

Planning Board Meeting Minutes – May 11, 2020

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, May 11, 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. Mr. Tegeder informed the Board that a draft response memo for Featherbed is included within the correspondence for their review and approval for release to the Town Board. Also included is the Health Department’s comment letter on Featherbed dated 1-16-2020 for the Board’s information. Chairman Fon asked the Board if there were any comments or issues and there were none.

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 May 4, 2020 with corrections as noted.

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

Fusco Minor Subdivision

SBL: 16.14-1-10
Discussion: Reapproval - Subdivision
Location: 3477 Stony Street
Contact: Ciarcia Engineering, P.C.
Description: Approved 2-lot subdivision on 2.72 acres in the R1-20 zone, by Planning Board Resolution #19-11, dated May 20, 2019.

Comments:

Dan Ciarcia, P.E. and Laura DiGiovanni were present. Mr. Ciarcia stated that the Planning Board adopted a resolution approving the subdivision at its May 20, 2019 meeting. They have already received two 90-day time extensions since then and at this time are respectfully requesting a reapproval of the subdivision. Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart asked if there have been any changes. Mr. Ciarcia responded that the plan is the same and no changes have been made to the property. There were no other comments. Chairman Fon asked the public if there were any comments and there were none.

Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board approved the resolution reapproving the subdivision plat titled Fusco subdivision.

Fiore Minor Subdivision

SBL: 26.15-1-69
Discussion: Reapproval - Subdivision
Location: 2797 Carr Court
Contact: Site Design Consultants
Description: Approved 2-lot subdivision on 1.14 acres in the R1-20 zone, by Planning Board Resolution #19-10, dated May 20, 2019.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina is respectfully requesting a reapproval of the subdivision. He explained that the existing residence was built in the 1960's and the sewer connection for the home runs through the adjoining property to the right and connects to the sewer on two properties over. The plans were shown to the Board. It was noted that at that time no easement was established for the sewer connection. The Health Department requested that Mr. Fiore obtain a sewer easement from the neighbor. Mr. Fiore has been in contact with the neighbor who has agreed to the easement. They are currently waiting for the line to be scoped out and located in order for the surveyor to place it on the plan and note the easement. He noted that the original reviewer from the Health Department recently passed away in the Fall and it took some time for the project to be transitioned to another reviewer. As a result, they will need more time to work on this issue. Chairman Fon asked Mr. Tegeder if there were any issues and if they can proceed with the project. Mr. Tegeder responded that they can proceed as nothing has changed from the approval. Mr. Glatthaar, Esq. had no issues and agreed with Mr. Tegeder. Mr. Kincart asked how close and accurate is the existing line and does it actually go under the corner of the house on the adjacent property. Mr. Riina responded that they have a hand drawn field sketch from when the sewer permit was taken out and doubts that it is underneath the foundation of that house. Chairman Fon asked the public if there were any comments and there were none.

Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting “aye”, with the exception of John Kincart who recused himself from this application, the Board reapproved the stormwater pollution prevention plan, tree permit and subdivision plat for the Fiore subdivision.

Nestle Waters

SBL: 35.08-1-16
Discussion: Decision Statement
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, Gina Seward of Construction Associates, and Emilio Diaz, Project Manager were present. Mr. Riina stated that they are here this evening to review the resolution with the Board and are hoping to move forward so that the applicant can complete the work and occupy the site. With respect to the resolution, he noted that under modified plans item #4 seems to be open ended as they were not planning to provide additional screening other than what was agreed to. Mr. Tegeder responded that this condition was put in because there were some comments of additional screening in the rear, but this can be left to discussion by the Board. Mr. Riina added that under additional requirements item #2, he did not realize there were open items with ABACA but

will look into it and possibly remove this condition if it is no longer an issue. Lastly, under additional requirements item #7, they will need to establish the amount of the cash bond.

Chairman Fon asked Mr. Tegeder about the cash bond for the landscaping. Mr. Tegeder responded that the bond is for the landscaping in the NYSDOT right-of-way for the purchase, installation and completion of work. He noted that typically the applicant provides an estimate to the Board for their review and acceptance. Mr. Kincart asked if a portion was for maintenance or if that was a separate bond. Mr. Tegeder responded that the maintenance would be a separate bond if the Board wanted one. Mr. Riina stated that they are expecting an estimate from the site contractor. He is suggesting submitting an estimate and inflating it by 10 or 20 percent in case the town had to do some work to cover the administrative end. Mr. Tegeder noted that the bond amount could be discussed after the approval and the Board agreed.

Chairman Fon asked about ABACA's comments. Mr. Riina responded that the biggest concern was the lighting of which they have addressed. Chairman Fon asked the Board what their thoughts were about the condition with the additional screening along the fence line in the rear. After discussion, the Board agreed to remove this condition from the resolution.

