

Planning Board Meeting Minutes – June 22, 2020

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, June 22, 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
- Bill LaScala
- Aaron Bock
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
 - Robyn Steinberg, Town Planner
 - Tom D’Agostino, Assistant Planner
 - Nancy Calicchia, Secretary
 - 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. The following was discussed:

- **1961 Commerce Street** - Mr. Tegeder informed the Board that the approving resolution required a landscape bond as discussed previously. The applicant has submitted a landscape estimate in the amount of \$3,014. He is suggesting that the Board set the landscape bond at \$3,000 for three years. Mr. Tegeder noted that all the conditions have been met and the final plans have been submitted to the Planning Department for signature. Chairman Fon asked the Board and Counsel if there were any objections or issues and there were none.
- **Taco Bell, 3605 Crompond Road** - Mr. Bock asked about the parking waiver for Taco Bell. Mr. Tegeder responded that the Planning Department will put together a parking analysis for the Board’s review and determination as to whether the parking should be waived or referred to the Zoning Board.

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 June 8, 2020 with minor corrections as submitted electronically by Mr. Kincart. Mr. Savoca and Mr. Garrigan were recused as they were not at the meeting.

Motion to Open Regular Session

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

REGULAR SESSION

Gallinelli Minor Subdivision

SBL: 27.13-1-49
Discussion: Second 90-Day Time Extension
Location: 2777 Quinlan Street
Contact: Site Design Consultants
Description: Approved 2-lot subdivision on 1.48 acres in the R1-20 zone, by Planning Board Resolution #18-16, dated September 17, 2018.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina is requesting a second 90-day time extension as the applicant is still working on getting the funds together for the recreation fee, inspection fee, etc. and needs more time to do so. Chairman Fon asked the Board, Planning Department and Counsel if there were any issues and there were none. Chairman Fon asked the public if there were any comments and there were none.

Upon a motion by Aaron Bock, and seconded by John Savoca, and with all those present voting “aye”, the Board approved the second 90-day time extension for the Gallinelli subdivision.

387 Granite Springs

SBL: 27.14-1-74
Discussion: Public Hearing
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:

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

Eliot Senor, P.E, and Aaron Schmidt, Wetlands Consultant were present. Mr. Senor stated that the application is before the Board for a wetlands buffer intrusion on the corner lot of Granite Springs Road and Gregory Street. He noted that the property was subdivided unofficially by deed many years ago and they are now trying to officially subdivide the property. The proposed subdivision will also require variances for the lot width (*from 100 ft. to 97.1 ft.*), front yard (*from 40 ft. to 35 ft.*) and second front yard on a corner lot (*from 40 ft. to 27 ft.*). The plans were shown to the Board which includes the lot, tree plan, wetlands enhancement area and buffer area. A dry stacked stone wall is proposed to separate the usable yard from the buffer. The conservation easement area is proposed on the part of the lot to the west of the stone wall. The house is proposed to be a front porch colonial with the garage underneath. There will be limited grading for the lot. There are spot elevations shown at the building corners. There will be a retaining wall around the driveway where it slopes down for the garage under. He noted that the plans show a potential pool location as suggested by the Board. An underground stormwater detention system which will pick up the roof leaders and driveway drains is proposed. He noted that when test pits were dug, ground water was found 3 feet below the surface and as a result dry wells would not work. The details of the system were shown to the Board.

Mr. Schmidt stated that the site contains a portion of a watercourse as well as a related 1,472 sf. wetland area. The project involves a proposed disturbance of 4,995 sf. of regulated wetland buffer area. No direct disturbance to the on-site wetland or watercourse is proposed as part of the project. The proposed disturbances within the regulated wetland buffer area include a small portion of the rear of the proposed residence, a small portion of the driveway, a rear patio, the stormwater management system, the removal of six trees within the wetland buffer, and the construction of a dry stacked stone wall. Mr. Schmidt reiterated that a future pool location is shown in the buffer as suggested by the Board. The proposed wetland mitigation, consists of armoring the bank of the on-site watercourse with stone riprap and planting of pachysandra above the bank to help prevent any further erosion of the channel. New plantings proposed in the wetland area include 5 river birch trees, 6 spice bush shrubs, and 7 choke berry shrubs. Beyond the wetland itself, but within the buffer, 6 white oak trees, 6 red maple trees, 5 green giant

