

## Planning Board Meeting Minutes – April 20, 2020

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A meeting of the Planning Board, Town of Yorktown, was held on **Monday, April 20, 2020 at 7:00 p.m.** via Zoom video conference.

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

- John Savoca, Vice Chair
- John Kincart, Secretary
- Bill LaScala
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
  - Robyn Steinberg, Town Planner
  - Tom D’Agostino, Assistant Planner
  - Nancy Calicchia, Secretary
  - James W. Glatthaar, Esq.
  - Supervisor Matthew Slater, Town Board Liaison
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**In accordance with the Governor’s Executive Order 202.1, the Town of Yorktown Planning Board will not be meeting in person until further notice. All Planning Board meetings will be held via video conferencing and uploaded to the Town of Yorktown Government Channel, the Town of Yorktown website, and Yorktown’s YouTube channel after the meeting.**

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Chairman Fon stated that the Planning Board will conduct weekly meetings until further notice via video conference in order to stay updated and move applications forward. The process for this evening’s Public Hearings was explained to all participants.

### **Correspondence/ Liaison Reports**

- The Board reviewed all correspondence. Chairman Fon noted that additional correspondence was received with respect to Atlantic Appliance later in the day that would be discussed during that agenda item.
- There were no liaison reports.

### **Motion to Approve Meeting Minutes**

Upon a motion by John Kincart and seconded by Bill LaScala and with all those present voting “aye”, the Board approved the meeting minutes of April 6, 2020.

### **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**

### **1961 Commerce Street**

SBL: 37.14-2-63  
Discussion: Public Hearing  
Location: 1961 Commerce Street  
Contact: JMC Site Development Consultants  
Description: Proposed façade improvements to the existing building along with sidewalk, parking lot, and stormwater improvements. There are no proposed changes to the building footprint. The parcel consists of approximately 0.34 acres in the C-2R zoning district.

Comments:

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

Paul Dumont, EIT and James Ryan, RLA of JMC were present. Mr. Dumont gave an overview of the application. The project site is located at 1961 Commerce Street in town and borders Commerce Street and Veterans Road. The Wallauers store and Chase Bank are located to the north of the property and the Citibank is to the west of the property. The property is currently improved with a 4,100 sf building and two parking lots that were formerly occupied by M&T Bank and a law firm. The property has since been vacant for quite some time. The applicant is proposing interior and exterior modifications. Additional proposed improvements to the site will include drainage, ADA accessibility, lighting and landscaping. Since the last meeting, there have been some changes to the plan based on comments received from the Board and Planning Department. As discussed, the proposed tenant does not need a trash enclosure. However, they have identified a trash enclosure location on the plan should the need arise for a dumpster in the future to avoid having to return to the Board for separate approval.

Chairman Fon noted that there has been correspondence between departments and multiple agencies that have been addressed. He asked the Board if there were any comments. Mr. LaScala stated that he had no concerns and feels that this proposal would be an improvement to the center of the town. Mr. Garrigan asked if the tenants are taking up the entire space. Mr. Dumont responded that the known tenant is occupying a portion of the space (easterly portion of the building facing Commerce Street).

Mr. Tegeder asked about the landscaping in the strip along Commerce Street. Mr. Dumont responded that they discussed this with ABACA and they are proposing to keep the strip as a lawn. There were shrubs that were removed. Mr. Tegeder responded that low shrubs and mulch would work better and require less maintenance. Mr. Dumont agreed to add the shrubs. Mr. Tegeder stated, for informational purposes, that where it notes on the plan to reset existing bricks as required, this is stamped concrete.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked Mr. Glatthaar, Esq. if he had any comments and he had none.

**Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting “aye”, the Board closed the Public Hearing with a 10 day written comment period.**

### **Atlantic Appliance**

SBL: 37.15-1-31 & 35

Discussion: Public Hearing

Location: 2010 Maple Hill Street

Contact: Site Design Consultants

Description: Proposed two-story, 25,720 sf building with mixed uses of office/retail and warehouse use on approximately 5 acres in the C-2 and C-4 zoning districts.

Comments:

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

Joseph Riina, P.E. of Site Design Consultants; Steve Marino, wetlands consultant of Tim Miller Associates; Gene Vetrano, Architect, and Frank Giuliano, landscape architect, were present. Mr. Riina stated that the applicant is proposing a two-story commercial building that is destined to be the new home for Atlantic Appliance which is currently located in the Triangle Shopping Center. Atlantic Appliance has been in business for 45 years and is currently owned by Mr. Vukaj. The project consists of two parcels; 2010 Maple Hill Street which is zoned C-2 and 2015 Greenwood Street which is zoned C-4. The proposed building is at 2010 Maple Hill Street which is located between the post office and the professional building on Maple Hill Street. The rear parcel is mainly dedicated for mitigation which will be discussed by Steve Marino. The site on Maple Hill Street is currently all wooded and gently slopes in the northeast direction. The Greenwood parcel is also wooded with a stream that runs through it

which runs south to north, and some wetlands area. There is a sewer easement at the edge of the property. They are proposing to remove a total of 167 trees which is within the limit of disturbance, 12 of which are compromised.

