

# Planning Board Meeting Minutes – July 13, 2020

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A meeting of the Planning Board, Town of Yorktown, was held on **Monday, July 13, 2020 at 7:00 p.m.** via Zoom video conference.

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

- John Savoca, Vice Chair
- John Kincart, Secretary
- Bill LaScala
- 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.**

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## **Correspondence/ Liaison Reports**

### **Open Discussion:**

Chairman Fon stated that he received two e-mails which were critical in nature with respect to the Atlantic Appliance public hearing that was held at the previous meeting. He spoke with the Planning Board Counsel regarding this subject. The Board discussed balancing public participation with running an efficient meeting. The Board agreed that public comments should have a time limit and should specifically address the application that is the subject of the hearing. Chairman Fon asked the Planning Department and Mr. Glatthaar, Esq. to work on a draft resolution to formalize a public hearing policy for the Board to review and approve.

Chairman Fon stated that he thinks they are extremely lucky in Yorktown to have the guidance and knowledge of the Planning Department, Town Counsel and the Board itself. However, it's important to remember that the Board is comprised of volunteers. He noted that he also received emails stating that the Planning Board should be promoting the reuse of vacant properties. This is not in the Board's purview nor is it ethical. The Board would also like to see the vacant store fronts occupied but cannot require or solicit this to prospective owners, developers or tenants. The residents should know that the Town Board is working aggressively toward this with the Reboot Yorktown committee, etc.

Councilman Lachterman stated that he wants to reiterate what was said in that there is an ethical guideline that the Planning Board has to follow. Even though the Board holds the title of Planning Board it does not mean that they are planning every move in the town. They are there to make sure that any of the applications coming in fit within our code and town plan. He noted that the Board is made up of volunteers and feels it is one of the better Planning Boards. The Reboot Yorktown committee is tasked with marketing the vacant properties to try and get them filled. One of the plans of the task force was to do a traveling open house on the properties with businesses out of the city, however, due to COVID-19 the progress has been slowed. He noted that the Town Board, Reboot Yorktown, and the Chamber of Commerce will continue to push forward.

## **Agenda:**

Chairman Fon noted the only application where public comments will be received this evening is for the Taco Bell public hearing. Hearings for the remainder of the regular session items have already been closed with 10-day written comment periods. Chairman Fon asked Mr. Glatthaar, Esq. if this was correct. Mr. Glatthaar responded affirmatively.

## **Correspondence:**

The Board reviewed all correspondence. The following was discussed:

- Broad Pines (*Prebeck*) - Mr. Tegeder informed the Board that he is working with the applicant, Enzo Letizia and Mr. Glatthaar, Esq. and noted that they are close to resolving the issues with the open space parcel, easements and road widening strips. Once they get the deeds, the application will come back to the Board.
- Solar Law - Mr. Tegeder informed the Board that the solar law will be discussed at the Town Board meeting tomorrow as there have been some modifications to the law. He noted that he emailed the Board a red-lined copy of the changes made for their review and comments. Once comments are received, he will prepare a memo for the Town Board prior to the next Planning Board meeting.

## **Motion to Approve Meeting Minutes**

Upon a motion by Rob Garrigan and seconded by Bill LaScala and with all those present voting “aye”, the Board approved the meeting minutes of June 22, 2020. Mr. Kincart recused himself as he was not at the meeting.

## **Motion to Open Regular Session**

Upon a motion by Chairman Fon, and with all those present voting “aye”, the Board opened the Regular Session.

## **REGULAR SESSION**

### **387 Granite Springs**

SBL: 27.14-1-74  
Discussion: Decision Statement  
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 was present. Chairman Fon asked Mr. Senor and the Board if there were any comments or issues with respect to the resolution. Mr. Senor responded that he had no issues. Mr. Tegeder informed the Board that they noted the tree mitigation in the resolution. There were no other comments.

**Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting “aye”, the Board adopted a Negative Declaration for 387 Granite Springs Road.**

**Upon a motion by Bill LaScala and seconded by John Savoca, and with all those present voting “aye”, the Board approved the resolution approving a stormwater pollution prevention permit, a wetland permit, a tree permit, and a subdivision plat titled 387 Granite Springs Road.**

### **Atlantic Appliance**

SBL: 37.15-1-31 & 35  
Discussion: Decision Statement  
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. Chairman Fon stated that this public hearing was closed with a 10-day written comment period and noted that some written comments were received. Mr. Marino stated that the Planning Department requested the applicant present a summary of the proposed mitigation plans. A letter was submitted to the Planning Board dated July 13,

