

# Planning Board Meeting Minutes – November 9, 2020

---

A meeting of the Town of Yorktown Planning Board was held on **Monday, November 9, 2020 at 7:00 p.m.** via Zoom video conference.

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

- John Kincart, Secretary
- Bill LaScala
- Aaron Bock
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James W. Glatthaar, Esq.
- Councilman Ed Lachterman, Town Board Liaison

---

**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 will be 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. The following items were discussed:
  1. **Nestle Waters** - Chairman Fon noted correspondence received from a neighbor with respect to the site in addition to a response email from Nestle. Mr. Garrigan stated that he visited the site last night and noted that the view is quite different now that the leaves have fallen off the trees. From his observation, it did appear that the light on the back corner may have been adjusted downward. He also noted that the tall lights on Route 202 that face out over the facility may be an issue. He is not sure if they have been adjusted and noted that they do throw off a lot of ambient light, as do a number of the facilities along Route 202 that back up to Old Crompond Road. It may be helpful to investigate if these lights were adjusted properly. Ms. Steinberg added that the Planning Department received a photo from a neighbor showing the light pointing at their property. Mr. Bock recalled that a neighbor had concerns about the deliveries going on all hours of the night and noted that this was not addressed in the Nestle response letter. He would like to review the resolution to see how this was addressed to ensure that Nestle is compliant. The Planning Department will follow up with Nestle.
  2. **CVS-Commerce Street** - Ms. Steinberg informed the Board that the handicapped spaces on the approved site plan were moved to meet the required ADA slopes within the spaces. The revised plan was shown to the Board. The Board had no objections to the revised plan. The Planning Department will issue a memo with the revised plan as part of the approval.
  3. **2021 Planning Board Meeting Schedule** – Ms. Steinberg provided the 2021 meeting schedule to the Board for review and approval. She noted that the sessions were flipped. The regular sessions will now be followed by the work sessions. This change will help with the noticing process. In addition, there is an additional work session in the fall should the Board require an extra meeting. The Board had no objections.
- There were no liaison reports.

## **Motion to Approve Meeting Minutes**

Upon a motion by Bill LaScala and seconded by Aaron Bock and with all those present voting “aye”, the Board approved the meeting minutes of October 26, 2020 with minor corrections.

## **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

### **Fusco Minor Subdivision**

Description: Request for 1st 90-Day Time Extension of Re-approval  
Location: 16.14-1-10; 3477 Stony Street  
Contact: Ciarcia Engineering, P.C.  
Description: Approved 2-lot subdivision on 2.72 acres in the R1-20 zone, by Planning Board Resolution #19-11, dated May 20, 2019 and reapproved by Resolution #20-03 dated May 11, 2020.

#### Comments:

Dan Ciarcia, P.E. of Ciarcia Engineering; and Laura DiGiovanni, property owner were present. Mr. Ciarcia stated that they are currently working with the Health Department as well as on the conditions of the resolution. The applicant is requesting a 1<sup>st</sup> 90-day time extension in order to work on this.

**Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting “aye”, the Board approved the request for a 1<sup>st</sup> 90-day time extension of re-approval.**

### **Fox Den Subdivision Lot #27 aka Williams Contracting**

Discussion: Decision Statement  
Location: 36.09-1-13; 1538 Jacob Road  
Contact: Site Design Consultants  
Description: Proposed single-family home on a 0.98 acre lot in the R1-40 zone. Public sewer and water is available at this property and a rain garden is proposed for stormwater treatment.

#### Comments:

**John Kincart recused himself from this agenda item.** Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that since the last meeting, they submitted a tree plan detailing all the trees to be removed at the site to the Planning Department. The applicant is proposing to pay into the tree bank fund as mitigation for the removal of the trees in the amount of about \$7,300. Mr. Riina asked the following questions with respect to the tree fund on behalf of the applicant:

1. Is there a tree bank fund and has it been set up?
2. Will the applicant be informed as to what the funds are being used for?
3. Is there an expiration date? If the funds are never used, will the funds revert back to the applicant?

Mr. Tegeder responded that there is a tree bank fund and it has been set up. He believes it has already received funds. He is not sure about the other two questions and there is no language in the law that speaks to those items. The funds are to be used for tree related health on Town owned and public properties; and planting of trees and maintenance associated with our community forest. He noted that the town is hoping to create a town-wide forest management program and this money would go toward funding that effort among other things.