arborvitae, 2 Colorado spruce trees, and 1 white spruce tree are proposed. At the request of the Board, the project plans provide for the construction of a dry stacked stone wall to clearly delineate the extent of the disturbed areas from the wetland buffer area in order for it to remain in its natural and undeveloped state. To further protect the wetland and wetland buffer area outside the areas of disturbance, an 8,657 sf. conservation easement area beginning immediately west of the proposed dry stacked stone wall and extending to the westerly property is proposed. In order to facilitate the development of the site, regulated tree removals are necessary. In coordination with the Planning Board and staff, the proposed tree removals have been limited to only what is deemed necessary to carry out the project. Appropriate tree protection will be installed to ensure that trees to be preserved at the site will be provided protection throughout the duration of the project. A total of 20 trees are proposed for removal in connection with the project. In order to mitigate the impacts of the tree removal, 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 are proposed to be planted on the site.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Planning Department, Board and Counsel if there were any issues and there were none.

Upon a motion by Aaron Bock and seconded by Bill LaScala, 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: Adjourned 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:

Joseph Riina, P.E. of Site Design Consultants and Steve Marino, wetlands consultant of Tim Miller Associates were present. Mr. Riina stated that at the previous meeting they presented the updated site plans and mitigation plan with respect to the buffer impacts and tree mitigation which will be discussed again by Mr. Marino this evening.

Mr. Marino stated that there are several different environmental issues on the site that are part of this application. The removal of the trees on the site and the creation of impervious surfaces with the new building and parking areas must be addressed. A stormwater management plan is proposed that will address the stormwater changes as part of the plan. With respect to the tree removal, Frank Guiliano, landscape artist, created a landscape plan for the site itself. Mr. Marino created the buffer and wetland mitigation plan that deals with the enhancement of the existing buffer and restoration of additional parts of the site. A tree survey was conducted on the property, which identified 126 trees which are regulated by the Yorktown Tree Law. The survey shows the location of the trees as well as their circumference, species, and condition. Of the 126 trees, 125 will be removed on the primary parcel where the proposed building is to be located. There is a wetland on the adjacent property that is also owned by the applicant. That wetland has a 100 ft. buffer that encroaches onto the primary parcel. Proposed impervious surfaces were kept outside of this 100 ft. buffer and a rail fence along the edge is proposed to separate the commonly used parts of the property from the planted and stormwater management treatment areas. Due to the configuration of the property and building size, a substantial stormwater management plan is proposed as discussed by Mr. Riina at the previous meeting. The stormwater management plan will pick up additional run-off from the site following the addition of the impervious surfaces and will be routed through a treatment basin before discharging into the Hallocks Mill Brook. Marino noted that 96% of the trees on the property are red maples and there is no understory in the woodland area on the property due to heavy deer browsing. There is an understory on the adjacent property but unfortunately it's a non-native invasive species that deer do not particularly like. The proposed mitigation is a multi-pronged approach to deal with the environmental impacts on the site. To mitigate the buffer encroachments on the property, they are proposing a dedicated planting plan which will incorporate both deciduous and evergreen trees as well as shrubs that are known to grow well in transitional areas between wetlands and uplands. The stormwater management areas will be heavily planted. Also, there is an existing basin to the south on the adjacent property which has become