2020 with this summary. There has been discussion of what is regulated by the tree law. 123 trees are proposed to be removed on the subject parcel outside of the wetland buffer. Additionally, 40 trees are proposed to be removed within the wetland buffer. To partially offset the removal of the trees in and out of the buffer, 30 trees are proposed to be planted outside of the wetland buffer as part of the landscaping plan in the vicinity of the proposed building. An additional 50 trees are proposed to be planted on the Greenwood Street property in the area where invasive species removal will take place. An existing portion of the woodlands on the Greenwood Street parcel will be rehabilitated as part of the plan to offset the loss of trees in the development area. In addition, trees will be planted in the wetland and wetland buffer on the Greenwood Street property on Veterans Road in order to restore and enhance the wetland area, which has been overrun with phragmites and debris. Flood mitigation is also part of the mitigation plan. The site will provide additional storage to attenuate flooding downstream. In total, 107 trees are proposed to be planted in addition to 153 shrubs in the buffer and wetland areas both on the main parcel and the Greenwood Street parcel. Those areas that are to be disturbed by the removal of invasive species are proposed to be reseeded with appropriate native seed mixes that include both herbaceous species and shrub species. Mr. Marino noted that at the previous meeting there was discussion on where this property sits within the overall woodland and a graphic was provided to the Board showing where the site is relative to the larger woodland area to the east. This site is at the extreme western edge of what is defined by the town code as a woodland and is surrounded on three sides by commercial properties. From a functional standpoint, this woodland is on the fringe of a much larger, well developed and preserved woodland area to the east.

Chairman Fon asked Mr. Marino and Mr. Riina if they received the submitted written comments and they both responded that they had not. Chairman Fon read an email from resident Linda Miller dated June 25, 2020. Chairman Fon asked the Board if there were any comments.

Mr. Kincart stated he read the minutes from the previous meeting because he was not present and felt that Mr. Marino addressed many of the factors of the functions of a woodland and a wetland during his presentation. Therefore, in Mr. Kincart's opinion, the benefit to the overall eco-system and environment, especially in this "urban concrete area of town" as referred to by Linda Miller, far outweighs the loss of 1 ½ acres of a woodland that is several hundred acres in size and is at the extremity of that woodland. The Board takes all of this information into account with respect to the laws, the mitigation, the benefits to the town, the benefits to the property owner, and the property owner's rights. The Board does not simply buy into an applicant's argument and the Board does not dismiss any information that is brought to their attention. The Board takes a holistic approach to reviewing projects by weighing what is legally permissible and what is considered mitigation. Mr. Kincart feels the Board has done this with this site and for every application before them. Further, on the agenda prior to this, for 387 Granite Springs Road, the Board commended the applicant for their willingness to leave some of the trees that the Board pointed out should be saved along the perimeter of the property that would not be in the area of disturbance. However, on the Atlantic Appliance site it was not possible to save trees on the main site because the first 1½ acres is what was needed to develop the site. What is proposed is far in excess to enhance part of the woodlands which happens to contain a wetland. The wetland and woodland are comingled and to try and isolate the two in this circumstance or throughout most of our town, given the unique environmental qualities and characteristics of our town, is almost impossible. As with another application on Greenwood Street, there have been significant concerns from residents with respect to the flooding which has happened for decades. The applications before the Board have shown a positive effect on all of this and this is not lost by the members of the Board. When you look at the mitigation as a whole, the woodland is enhanced by various aspects of this application. The wetland that is situated within that woodland is enhanced and the functions of both are enhanced by the removal of invasive species along with the various engineering aspects that will allow for flood storage in storm events. It is very difficult to isolate the woodland from the wetlands and vice versa in his opinion. He looks at the environment and mitigation on this application as a whole and thinks the Board agrees. The measures that were taken to improve aspects of this area environmentally along with the engineering far outweigh the loss of 1½ acres of woodlands that is situated in between two commercial buildings on a whole commercial strip across the street from one of the largest downtown developments that we have. He thinks Mr. Marino's comments address these items articulately and succinctly and feels Ms. Miller does the same in her letter. Mr. Kincart feels there has to be a middle ground and he feels that the

Board has sought that middle ground in this application. To say that we dismiss things, don't understand or buy into a certain argument is offensive to him.

