

Planning Board Meeting Minutes – April 27, 2020

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, April 27, 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.
- 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 uploaded the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.

Correspondence/ Liaison Reports

The Board reviewed all correspondence.

There were no liaison reports.

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala, seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the meeting minutes of April 20, 2020 with corrections as noted. Aaron Bock recused himself from this item as he was not at the meeting.

Motion to Open Regular Session

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

REGULAR SESSION

Faith Bible Church

SBL: 15.16-2-9, 10, 50, 53, & 54

Discussion: Reapproval – Site Plan & Special Use Permit

Location Sagamore Avenue & Mohegan Avenue

Contact: Site Design Consultants

Description: Approved Special Use Permit, Site/Parking Plan, Stormwater Pollution Prevention Plan Permit, Wetland Permit, and Tree Removal Permit for an 8,000 sf, two-story church and parking approved by Planning Board resolution #14-08, dated May 5, 2014.

Comments:

This item was withdrawn at the request of the applicant.

Taco Bell – Crompond Road

SBL: 36.05-1-16
Discussion: Public Informational Hearing
Location: 3605 Crompond Road
Contact: JMC Site Development Consultants
Description: Proposed Taco Bell restaurant and drive-through on 1.06 acres in the C-4 zone at the former Snap Fitness location.

Comments:

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

Paul Dumont, EIT of JMC Site Development Consultants was present. The plans were presented to the Board. The proposed site is located at 3605 Compond Road and zoned C-4. The site is a little over an acre in size and is bordered by Crompond Road 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 to the south. The applicant is proposing to re-occupy the existing building previously occupied by Thyme Restaurant and Snap Fitness with a Taco Bell fast food restaurant and another to-be-determined retail tenant with associated building and site improvements. The proposed site improvements will include reconfiguring the existing parking lot, adding a drive-through lane and curb cut exit, repaving the existing parking lot and installing new curbing and sidewalk. Landscaping and lighting improvements are also proposed. There is an existing stormwater management facility in the rear of the property that will be rehabilitated and restored as part of the plan which includes the proposed wetland mitigation. The applicant met with ABACA, received their memo dated April 24, 2020 and will address their comments. In addition, they will meet with the Conservation Board to continue the process.

Chairman Fon asked about the stormwater management system in the rear of the property. Mr. Dumont responded that when the existing property was originally developed, the property was fit with a bio-filter swale which is a stormwater management practice that served to treat the stormwater run-off from the parking lot and the building. This practice was implemented in the early 2000's but has become overgrown with invasive species over the years and has lost its function. They have consulted with the original designers, Evans Associates, and are proposing to rehabilitate and restore the design and function of this practice. They are also working with NYCDEP. The property also has an existing stormwater culvert that runs beneath the parking lot through the site to a headwall that exists on the adjacent vacant property to the east.

Chairman Fon asked about the fire hydrant. Mr. Dumont responded that the applicant is proposing to install a fire hydrant on the property which will connect to the existing water main on Old Crompond Road. This hydrant will serve this property and other properties within the area. The Fire Advisory Board was satisfied with this proposal.

Chairman Fon asked about the parking. Mr. Dumont responded they are proposing 40 parking spaces, where a total of 49 spaces are required. He noted that the Board has the ability to waive up to 25% of the required parking spaces. They have submitted data to support this from Taco Bell. They believe the site will be adequately parked for the use.

Chairman Fon asked about the sewer capacity. Mr. Dumont responded that they have addressed this item with Mike Quinn, Town Engineer. As noted, the site was previously Thyme Restaurant and Snap Fitness that will now be a fast food use with a to-be-determined retail tenant. They used data from the NYSDEC that is used by engineers to project sanitary sewer flow for these types of uses. They met with Mr. Quinn and did a comparison from existing to proposed and stated that it is within the same realm of the existing use. He stated that Mr. Quinn was satisfied.

Chairman Fon asked about the alignment of the drive-through lane. Mr. Dumont showed the plans to the all. He responded that to ease vehicle movements through the drive-through lane, they provided larger radii curves along the drive-through window lane. In addition, the lane has been widened at the point along the portion where the lane

slightly changes direction. Mr. Garrigan asked about the traffic flow in the drive-through lane and the by-pass lane. Mr. Dumont responded that a vehicle could leave the drive-through lane by using the by-pass lane. The by-pass lane will also allow customers with large orders to pull out and park while waiting for their orders. This will help to not obstruct the drive-through lane. Mr. Garrigan asked if this will cause confusion for someone traveling in the opposite direction. Mr. Dumont responded that they are proposing signage to clearly show how the traffic flows.