overgrown over the years with phragmites and has become flooded and no longer draining. Any trees that were growing in this area drowned and died. A restructuring of this ponded area on the south part of the site to complete a wetland restoration is proposed which would include clearing out the phragmites and roots, removal of some dead trees and clearing of some of the tree falls, and then replanting that area as a wetland. Another part of the proposal, is the creation of extra flood storage in the area as there is a recognized flooding issue in the neighborhood. In addition to oversizing the basin related directly with the building, they are also creating this area to be designed that when the flood level and the brook rises up to a certain level, the water will backflow into that basin providing additional flood storage in the larger storm events. As pointed out at several other meetings, not only are phragmites located on the adjacent property, but there is also a lot of debris (*reclining chairs, shopping carts, etc.*) which will also be removed. Further to the north on the same eastern property the area where the sewer easement is located will also be cleared out as it has also become overgrown with phragmites and invasive honeysuckle. This area is proposed to be replanted with tree species in order to re-establish growth in that area. In summary, 125 trees are proposed to be removed on the primary parcel and no trees are to be removed on the adjacent eastern parcel. 50 new trees are proposed on the eastern parcel, 45 new trees will be planted on the primary parcel as part of the landscape and buffer mitigation plan. In addition, to 122 shrubs are proposed to be planted as part of the Landscape Plan around the building as well as in the buffer and wetland restoration area. A green roof is proposed on a portion of the proposed building. The mitigation plan includes flood enhancement, invasive removal, and deer fencing around the new shrubs and trees in order for them to get established.

Chairman Fon asked the Planning Department, 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:

Linda Miller, resident – Ms. Miller stated that she had some comments about the mitigation that has to do with the woodland. She said that Yorktown's tree law is a tree and woodland preservation law and that the outstanding feature of the law is the recognition of woodlands as being a valuable eco system and it is to our benefit to protect and preserve similar to the way we protect and preserve wetlands. Woodlands are complex communities of plants and animals not just stands of individual trees, just as wetlands are not simply stands of cattails. The tree and woodlands preservation law clearly states its intent to protect woodlands as well as individual trees and give 7 findings of facts about the benefits of trees and woodlands to support this intent. The tree and woodlands preservation law requires a permit for the disturbance of protected woodlands over a certain threshold, which it appears applies in this case, and as a reminder the disturbance includes any activities which alter the existing structure of the protected woodlands including all the layers of vegetation and so mitigation is required for all non-administrative tree and woodland permits for applications where the Planning Board is going to be the approval authority. She noted that Mr. Marino talked about the mitigation plans for trees and somewhat for the woodland in the wetland buffer but dismisses the rest of the woodland as being of low quality. She pointed out that the tree and woodland law doesn't allow for any value determination of the health of the woodland being disturbed. The TCAC pointed out that this site has several specimen trees and noted that this woodland is part of a larger woodland in connection with the wetland. The wetland buffer makes it more valuable as a complex multi-dimensional eco system and wildlife habitat and Ms. Miller appreciates the idea of trying to plant species adaptable between the transition of the wetland and upland, but it is important for a lot of species to get from the upland to the wetland and that is a function that is potentially being lost and mitigation should be considered for this. As the approval authority, it's the Planning Board's responsibility to carry out the intent of the tree and woodland preservation law while accommodating reasonable development. When tree and wetland preservation is antagonistic to reasonable development, as it most always is, mitigation is how the accommodation is made and how the town's interest in both goals is balanced. She encourages the Planning Board to take a close look at the mitigation for the loss of the woodland function not just the tree function. If the Board chooses not to require mitigation for the loss of woodland function, it should be prepared to justify this decision as part of the approval documents for this plan.

Susan Siegel, resident – Ms. Siegel stated that she worked with members of the ABY (*Advocates for a Better Yorktown*) and wants to make sure the law gets enforced now that it is in effect. At the original hearing in April she made it clear that she supports the Atlantic Appliance application. However, she still has concerns over some parts of the plan and whether they conform to the requirements of the new tree law. This is the first application for the

tree and woodland preservation law passed in 2019 and the first application that includes a major woodland. Her issues are as follows:

1. The extent to which the woodlands disturbance has been calculated.
2. What woodlands functions have been lost as a result of the proposed development.
3. Does the proposed mitigation plan adequately address the loss of woodland functions.

She reviewed the origin of the tree law with the Board. She asked how much of the woodlands is being disturbed, and noted the law is clear that the woodland disturbance is calculated on a square foot basis not the number of trees to be removed. If you look closely into the site plan, there is about 66,000 sf of woodlands to be disturbed which is a very significant disturbance in the woodlands which is mostly in the front parcel on Maple Hill Street as noted by Mr. Marino. She thinks that the Board should discuss the square footage and review and consider the extent of the woodland disturbance. She also noted that the site plan shows that the square footage for the rear parcel of 3.13 acres shows as 13,600 sf and thinks it should be 136,000 sf and this should be cleared up.