The proposed building has a footprint of 9,720 sf. The main level of the building is to be used for retail. The lower level, which will have access through the rear, will be the warehouse. The second level is 6,270 sf and will be dedicated to office space, but there is no tenant as yet. There are a total of 66 parking spaces and 22 land banked parking spaces shown. The applicant is proposing land banked parking because the existing business does not use as many spaces as are required by the town code. Delivery trucks and service vehicles will use a separate entrance and back into the loading dock. Deliveries will occur once a day between 9:30 am and 10:00 am. The Atlantic Appliance staff will consist of 1 person in the warehouse, 5 sales staff, and 7 managerial staff.

The building is proposed to be connected to public sewer and public water. All the drainage collected on the site will be brought to the rear of the site to the stormwater management area. Since this project is located in a Designated Main Street area in the NYC watershed permits from the NYCDEP in addition to the Town of Yorktown (MS4 permit) are required. They have prepared a full stormwater pollution prevention plan that has been submitted. As part of the stormwater plan, several green infrastructure practices are proposed to reduce run-off. One of these practices is the proposed partial green roof on the rear of the building. Ultimately, the runoff flows to the stormwater basin which is a pocket wetland. The stormwater management system is sized to have excess capacity in order to help control existing flooding issues around the Hallocks Mill Brook.

A primary trash area and a cardboard compactor location are proposed in the rear of the site. There are several retaining walls on the site between grade changes. The lighting plan was reviewed with the Board. The sediment and erosion control plan was presented. The truck turning movements were discussed. The applicant has agreed to mandate that the trucks will exit right onto Maple Hill Street to Route 35. They will not go through town. Mr. Riina stated the applicant is addressing the letter received from SHPO (NYS OPRHP) dated March 26, 2020 recommending a Phase 1A study to determine the presence or absence of archeological sites in the project area. This study is currently under way.

**Steve Marino, wetlands consultant.** – Mr. Marino stated that there is a wetland on the Greenwood Street parcel and pointed out the wetland and wetland buffer lines. None of the development hardscape is proposed in the buffer or wetland. There are very few shrubs on the parcel, except for the invasive honeysuckle. The proposal is to add native shrubs, as well as native trees; both evergreens and deciduous trees. The back area will be fenced off with deer fencing to make sure that the new plantings have a chance to grow and mature. The second part of the mitigation is that there will be an invasive species control and monitoring plan. A detailed proposal is shown on the plans which includes clearing out the phragmites, non-native vines, etc. in order to give the native vegetation an opportunity to re-establish. The third part of the plan is on the south side of the Greenwood Street parcel. There is history of flooding problems in the neighborhood. The plan proposes to re-open a swale in this area that has been blocked off in order to lower the water level. They will clear out the phragmites and dead vegetation that are there currently. This, in addition to the overcapacity in the basin design on the development site, will help with some of the flooding problems downstream further to the north. Aerial photos of the site from 1947, 1976, 2018 and photos of the existing site conditions were shown.

Mr. Marino stated the tree survey was updated to include all trees 8 inches and greater. There are a total of 182 trees, some of which are dead. A large number of the trees are covered with vines. 90% or more of these trees are red maples, which is not a long-lived species, so there are a lot of dead trees and branches. There are also a few hemlocks and oaks. A total of about 160 - 170 trees will be removed. They are proposing, as part of the mitigation, to plant 30 trees, 60 shrubs, additional trees in the stormwater planter and near the sewer easement. There is a landscape plan for the developed property, which will include more vegetation. Mr. Marino stated that in looking at the town tree code, it seems as though this project is part of a commercial site plan and the Planning Board decides how many trees, type, and size would be required on this site. Chairman Fon asked Mr. Marino if he received the Tree commission memo dated 4/20/2020 and the response was no. The Planning Department will send Mr. Marino the memo.

**Frank Giuliano, landscape architect** – Mr. Giuliano stated that he met with ABACA and received their comments. Screening in front of the wall will be installed as per their suggestion. Mr. Giuliano felt he added as many as large trees to the site as possible without hindering view lines. All the plantings are native material. The banked parking areas are heavily planted. There is some lawn area in front of the building for areas to stockpile snow without using up parking spaces. The north end which abuts the Post Office is heavily planted in order to be aesthetically pleasing. The proposed trees will be 3 ½” to 4” caliper.