Chairman Fon asked the Board and Counsel if there were any further comments and there were none. It was noted that all notices were submitted as required. Chairman Fon asked the public if there were any comments and there were none.

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

Correia - Site Plan

SBL: 6.17-2-65

Discussion: Public Informational Hearing

Location: 250 East Main Street

Contact: Site Design Consultants

Description: Proposed storage facility on 8.22 acres in the Country Commercial zone consisting of two 1 ½ story buildings of 6,000 sf each.

Comments:

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

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina presented the plans to the Board. The site is located at the intersection of Route 6N, Mahopac Street, and East Main Street. The front portion of the site is currently improved with two commercial buildings, parking areas and driveway. The rear portion of the site is wooded. The property is zoned country commercial for the front portion and R1-80 for the rear portion as shown on the survey. The proposal is to construct two 1½ story pre-fabricated metal storage facilities at 6,000 sf each that will be located at the northern portion of the site for use by the owner and one of the tenants. The existing driveway comes in off of East Main Street across from the intersection. They are proposing to have access off a 20 ft. wide driveway off of the main driveway. Currently, they are proposing three garage doors in front of each building with an independent driveway into each. There is an area in between the two buildings which will be used as a turn around area for trucks. Grading will be required at the rear of the two buildings. The back part of the foundation for the two buildings will act as a retaining wall to reduce the amount of grading required into the slope. The stormwater management system was discussed. Since the buildings are to be used for storage only, the only utility to be used will be power. The proposed limit of disturbance was shown. They are proposing densely landscaped screening between the properties to provide a buffer along the edge of the limit of disturbance. The driveway profiles were shown. A photo of a proposed building was shown to all as an example. They will return with more details for the formal public hearing.

Chairman Fon asked the Board if there were any comments. Mr. Lascala noted that it was mentioned that the owner will use one of the storage buildings for his own use and asked what his business was. Mr. Riina replied that he is a contractor. Mr. Tegeder noted that given its location and that it is a country commercial zone, the architectural design of the storage buildings should be part of the Planning Board approval.

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

Susan Siegel, resident – Ms. Siegel asked if a tree permit is required, if there is an assessment of any disturbance to the protected woodland area, and if the application has been referred to the Tree Advisory Commission.

Mr. Riina responded that they filed a tree permit but does not have the details for the amount of trees to be removed as yet. He will submit all information to the Planning Department.

Jay Kopstein, resident – Mr. Kopstein asked if a sprinkler system is necessary and, if so, water will be required. Mr. Riina replied that he didn't think it was necessary, however, he will research it.

Chairman Fon stated that since the notices were mailed out late, the Public Informational Hearing will remain open until the next meeting.

Nantucket Sound Sons, LLC

SBL: 37.18-2-86
Discussion: Public Informational Hearing
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:

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

Joseph Riina, P.E. of Site Design Consultants; Joseph Thompson, Architect; Frank Giuliano, Landscape Architect; and Patrick Murphy, property owner were present. Mr. Riina presented the plans. The site is located at 385 Kear Street. The site is currently vacant, zoned C-2R and is 15,807 sf. The applicant is proposing to construct a multi-level building within this zone. The proposed building will have a footprint of 2,567 sf. on the lower level and 2,800 sf. on the upper two levels. The lower level is proposed for commercial/retail use. The upper two levels are proposed for residential which will consist of a total of 6 residential apartments (3 units on each floor). The access point will be off of Kear Street. There will be a driveway that comes off of this access with parking spaces for the lower level use. The loading zone, patio area, and trash enclosures were shown. The elevation was shown to the second level of the building where there are additional parking spaces and access to the upper two levels. The retaining walls were shown. They are proposing a continuation of the pedestrian connection from the Caremount site. The proposed parking for the site will consist of 18 spaces on the upper level and 7 spaces on the lower level for a total of 25 parking spaces. The distribution of parking is 4 spaces per thousand for the commercial use and 2.2 spaces per dwelling unit for the residential use.