She stated that no studies or documents have been provided with respect to the loss of the woodland functions. She noted that it was stated that the woodlands were of low value and asked if the Board accepts the opinion of the applicant. She said that the most important thing is the mitigation measures and you have to know how much woodland you are disturbing in order to have a proper and reasonable mitigation plan. She thinks there is confusion between wetland mitigation and tree mitigation and feels this has to be separated and if there is an overlap, give credit for wetlands mitigation to minimize what is needed on the tree mitigation. She likes the invasive removal and the restoration of the wetland. She questions the green roof as she thinks its part of the stormwater plan, not any mitigation plan. She noted that the Tree Commission made a recommendation for a contribution to the tree fund as part of a package and thinks the Board was dismissive of their memo. She said that the woodlands disturbance of over one and half acres is significant and asking for \$1,000 to \$2,000 to the tree fund is very reasonable. She feels that they need more information as to the loss of the functions of the woodlands and should separate the wetlands and the woodlands mitigation.

Chairman Fon stated that the Planning Board takes all the comments and concerns of all the Advisory Boards into consideration and want what is best for Yorktown as a whole.

Mark Lieberman, resident – Chairman Fon read an Zoom chat message received from Mr. Lieberman as follows: “I understand the business implications of renting versus owning, I understand the need for a business to select its future location, I understand that one of Yorktown’s persistent issues is empty stores and buildings. Does the Planning Board’s charter include trying to help a business use existing buildings, stores, or properties. Considering the needs of the town, the business and the environment, it’s difficult to understand the use of woodlands and wetlands for the new Atlantic Appliance. If the Planning Board does not have an obligation to evaluate the macro situation, perhaps you can add that to your charter for the overall quality of life in Yorktown.” Mr. Lieberman also asked if this is in the charter and if not can they add it to the charter.

Chairman Fon asked Mr. Tegeder if he had any comments. Mr. Tegeder responded that the Planning Board is always concerned with the built environment and natural environment. When it comes to actual development applications, under the town law and NYS town laws, the applicant, as a property owner, has the right to come in and develop their property and if they can do it to meet all the codes under our laws, then they are able to do so and doesn’t think the Board can cause an application to be disapproved simply because they did not want to rent an empty store front nearby or across town but will defer to Counsel for his thoughts and comments.

Mr. Lieberman stated that he is asking if the Board is helping them find existing space that is empty which would also help the town at the same time. Mr. Tegeder responded that this is not the duty of the Planning Board. Chairman Fon added that the Board does not go out and solicit applicants nor do they promote properties. As applications come in, the Board reviews them on their merits and go through the proper procedures. Mr. Glatthaar, Esq. stated that it is best to understand that anyone who owns a piece of property, there comes with that property a bundle of rights. While the Planning Board can look at each application with an eye towards the overall impact to the town, they cannot do so in such a way as to deny the applicant their bundle of rights to the property that they have in mind.

Mr. Lieberman stated that he is not saying to obligate them in any way. He stated that if somebody comes to the Planning Board and wants to build a new building without owning the property, and if the approval is contingent on the purchase, it might be helpful to the town as a whole to say that there are ten other empty locations that they might want to consider. Chairman Fon responded that this is not what the Planning Board's responsibilities are and this would overstep their charges. Mr. Glatthar, Esq. added that they would be opening themselves up to charges of favoritism if they directed applicants towards one property as opposed to another. He noted that he appreciates Mr. Lieberman's question, but any real estate broker showing their client properties will also show them vacant spaces as well as properties for sale and it is up to the applicant to decide what best suits their needs.

