

Planning Board Meeting Minutes – June 8, 2020

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, June 8, 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 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
 - James W. Glatthaar, Esq.
 - Supervisor Matthew Slater, Town Board Liaison
 - Councilman Ed Lachterman, 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 the regular session portion of the meetings uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.

Correspondence/ Liaison Reports

The Board reviewed all correspondence.

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 May 18, 2020 with minor corrections as noted by Mr. Kincart.

Motion to Open Work Session

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

WORK SESSION

387 Granite Springs

SBL: 27.14-1-74

Discussion: Minor Subdivision

Location: 387 Granite Springs Road

Contact: American Custom Builders

Description: Proposed subdivision to create a building lot for a 0.479 acre parcel transferred by deed in the R1-20 zone.

Comments:

Eliot Senor, Jon Farrell, and Aaron Schmidt, wetlands consultant, were present. Mr. Senor stated that they are here this evening to update the Board with respect to the application. He reviewed the Planning Department’s comment memo dated June 5, 2020 with the Board as follows:

Comment #1 – Show the existing and proposed grading. Mr. Senor noted that the plan does not provide for any change of the existing grade. There are spot elevations shown at the building corners. Each building corner has a proposed grade and there is no change in the overall contours of the property.

Comment #2 – Revise legend to show symbol for existing trees to be preserved. Mr. Senor stated he added a symbol for the trees that are to be preserved. It was noted that all trees not crossed out will be preserved.

Mr. Kincart asked if there was a cut for the driveway for the garage that is to be underneath the house where they put the retaining wall. Mr. Senor responded that there is a cut for the driveway and discussed the details with the Board as shown on the plans.

The Engineering Department memo dated June 5, 2020 was reviewed with the Board as follows:

Comment #1 – Mr. Senor stated that the computer took a boundary line between the 100 ft. buffer line, the property line and the wall line and computed the 5,000 sf area of disturbance for the wetland buffer. With respect to the mitigation, there will be new wetland plantings, installation of stone riprap to the stream embankment and the creation of a conservation easement in the rear yard. The wetland plantings were developed by Aaron Schmidt. Mr. Schmidt added that in addition to what was discussed previously in terms of the disturbance to the wetland buffer, they will also be planting additional trees as shown on the plans. He noted that all of the work in the buffer will be done by hand and they will not bring any machinery into that section in order to protect the existing area and leave it as undisturbed as possible.

Comments #2, 3 – Mr. Schmidt stated that he is a licensed arborist and wetlands delineator and would be happy to oversee and supervise the removal of invasive species and the installation of the plant materials and other enhancements to the wetland and wetland buffer area and report to the Town Engineer on an annual basis per his suggestion.

Comment #4 – Mr. Senor responded that as the project engineer, he will oversee the installation of the riprap along the stream embankment per the Town Engineer's request.

Comment #5 – This comment requested that the proposed conservation easement include the stone wall. Mr. Senor noted he didn't want the conservation easement to hinder maintenance of the wall, but otherwise had no preference on which side of the wall the easement is and Mr. Farrell agreed.

Comment #6 – Mr. Schmidt stated that the Town Engineer suggested to remove the proposed pool that is shown on the plan in the rear yard within the buffer. He noted that the proposed pool was added as a potential future location at the Planning Board's request and asked if they should remove it. The Board agreed that it should stay on the plan.

Comment #7 – Mr. Senor stated that they are proposing the underground stormwater detention system because when they dug the test pit prior to the percolation test they found that there was ground water 3 feet below the surface and as a result dry wells would not work.

Comment #8 – The Town Engineer is requesting pipe profiles of the stormwater from the driveway. Mr. Senor stated that the plans show inverts on each end of the pipes for the catch basins in the corner of the driveway, the bottom of the hill, the water quality inlet, the detention system elevations and the roof leaders. He will provide the profiles to the Engineering Department. Mr. Tegeder stated that the profiles should be added to the plans as well.

Comment #9 – Mr. Senor stated that they will provide a sewer pipe profile as requested.

Comment #10 – Mr. Senor stated that they have already provided the erosion and sediment control plan and showed the plan to the Board. He will discuss this further with the Town Engineer to see what other information is needed besides what has been provided.