Chairman Fon asked about the green roof. Mr. Giuliano explained how green roofs in the northeast are typically made of succulent sedum plants and how it is installed. Mr. Tegeder asked about the species for the screening on the north side. Mr. Giuliano responded that it is viburnum shrub that will grow thick and up to 6 to 8 feet tall. Mr. Tegeder asked if it will appear to be hedge like and if it could be maintained that way and the response was yes. Mr. Tegeder asked about the front of the building and the plantings. Most of the plantings are behind the wall and elevated. He asked if between the wall and edge of the sidewalk as shown is grass and the response was yes. He suggested moving the sidewalk away from the curb to create a planting strip for street trees and to keep space for snow storage. Mr. Tegeder asked about the south side above the wall and what treatment is proposed for that area. Mr. Giuliano responded that it will be graded and seeded with grass. Mr. Tegeder stated that this is to be included in the maintenance plan.

Mr. Tegeder asked Mr. Marino about the improvement on the southern wetland and lowering the water level. Mr. Marino responded that by re-opening the swale and removing the phragmites root clumps, the water level will be lowered and deepened by 6 inches to a foot which will improve the function of the wetland.

Mr. Tegeder asked Mr. Riina about the wall pack on the lighting plan. It looks as though it does have a horizontal throw which should be fully shielded to comply with the town code. Mr. Riina stated that he will address this.

**Gene Vetrano, architect** – Mr. Vetrano noted the front portico will require a variance of 10 feet as it extends into the front setback. The emergency generator will be located in the southeast corner and will be properly screened as suggested by ABACA and the Board. The proposed building is 108 ft. x 90 ft. Mr. Vetrano explained the floor plans and uses proposed for each floor. The lower level will be the warehouse. The roof plan now includes a large section of the space for the green roof, a patio, and mechanical equipment. There will be a faux gambrel roof around the perimeter of this area. The second level will be dedicated to office space. The first floor will be the retail space and offices for Atlantic Appliance. There will be two display kitchens set up in the front windows on either side of the main entrance.

The proposed building signage was shown to the Board. They will submit a signage package once complete. The building elevations were presented. Changes were made pursuant to their meeting with ABACA. The south elevation was shown. ABACA suggested a banding to tie in the blue with the gray which was added. All the columns were widened. The stone base wall will be the same stone used for the landscaping walls which will be a cut granite in the gray family. At the request of Mr. Tegeder, a north elevation (facing the post office) was presented. Clerestory windows were added on this side. The colored building rendering was presented. The proposed colors of the building are blue and light gray.

Mr. Riina restated that the portico will require a variance for 10 feet and they will need a special use permit for the outdoor display. Mr. Tegeder stated that the applicant should apply for the zoning variance as soon as possible. Mr. Tegeder asked Mr. Riina to place the fence and guard rail details on the plans. Chairman Fon asked the Board and Counsel if there were any other comments and there were none. It was noted that all notices were submitted as required.

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

**Susan Siegel, resident** - Ms. Siegel stated that she is speaking as a resident and not as a member of any group. In general, she supports the application and believes that this new home for Atlantic Appliance will be a welcome addition to the Yorktown business hamlet. She has concerns about whether the plan as it was presented conforms to the Town's tree law. She stated that the law is very specific and has very clear requirements for a tree permit.

Ms. Siegel continued to outline the requirements of the tree law including submittals, discussions regarding protected woodlands, mitigation requirements, and referral requirements.

Chairman Fon responded that the Planning Board is aware of the tree law and appreciates Ms. Seigel's comments. He noted that the Tree Commission did issue a letter but the applicant has not had a chance to review it as yet. The application has been referred out to the appropriate agencies.

**Mark Lieberman, resident** – Mr. Lieberman asked how the wetland can be changed and still be called a wetland. Mr. Marino responded that the proposal is to maintain the wetland characteristics, but will clean out the nuisance vegetation and invasive species growing there and replace them with native vegetation that will provide a better function. The proposed plan is to modify and enhance the wetland, not replace it. Mr. Tegeder stated that they are actually expanding the wetland and Mr. Marino responded that they were expanding it by about 50%. Chairman Fon noted the importance of the benefit to the surrounding area. Mr. Marino also stated that in this case, the proposal is not taking an area that is not a wetland and making it a wetland. This is an existing wetland that is proposed to be cleaned out and improved.