Jenny Sunshine, resident – Ms. Sunshine stated that she wants what is best for Yorktown. She is a customer of Atlantic Appliance and wants them to have their new building and thinks its great. She doesn't think it belongs in the spot that they want and does not know if they purchased the land already. She understands that they want to do their project and its logical that they would want to be across from their present location, but right now in this world in 2020 we have no business cutting down large amounts of trees especially in our town. We should not be doing this and said that many community members feel the same way about this project. She understands that they have a right to do what they want to do with their land and project as it's the law, however, we need to change this. It doesn't make any sense when we have tons empty store fronts. It doesn't make sense to cut down acres of trees to install a two story building. She thinks its being rushed through and should be discussed further. Atlantic Appliance is one of our own, our neighbor and feels that it is different and maybe we could negotiate something or work something out. There are so many places that would be better for them. They could go on the 202 corridor to be near competitors which would make more sense and provide them better visibility and it would keep that forest intact. Our economy is not getting better and more and more companies are going out of business which will make more empty store fronts and it will only get worse. She doesn't see anyone (Yorktown) taking empty buildings and then planting a forest, so why do we have to keep going the way we are going. She noted that Coral Gables, Florida has a strict Planning Board and that you cant even paint your house a certain color unless you get it approved. There are plenty of towns that have strict rules and laws and if we really want to make Yorktown a beautiful place going forward we have to keep the forest that we have somehow, but work with the companies that we already have here. We could give them a tax break for utilizing or repurposing an old building, give them something that we can all work together and keep our forests beautiful. And then go ahead and make the rest of the town the walkable area that every single person that lives here wants it to be. If you are going to go ahead and cut down this 5 acres, do the proper mitigation and try to make a difference going forward.

Mara Ziedins, resident – Ms. Ziedins stated that she is a Yorktown resident for 51 years and a customer of Atlantic Appliance. She thinks that this plan will add to the community and thinks that they have worked diligently in trying to deal with all the demands from the Tree Commission, etc. Again, she thinks this is an add on to the Yorktown community and wholeheartedly supports them moving into their own building, paying their own mortgage and not having to pay rent to the Triangle Shopping Center. As far as the empty buildings in town, they are not suitable for the needs of Atlantic Appliance so she fully supports this commercial development which will bring taxes into the community.

Councilman Ed Lachterman stated that he is a Yorktown resident for over 20 years. Speaking as a resident, he noted that every year he participates in the Battle of Yorktown as a Yorktown Lion. The road that they clean up happens to be along this strip and is done yearly. From an access point of view, he has ripped his pants and gotten scratched up with thorns. The property is overgrown and used as a dumping ground. He thinks that the mitigation proposed, especially in the back wetland area, is much needed to help clean it up and feels that it is a benefit to the town and is in favor of this application from that point of view. He stated that with respect to Ms. Sunshine's point, they want to get the existing buildings rented and it's a great idea on a tax break and noted that we do have tax incentives for people who want to readdress the property and improve it. But, that doesn't take away from the existing taxes which unfortunately, our town coming out of this crisis will be in huge need of, its hard for us to cut taxes without having another way to find those taxes and we need to be aware of that. He noted that 75 % of the taxes go to the schools and the other 25% is extremely important for our town with our parks, pools, lake and services.

Steve Marino addressed the concerns for the 5 acres of woodlands being cleared. He noted that this was discussed in more detail at the prior meeting. There are 4.6 acres in total between the two parcels. The 3.1 acre parcel is not being disturbed at all except for mitigation and restoration and no trees are proposed to be removed on that parcel. 1½ acres of trees will be cut down on the parcel where the proposed building is to be located. He noted that he submitted a letter to the Planning Board dated May 11, 2020 which goes through the tree law as part of the process with responses. In terms of the woodland questions, the applicant and many other applicants are being put in a position now where they have known for many years they can't build in wetlands and buffers or at least have very minor encroachments and controlled development in wetlands and buffers and now they are being asked not to cut any trees down either. This is a difficult place to be in, particularly in a commercial zone like this. At the last meeting he spoke about how this is the western most extremity, of a narrow strip of a much larger woodland to the east which extends across the road to the Cipriani property, then to BOCES, DEP property, and continues considerably further to the east into the town of Somers and Lasdon Park. All of this area is part of the same woodland. This property is at the western most extremity and is a narrow strip between two commercial buildings across the street from a shopping center. In terms of consideration for removing trees, this is a sensible place to do it. The applicant recognizes that there is 1½ acres of disturbance for this project with a removal of 125 trees. In a commercial development, with parking, loading spaces and loading docks, it's difficult to save individual trees. 32 trees in the buffer area will be removed out of 46 in order to create the stormwater management and landscape/buffer restoration. Mr. Marino also noted that his letter never states the property is a poor or low value woodland. The fact is that since 96% of the trees are red maples, it's a monoculture and monocultures typically are not a high valued woodland habitat. The woodland species that do use this property are birds that are especially adapted to high traffic areas (this location has a post office to the north, medical buildings to the south, and a shopping center to the west). In terms of valuable habitat this is low on the list of what constitutes a valuable habitat. There is no shrub cover underneath because the deer have eaten it all. Woodlands considered to be of high value have several layers between herbaceous layers and taller grasses, etc. Discussion followed.