Mr. Kincart asked if the sewer connection is a gravity system and Mr. Senor responded affirmatively. Mr. Tegeder asked the applicant what the number of trees to be replanted are and if they have a specific quantification of what the tree mitigation is as opposed to the wetland mitigation. Mr. Schmidt responded that there are a total of 20 trees proposed to be removed in connection with the project. In order to mitigate the impacts of tree removal as provided on plan sheet E-1, it is proposed to plant 14 green giant arborvitae, 6 red maple trees, 6 white oak trees, 6 Colorado

blue spruce trees, 6 white spruce, 5 river birch trees, 6 spice bush shrubs, and 7 choke berry shrubs for a total of 43 new trees and 13 new shrubs to be planted on the site. Mr. LaScala questioned if the applicant should bring in a mini back hoe to dig holes as some trees are 2.5 caliber in size as opposed to doing this all by hand. Mr. Schmidt responded that as previously stated, the intent was not to disturb the wetland. However, if the Board were to grant them permission to use a mini machine, it would be easier to dig for those trees to be installed. He noted that he could be there to oversee that the trees in the vicinity are protected and not damaged during the course of work but will leave this to the Board's discretion. Mr. LaScala thought that a mini back hoe would be a better option as opposed to being hand dug and Chairman Fon agreed.

Chairman Fon asked about the variance for the setbacks and if the applicant has been before the Zoning Board. Mr. Farrell responded that they have not. Ms. Steinberg responded that the application was scheduled for the next ZBA meeting on June 25th. Mr. Tegeder stated that the Zoning Board has referred the application back to the Planning Board for their comments and if the Board agrees, the Planning Department will prepare a memo in support of the variances. The Board had no objections. Chairman Fon asked the Board and Counsel if there were any comments or issues and there were none. The Board requested that the Public Hearing be scheduled for the June 22nd meeting pending the timeframe for publication in the newspaper.

Atlantic Appliance

SBL: 37.15-1-31 & 35

Discussion: Site Plan

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:

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 he submitted response letters to the Planning Department with respect to comments from the Tree Commission, Town Engineer and ABACA along with revised site plans, revised architectural plans and an updated mitigation and tree plan. He noted that the architect met with ABACA and all issues have been resolved. They made an initial submission to the NYCDEP but cannot move forward until a Negative Declaration is adopted from the Board. There are no major changes to the site plan. The landscape plan was revised to include street trees along the Maple Hill Street sidewalk as suggested by the Board.

Steve Marino showed the mitigation plan to the Board. He noted that in response to the last meeting he submitted a letter to the Planning Board dated May 11, 2020 that explains the mitigation as it complies with the tree law. He went through the law and discussed the parts that apply to the site and addressed the tree cutting and mitigation issues. This site is on the western end of what would be described by the law as a woodland. There are wooded areas along Greenwood Street that extend onto Mr. Cipriani's property across the way, back into the BOCES property and continues on into Somers. As part of the submission, a tree preservation plan was included, which shows the trees that are to remain and the trees to be removed. There is a table on the plan for both the trees on the immediate 1.6 acre parcel listed by size and condition and whether they will be removed as well as discussion of the trees that are in the wetland buffer which are separate from the other trees as it relates to the tree law. Both types of trees were tabulated. The majority of the trees in the development area will be removed; specifically, 126 trees were identified, and 125 of these will be removed. A total of 45 trees were identified in the buffer, of which 32 will be removed due to the extent of the stormwater management system that is proposed. The majority of the trees are red maples and there is very little understory on the property. The function of the woodland from a habitat standpoint is nominal. However, Mr. Marino stated that trees in a dense setting like this do provide some habitat. The stormwater and flood control was discussed as it relates to properties of woodlands, along with the mitigation. Flood plain enhancement and stormwater management above and beyond what is required are proposed in order to help with flooding issues in the area. He noted that another mitigation option in the tree law is controlling invasive

species. The mitigation plan includes an invasive species control plan for several areas of the site where phragmites have taken over the woodland areas.

A total of 125 trees will be removed and 45 new trees will be planted as part of site landscaping and wetland buffer enhancement on the primary parcel. Shrubs will be planted as part of the site landscaping (91 around the building and parking area) and the buffer enhancement (31 around the stormwater practices and buffer). An additional 12 trees will be planted on the adjacent parcel in the mitigation area to the south where the Junior Lake stream comes into the property, and 50 saplings will be planted in the mitigation area off of Greenwood Street. A total of 107 trees will be planted to replace the 125 trees to be removed. In addition, there will be 122 shrubs planted on the site and adjacent parcel as part of the overall planting plan. The mitigation plan also incorporates deer fencing during the initial planting and for the three year maintenance and monitoring timeframe. Mr. Marino noted that there was a question about the use of the green giant arborvitae as opposed to the native species and explained that the green giant arborvitae, which is a western species, tends to be more deer resistant. The project also includes a green roof on a portion of the building for stormwater management, which will replace some of the function that the woodland itself currently provides.