**Upon a motion by John Kincart and seconded by Robert Garrigan, and with all those present voting “aye”, the Board adjourned the Public Hearing .**

### Nestle Waters

SBL: 35.08-1-16  
Discussion: Public Hearing  
Location: 3775 Crompond Road  
Contact: Site Design Consultants  
Description: Proposed to renovate the existing building and parking lot for office and warehouse uses on 1.9 acres in the C-4 zone.

#### Comments:

Chairman Fon stated that at the prior meeting, the Board discussed waiving the Public Informational Hearing for this item. Chairman Fon asked for a motion to waive the Public Informational Hearing. Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting aye, the Board waived the Public Informational Hearing.

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

Chairman Fon stated that they received emails from George & Kathleen Campolo of 3790 Old Crompond Road and Mark Iocco of 3756 Old Crompond Road with respect to the application. The emails will be forwarded to Mr. Riina for his review.

Joseph Riina, P.E. of Site Design Consultants; Emilio Diaz, Regional Project Manager; Tony Russo of Environmental Compliance Services, Inc., and Chris Orifici of Construction Associates, were present. Mr. Riina stated that the proposed project is to re-occupy a site that has been vacant for several years. The site was previously occupied by Verizon and prior to that Bell Telephone. The site is located on the south side of Crompond Road. There is a paper road (Requa Road) behind the property. The proposed property is 1.9 acres and zoned C-4. Nestle is a lessee and are not the owners of the property. They have entered into a long term lease to use the property as a distribution center for bottled water. The north side of the property is bound by 202. There is about 200 feet of woodland vegetation behind the property, and beyond that on Old Crompond Road, there are residential properties. The existing building is 25,000 sf. The majority of the site, other than the portion in front of the building, is covered with asphalt pavement. In the last several months, the applicant has repaved a portion of the pavement, replaced the existing fence along the front of the property, and added rolling gates for security. There is existing drainage on the property. They have managed to clean out and video most of the pipes. The drainage eventually discharges across Route 202 to the state wetland. There is an existing oil water separator on the property that picks up all of the floor drains inside the building. The entire site is in an A zone as determined by FEMA. As a result, the existing building will be fitted with removable floodgates, even though there is no history of the site being flooded. The existing

building will be retrofitted with interior loading docks as shown on the plans. Trucks will enter the site and back into the loading docks. The source trucks for the water will make their deliveries to the site between 8:00 pm and 2:00 am. Loading and unloading will take place inside the building for all vehicles. All vehicles leaving the site will be mandated to make a right hand turn only. The parking for the delivery trucks was shown on the plan. Mr. Riina explained the delivery shift workers daily schedule. The first shift of drivers will arrive at 6:00 am and will park in their designated spaces. They will enter by a designated walkway to the building. The first shift will exit the site by 6:30 am and the second shift will arrive following the same process, exiting the site by 7:30 am. The same routine will occur every weekday, not on weekends.

As discussed at prior meetings, the applicant has agreed to replace the chain link fence along the front of the property with an 8 foot high picket fence. However, the rolling gates will remain in place and are chain link. In addition, there will be some low plantings along the front of the fence which will be kept between 30 - 36 inches high. The plants selected are hardy plants and salt tolerant. In addition, the windows in the front of the building will be replaced to be more aesthetically pleasing. The updated lighting plan was shown to the Board. They are proposing to install two new poles which will be directed inward and downward to avoid shedding light off the property. As discussed at the previous Board meeting, the wall packs will be pointed downward to avoid glare. All details are provided in the plan. The truck turning movement diagram was shown. The signage for the building was shown to all. Mr. Riina stated a Phase II environmental study, which was prepared in 2016 by the landlord, was submitted to the Board. The study states that there are no environmental concerns at the site. In addition, the drainage lines were cleared and a report will be provided.

As requested, a report was prepared by Tony Russo from Environmental Compliance Services Inc. to assess the noise of the truck movements on the site. Mr. Russo stated he conducted a survey between the hours of 9:15 am and 12:30 pm. A single delivery route truck was backed up on two routes (beeper route 1 and beeper route 2). The concept was to establish noise assessment locations and measure sound pressure levels when the delivery truck was backing up along those two routes and also attain ambient sound levels. The report was reviewed with the Board. Chairman Fon asked Mr. Russo if Mr. Campolo at 3790 Old Crompond Road would be able to hear the trucks beeping early in the morning in the month of January. Mr. Russo stated that he didn't measure sound levels from this location so it would be hard to answer. Mr. D'Agostino stated that in his opinion, if the windows are closed, the neighbors would not hear the beeping. Discussion followed. Chairman Fon thanked Mr. Russo for the very detailed report.