Mr. Bock noted comment #5 in the Town Engineer’s memo dated 10-26-2020 with respect to the driveway drainage and recommendation for a deed restriction. He stated that the applicant is not in favor of this and asked how it will be addressed. Mr. Riina responded that they added a note to the site plan with respect to this. In addition, there is a stormwater maintenance agreement between the town and the applicant that is filed prior to the issuance of the c/o. Mr. Riina reviewed the drainage plan with the Board and stated that as an alternative they could curb the driveway, add a catch basin and pipe to drain down into the rain garden but it would be an added expense for the applicant. Chairman Fon stated that the Town Engineer is requesting a covenant in the backyard to prevent any future change in grade, but noted that this will restrict the owner from doing anything in their backyard such as a future installation of a patio or pool. Discussion followed with respect to the stormwater maintenance agreement policy and procedure and possible deed restriction. Mr. Tegeder asked who signs off on the stormwater maintenance agreement and Mr. Glatthaar responded that it would be the Town Supervisor. Mr. Tegeder stated that the resolution could be amended to include a condition stating that the stormwater maintenance agreement is to be reviewed by the Board. In addition, they can include language similar to the note placed on the plan by the engineer. Mr. Glatthaar, Esq. stated the language proposed by Mr. Riina on the plan is fine as it gives the owner flexibility and at the same time requires municipal approval of grade changes which accomplishes what the town wants; this solution is fine with him. The other solution would be to place this language in the deed as it will then be seen by everyone. Mr. Bock stated that he liked the Counsel’s suggestion

but also agrees that placing it on the deed will keep it in the forefront for future owners rather than leaving it as a note on the plan. Mr. Garrigan stated that he does not agree with placing a restriction on the property. He feels that if the owner wants to make a change in the future such as a pool or patio, they would then come back to the Board to be reviewed appropriately. Mr. Riina noted that this lot was created years ago and didn't have any stormwater requirements. Therefore the applicant was not obligated to do anything, but to show good faith, proposed to install a rain garden to be sensitive to the neighboring properties. The stormwater practice in this case is sized to the one year storm and is bigger than what is required. The applicant does not want to place a restriction on the deed that may complicate transactions in the future. As stated previously, Mr. Riina could address the drainage by curbing the driveway and adding a catch basin and pipe to drain into the rain garden if necessary. Mr. Tegeder stated that he didn't think adding another stormwater regime would change the issue. He noted that since the stormwater maintenance agreement is filed with the County it will come up in title searches and feels that the note on the plan and maintenance agreement will be fine.

Chairman Fon asked the Board if there were any comments. Mr. LaScala stated that he is against a deed restriction and is fine with a note on the plan. Mr. Garrigan stated again that he is not in favor of a deed restriction and feels that the grading is doing what it is supposed to do by channeling down into the rain garden. He is also not in favor of creating an additional expense for the applicant. Mr. Bock stated that if Counsel thinks that the note on the map is sufficient to accomplish what is needed then he is fine with it. Mr. Glatthaar, Esq. stated that the note on the plan is legally enforceable. Chairman Fon asked Mr. Tegeder what the next steps were. Mr. Tegeder responded that the resolution could be amended to include a requirement to review the language of the stormwater maintenance agreement. If the note on the plan is sufficient, the Board can move forward to adopting the resolution approving the site plan, tree plan and basic SWPPP. The Board had no objections.

Mr. Bock asked about the handling of the tree mitigation by way of making a payment to the tree bank fund. Does this automatically mean that the loss of trees on this site are adequately mitigated by taking the payment or does that not preclude the Board from making other findings in this case. Mr. Tegeder responded that it is adequate under the tree law. Mr. Bock asked if it substitutes for our own judgement about mitigation and adequacy of that fund contribution? Mr. Tegeder replied that if the Board adopts it then it would be the Board's determination. Mr. Bock asked if there could be a specific finding in this case with respect to expanding the language in the resolution to state that the monetary contribution is adequate mitigation for the tree loss. The Board agreed to include this language.

Mr. Glatthaar informed the applicant that he reviewed the Town Code with respect to the tree bank fund and noted that any money received for the tree fund can only be used for town owned property. None of the money would be returned to the applicant if it was not used within a specific period of time. Chairman Fon asked the public if there were any comments and there were none.