Mr. Bock stated that he read the letters submitted after the close of the public hearing and revisited the town's Tree Preservation law. He thinks there are a number of assumptions in the last two letters that are not necessarily correct. The mitigation plan as a whole is satisfactory to him because it does work in a number of ways to offset the loss of trees and woodlands that are on this site. He noted that we are not limited to a one to one replacement of trees and are not required to do that. We are not required to consider one element of mitigation as there are a series of elements here and if they benefit both the wetlands and replacement of forest, this is important. One assumption he is making is that in the resolution these two parcels are going to be combined and if this is the case, maybe there is some way of preserving the remaining open space that is not being developed at this point. If a conservation easement is placed on the remaining open space this would go a long way to ease any concerns that may remain in terms of mitigation for the loss of trees and woodlands. He asked if the applicant would consider this as an option. Mr. Riina responded that he will contact the applicant to see if he is in favor of this.

Chairman Fon asked Mr. Tegeder if there were any comments. Mr. Tegeder responded that he was surprised what was said in the letters and feels that the Board was diligent in looking at the wetland and tree laws and mitigated for both appropriately which is reflected in the resolution.

Mr. Glatthaar pointed out that the comment made stating that the wetland preservation law and tree preservation law serve different purposes may be accurate but that does not mean that they can't work in tandem under the right circumstances. He commends the applicant for doing a good job of blending the two forms of mitigation together. Overall, it achieves the objectives of both laws. He thought Ms. Miller's letter was well written and impressive but it was more of a general discourse on woodlands and how they operate whereas Mr. Marino's letter was specific to this woodland and the purpose it serves on this site and that is what he believes the mitigation as proposed in the resolution addresses.

Mr. Kincart noted the email submission from resident Nancy Brandt dated June 26, 2020, who was not familiar with this application. He thinks she may be pleasantly surprised with the way this parcel will look post development and feels it will be a benefit to the neighborhood visually. Once the space is cleaned up, it will not only benefit the neighborhood but also be a tremendous improvement. He appreciates her comments about the brook and noted that this should substantially increase the health and viability of that whole area environmentally. He noted that the Board always welcomes comments from the public and hopefully she will be quite pleased with what is developed.

Mr. Riina stated that he spoke with the property owner, Mr. Vukaj, and reported that he is willing to put a conservation easement on or donate the rear parcel to the town. He will do whatever the Board requests in order to preserve the parcel. Mr. Tegeder stated the Board can add the conservation easement to the satisfaction of the Planning Board as a condition in the resolution. It will need to be discussed whether the stormwater measures should be inside the boundary of the conservation easement

**Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting "aye", the Board declared Lead Agency.**

**Upon a motion by John Kincart and seconded by John Savoca, and with all those present voting "aye", the Board adopted a Negative Declaration for Atlantic Appliance.**

**Upon a motion by John Kincart and seconded by John Savoca, the Board opened discussion of the resolution approving site plan, special use permit, storm water management plan, wetland permit, and tree permit for Atlantic Appliance.**

Mr. Kincart thought that the application should be treated as a single property and place the conservation easement on a portion of the property. The Board and Mr. Glatthaar agreed. Mr. Glatthaar noted that they should add that a survey be submitted delineating the area of the proposed conservation easement. Mr. Tegeder responded that the final easement should be done by a surveyor and the site plan can establish the easement and its limitations of which Mr. Riina and Mr. Glatthaar agreed. Mr. Bock stated that the resolution should recite the adjourned public hearing date on page 4. Mr. Riina noted that he has already addressed items 1 & 2 on page 5 in the modify plans to show section. Item number 3 was discussed in the presentation during the public hearing. Mr. Tegeder responded that

item number 3 can be removed. Items 1 and 2 can remain even if already satisfied. Mr. Tegeder mentioned the Town Engineer's memo dated June 22, 2020 with respect to the comments on providing more details on the proposed utility connections and water usage and thought these items should be added to the resolution. Mr. Riina stated that they provided the water usage information to the Town Engineer on a few occasions. With respect to the proposed utility connections, they responded to the Town Engineer that they would provide this with the final revision of the plan. Mr. Tegeder responded that this item will remain in the resolution and the Board agreed.

**Upon a motion by Chairman Fon, and with all those present voting "aye", the Board approved the resolution approving site plan, special use permit, storm water management plan, wetland permit, and tree permit for Atlantic Appliance with corrections as noted.**

**Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting "aye", the Board approved the resolution approving a special use permit for seasonal outdoor sales in a commercial district for Atlantic Appliance.**

### **Taco Bell-Crompond**

SBL: 36.05-1-16

Discussion: Public Hearing

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. The proposed site is located at 3605 Crompond Road and zoned C-4. The site is a little over an acre in size and is bordered by Crompond Road and Bear Mountain State Parkway lands to the north, a car dealership and veterinary center to the west, vacant lands and the Parkside Corner shopping center to the east and Old Crompond Road and single family residences to the south. The applicant is in a contract to purchase the property and is proposing to reoccupy the site with a Taco Bell fast food restaurant and another to-be-determined retail tenant. The existing building was previously occupied by Thyme Restaurant and Snap Fitness. Façade improvements and other site improvements are proposed to accommodate a drive-thru lane for the Taco Bell restaurant. A new curb cut exit from the drive-thru lane is also proposed. Other proposed site improvements include landscaping, lighting, stormwater management and wetland mitigation.