Chairman Fon asked the Board if there were any comments. Mr. Kincart stated that he is pleased with the mitigation plan as presented. He noted the Tree Conservation Advisory Commission memo dated June 8, 2020 stating that the woodland in question is adjacent to an important tributary stream in the NYC reservoir system and the memo requests money to be paid to the tree bank. He is not sure what the commission is proposing and how the money would be used. Mr. Kincart questioned what other additional benefit there is to that tributary stream that is not being proposed by the applicant. Cleaning up the area of debris, invasives, etc. is important from a visual and environmental standpoint and he applauds the applicant and team for what they have done, including the incorporation of the green roof, as this is the first one in the downtown area. The applicant is proposing to develop a commercial site with an extensive stormwater treatment plan on the rear of the site which will also preserve the stream and the wetland, and therefore, the woodland around it. Mr. Marino added that they have been to the Conservation Board and noted that the Board was pleased with the extent and scale of the mitigation as well. Mr. Bock stated that he commends the applicant, as many have already done, on how they are handling the impacts on the site with the various Boards and agencies. He stated that the Tree Commission noted that the number of trees to be removed are fewer than the trees going in as mitigation and that is why they suggested funds be paid to a tree bank, and noted that these funds are used for other areas similar to what the wetland law also provides for off-site mitigation. He is not sure given the totality of what is going on if this is necessary, but is hesitant to disregard the recommendation of an advisory committee without good reason. Mr. Kincart stated that although 125 trees will be removed, 107 trees will be planted in addition to the 122 shrubs including various other mitigation and does not feel that this is much of a disparity. Mr. LaScala stated that the applicant should not be burdened further with a payment to the tree fund. Mr. Bock stated that the Planning Board's record should reflect a reason why they do not support the Tree Commission's recommendation. Mr. Kincart agreed that the Tree Commission's comments should be addressed.

Chairman Fon asked Mr. Tegeder about the tree fund and how a payment is determined. Chairman Fon also asked Mr. Guiliano what his opinion was with respect to the Tree Advisory Commission memo. Mr. Guiliano responded that Greenwood Street is currently an eyesore and has been that way for many years. He noted that the proposed plan is extensive. The Tree Commission counted trees, but the environment is based on the total impact of mitigation on the total site. To isolate one item, which is the number of trees, when there is so much other mitigation proposed, loses the perspective. He added that the majority of the trees going in are native species and there will also be a green roof. Mr. Tegeder responded that the tree law includes the option for several mitigation measures. If an applicant is only proposing to plant trees, then one to one mitigation is required. But, as soon as other mitigation measures are also proposed, such as removal of invasive species, or improving the understory layer, etc., then the mitigation plan becomes one in which the Board takes more of a holistic look at the mitigation scheme. This reasoning is included in the law.

Chairman Fon noted that on a prior approved application, there were stormwater issues in the area, but between the efforts of Mr. Riina and Mr. Marino, the work in the rear of this property will now have a positive impact on the entire area and asked Mr. Riina if this was correct. Mr. Riina responded with reference to the mitigation aspect, there will be a positive impact to the watercourse that runs through the property based on the stormwater management design they created that is above and beyond what is required to provide extra storage. In addition, they are creating flood storage mitigation which will provide additional storage as explained by Mr. Marino. All of this, tied into the plantings, etc. will benefit the entire area. Chairman Fon stated that this is a positive impact to the area, and will need to be looked at holistically. Mr. Tegeder restated that the mitigation in the law offers a whole set of mitigation measures which can be put together to form a holistic package.

Mr. Kincart stated that to Mr. Bock's point it is important to take note of the comments submitted and give a reason as to why we will vote on a Negative Declaration for this project and explain why we feel that the project should move forward as proposed as long as the Board agrees as a whole. Chairman Fon agreed. Mr. Bock stated that Mr. Tegeder's comments about the fact that the law does not require a one to one count of trees puts everything in perspective for him and that the overall impact of the mitigation is what is needed here. He noted that he now supports adopting a Negative Declaration for this project.

Mr. Vetrano stated that he met with ABACA on May 28th and showed the revised elevations to the Board members. He noted that the Board approved the exterior elevations as presented. He is working on the sign application submission. Once he receives the color and material samples, he will submit them to ABACA for their review. He asked the Board if he could start working on the structural drawings. Mr. Kincart asked about the Zoning Board with respect to the variances. Mr. Riina stated they are scheduled for a public hearing at the next Zoning Board meeting. The Board advised Mr. Vetrano to wait for the Zoning Board approval before preparing the drawings.