**Upon a motion by Rob Garrigan and seconded by Aaron Bock, and with all those present voting "aye", the Board approved the resolution approving a site plan, MS4 Stormwater Management Permit, and Tree Permit for Fox Den Estates Subdivision Lot 27, as amended.**

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

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

**WORK SESSION**

**Broccoli Subdivision**

Discussion: Minor Subdivision  
Location: 70.08-1-6; 315 Crow Hill Road  
Contact: Michael Dubovsky, Applicant  
Description: Proposed 2-lot subdivision to facilitate sale of created lot to adjoining property owner.  
Comments:

Mike Dubovsky was present. The aerial view and survey of the property was shown to the Board. Mr. Dubovsky stated that he is interested in purchasing the property that is highlighted on the survey from his neighbor (*Broccoli family*). Mr. Tegeder stated that the applicant is not requesting a subdivision to create a building lot. As an example, he cited the Rosenthal application south of the reservoir in which they facilitated the transfer of property by a non-jurisdictional

subdivision. It was noted as “*not a building lot*” on the plat. He also cited the Franciscan High School which was subdivided from the Field Mansion property in a similar process. He noted that this may be the process that will work best for this application. Mr. Dubovsky is planning on using this property for recreational purposes and not as a building lot. Mr. Kincart asked about a lot line re-apportionment. Mr. Tegeder responded that the applicant would like to create the lot and keep it as two separate lots, therefore there is no property line that can be moved. Mr. Bock asked about the cul-de-sac and Ms. Steinberg responded that it is a right-of-way. Mr. Tegeder noted that this lot would be listed as “*not a building lot*” and the applicant would not be able to get a building permit unless they go through an additional process with the Planning Board.

The Board had no objections. The Planning Department will work with the applicant to process the necessary paperwork and drawings and return to the Board.

### **3D Development, LLC**

Discussion: Site Plan

Location: 25.20-1-14; 2710 Lexington Avenue

Contact: Mark Blanchard, Esq.

Description: Proposed exterior equipment and new vehicle storage on the Yorktown Golf & Baseball property.

Comments:

Mark Blanchard, Esq. was present. Mr. Blanchard stated that the property is currently occupied by Yorktown Golf & Baseball. The applicant is proposing to change the existing use of this site to establish exterior storage of brand new vehicles. The site will remain as is and no site improvements are proposed. There will be some minor issues relating to the access on the driving range as they want to utilize that area for the vehicle storage which will include the existing asphalt and parking lot. He noted that there is nothing in the proposal that will impact the site in any way in terms of an actual change. The goal is for the installation of vehicle storage with very minimal impact to what is existing. Once the vehicles are installed on the site, a carrier will deliver inventory once a week and that inventory is selectively driven off the site individually. They do not anticipate any traffic impacts to the area. There will be no vehicle preparation or maintenance at the site (*i.e.-oil changes, fueling, car washing*) as it will simply be utilized for the storage of new vehicles.

Chairman Fon asked how many vehicles will be stored at the site; if there were any by-products from the vehicles themselves; if a stormwater treatment plan is proposed; and if they will be utilizing the batting cage area. Mr. Blanchard responded that they are proposing to store 600 cars at the site. With respect to the by-products from the vehicles, he does not see any issues and noted that these are brand new cars. They do not anticipate any environmental impacts but will seek clarification from the Town Engineer. The batting cage area is not intended to be used. Chairman Fon asked about the visual impacts. He also noted that there is a trailway next to the property and stated that the Town is trying to create a Park of Distinction and asked the applicant if they were aware of this. Mr. Blanchard responded that he was not aware of a Park of Distinction but noted that they are not encroaching or expanding the footprint of the property and would have no impact on the border with the town. With respect to the visual aspect, they could provide some screening and could explore this further with the Board. He noted that they are at the end of a dead-end road and other than the park they don't feel they will have a visual impact at all to the community. He stated that parallel to them on Route 202 there are many car dealerships, vehicle uses and storage uses and noted that their neighbor is a self-storage facility.

Mr. Bock asked the applicant how much land area is proposed for the vehicle storage. Mr. Blanchard responded that they are utilizing the existing driving range area and existing asphalt. He will provide more information as to the square footage at the next meeting.