Mr. Tegeder asked if part of the mitigation plan is to plant some understory shrubbery. Mr. Marino responded that the plan proposes to plant understory shrubbery both on the primary parcel and the restoration area to the south. Mr. Tegeder asked if this would improve the situation from a monoculture with lower value and make it a higher value woodland. Mr. Marino responded that it would and that is why several different tree and shrub species are proposed. All the shrubs species proposed are native species with a high wildlife value (seeds or fruit from the shrubs) to provide additional habitat value for wildlife in the areas that will be permanently disturbed. Mr. Tegeder pointed out that of the mitigation measures that are cited in the law (of which there are 6) this mitigation plan proposes to utilize 4 of them at present.

Mr. Riina added that he wants to point out the downstream impacts on the Hallocks Mill. This project is going above and beyond in two areas - stormwater quality and flood attenuation. Both have benefits to the downstream properties as well as the Croton Reservoir system as it is providing a high level of treatment to the stormwater and it will enhance the quality of stormwater leaving the site. In addition, flood mitigation is proposed and the stormwater basin is an extension of the wetland because the stormwater basin designed is a pocket wetland. The proposed flood attenuation will be a benefit to the area.

Chairman Fon noted that Jenny Sunshine submitted additional comments. Chairman Fon asked the Board and Counsel if there were any comments. Mr. Bock stated that he looks forward to going through the application and making sure that the mitigation proposed is adequate to offset the impacts discussed. Chairman Fon asked the Planning Department if there were any comments. Mr. Tegeder responded that there may be some refinements to the plan but had nothing to add at the present time.

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting "aye", the Board closed the adjourned Public Hearing with a 10-day written comment period.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

379 Hallocks Mill

SBL: 37.10-1-38
Discussion: Minor Subdivision
Location: 379 Hallocks Mill Road
Contact: Burns Engineering Services, P.C.
Description: Proposed 2-lot Subdivision on 1.417 acres in the R1-20 zone.
Comments:

Stephen Burns, P.E. was present. Mr. Burns stated that the applicant purchased this property a few months ago. The property is zoned R1-20 and is 61,000 sf. The proposal is for the subdivision of an existing residential parcel into 2 residential parcels. The existing dwelling and framed cottage on the west side is to remain. Lot 2 will be for the new construction. The other existing structures (*pool house, pool, shed*) are proposed to be removed. The plan is to reuse the existing driveway entrance and as much of the already paved area as possible. Some grading to the east of the existing driveway is proposed for the new driveway. The property is served by public sewer and water. There are no wetlands on the property and no variances are required.

Chairman Fon asked about the cottage on the existing lot. Mr. Burns responded that the applicant would like to keep it as it has potential for other uses. Mr. Tegeder asked how the cottage was being used currently and if it had water and a bathroom. Mr. Burns responded that it is not being used currently, but thinks that the prior owner may have used it for an office. There is electricity and there may be a bathroom but he is not sure.

Chairman Fon asked if any trees will be removed. Mr. Burns responded that the property is mostly lawn but there will be some trees removed along Hallocks Mill Road. Mr. Tegeder stated that the trees to be removed will need to be identified and a survey will need to be provided.

Mr. Tegeder stated that the garages look like they will be outward facing and noted that the Board prefers garages to be on the side. He suggested sliding the dwelling over towards the original lot to accomplish this. Mr. Burns responded that he will rotate the house and slide it to the existing lot as there is plenty of room and will not affect the grading.