Frank Giuliano, landscape architect – Mr. Giuliano presented the plans. They met with ABACA and received their comments. As per their suggestion, they reduced the height of the plantings at the entrance to Caremount for visibility from the road. The landscaping plan is extensive. The two trash bin areas will be heavily screened. To the north, there is a bit of native woodland that exists between the parking lot and Route 118 which will be preserved. They are edging the area between the parking lots and the existing woodland with a native material that will be the understory planting which will grow about 10 to 12 feet tall. There is flowering material around the building. The plant material used is the same material that was used for the Caremount building in order to make it look like one unified development. The west elevation is heavily planted. Mr. Tegeder asked what the species and height of the planting along Kear Street is. Mr. Giuliano responded that by the trash bins, there will be green giant arborvitae that will grow up to 12 feet tall. The screening from the trash bins to the patio will be flowering evergreen shrub that will bloom all summer. Discussion followed. Mr. Tegeder stated that he would like to review the plantings with respect to the height and species.

Joseph Thompson, Project Architect – The architectural plans were presented to the Board. Mr. Thompson stated that they met with ABACA and the plans were well received. The building is designed to be complementary to the Caremount building so as to make it feel like one unified development. The building materials are to be the same as the Caremount building. The proposal is for a mixed use building. The lower level will be used as a commercial/retail space. The second and third levels will consist of 3 two-bedroom apartments each and will be accessed from the upper level entrance. The floor plans, elevations, and tenant signage were shown to the Board.

The roof mechanical equipment will be screened and not visible from the street. Mr. Tegeder asked if the fourth floor was unfinished attic space and the response was yes.

Mr. Riina stated they will be using the same lighting scheme as used on the Caremount building. They are still working on the engineering part of the project. The stormwater analysis is pending as they are waiting to hear from the NYCDEP. They are working on the tree survey.

Chairman Fon asked the Board if there were any comments. Mr. Kincart stated that he thinks it's a beautiful building and commended the applicant on preserving a portion of the woodlands along Route 118 and complementing it with a shrub layer before it meets the parking lot.

Mr. Bock asked about the comment letter from the Westchester County Planning Board dated April 24, 2020 with respect to the sidewalks around the Kear Street side of the property. His concern is that the proposal is maximizing the space on the site that is being used and losing any neighborhood amenities that may be out there. The Board should consider requiring a sidewalk connection on Kear Street to allow pedestrian flow in that area. Mr. Riina responded that he had not seen the letter yet and noted that there is a sidewalk on the other side of Kear Street. The crosswalks were shown on the plans. They are providing through access from the west up through the site. Mr. Tegeder asked if there would be an opportunity to connect from the corner of Kear and 118 into the upper parking lot. Mr. Riina noted that they looked at the area but there was a 4 ft. grade change however, this could be explored and discussed further. Mr. Kincart added that this would be intruding into the wooded area that was to be preserved.

Chairman Fon asked Mr. Glatthaar, Esq. if he had any comments. Mr. Glatthaar responded that as soon as the stormwater plan is ready, the applicant is ready for a Public Hearing.

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

Mara Ziedins, resident – Ms. Ziedins thinks the plan for this site is too massive of a development and out of step with the community. She noted that on some days the parking spaces at the new Caremount center are all filled up. She is not sure if the owner or developer thought about what the retail situation is currently in the Heights area. She does not agree with the residential use at all and feels it is not needed.

John Flynn, resident – Mr. Flynn stated that he likes that the proposal provides for much needed rental housing. He also likes the mixed-use aspect of the development for both commercial and residential. The residential component will bring human activity to this site and make it a more vibrant and vital area. He stated that this property has been reviewed by various Planning Board members since 2000 and each time the challenges of developing it because of its size was brought up. He had the following comments:

1. He noted that he did not see a front yard or side yard identified on the plans for the site. There are front and side yard setback requirements for this zone.
2. Are there provisions for recreational space for the residential units and are they equivalent to what is required in other multi-family building zones?
3. Given the height of the building, is the applicant planning to tether balloons at the site to demonstrate the actual height of the proposed building in relation to the surrounding area?
4. Is the dumpster enclosure on the revised site plan large enough to accommodate trash and recycling containers necessary for the residential and commercial occupants?
5. In reviewing the history, he noted that there is an easement at the very lower tip on the corner of Kear Street and the entrance to the Caremount property. Currently there is a Caremount sign on that piece of property but the plan shows some type of retention basin or water management system on that corner.
6. How do the cars parked in the two spaces at the end of the parking lot toward the Kear Street side of the parking lot back out?
7. He is happy that the plans include saving the mature trees between the parking lot and Route 118 sidewalk. What happens to the mature healthy trees that are currently along the town property and Kear Street where the sidewalk stops.
8. Given the size of the site, how does the applicant propose to avoid interrupting traffic on Kear Street and also access to the parking lots of the adjacent office building during construction?

9. Explain the Planning Board and the Department's threshold for segmentation and explain why this project does not rise to that level.