Mr. Bock asked about the permissibility for this type of use at the site. Mr. Blanchard responded that the application started with the Zoning Board and was referred to the Planning Board. The ZBA determined the applicant was not under their authority but under the Planning Board's authority. The house/pro shop is to be utilized by the applicant as an office for accounting and record storage. There is a provision under the code where this use is permissible for exterior equipment vehicle storage as an accessory use. Mr. Bock asked if there was a ruling on this from any agency in the Town. Mr. Tegeder responded that there was none to his knowledge. Mr. Bock reviewed the Town Code, Section 300-94, and noted that the accessory use has to be incidental to the main use and questioned why an accounting service needs 600 cars to conduct their business. Mr. Blanchard responded that it is not an accounting service in terms of a CPA. The main business on the site would be an ancillary supportive business to the motor vehicle retail sales. However, there are

no sales or retail activity at the site. It is within an I-1 industrial zone and is a commercial office use. Mr. Bock requested to see a determination by an appropriate town agency before proceeding with the site plan approval process. Mr. Blanchard noted that there was a Planning Board memo to the ZBA a while back with respect to this issue. Mr. Tegeder read the memo dated 6-25-2020 submitted to the ZBA by the Board and noted that the Planning Board did not formulate an opinion as to the code section with respect to the proposal and if it is allowed under the Town code. The question is what is the code interpretation for this as an allowed use. This resides first with the Building Inspector, and then the Zoning Board. Mr. Blanchard stated that he will ask the Building Inspector to issue a written opinion and will add this to the next submission.

Chairman Fon asked if there were any other comments. Walt Daniels stated that he could see the driving range from the park now that the leaves have fallen off the trees.

Mr. Tegeder stated that the plan shows 645 cars and noted that this is a large inventory of cars. The Board should have more detail of the traffic in and out of the site on a daily or weekly basis. With respect to the lot design, the layout shown will need to be reviewed to ensure cars can maneuver in and out of the parking spaces. In addition, the astro turf surface will need to be addressed. He does not agree that this site will not have any impacts. Mr. Blanchard responded that he will provide this information to the Board. Chairman Fon asked about the mini golf use. Mr. Blanchard responded that all the sports uses will be extinguished. Mr. Bock asked if the site is lit up at night. Mr. Blanchard responded that it will be lit, but there should be no impacts. Mr. Garrigan asked if there would be additional fencing. Mr. Blanchard responded that if a security fence was needed, it would be replaced in kind and would not be greater than what is there currently. He noted that there are no plans to change the chain link fence at this time.

Mr. Kincart stated that they would need a more detailed description of the project as it is going from a driving range to a non-driving range and is substantially different. He noted that the area is sensitive traffic-wise especially past the intersection at BJ's as it becomes one lane and some of these intersections are overloaded, so this will need to be looked at with regards to the number of trips in and out of the site. Mr. Bock requested that the EAF also be amended.

Chairman Fon asked the applicant for a more detailed plan with realistic drawings in order for the Board to get a better idea of what is being proposed. In addition, the Board will need a written determination on the use from the Building Inspector before reviewing the application further to ensure that it is permissible.

### **Lowe's Home Center**

Discussion: Site Plan - Pad A

Location: 26.18.1-17; 3240 Crompond Road

Contact: Site Design Consultants

Description: Proposed amended site plan for a 12,500 SF building to accommodate a specialty grocer on the site.

Comments:

Joseph Riina, P.E. of Site Design Consultants and Abigail Adams, Landscape Architect, were present. Mr. Riina stated that the landscape plan was amended in order to reduce the budget for the applicant. Ms. Adams reviewed the plan with the Board and stated that the overall intent of the landscape plan is still the same. The plan was scaled back as best as possible without significantly impacting the visual aspect from the initial plan. The existing evergreens will be relocated to different locations. Some of the proposed material will be replaced with these evergreens. They reduced the install size of some of the more expensive trees. In addition, they removed some shrub plantings around the basin and increased some of the plugs within that area. The aesthetics will be the same and the goal has been achieved by reducing some of the plant materials to help with the budget.