Mr. Bock asked about item #3 on page 4 of 6 with respect to the operations. He would like to make sure that the operations are limited to what was described in the application in particular to the noise analysis and the number of trucks operating in the evening hours as a way to address his earlier concerns about the noise. He suggested an approval based upon the number and frequency of night deliveries as set forth in the application. This level of detail could be noted on the plan or in the resolution. Mr. Kincart asked if he would be comfortable with a maximum number of trips such as what was done for the IBM Helipad application and Mr. Bock replied that he would. Mr. Tegeder stated that they could add a note to the site plan that states what those maximums are per the application materials for the operations. The Board agreed. Mr. Tegeder stated that he will discuss this further with Mr. Riina and the applicant to come up with the parameters for the daytime and nighttime operations at the site.

Ms. Steinberg informed the Board that a memo from the Conservation Board was received later in the day that mentioned the use of native species for the landscaping and will forward the memo to Mr. Riina. Mr. Riina stated that they are proposing salt tolerant shrubs in order to ensure their survival, however, he will review the memo and respond to the Planning Department. Mr. Kincart stated that he would rather have year-round, salt tolerant type plants and feels that in this particular case it is important to have species that will thrive and Mr. LaScala agreed.

Ms. Steinberg informed the Board that resident Jay Kopstein, who was now in attendance at the video conference, sent her a comment stating that the agenda was not posted on the town website. She noted that the agenda was sent to the Board. Councilman Lachterman stated that he does not think that the Board is prohibited from voting as the meeting was advertised in the papers. Mr. Glatthaar, Esq. stated that they closed the public hearing and the comment period has expired. This is an administrative step and does not see it as an issue with voting this evening.

Chairman Fon asked the Planning Department if there were any other issues. Mr. Tegeder stated that they will add a note about the Conservation Board memo received today to the resolution. Other than what was discussed, all seems to be in order and is ready to move forward. Mr. D'Agostino noted that there are some minor grammatical errors that need to be fixed within the resolution which were pointed out to the Board. Chairman Fon asked the Board and Counsel if there were any other comments or concerns with the resolution and there were none.

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting "aye", the Board approved the resolution approving site plan, stormwater pollution prevention plan, and wetland permit for Nestle Waters North America Inc. with corrections as noted.

Ms. Steinberg informed the Board that the Negative Declaration was not adopted. Discussion followed. Mr. Glatthaar, Esq. stated that the Board can adopt the Negative Declaration without the written document. The record should speak for itself. However, it should be prepared for the next meeting and the Board can ratify its action. The Board agreed to negate the previous resolution approval and follow the proper procedure.

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting "aye", the Board removed the previous resolution approval.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting "aye", the Board declared themselves Lead Agency.

Upon a motion by Bill LaScala and seconded by John Savoca and with all those present voting “aye”, the Board adopted a Negative Declaration with respect to the proposed action.

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the resolution approving site plan, stormwater pollution prevention plan, and wetland permit for Nestle Waters North America Inc. with corrections as noted.

Motion to Close Regular Session and Open Work Session

Upon a motion by John Kincart, and seconded by William LaScala and with all those present voting “aye”, the Board closed the Regular Session and opened the Work Session.

WORK SESSION

Stony Street Subdivision

SBL: 16.17-2-77
Discussion: Preliminary Application
Location: 3319 Stony Street
Contact: Ciaercia Engineering, P.C.
Description: Proposed 10-lot subdivision on 8.07 acres in the R1-20 zone.
Comments:

Dan Ciarcia, P.E. and Nikola Grishaj, property owner, were present. Mr. Ciarcia stated the proposed subdivision was first presented to the Board in 2013 for initial discussions and various configurations were discussed. Since then nothing has been formally presented to the Planning Board until now. The proposal is for a 10-lot subdivision. The site was previously improved with a house and barn that fell into disrepair over the years and were removed. The property is a little over 8 acres and is surrounded by a number of subdivisions - Highland Park to the south, Sunny Ridge to the north and High Ridge to the west. The property is bordered by an unimproved right-of-way called Scofield Road which originates on Stony Street and heads west through state wetlands and terminates on Mohegan Avenue. There are a couple of factors that govern the plan configuration due to the fact that there are a few right-of-ways from the adjoining subdivisions which were shown on the plans. The plan presented this evening is the configuration that the Board preferred in 2013.

Mr. Ciarcia stated that the wetlands have been flagged by Steve Marino from Tim Miller Associates. The proposed open space parcel shown on the plans contains most of the wetlands delineated on the property. He noted there used to be a catch basin and drainage onto the property. In conjunction with the building of the Stony Street sewer system, that drainage was picked up by the town. The prior owners provided the town with an easement so the drainage could go through the property and also allowed the town to pick up the dry sewers within Highland Park and connect them to the Stony Street sewer system. As a result, what may have been causing and providing hydrology to this wetland many years ago may have been removed, but they flagged these wetlands according to the town code. In terms of the utilities, they have access to public water and sewer. The property is located in the Peekskill sewer district so there are no capacity issues.