Jay Kopstein, resident – Mr. Kopstein stated that he agrees with Ms. Zeidin's comment with respect to the Caremount parking lot. He is also a client at Caremount and has trouble parking at the lot.

There were no other comments.

Chairman Fon stated that since the notices were mailed out late, the Public Informational Hearing will remain open until the next meeting.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

Nestle Waters

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

Comments:

Joseph Riina, P.E. of Site Design Consultants; Emilio Diaz, Regional Project Manager; Tony Russo of Environmental Compliance Services Inc., and Chris Orifici of Construction Associates were present. Mr. Riina stated that a revised Noise Assessment report was submitted to the Planning Department which now includes a detailed description of Nestle's operations. The tractor trailer deliveries will be drop and hook; the practice was explained to all. The deliveries will arrive after 8:00 pm and are generally spaced two hours apart. They are offloaded by 4:00 am and there will be no more than 4 trucks per day. When the tractor trailer arrives with the delivery they will back into the dock, unhook the fresh load, and then hook up to the trailer with the empty bottles and depart the site. In the meantime, the interior crew are loading and unloading the delivery trucks. The same routine will occur on a daily basis during weekdays.

As discussed, the applicant will plant low shrubs in front of the new picket fence which will be kept at 30-36 inches high and will also be noted on the site plan.

There was discussion at the previous meeting with respect to the "no left turn" and if it was necessary to have this constraint at the site. Mr. Riina provided a truck turning movement plan to all. He stated that the majority of the delivery trucks will be heading to the east (right) and some may need to go to the west (left). After discussion, the Board agreed to remove this restriction from the site.

Mr. Riina showed the updated lighting plan to all. It was noted that the plan now reflects lower light levels along the property line and adjacent areas. As discussed, the lights on the building will be shielded and facing downward. Nestle will ensure that they will not change their position. The pole mounted lights will be shielded and point downward as well. The site plan will note this. Mr. Tegeder asked if the lighting level takes into account all the lighting at the site which includes the light poles, spots and wall packs and the response was yes. Mr. Tegeder noted that he had some concerns with the light direction and wants to ensure that the neighbors in the back will have the least amount of impact from the site. Mr. Riina stated that they can discuss this further to ensure that it meets the Planning Department and Board approval.

Chairman Fon asked Mr. Riina if he saw the video submitted by the resident and the response was "no". Mr. Kincart noted that the video is construction noise from what is going on at the site currently and will not be the noise pattern

of the operation. Discussion followed regarding screening. Mr. Kincart stated that this type of an application is in a highway commercial zone and anyone that buys a property near this zone should understand what the impacts are, and what they may be in the future, and there is nothing that precludes someone from shielding their own property. The applicant is redirecting the lights and conducted a noise study. Mr. Kincart asked about weaving the rear fence and if it would help to deflect the sound. Mr. Russo responded that it would make a minimal difference and noted that there is vegetation with distance and soft ground which will help with the noise. Mr. Russo spoke about the ambient sound levels recorded for backup beeper routes 1 and 2 for locations 4 and 5. He stated that the ambient levels are low and with the beepers combined there is an increase for routes 1 and 2 but it is minimal. If they ignored the traffic noise from Route 202, you would see a drop in the ambient level but also a drop in the beeper reverse indicators. He noted that the vegetation, the distance, the ground conditions and the grade will all help with the noise mitigation. Mr. Tegeder asked if the measurements were to be taken at night and the traffic noise was eliminated, the ambient level would drop but the readings from the backup beepers will not have dropped. However, the combined readings will have dropped as well. Mr. Russo responded that this is correct as the meter is picking up all sounds from the area. Discussion followed. Mr. Riina stated that he was at the site with Tom D'Agostino during the testing and noted that the beeper sound from the NAL 1, 2 and 3 locations were unobtrusive. Locations 4 and 5 were the least intrusive. Chairman Fon stated that their concern is that they are taking a daytime operation and turning it into a night time operation. However, they have heard from two professionals who have commented that this will not be an issue. Mr. Orifici stated that for beeper route 1, he doesn't anticipate trucks backing up in that area. Most of the back-up will be closer to Crompond Road for the trucks to get into the loading bays. Only one truck will move at a time. Along the fence line there will be parked trucks which will help to buffer the sound. He noted that the noise study was done in a wide open site so this should make a difference. Mr. Glatthaar asked the applicant to show where the trucks will be staged. Mr. Riina showed the location on the plans. Mr. Glatthaar asked about the back-up operations during the night. Mr. Diaz replied that they will start loading around 6 pm until 2 am.