Mr. Tegeder asked about the area between the property line and curb line on Crompond Road. Ms. Adams responded that there is an existing sidewalk in this area but it is not shown on her plan. The sidewalk continues all the way down and would be maintained as a lawn.

Mr. Garrigan asked Ms. Adams if she could quantify in a percentage basis how much vegetation was removed. Ms. Adams did not have this information available but noted that she removed about 26 evergreens and about 40 shrubs. She stated that it was done in such a way so as to not affect the key planting areas. The existing evergreens look good and they will flag the best looking specimens to be planted in the key locations. Overall they are achieving the same appearance of the site in a more cost effective way.

Mr. Tegeder asked about the fence at the top of the lower wall. Mr. Riina responded that the fence is there for safety reasons per the building code and is proposed to be a wrought iron open rail fence, 42" in height. Mr. Tegeder asked Mr. Riina to supply the cut sheets for the fence. Mr. Tegeder asked if the fence on the upper wall will be a timber guard rail. Mr. Riina responded that they originally had a timber guard rail but the Town Engineer wanted a metal DOT style guard rail along the west side as he was concerned about potential impacts into the rail. Mr. Tegeder stated that they would prefer to see the timber rail for consistency with the rest of the site. Mr. Kincart added that aesthetically he would rather see the timber rail. Chairman Fon stated that guard rails are generally used along roadways and parkways and questioned what the rate of speed was for impact. Mr. Riina responded that it would not only be the rate of speed but angle of impact. He noted that along the Merritt Parkway, the timber guard rails are reinforced with steel plates behind and this could be a way to achieve both the aesthetic and structural integrity. Mr. Tegeder asked Mr. Riina if they were proposing any type of guard rail that goes from the ending portion south of the refuse enclosoure to the southwest corner. Mr. Riina responded that the whole area will be have a guardrail. Discussion followed. Chairman Fon asked Mr. Riina to follow up with the Planning Department to discuss the guard rails.

Mr. Bock noted the Westchester County Planning Department letter dated 10-30-2020 with respect to their comments on the building orientation, etc. He stated that this is a late response and wanted to know the impact of the letter legally on the review process. Mr. Riina responded that he did not see the letter. Mr. Grace, Esq. responded that they are an interested party and noted that this plan has been reviewed many times. Mr. Tegeder stated they are a required referral and noted that the Board did answer the building orientation issue by changing the architecture to read more like the front of a building for better street frontage. The sidewalks do continue to the corner, and the rest of the comments are all advisory.

Chairman Fon asked the Board and Counsel if there were any issues or comments with respect to the amended landscape plan and there were none. The Planning Department will work on finalizing the plan details in order to move forward with a resolution.

#### **NY Self Storage – Jefferson Valley**

Discussion: Amended Site Plan & Special Use Permit for a Self-Storage Facility

Location: 16.08-1-4; 621 Bank Road, Jefferson Valley

Contact: Dawn McKenzie, Insite Engineering

Description: Proposed retrofit and expansion of the former Toy R Us building for a 70,435 SF self-storage facility.

Comments:

Dawn McKenzie of Insite Engineering; Jared Coon of Hanlon Architects, and Mitch Johnson of Columbia Pacific Advisors were present. Ms. McKenzie stated that they were last before the Board on 10-5-2020 and met with the ABACA the following night. At that time, they discussed changes to the site plan and were waiting for the zoning text amendment to be approved by the Town Board which has since occurred. They are proposing to reduce the number of parking spaces on the site to 15, which is what the applicant requires, as it will be a low traffic generating use. The entrance to the building has been reconfigured to provide more loading up front than what was shown on the previous version of the site plan. Additional plantings are proposed at the southwest corner of the building to screen the view from Route 6. A wing wall was also provided on the southwest corner of the building to shield the view of the overhead doors on the west side of the building. The building coverage has been reduced to under 45%, which is permitted under the special use permit. As part of the zoning in this district, they are supposed to provide a minimum front yard setback with parking of 75-feet and the Planning Board has the ability to allow them to reduce this down to a 40-foot front yard setback. They are asking the Planning Board for permission to provide a 46-foot front yard setback to the building.

