfaction of the Planning Department. Mr. Brown had no objection to these additions.

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

**Upon a motion by Aaron Bock and seconded by John Savoca, and with all those present voting aye, the Board approved the resolution approving amended site plan, MS4 stormwater management permit and wetland permit for McDonalds.**

**Motion to Close Regular Session and Open Work Session**

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

**WORK SESSION**

**Public Comment (Courtesy of the Board)**

Louise DeMarco and Joann Sillik, residents - Ms. Sillik stated that she was at a Town Board meeting in September and asked questions regarding the rezoning of Old Hill Farm, LLC (*aka Summit Hill property*). She was told by Supervisor Gilbert to contact the Planning Board with her questions as he was unable to answer her. Ms. Sillik read a statement to the Board with their concerns. She asked what the current status of the proposed project is. Mr. Tegeder replied that the status is inactive at present as the developer has not been pursuing the application.

**Swope Trust - Griffin**

SBL: 6.17-1-30  
Discussion: Preliminary Site Plan  
Location: 323 East Main Street  
Contact: Glenn Griffin  
Description: Proposed 3,000 sf building for office-retail use on approximately 2 acres in the Country Commercial zone.

Comments:

Glenn Griffin was present. Mr. Griffin stated the he is interested in purchasing this property from the estate located on 323 East Main Street. The property has alot of wetlands and he was advised to speak with the Planning Board first. The proposal is for the construction of a 3,000 sf commercial building and associated parking. This is the maximum allowed for the site. He is here this evening simply to find out if this will be allowed or not before purchasing the property. Mr. Bock stated that the property is on the lake and noted the wetland line. Mr. Griffin noted that the entire site is 100% in the wetland buffer. Mr. Bock asked about the mitigation. After discussion, the Board asked the Planning Department to coordinate a site visit with the Conservation Board to assess the site.

**CVS-Crompond Road**

SBL: 26.18-1-25  
Discussion: Site Plan  
Location: 3320 Crompond Road  
Contact: Cuddy and Feder, LLP  
Description: Proposed construction of a 14,700 sf CVS/pharmacy with a drive-thru on 1.96 acres in the C-3 zone.

Comments:

Dan Patrick, Esq. of Cuddy & Feder; Dan Peveraro, P.E. of The Lauro Group and Dr. Phil Grealy, Traffic Consultant of Maser Consulting were present. Mr. Peveraro updated the Board on the proposed project and explained how

the latest submission addressed all comments that have been raised. He noted that they moved around some trees on the plans to appease the restaurant owners on a neighboring property who were concerned they would block the view of the restaurant from Route 202. The Board reviewed the site renderings from two angles.

The property line was shown on the plan. Mr. Peveraro stated that there are three lots (*lot 25 – building location, lot 23 – entrance, and lot 26*). Mr. Tegeder requested that the property line for Lot 25 be shown on the plans the same way property lines are shown with adjacent properties. The Board asked about the vacant lot. Mr. Peveraro stated that the property owner has no plans currently for the lot. Discussion followed regarding the connection of the properties. The Board requested that the applicant show a proposed future access on the plans.

Chairman Fon stated that the revised plans were referred out to the appropriate Boards for comments. He advised the applicant to set up a meeting with the Planning Department to revise the plans as discussed this evening. A public hearing will be scheduled for December 16.

### **Town Board Referral – The Roma Building**

SBL: 37.14-2-33  
Location: 2040 Crompond Road  
Contact: Site Design Consultants  
Description: Petition to rezone the 1.34 acre property from the C-3 Zone to the Transition Zone to construct a mixed use building to include 9,300 sf of first floor commercial space and 42 residential units.

#### **Comments:**

Aaron Bock stated in terms of disclosure, that he had a litigation with the property owner some years ago relating to the underground oil spill. He did not represent the owner and the case was settled.

Joseph Riina, P.E. of Site Design Consultants, Sophia Zherka of Concrete Ventures LLC, Dr. Phil Grealy, Traffic Consultant of Maser Consulting, and Steve Fitch of CityLift were present. Mr. Riina stated that nearly a year ago a zoning petition was made to the Town Board to redevelop and revitalize this site which is located at a very visible gateway in the town. The Town Board declared themselves as the Lead Agency and referred the application to the Planning Board for recommendations. The site is 1.34 acres and located at the intersection of Crompond Road at Route 118 and zoned C-3. The site is currently improved with a two-story brick building with office, retail, restaurant and light industrial uses.