Chairman Fon asked Mr. Tegeder and Mr. Glatthaar if they had any further requirements relative to procedures. Mr. Tegeder responded that they had none. Mr. Glatthaar stated that there is reasonable elaboration for the Negative Declaration and is very comfortable with the Board's balancing of the various factors and arriving at a solution that is the best overall. Mr. Tegeder stated that once they receive the Zoning Board approval, the project will return to this Board for the adjourned public hearing.

Motion to Open Special Session

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

SPECIAL SESSION

1961 Commerce Street

SBL: 37.14-2-63
Discussion: Decision Statement
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:

Paul Dumont, EIT of JMC Site Development Consultants and John Hutchinson were present. Mr. Dumont stated that since the last meeting there have been a few revisions to the plans. As suggested by the Planning Department, the applicant has agreed to plant the landscape island at the corner of Commerce Street and Veterans Road which is now reflected on the plan. In addition, they were asked by the Highway Superintendent and the Planning Department to look at additional sidewalk replacement on the property. Specifically, there were some portions of sidewalk along Veterans Road that are in need of maintenance. Previously they were proposing to replace the sidewalk in front of the building where the drainage improvements were targeted. The applicant agreed to replace those portions of sidewalk and also decided to replace the sidewalk panels that extend into the site as shown on the plans. The entirety of Veterans Road up to the driveway apron and the interior of the site will be replaced with new sidewalk. The draft resolution was reviewed with the Board. Mr. Dumont stated that with respect to the parking

spaces, it is noted that 18 parking spaces are proposed where 16 are required by zoning. They were asked to eliminate some parking spaces. The spaces they are proposing to be eliminated will be where the future trash enclosure is shown and the second will be the parallel space noted by the Planning Department. In the draft resolution on page 4 under “additional requirements” it states that a stormwater pollution prevention plan needs to be submitted, and noted that this is not required for this application. Under the “first resolved” item there is a reference to a SPDES general permit coverage, and noted that this is also not required for this application.

Chairman Fon asked Mr. Tegeder and Counsel if there were any comments. Mr. Tegeder stated that there were no issues with the removal of the stormwater references. With respect to the parking spaces, he suggested that until such time that a trash enclosure needs to be built, to leave this space as is and eliminate just the one space in the middle of the rear parking lot. This would leave them with 17 spaces and in the event that the trash enclosure is required, the remaining 16 spaces would still comply. The Board agreed.

Mr. Tegeder had the following recommendations for inclusion in the resolution:

- The resolution states that a trash enclosure shall be built if required by the Planning Board and stated that this note should be transferred to the site plan as well.
- The details and specifications for the sidewalk replacement and stamped concrete section should also be added to the site plans.
- He appreciates the extension of the sidewalk replacement and discussed the locations of the tree planting wells which should be finalized.
- The brick strip between the two new planters is shown to be replaced and requested that this small piece be replaced with concrete instead of pavers.
- Requested that the applicant enlarge the scale of the section detail of the planters. Requested that the applicant add the elevations of the curbs to this detail.
- Verify the height of the light pole. The lighting fixtures selected for the site have the ability to be turned up and is contrary to the lighting code and they need to remain horizontal. The bulbs selected have a color temperature of 4,000k and noted that they should be lowered to 3,600 or below.
- A landscape bond should be put into place.

Mr. Dumont asked how the lighting should be addressed. Mr. Tegeder stated that if the Board agrees, the lighting details could be discussed later on. Mr. Dumont and the Board had no objections.

Upon a motion by John Kincart, and seconded by Aaron Bock, and with all those present voting “aye”, the Board adopted the Negative Declaration.

Upon a motion by Aaron Bock, and seconded by John Kincart, and will all those present voting “aye”, the Board approved the resolution approving an amended site plan and stormwater pollution prevention plan for 1961 Commerce Street as amended.

The Board granted Mr. Tegeder the authority to negotiate with Mr. Dumont with respect to the lighting and plan on the Board’s behalf.

Motion to Close Special Session

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the Special Session.

WORK SESSION

Taco Bell-Crompond

SBL: 36.05-1-16
Discussion: 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 Snap Fitness location.