Chairman Fon asked the Board if there were any comments and there were none. Chairman Fon asked the Planning Department to schedule a site visit for the Board.

1135 Stonegate Road

SBL: 16.10-2-71
Discussion: Accessory Structure
Location: 1135 Stonegate Road
Contact: Judy Murray
Description: Request for an amendment to the setbacks set by the Planning Board for installation of an above ground pool on lot 71 in the Stonegate Subdivision.
Comments:

Chairman Fon recused himself from this application. Judy Murray, property owner was present. Mr. Tegeder stated that Ms. Murray is proposing to install a 12 foot round above ground pool on her property which is located in the Stonegate development on Stonegate Drive (town owned road). A diagram was provided by the applicant for the pool. Mr. Tegeder stated that from each side it is about 4.3 feet and will be about 10 feet from the rear yard lot line. This subdivision was developed under clustering and flexibility and therefore all of the setbacks were set by the plan approved by the Planning Board. Whenever there is an accessory structure such as a deck, shed or pool it needs to come back before the Board to allow intrusion into the setbacks for the particular lot. In 2015, the Board looked at a deck installation in Stonegate on another property and, at that time, a resolution was approved that set accessory structures at 3 feet from side lot lines so this request in terms of the side yard lot lines would comply. The Board did not set a similar blanket setback for the rear yard setback for accessory structures so the Board would need to do another short resolution for this lot to allow the pool with a 10 foot rear yard setback.

Mr. Savoca asked if there were any other pools in the subdivision and Ms. Murray responded that there were not. Mr. Savoca asked if there were any other accessory structures close to the rear lines on other properties within the subdivision. Mr. Tegeder responded that he looked at the aerial and did not see anything close to the rear lot line. Mr. Tegeder stated that all the information submitted has been provided to the Board. Ms. Murray added that her rear yard is all fenced in and is clear of trees and showed a photo to the Board. Mr. Bock asked if the issue was for the variance only. Mr. Tegeder responded it was and noted that the rear yard setback needs to be approved. The accessory use proposed is acceptable by the zoning code. The authorization is to modify the setbacks under clustering and flexibility. Mr. Savoca asked if the Board allows this variance would it set a precedent for the other properties in the development. Mr. Tegeder responded no, each property owner would have to come to the Board as necessary. Mr. Savoca stated that as long as they consider applicants on a case by case basis he had no problem with this request. Mr. Bock had no issues. Mr. Tegeder stated that the draft resolution provided could be modified to reflect the rear yard setback to 10 feet if the Board agrees. The Board had no objections.

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

Upon a motion by Bill LaScala, and seconded by Aaron Bock , and with all those present voting “aye”, the Board approved the resolution determining the backyard setback for accessory structures for 1135 Stonegate Road at the Stonegate Townhouses.

Upon a motion by John Savoca and seconded by Bill LaScala, and with all those present voting “aye”, the Board closed the Special Session.

ZBA Referral – 3D Development

SBL: 25.20-1-14
Discussion: Special Use Permit
Location: 2710 Lexington Avenue
Description: This is a proposal for a Special Use Permit under the Town Code 300-44 “Exterior Storage Yards”. The Applicant from Tarrytown Honda is seeking to build a storage facility on the Yorktown Golf and Baseball property that would be approximately 0.33 on an acre. The site is approximately 15 acres.

Comments:

Mark Blanchard, Esq. was present. Mr. Blanchard stated that the property owner, 3D Development, is in a potential lease with Tarrytown Honda for the use of the Yorktown Golf and Baseball site off of Route 202. The applicant is proposing to preserve the site in its entirety and are not planning any site improvements other than fencing, lighting and security. They are seeking to use the existing house that has a pro shop for accounting and office work with a maximum of two employees, and use the site which includes the driving range (*without changing the surface*), and the parking lot for storage of new car inventory. Once the inventory is stocked, a car carrier would drop off the new inventory once a week and, as needed, the cars are driven off the site individually. There will not be any retail associated with the automobile inventory as it will be for vehicle storage only. The property is located in the I-1 zone (light industrial park district) with permitted office use. They are applying for a special use permit from the ZBA for exterior equipment storage.