The proposed reconfiguration of the parking lot results in a net loss of parking spaces. Currently the plan proposes 40 parking spaces where to the belief of Mr. Dumont, 49 spaces are required by the code. There is a provision in the town code that allows the Planning Board to waive up to 25% of the required parking spaces. The clause in the code requires the applicant to submit data to support this request of which they have done. Mr. Dumont stated he submitted data from Taco Bell and a ULI shared parking analysis prepared by his firm that summarizes the projected parking demand for the site. In their opinion, the site falls under this code section and will be adequately parked for the two uses.

Mr. Dumont stated he addressed the concerns of the Bureau of Fire Prevention. A new hydrant is proposed to be installed on the property that will connect to the existing water main on Old Crompond Road. The hydrant will serve this property and other properties within the area.

The applicant is proposing to reuse the existing sanitary sewer line to the building. The building is currently served by a private pump station on the site. From there the sanitary sewer flows are pumped into a force main and directed to a gravity line on Old Crompond Road, which then flows to the Hunterbrook pump station that is at capacity. The Town Engineer requested the applicant provide an analysis of the existing and projected flows for the site. This engineering report was prepared and shows that based on projections and data collected from other Taco Bell restaurants, the sanitary sewer flows for the proposed development will not exceed those under existing conditions.

Mr. Dumont noted the property has a stormwater culvert (*an 84" corrugated metal pipe*) that runs across the parking lot through the site. This is a stream that is piped from the north side of Crompond Road, under the road near the veterinary hospital, crosses the three properties, and daylights at a headwall just to the east of the subject property.

The Town Engineer has requested that the culvert be inspected to ensure its integrity and to establish a benchmark of its condition before construction begins. The culvert was inspected and is in good condition. This report was submitted. There is a delineated wetland and a 100 ft. regulated wetland buffer on the property that is associated with the stream in addition to an area in the rear of the property. Disturbance is proposed within the 100 ft. buffer. The applicant is proposing mitigation in the form of restoration of the existing stormwater basin in the rear of the property in addition to a number of plantings that have been coordinated with the original designers of the basin, Evans Associates. This plan was reviewed by the Conservation Board. Mr. Dumont stated that the site is also in the NYCDEP watershed so part of what they are doing in the rear of the property is to address the NYCDEP jurisdiction. He noted that the NYCDEP issued a SWPPP approval for the project last week. The new stormwater practice will provide water quality for the entire site.

The new curb cut exit requires NYSDOT approval. As of last week, the NYSDOT completed their stage one review and issued a comment memo. The applicant is working to address these comments and will keep the Board updated. Dumont also noted that he received the Planning Department's comment memo dated July 10, 2020 and has no issues with those comments.

Mr. Kincart asked if the proposed new exit was a re-establishment of a former curb cut. Mr. Dumont confirmed that there was a curb cut in this location many years ago when the former deli (*Taste of Italy*) first opened. Mr. Kincart stated that he appreciates the soft curve of this exit and feels it will let people know ahead of time that they will be heading out in one direction. Mr. Dumont agreed and noted it was also a concern of the NYSDOT, but wanted to make it clear that the layout is not finalized yet. The NYSDOT didn't have any specific concerns about the channelization, but the intent was to guide traffic to the right. The biggest concern of the NYSDOT is that although restricted their concern is that someone will still make a left. Mr. Tegeder informed the Board that the NYSDOT very often tries to eliminate curb cuts in this corridor. Mr. Dumont responded he agreed but the NYSDOT memo received did not contain anything specifically negative or not supportive of the new driveway.

Mr. Tegeder stated that the Planning Department reviewed the floor plans to determine the required parking spaces and he feels the required parking is less than the 49 parking spaces as offered by the applicant. He will work with Mr. Dumont to finalize this.

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

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

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

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting "aye", the Board closed the Regular Session and opened the Work Session.