**Chris Orifici, project manager** – Mr. Orifici stated that they have a security concern with the picket type fence that the Board has requested the applicant to install. It is easily bendable and doesn't meet their security standards. However, Nestle is willing to install it. Chairman Fon stated they have full confidence in the Yorktown Police Department and he does not have any concerns.

Mr. Kincart asked Mr. Riina to explain how the lighting plan was modified at the request of the Board. Mr. Riina responded that the previous iteration of the lighting plan showed wall packs along the east side of the building. In order to meet the lighting requirements for Nestle, and to comply with the town code, the wall packs were removed and an additional light pole was installed on the frontage facing inward and downward. Some of the mounted lights along the front of the site were also eliminated.

Mr. Kincart asked if all loading and unloading will be done inside the building and the response was yes. Chairman Fon asked if the inside building design is such that the truck will completely pull into the building. Mr. Tegeder asked what the state of the construction was inside the building. Mr. Orifici responded that the loading dock is almost complete. He noted that they did some structural work and relocated some columns. Mr. Orifici stated that the delivery trucks are drop and hook, which means they will drop a full trailer, remove an empty trailer from an adjacent loading dock, and leave. The trailers will be fully inside the loading dock with the door closed. All tractor trailer deliveries will occur at night. Mr. Tegeder stated that the site plan should include these operational conditions.

Mr. Tegeder asked about the right turn out only and if it was for all vehicles. He noted that the trucks may be delivering to the area, not just to the east, and is concerned with how they will turn around. Discussion followed. Mr. Diaz clarified that the employees based at the location are local and they had suggested the right turn only. He

will provide a report to the Board on how many routes go west bound, but he understands that most of the deliveries are east bound and south.

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

**George Campolo, 3790 Old Crompond Road** – Mr. Campolo asked Mr. Russo to show the aerial photo showing the noise assessment locations on the screen in order to show where he lives. His house is to the west of 3784, he is at 3790 Old Crompond Road. He remembers when Verizon was very active on the property and they had 10 to 15 line trucks going out in the morning and in the cold weather they would go out and start the trucks and let them run and it would shake his house. He noted that the bulldozer they have been using the past two months, he can feel the vibration in the front of his house which is 40 feet from Old Crompond Road. His property lines up directly with the loading docks. He is concerned about the noise of the truck motors, beepers, and the headlights. He asked if the wall pack lights at the back of the building are going to be changed. He also asked if they could provide a 12 ft. wall that would block the light and the sound. Mr. Riina stated that the lights along the back of the building will be replaced and pointed downward and will not be directed toward his property. Mr. Tegeder stated that the wall packs should not be adjustable and fully shielded to be compliant with the lighting code.

Mr. Kincart asked Mr. Riina about the discussion regarding the weaving on the chain link fence. Mr. Riina stated there is a significant difference in the elevation (about 50 ft.) to the homes therefore the lights will not be directly pointed at the homes and slats will have no effect. Mr. Campolo asked about planting arborvitaes along the property line. He would have no issue with the plantings being placed on his property.

Discussion followed regarding the paper road. Mr. Glatthaar, Esq. stated that usually if a road is mapped on a town map it means there is an offer of dedication that generally has never been accepted and it can be accepted by the municipality at any time unless all property owners on both sides revoke their offer of dedication. There are also cases that if this road appeared on a subdivision map, the filing of that is an implied offer of dedication to the municipality of the road bed so it may be owned by other parties, for lack of a better term, as an unaccepted but potentially accepted easement for road purposes. Chairman Fon asked if at some point, the town decided they want to build that road, they can expect to do that and Mr. Glatthaar responded “yes”.

Chairman Fon asked the public if there were any other comments. Ms. Steinberg read an email received from Mark Iocco of 3756 Old Crompond Road. Mr. Iocco asked if the application is approved will the distribution center operate during overnight hours and if so, what will Nestle and the Town of Yorktown do to mitigate noise, including truck reverse warning sounds. Chairman Fon noted these concerns were already raised during the discussion.

Ms. Steinberg stated that she received a question asking if there will be any fueling on the site. Mr. Diaz responded that there will be wet-fueling on the site by a vendor. The majority of the trucks are propane and there may be a small number of diesel trucks. There will not be any fuel stored on site. There were no other public comments. It was noted that all notices were submitted as required.

**Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting “aye”, the Board closed the Public Hearing with a 10 day written comment.**

#### **Motion to Close Meeting**

Upon a motion by Bill LaScala and seconded by John Kincart and with all those present voting “aye”, the Board closed the meeting at 9:55 p.m.