Chairman Fon asked Mr. Blanchard if he had a site plan. Mr. Blanchard responded that they submitted a survey of existing conditions and the only change would be the installation of a fence. Mr. Tegeder asked if they are proposing to park on the driving range. Mr. Blanchard responded that they are and that the surface and drainage is desirable for the tenant. He noted that the applicant just needs access to parking area from the parking lot. Mr. Tegeder asked if this is a light industrial zone and if this is an allowable use under the zone. Mr. Blanchard responded that it is and clarified this with the Building Department. He noted that the house on the site has become desirable with Tarrytown Honda to expand its accounting and administrative uses for a maximum of two employees. Once they use this home as the office building, the exterior vehicle storage now becomes an accessory use to the permissible office use.

Mr. Tegeder asked if there will be additional plans such as a driveway to the parking area, rows and aisles that are delineated so that there are aisles to be driven into and out of. Mr. Blanchard responded that there would be an

opening for access and noted that there is no plan for site improvements such as putting down asphalt or any impervious surface to actually assist with the vehicle movements. There would just be an opening to access the driving range space and that space would be striped in a fashion so that the new inventory could be parked in an orderly manner. In addition, they are proposing the installation of fencing for security purposes. Mr. Tegeder asked if there is turf grass on the range and if it will be removed. Mr. Blanchard responded that there is and it will remain as is.

Mr. Tegeder stated that this application may be referred back to the Planning Board as the applicant is proposing to make some modifications and are establishing a whole other operation that wasn't originally considered for this site. He noted that there may be some drainage issues as he is not sure if there is anything that would prevent pollution from the cars as the system was conceived for the turf grass. In addition, they will have to stabilize the inventory area and pointed out that with the cars moving in and out, the turf grass will eventually turn into a dirt or mud patch which could open up issues with potential erosion.

The property also abuts Sylvan Glen Park and some of the trails are fairly close so there may also be a visual impact that needs to be addressed which could be handled with proper fencing and buffering. The frequency of deliveries with moving inventory in and out of the site should also be known. Mr. Blanchard responded that the dealership would be able to make an accurate representation as to the frequency of the car carrier delivery and can provide the specifics.

Chairman Fon asked if the batting cages, driving range and golf course will be shut down for the vehicle storage and Mr. Blanchard responded that the whole recreational use on the site will be shut down. The property owner has owned this site for 20 years and unfortunately have not seen a great return on it. This particular tenant, with the exterior new vehicle storage, would be from a landlord's point of view, low maintenance and steady income. Other than the minor alterations to allow access, no major construction will be undertaken.

Chairman Fon asked the Board if there were any comments. Mr. Bock asked how much space 600 cars take up. Mr. Blanchard responded that they had an architect look at the usable space and that was the number they arrived at thinking that's a feasible number for the site. Mr. Tegeder stated that the 600 spaces without drive aisles total 97,000 sf. ($9 \times 18 \frac{1}{2}$ space). Mr. Bock asked if there were any issues with the combined uses on this site, main use and accessory use, or does it not matter. Mr. Tegeder responded that the section of the code that Mr. Blanchard is referring to basically says that you can do outdoor storage if it is a pertinent accessible use to the main use. Mr. Blanchard added that they are proposing the office building use for clerical type work so that would be the main use and the storage for inventory would be the accessory use.

Mr. Tegeder stated that the Planning Department will prepare a memo to the ZBA with comments discussed for the Board's review.

Additional Agenda Items:

Town Board Referrals:

1. Proposed Local Law amending Chapter 178 of Code of the Town of Yorktown entitled "Freshwater Wetlands".
2. Proposed Local Law amending Chapter 248 of the Code of the Town of Yorktown entitled Stormwater Management and Erosion and Sediment Control.

Comments:

Mr. Tegeder updated the Board with respect to the Town Board referrals for the wetland and stormwater laws. The Board had no objections to the amendments. The Planning Department will prepare a memo to the Town Board for each referral.

Motion to Close Meeting

Upon a motion by Bill LaScala, seconded by John Savoca and with all those present voting "aye", the Board closed the meeting at 9:04 p.m.