Comments:

Paul Dumont, EIT of JMC Site Development Consultants was present. Mr. Dumont stated that he submitted a letter dated May 26, 2020 to the Planning Board with responses to comments from the Planning Department, Engineering

Department, ABACA, and Conservation Board along with associated materials. They have incorporated screening around the rooftop mechanical equipment and the landscaping plan has been revised. As suggested at the last Board meeting, directional signs were added for the drive-thru area in order to help motorists understand the traffic flow in the back of the property. The easement alignment for the culvert has been revised. A 20 ft. easement is proposed, as requested by the Town Engineer, centered on the culvert so that the Town will have access. The plan was revised to show an easement for the new hydrant and water line. The Town Engineer had requested that they look at the water and sanitary sewer usage given that this property is serviced by the Hunterbrook pump station. Mr. Dumont stated that they did submit NYCDEC data originally which outlined the existing and proposed uses and what they were anticipating in terms of flow. The Town Engineer asked that they supplement that data with record data. The Water Department provided water bills for the site, in addition they received water bills from other Taco Bells and prepared an engineering report which summarizes that the proposed flows will be similar or slightly less than the existing flows. A response memo from the Town Engineer noted that this item has now been addressed.

The Planning Department memo dated June 5, 2020 was addressed. The outdoor dining area is proposed to be 300 sf and will include 3 tables and 12 seats. A series of tree plantings and boulders are proposed around this area for vehicle impact protection. Mr. Kincart responded that this is on a state highway and there should be some kind of protection such as bollards and the Board agreed. Mr. Tegeder stated that the bollards could be worked into the landscaped area so that they are hidden. Mr. Dumont stated that there was also a comment regarding the parking. The proposed plan provides 40 parking spaces where 49 parking spaces are required by code. He noted that this was discussed in March and he had submitted an explanation and additional data from Taco Bell stating their parking needs and why they feel the site is adequately parked. He asked the Board if they required more information. Mr. Tegeder responded that the Board needs to follow the proper procedure to support the reduction in the parking in their resolution. The Planning Department will review the code and present the options to the Board.

Mr. Dumont stated he is still working with several outside agencies. A letter dated June 4, 2020 was received from the NYCDEP. He noted that the stormwater will be handled in the same way as exists on the site, but the practice will be rehabilitated. The applicant has also contacted the NYS DOT for the new curb cut and will update the Board as it progresses. Mr. Dumont asked the Board if they would consider setting up the Public Hearing in order to move forward. The Board had no issues.

Mr. Bock noted that in paragraph 4 of the stormwater maintenance agreement there is a 5-year inspection interval and asked if this timeframe is commonly used and if this is longer or shorter than what is normally required. Mr. Dumont responded that other municipalities use the 5-year agreement and that this is fairly typical. Mr. Tegeder stated that the maintenance agreements are typically between 3 and 5 years. Mr. Bock thought that that given the history of the site, a 3-year interval may be more appropriate specifically for the practice in the back. Mr. Dumont added that the SWPPP will ultimately be approved by the Town Engineer and the NYCDEP and noted that there is a separate section required by the NYCDEP that speaks about maintenance intervals. Although not in the maintenance language, it is something that the NYCDEP will be enforcing on an annual basis and after major storms so it won't necessarily be done only every five years as it states in the maintenance agreement. Mr. Tegeder noted that the Board can adopt their own maintenance schedule. Mr. Kincart stated that the Board could qualify our maintenance agreement to reflect the NYCDEP requirements if they are more restrictive. Mr. Bock thought that the agreement should be no less than three years. Mr. Tegeder stated that the Planning Board is the approving authority for the local SWPPP and can wait to see what the NYCDEP will be approving and then modify or add any requirements to the maintenance agreement. The Board agreed.

Chairman Fon asked the Board and Counsel if there were any comments or issues. Mr. Tegeder stated that they will need closure on the parking with respect to the zoning requirements. Mr. Glatthaar stated that he had no issues and felt that the applicant is ready to move forward with the Public Hearing. The Board agreed to schedule a Public Hearing for the July meeting.

Par 3 Golf Course

SBL: 16.07-1-38

Discussion: Site Plan

Location: 795 Route 6

Description: Proposed Par 3 golf course on Town owned Parkland.

Comments:

No representative was present. For informational purposes, Mr. Tegeder stated that a new parking plan was submitted but this will still need to be discussed with the applicant. Mr. Kincart asked if there were any updates on the Health Department approval for the restaurant. Mr. Tegeder responded that there were none that he is aware of.

Additional Discussion:

Councilman Lachterman updated the Board with respect to the outdoor dining for the local restaurants.

Motion to Close Meeting

Upon a motion by Bill LaScala, seconded by John Kincart and with all those present voting “aye”, the Board closed the meeting at 8:35 p.m.