Mr. Coon showed the renderings to the Board. The materials will be the same throughout the building. The coping line was brought down two feet. Mr. Tegeder asked why the coping line was lowered. Mr. Coon responded that it was lowered once sprinkler and HVAC details were known. Mr. Tegeder asked if they were adding rooftop units and if the existing rooftop units will remain in their current location. Mr. Coon responded that they were not adding any and the goal is to use the existing. Mr. Coon stated they are scheduled to meet with the ABACA tomorrow to review the revised plan. Mr. Kincart questioned why the coping on top of the building for the east and west elevation did not wrap around. Mr. Coon stated that this is existing and is just being painted. The revised landscape plan was reviewed with the Board.

Chairman Fon asked Mr. Tegeder what the next steps were. Mr. Tegeder responded that the details need to be finalized and the parking needs to be reviewed. There was mention of banking parking spaces at the previous meeting and noted that there is an area on the eastern side of the building that could be landscaped for this purpose. It is not shown as parking but there is opportunity to bank some spaces in this location. Ms. McKenzie responded that the applicant feels it would be best to keep this area open to provide better maneuverability around the site. Discussion followed with respect to the possibility of adding a strip to create some landscaping for this purpose. Mr. Tegeder asked about the lighting plan. Ms McKenzie responded that they are currently working on the lighting plan and MS4 permit application.

The Board had no issues with the plans shown. Discussion followed with respect to the hearings. The Planning Department will schedule a Public Informational Hearing for the December 7<sup>th</sup> meeting with the plan presented this evening. Ms. McKenzie stated that she will submit a full set of plans and MS4 application for the December 21<sup>st</sup> Public Hearing if there are no issues.

### **IBM Solar Canopy Project**

Discussion: Amended Site Plan & Special Use Permit for Large-Scale Solar Energy System

Location: 69.16-1-1; 1101 Kitchawan Road

Contact: Ella Wynn, EnterSolar, LLC

Description: Proposed installation of a 5.5 MW solar parking canopy over existing employee parking lot located in the rear of the building.

Comments:

Mark Desmeulles of Entersolar; Craig Paepper of IBM Global Operations; and Kimberly Fasnacht of Spott, Stevens & McCoy (SSM) were present. Mr. Desmeulles stated the proposal is for the installation of a 5.4 megawatt solar parking canopy in the main parking lot of the IBM Watson campus. The system will generate 6,300 megawatt hours per year and includes a number of design considerations to ensure the highest benefit for IBM. It is designed to be a wide canopy with integrated LED lighting. The system will offer a highly visible indication of IBM's commitment to sustainability and also offers covered employee parking. Renderings were shown to the Board. The structure will have 16 feet of clearance on the tall end and 14 feet of clearance on the short end. The drive aisles will be 14 feet wide. A vehicle to scale was shown on the plans. The property is fairly isolated in relation to the rest of the surrounding area. Photo perspectives of the views from various roads were shown to the Board.

Kim Fasnacht stated that the entire canopy project is over existing paved surface except for five existing parking islands within the parking lot that will be removed. To offset the removal of these islands, enlarging some of the southern islands is proposed. A 106 sf decrease in impervious surface is proposed overall. The canopy structure will have down spouts every 50 or 60 feet directly connected to the existing stormwater sewer system. The proposed drainage system was designed for the 25 and 100 year storms. The NYCDEP does not require a permit for this project; and they will submit to the DEC shortly. The overall project proposes to remove 41 trees and plant 126 replacement trees. The proposed trees were field located by IBM staff to provide mitigation for visual and noise impacts. The largest area that will be screened is in the southwest corner. Some additional trees will be added to the parking area and on the west side to shield the building. The electrical equipment will also be screened. Native species are proposed such as honey locust, sycamore, oaks, red cedars, eastern hemlocks, white pines, and white spruces which will create a mix of deciduous and evergreen varieties.

Mr. LaScala asked the applicant who benefits from the power generated; how is it funded, and are there any taxpayer grants involved. Mr. Desmeulles responded that all power is subscribed to by the IBM campus and IBM employees. In terms of financing, they have a financing partner involved in the project, Ameresco. The NYSEDA megawatt incentive program will offset some of the development costs for the project.

Chairman Fon stated that for all the solar project proposals the Board has seen, in his opinion, this is the best one. The Board agreed. Mr. Paepper stated that he was told by his consultants that this may be the most prestigious and finest solar array in the United States. Councilman Lachterman stated that he was in favor of this application as it is a gateway to showing people how to generate solar without changing the footprint of an area.