Mr. Glatthaar asked if Nestle would be open to a condition in the approving resolution noting that the noise issue would be re-visited in 6 months if there were complaints from the neighbors. Mr. Bock added that certain conditions could be created in the resolution to limit the lighting and noise measurement parameters (decibels and distance) in order to monitor this for the public and make the applicant compliant. Mr. Bock stated that if the applicant operates within the condition there will be no issue, and if there is a complaint they will be notified. The Board had varying opinions with respect to this condition. Mr. LaScala stated that he is not in favor of this condition with respect to the noise and felt that it would be an unfair burden on the applicant. Mr. Savoca stated that he does not want to get into drafting a resolution which has discussions about minimums and maximums. He noted that the expert tested the site and submitted the findings to the Board which is what we should rely on. If there is an objection by the neighbor(s), they can make a complaint to the town. Mr. Garrigan agreed and stated that if there is a noise issue, the neighbor should file a complaint with the town with respect to the noise ordinance and also feels that it would be an unfair burden to the applicant to put this type of restriction in the resolution.

Chairman Fon asked Mr. Tegeder if a condition like this was ever done. Mr. Tegeder responded that there has been monitoring of grade elevations at sites, however, in terms of noise and decibel levels, they have not done this before. However, they can set thresholds that are not to be exceeded.

Mr. Glatthaar stated that his concern is that over time, Nestle may change the trucks they use with a different type of beeper system that may change the decibel levels. Mr. Diaz responded that they went from diesel to propane trucks which are less noisy and will not be an issue. Mr. Orifici noted that the beepers are controlled by OSHA and added that Nestle is sensitive to the noise as well. The town also has a noise ordinance.

Chairman Fon asked the Planning Department if the site complies with the noise ordinance. Mr. Tegeder responded that it should comply but will check. Mr. Orifici noted that there are car dealerships adjacent to the site that receive deliveries throughout the night, this is not an unusual area to have activity at night.

Chairman Fon asked about the fueling for the trucks. Mr. Diaz responded that the details are in the report submitted. There will be 28 trucks total on the site (22 natural gas and 6 diesel). The diesel trucks will be fueled off site. The 22 natural gas trucks will be fueled by Amerigas on site between the hours of 5:00 pm and 6:00 pm. There will be no fuel stored on site.

Chairman Fon asked about the drainage. Mr. Riina replied that they will place inserts into the drain inlets similar to what they did at the Mohegan Audi dealership. They will be fitted with filter inlets which will provide high level water quality exiting the site.

Town Board Referral - Proposed Local Law pertaining to Battery Energy Storage Systems

Description: Proposed Local Law Amending Chapter 300-81.5 of the Town Code, entitled, "Battery Energy Storage systems."

Comments:

Mr. Tegeder stated that the Board had seen an iteration of this proposed law a few months ago and submitted a memo to the Town Board per their comments. The memo was shown to the Board. This amendment is reflecting the change made to the NYSEERDA model ordinance with respect to the tier system. It went from a 3 tier system to a 2 tier system. Mr. Kincart asked if there has there been any history with other installations in the last few months that the Board should be aware of. Mr. Tegeder responded that there were none and noted that we are still under a moratorium. There have been installations upstate and he has not heard of any mishaps in New York State. Mr. Tegeder noted that one issue that does remain is that some people feel they should not be allowed in residential areas. He also noted that in the law currently, the threshold for a minimum lot size is 30,000 sf, and noted that some people feel that this should be increased in size. Mr. Bock asked about the residential zone. It was noted that by allowing it in a residential zone does not mean it has to be approved. It should be subject to approval under the special use permit category. In the residential zone, you cannot have two main uses.

After discussion, the Board agreed that the comments from their original memo still stand. In addition, the Board agreed to recommend changing the threshold from a minimum lot size of 30,000 sf to 40,000 sf. It was also noted that a comment is to be made with respect to the tier 2 larger installations, that they should be approved under a special use permit. In the residential zones it would have to be only as the principal use for the special use permit. The Board asked the Planning Department to submit a memo to the Town Board with their comments as discussed.

Town Board Referral - Proposed Local Law to amend Chapter 280 pertaining to Water Meters

Description: Proposed Local Law, Chapter 280-15 of the Town Code, entitled, "Service Connections and Meters."

Comments:

The Board discussed the proposed amendment and had no planning issues. 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 Bill LaScala and with all those present voting "aye", the Board closed the meeting at 9:50 p.m.