They were last before the Planning Board in November of last year and much of the discussion dealt with parking. Mr. Riina noted that there were some discrepancies between the plans and the memo from the Planning Department which were addressed. The proposal is for a four-story building with 9,530 sf of proposed commercial space and 138 parking spaces which is up from the previous plan which provided 97 parking spaces. They had discussions with the neighboring properties about potential shared parking and nothing worked out as they had hoped. The applicant is now proposing the CityLift solution which will provide an additional 41 spaces on the site. There will be 79 CityLift spaces which will be dedicated to the residential portion of the building and 59 surface spaces which totals 138 spaces. The code is for 170 spaces. The CityLift system will allow for a smart and safe stacking of additional vehicles in the same underground space.

The original plans studied had 42 two-bedroom units only. The applicant is now looking at a mix of units which includes studio apartments and one and two-bedroom apartments. The first floor will consist of 8,700 sf of commercial space. The second level will consist of 830 sf of commercial space for a proposed café/coffee shop. The entry into the underground parking lot has changed and has now moved from the end of the building as shown on the plans. There will be 21 outdoor parking spaces on the back side of the building. Mr. Riina showed the plans including the property line, streetscape and frontage to all. The outdoor plaza area will provide outdoor dining for the restaurant. The plaza is about 4 feet above the intersection and will meet grade as you go around the corner. Mr. Riina noted that the applicant's team spent a lot of time with the Planning Department to come up with the concept plan.

Dr. Grealy updated the Board with respect to the traffic situation. They are proposing to build a right turn lane along the entire frontage of the site. There will be 12 to 17 feet of land dedicated to NYS in order to provide this additional lane. The proposed right-of-way line was shown which will allow the widening. He noted the proposed dedication from the Weyant property as well. The crosswalk in front of the building will be relocated closer to the intersection and have pedestrian push buttons. The right turn movement will occur with multiple phases. Aside from the site entrance, all the existing curb cuts will be closed to create less conflict. Mr. Bock asked what will happen if the Weyant project does not go through. Dr. Grealy responded that there will be an easement agreement for the site access as shown.

Steve Fitch of CityLift stated that the company is based in Oakland, California and has 25 years of experience. They have installed over 38,000 units. The puzzle lift unit was explained to all. The proposal is for a two level puzzle unit which has a 15 to 30 second retrieval time. Cars can be retrieved by a key fob or by using a phone app. There is a restriction with certain size vehicles because of their length. Mr. Fitch noted that there is lots of value to these systems including that they can be removed in the future (*50 years*) and the space repurposed should they become obsolete. The cars will be stored on flat pallets. EV charging can be added to each stall. The puzzle lift system is broken down into modules with multiple gates for access. Each module will have one vacant space (*negative space*) at the bottom and will consist of 5 cars. There will be access to the building from the underground garage. The CityLift parking spaces will be assigned and in the tenant leases. There will also be 24/7 monitoring. In order to get a better understanding of their company and the technology, Mr. Fitch showed a power point presentation. Mr. Fitch also invited the Board to tour their Boston location where they have a puzzle lift system installation.

Mr. LaScala asked if the puzzle lift is a sale or rental and the response was that it is a sale that comes with service and a one year warranty which can be renewed. The parts and components of the system are all UL certified. The Board asked about fire suppression and the response was that they would adhere to the local code. He noted that in New York City, it is required to have a sprinkler head above each vehicle. Mr. Garrigan asked about leaking from the cars above (*i.e. - oil or snow melting*). Mr. Fitch stated that all leakage is captured on the palette and must be cleaned.

Mr. Kincart stated that he was concerned about the size of the site (*42 units*) specifically with getting cars in and out of the site during the morning and evening commutes for the residents. He likes the look of the building and the idea of the terrace but is concerned about the density. Dr. Grealy responded that from the standpoint of residential units he is not concerned and provided a calculation of trips per unit. In terms of the traffic, this will be cleaned up with the parking on site to support both the commercial and residential uses. Dr. Grealy noted that if the existing building was to be developed as all commercial, there would be significantly more traffic generated by the site.

Mr. Riina stated that he will make a submission on the parking to the Planning Department. Mr. Savoca asked if there were any code issues and the response was that the system should be code compliant.

### **Motion to Close Meeting**

Upon a motion by Aaron Bock and seconded by Bill LaScala and with all those present voting aye, the Board closed the meeting at 9:50 p.m.