Chairman Fon asked the Board and Counsel if there were any issues and there were none. The Board requested that the Planning Department schedule a Public Informational Hearing for the next regular meeting.

## **Solar Farm – Foothill Street**

Discussion: Site Plan & Special Use Permit for Large-Scale Solar Energy System

Location: 15.07-1-5; 3849 Foothill Street

Contact: Joe Shanahan, Con Edison Clean Energy Businesses, Inc.

Description: Proposed installation of a 2.8 MW ground mounted solar panel system with associated access road, electric utility upgrades, and perimeter fencing.

### Comments:

Eric Redding of Bergmann Associates; and Websley Darbouze, Design Engineer, were present. Mr. Redding stated the project was previously known as Clean Energy Collective and has now switched to Con Edison Clean Energy Business, but the proposed project is the same.

Mr. Dabouze presented the proposed project to the Board. The site is located on the west side of Foothill Street, south of the Putnam Valley Middle School and High School and north of Lockwood Road. The property is about 34 acres and within the property there is a creek and federal wetland. The proposal is for a 2.8 megawatt solar farm on 15 acres that is to be enclosed by a chain link fence except for the front yard which will have a stockade fence for aesthetic purposes. The site will be accessed by a 20-ft wide gravel road which is recognized by the NYSDEC as impervious surface based on the way it is constructed and the gravel that is used. They are proposing 11 acres of solar panels counting the areas in between the panels and the buffer for the fence. The panel area itself will be a total of 3.6 acres. They are proposing a total of 2,900 sf of impervious area that will come from the concrete equipment pads. Runoff will sheetflow to the bio-retention area. The 100 ft buffer from the wetland boundary and the creek will be respected, as required by the Town. With respect to the stormwater drainage, they are proposing to cut 16 acres of trees and will need to mitigate for the increased run-off. They provided drainage swales where they divided the drainage areas on the site to direct them to the two ponds. The purpose of the two ponds are to provide stormwater maintenance and to mitigate the effect of stormwater run-off from pre to post development. The equipment pads will be screened from Foothill Street with either 8 ft or 10 ft arborvitae.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart asked the applicant if he has explored the Town's tree law. Mr. Dabouze responded that they met with the Conservation Board and asked about the mitigation for the site. He noted that they are looking into the tree fund to mitigate for the loss on the site. Mr. Kincart asked if they are proposing to clear 16 acres and the response was "yes".

Mr. LaScala asked the applicant who benefits from the proposal, how is it funded, and what percentage is tax-payer funded. Mr. Redding responded that it is a community solar project. The power generated from this project goes out into the grid, and anybody within the community and neighboring towns that are on the grid can take advantage of the cost savings (about 10%) by signing up for the program. With respect to funding, the applicant will apply to the NYSERDA grant funding program similar to the previous application. He is not sure about the other specifics for the financing.

Chairman Fon stated that the difference between the previous application and this application is that the previous one was on an asphalt parking lot and this one is in the woods, next to schools in a residential area with no buffer to the neighboring areas. Chairman Fon asked about the tree law and mitigation with respect to this application. Mr. Tegeder responded that they could do mitigation in the remainder of the forest by removing invasives and improving the forest function in the area that is left, in combination with a payment to the tree fund.

Mr. LaScala asked about the grade once the trees are removed. Mr. Dabouze responded that once the trees are cleared a fairly dense pollinator mix will be used to help with the run-off on the site. He noted that the topography of the site will be similar to the existing site and showed the grading plan to the Board. Mr. LaScala asked how deep the ponds were and if they were to be enclosed with a fence for safety purposes. Mr. Dabouze responded that they are about 3 feet deep and are dry ponds; the entire site is enclosed within a fence.

Mr. Tegeder asked about the panel heights. Mr. Redding responded that the panels are on posts. The bottom of the panel is 3 feet tall and the top of the panel is 10 feet tall. The 3 feet under the bottom of the panel will be maintained as a meadow to help slow down the runoff and reduce erosion.

Mr. LaScala asked about the surrounding areas with respect to the visual impact. Mr. Redding responded that a stockade fence was added along Foothill Street to screen the solar farm, and on the southern side they are leaving the



forest intact so there will be a large buffer to the residential homes. Mr. Tegeder stated that this will all have to be reviewed and considered by the Board.