Chairman Fon asked the Board if there were any comments. Mr. Kincart asked about the topography sloping down towards Stony Street. Mr. Bock stated that he thought the plan was consistent with the neighborhood and liked the mitigation plan for the disturbance. He also noted that it keeps traffic off of Stony Street. The Shelley Street connection is the most logical. Mr. Tegeder pointed out the two lots with frontage on Stony Street. He noted that the back of the houses are facing the street side and does not feel that this is a desirable condition to have. We need to ensure measures are taken such as a tree buffer easement, planting evergreens, or possibly moving the cul-de-sac west a little bit in order to move the houses a little forward. Chairman Fon agreed that from Stony Street those two homes will be very visible and should be looked at. Mr. Kincart asked if the existing cul-de-sac on High Point is a turn around easement on those properties or if it is an actual dedicated road. Mr. Ciarcia responded that it is the right-of-way and showed the approved plat for that subdivision to the Board. Chairman Fon thought it could be a good idea to leave the bump out for parking and emergency vehicles. Discussion followed. Mr. Tegeder noted that the operational characteristics and safety of the road will need to be reviewed before a final decision is made.

The Board agreed that they liked the proposed layout. Mr. Ciarcia stated that he will submit a formal application to the Board.

Town Board Referral – Local Law Amendment “Sidewalk Cafes”

Description: Proposed amendment to Chapter 300-80, entitled “Sidewalk Cafes” to allow such special use permits to be issued as temporary.

Comments:

Mr. Tegeder informed the Board that the proposed amendment to the “Sidewalk Cafes” law is a result of the current COVID-19 situation and the re-opening of the economy. The Town Board is trying to make it a little easier for businesses who have been impacted by this situation to re-open. The proposal is to relax the sidewalk café permitting procedure temporarily from now until the end of the year. He noted that normally, all outdoor seating of 12 seats and over would be a Planning Board approval. However, the proposal is for all permits to stay with the Building Inspector who will receive a set of plans and issue a temporary permit. When the re-opening begins, restaurants may be required to reduce their indoor occupancy by 50% and this amendment will help to have or expand existing outdoor seating. For example, a restaurant with outdoor seating of 20 seats that was approved by the Planning Board, may now be able to get additional outdoor seating temporarily. In addition, all application fees will be waived. This amendment is proposed to be in effect until December 31, 2020.

Mr. Kincart stated that he likes the idea of supporting the businesses but questioned how the safety issues and code enforcement will be addressed. He cited Trailside Café as an example. He noted that as a Board, we should emphasize safety first in addition to supporting the businesses. Discussion followed. Mr. Tegeder responded that this was discussed at a meeting and the Building Inspector, who did talk about his concern for safety, stated that each application will be sufficiently reviewed. He noted that a large majority of these permits will be on private property and not on streets like at Trailside. Mr. LaScala noted that this past summer the Trailside Café had the sidewalk filled with tables and a menu sign in the only walking area which caused pedestrians to step off the curb and walk on the street, which is dangerous. Mr. Tegeder stated that existing permits with limits still must be adhered to. Mr. Bock agreed with the safety issues and asked what role the Planning Board would have in the process. Mr. Glatthaar stated that in their memo to the Town Board the Planning Board could state their willingness to assist the Building Inspector in reviewing these applications.

Chairman Fon informed the Board that as part of the Re-boot Yorktown group that he and John Tegeder are part of, the thought behind this temporary code amendment is that when the Governor allows the restaurants to re-open, this will help to assist them in serving the public in a way they are comfortable with, as some people may be apprehensive about venturing out. It will also help the businesses to survive as the indoor seating capacity will most likely be reduced. This temporary code change will allow the Building Inspector to issue permits while adhering to safety and compliance requirements. This is a temporary fix for a much larger problem. With respect to Trailside Café, if it is not compliant with this approval, then it should be dealt with by the Building Department’s code enforcement.

Mr. Garrigan asked if this law addressed open containers. Chairman Fon responded that the Supervisor is following up on this. Councilman Lachterman stated that since restaurants are allowing alcohol be sold “to go,” they think there would be a loosening of restrictions on open containers in the “patio” area. Mr. Tegeder noted that he thinks the restaurants have been getting licenses for serving their outdoor seating.

After discussion, the Board fully supported the economic goals of the proposed amendment. The Board requested that the Planning Department submit a memo to the Town Board stating that they are supportive of the proposed amendment to the law but have concerns about safety which should be of high importance upon issuing of permits.

Additional Comment:

Councilman Lachterman asked Mr. Glatthaar, Esq. to research whether the voting this evening will need to be revisited at the next meeting, in accordance with the Governor’s executive order, as a result of Mr. Kopstein’s inquiry earlier. Mr. Glatthaar responded that he will report back to the Board with his findings.

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 8:20 p.m.