**WORK SESSION**

**Nantucket Sound Sons, LLC**

SBL: 37.18-2-86  
Discussion: Site Plan  
Location: 385 Kear Street  
Contact: Site Design Consultants  
Description: Proposed three story, 8,101 sf building with a mix of residential and retail uses on 0.36 acres in the C-2R zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants; Joseph Thompson, Architect; Frank Giuliano, Landscape Architect; and Patrick Murphy, property owner were present. Mr. Riina stated that at the Public Informational Hearing on May 4, 2020, comments were made by the Board and the public that resulted in revisions to the plans. One of the comments noted that there was a site easement on the southern portion of the site. Mr. Riina checked this information and there is an easement therefore the parking configuration had to be revised to avoid this area. As a

result, the parking spaces in the easement were removed and replaced with one parallel space and the trash enclosure was relocated back to its original location. This eliminated two parking spaces; one of which they were over the required parking, and the other was added on the Caremount property by eliminating an island where the two properties meet. The plan shows 24 parking spaces. Mr. Riina stated he received a memo from the Planning Department dated July 10, 2020 stating the required parking is 23 spaces therefore he will discuss this with them. He noted that the access easement will need to be extended up to the extent of the westerly property line. A full set of engineer drawings and details, landscape and lighting plans and SWPPP were submitted to the Planning Department. The grading required steps be added near the southwestern corner of the building. They responded to the Tree Commission memo dated April 27, 2020, however the Commission sent another memo today, which he did not see until now. Per the Planning Department's request, they also submitted today a consolidated package from the architect, Joe Thompson. Mr. Riina requested the formal public hearing be scheduled.

Mr. Tegeder noted that the view shed easement and the modification that it imposed on the site should be looked at closely as the parallel parking space appears to be difficult to maneuver. He stated that it would be worthwhile to understand exactly what the easement provides and what is required in terms of area to provide it, maybe there is some room for modification that would make the site work better while still maintaining the integrity of the sight line.

Chairman Fon asked the Board if there were any comments and there were none. Chairman Fon asked the Planning Department to schedule a Public Hearing for the August meeting.

#### **Crystal Court Subdivision**

SBL: 27.11-2-43  
Discussion: Site Visit  
Location: Crystal Court  
Contact: PANBAR Realty  
Description: Proposed 3-lot subdivision on 5.07 acres in the R1-20 zone.  
Comments:

This item was withdrawn from the agenda. Mr. Tegeder informed the Board that the applicant needs to submit more information in order to move forward.

#### **Town Board Referral – Con Edison Wetland and Stormwater Permit**

Description: Request to install approximately 5,900 feet of 16-inch high pressure polyethylene gas main in the existing road bed of Granite Springs Road, running from Gomer Street east to Curry Street. This installation would pass through the freshwater wetland buffers regulated by the NYS DEC.

Comments:

No representative was present. The application is to install a 16-inch gas main in the existing road bed of Granite Springs Road from Gomer Street to Curry Street. Discussion followed. Chairman Fon noted his concerns with respect to maintenance, protection, and traffic. He asked if Con Ed is planning to resurface the road and repair any damage after the work is complete. Mr. Tegeder responded that he believed they are. Mr. Kincart noted that there will be traffic control with the local police in the area.

The Board had no planning objections. Chairman Fon asked the Planning Department to submit a memo to the Town Board noting their comments.

#### **ZBA Referral – 2013 Crompond Road (ACME Realty)**

Description: This is an application for a special use permit for an outside storage area with an 8 foot fence around it. This property is located in a C-3 zone.

Comments:

No representative was present. Mr. Tegeder reviewed the application with the Board. He stated that Acme Realty is also known as Crompond Corners where Cablevision was located. Behind that building there is a secondary parking lot that was constructed on the Mongero property a number of years ago which is the bank site. After reviewing the Mongero site plan, he noted that the Board required that the area could be transferred to the Crompond Corner site. Cablevision used to be the main users of the secondary parking lot. The owner of the shopping center

is now proposing to rent it to another tenant who is a fence contractor. The tenant would like to use half of the lot for an equipment storage yard. The area is paved and they are proposing to fence half of it for the storage of fence materials. This application is for a special use permit for an exterior storage yard which is an allowed use by special permit in this zone. Mr. Bock asked if there was any encroachment to the road easement in the back. Mr. Tegeger responded that there was not.

The Board had no planning objections. Chairman Fon asked the Planning Department to submit a memo to the Town Board.

**Motion to Close Meeting**

Upon a motion by John Kincart, seconded by Aaron Bock and with all those present voting “aye”, the Board closed the meeting at 8:55 p.m.