Chairman Fon asked the applicant if there were any concerns that this facility is next to the schools. Mr. Redding responded that they have no concerns as the site will be enclosed within a 7-foot high chain link fence on that side and they do not expect any trespassers. Mr. Kincart asked if the school property was heavily wooded on the southern border. Mr. Tegeder responded that it was not. Mr. Kincart stated that the schools should be aware of this application as an interested agency. Ms. Steinberg responded that the plans were sent to all interested agencies including the schools.

Mr. Bock stated that this is a significant application in terms of the potential impacts and feels that it requires a rigorous environmental analysis by the Planning Board. He believes that the impacts entail more than 10 acres and asked Counsel if this would trigger a higher level of environmental review. Mr. Glatthaar responded that it would be considered a Type 1 action. Mr. Bock stated that if it is a Type 1 action, the Board would have the opportunity to begin a more rigorous analysis of the impacts with respect to the screening, etc. and noted that the biggest issue is the loss of the 15 acres of treed forest. He does not believe that the tree law adequately covers this situation and asked Mr. Glatthaar if they can go beyond the tree law to say that there are additional impacts that need to be considered before deciding on this application. Mr. Glatthaar responded that the tree law is not a substitute for SEQRA compliance so they would be able to go beyond the tree law in terms of assessing environmental impacts and mitigating those impacts. Mr. Bock urged the Board to consider this approach. He is not sure if it requires an environmental impact statement. He thinks the impacts are significant and merely paying into a tree fund will not mitigate the impacts of the project as they have not begun to assess what the impacts are. The Board agreed. Mr. Bock asked Mr. Glatthaar if there were any steps that the Board should take in response to what has been filed so far. Mr. Glatthaar responded that the Board should decide if it is going to be the Lead Agency by circulating a notice to all involved/interested agencies. After the 30 day comment period, the Board can then declare Lead Agency and make an initial determination on the environmental significance as to whether to issue a positive declaration, which means it is likely to have a significant effect on the environment or a negative declaration which means it is not likely to have a significant effect on the environment. Mr. Tegeder informed the Board that this is currently in progress.

The Board noted that they had concerns about this type of application on this particular site with respect to the visual aspects and tree removal. The applicant was advised to meet with the Planning Department for further discussion. Mr. Dabouze responded that they will review the screening and tree law and return to the Board with more details.

#### **ZBA #29/19 Sarlo**

Discussion: Zoning Board Referral

Location: 59.14-1-20, 21, 22; 675-695 Saw Mill River Road

Contact: Anthony Sarlo

Description: Request for a Special Use permit for parking of commercial vehicles/contractor's yard on all three lots.

#### Comments:

No representative was present. This application is a Zoning Board referral for a special use permit request to park commercial vehicles on three lots. Mr. Kincart asked if this was a residential zone. Mr. Tegeder responded that it is zoned country commercial for the front of the property and residential for the back of the property which is used for storage. Mr. Kincart noted that there are certain uses that are permitted with a special use permit application in various zones and asked Mr. Tegeder if this was a use that is permitted in any or all of the zones that these three lots are located in. Mr. Tegeder responded that, to his knowledge, this use is not permitted in either zone. Mr. Bock noted the memo from the Building Department stating that these lots are located in a zone which do not permit this type of use under a special use permit. It was also noted that this application was before this Board a year ago. Chairman Fon asked if there were any violation notices for this site. Mr. Tegeder responded that he wasn't aware of any violation notices. Mr. Glatthaar stated that under the town law, filing with the Zoning Board stays the issuance of any summons and they may have filed with the Zoning Board to get relief.

After discussion, the Board requested that the Planning Department submit a memo to the Zoning Board, Town Board and Building Inspector stating that the Board is not in favor of this application and attach their memo submitted last year. Mr. Garrigan questioned if they could go so far as to recommend that they reject the application so that enforcement

procedures can be implemented. Mr. Glatthaar responded that this is within the Planning Board's purview and they could recommend denial of an application. The Board agreed to proceed this way as it may help the town with their enforcement policy.

**Motion to Close Meeting**

Upon a motion by John Kincart, and seconded by Aaron Bock, and with all those present voting "aye", the Board closed the meeting at 10:20 p.m.