

Planning Department Meeting March 10, 2014

A meeting of the Planning Board, Town of Yorktown, was held on March 10, 2014, at the Yorktown Town Hall, 363 Underhill Ave., Yorktown Heights, NY 10598. The Chair, Rich Fon, opened the meeting at 7:30 P.M. with the following members present:

John Savoca
John Flynn
John Kincart
Darlene Rivera
Ann Kutter, alternate

Also, present were: John Tegeder, Director of Planning, Robyn Steinberg, Planner, and Karen Wagner, attorney to the Planning Board.

Correspondence: A memo from the Planning Board to the Zoning Board regarding Staples Plaza

Liaison Reports: Notes on the March 6, 2014 Conservation Board meeting.

Courtesy of the Floor: George Brink, 3871 Fawn Ct. Shrub Oak, Mr. Brink stated his concerns with the temporary sales building at Trump Park Residences. Mr. Brink stated he represented 61 home owners during the Planning Board approval process. A resolution was passed to allow the developer to construct a temporary sales model on the property with conditions. The sales office was to be removed moved when there were 50% occupancy. They are now in violation of the site plan. Brink stated Yorktown Land Trust, and Westchester Land Trust are seeking legal action. The integrity of the entire Planning process is being undermined. How does this affect new developments, such as Costco. I am here to ask what your options are to have the building removed and the gazebo and walking trails installed. Fon stated some months back this was in front of this Board and it was determined that the Planning Board had no enforcement authority; therefore, the Board sent this issue to the Building Department. At this point the matter is before the Town Board. Brink stated that he was hoping the current Board wanted to support the prior Board's decisions. Wagner explained this was just not appropriate. Brink stated should the developer return to this Board, be aware there are many people in the community who want the sales office removed.

Meeting Minutes – February 24, 2014

Upon motion by Flynn, seconded by Rivera, and with all those present voting aye, except Kincart, who abstained due to absence, the Board approved the minutes of February 24, 2014.

Regular Session

Yorktown Auto Body Amended Site Plan

Public Hearing

SBL: 37.19-1-81

Location: 1798 Front Street

Contact: Site Design Consultants

Description: Proposal for an amended site plan for an additional 1,450 SF of building space to be added to the previously approved 1,500 SF one story building addition.

Present were Al Capellini, project attorney, Joe Riina, project engineer, and Greg McWilliams, project architect. Capellini stated this is the second application for this site. This plan will allow the applicant to square off the building. Riina stated this is a second request for an amendment to the project. The first proposal was for a 1500sf addition that was approved in July 2011. With the first plan, the owner proposed to install 2 state-of-the art spray booths, which has been installed. In addition, the proposal called for the expansion of the parking lot to the rear property line. This allowed an additional 6 parking spaces in the rear of the property. In an attempt to

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contact the adjacent property owner to discuss an easement, the adjacent owner offered to sell the property. The applicant acquired the property and added another 6 parking spaces and squared off the building. The proposal calls for two retaining walls, and vegetative screening to screen the residential neighbors. Riina stated because this within a DEP Main Street area, the applicant must mitigate for any increase in impervious surface. Riina stated having met with the DEP, the applicant now has a conceptual plan that should satisfy the DEP requirements. McWilliams stated the new area is 1700sf, with an open concept interior, a continuation of the existing building. The exterior will have a mocha finish with accent bands, and concrete block wall construction with the stucco applied. Fon asked if this effects the variances that were issued in the past. Riina stated the ZBA confirmed no additional variances were needed.

Fred Planamento. 1773 Summit St. Mr. Planamento stated my sister is a neighbor and wants to know if the property that was purchased, and zoned residential, can have a commercial use. Riina stated that through an historical investigation, the site was found to have three zones: I-2, R-2 and C-4. Riina stated all the proposed work is within the two commercial zones. Capellini stated this was discussed with the Building Inspector, and no work will be done in the residential zone.

Upon motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board closed the public hearing, leaving it open 10-days, for written.

Fieldhome Expansion

SBL: 35.12-1-3

Location: 2300 Catherine Street

Contact: Site Design Consultants

Description: Approved continuum of care facility consisting of independent living units and skilled nursing home replacing existing home with a common facility supporting both communities.

Al Capellini, project attorney, and Joe Riina, project engineer, were present. Capellini stated the applicant has filed an amended application as a result of adhering to NYC DEP regulations as they interpret the State Code. The applicant has relocated and changed the manner in which the stormwater is handled. Capellini stated the first one-year time extension will expire in April 2014. Riina explained this project has been before the DEP for over a year, having first submitted in December 2012. The applicant plans to submit the amended plans shortly. There are only three or four comments left to addressed.

Upon motion by Rivera, seconded by Kincart, and with all those present voting aye, the Board issued the 2nd one-year time extension.

Request 2nd One-Year Time Extension

Faith Bible Church

SBL: 15.16-2-54

Location: 3500 Mohegan Avenue

Contact: Al Capellini

Description: Reconstruction and additions to existing building including associated improvements to the parking facilities, utilities (sewer, water, electric), landscaping and stormwater management and treatment facilities.

Retaining walls are proposed for the rear of the parking lots.

Present were Al Capellini, project attorney, Joe Riina, project engineer, Steve Coleman, environmental consultant, and Phil Grealy, traffic consultant. Capellini submitted an affirmation in support of the application. Fon stated the Board has had questions about this application submitted in writing and we are going to ask the applicant's counsel to respond. Capellini stated at the last public hearing discussion arose regarding front yard parking, and this was brought

Adjourned Public Hearing

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to the ZBA. The ZBA was in favor of the applicant's position. The front yard is permissible for four parking spaces, based on an interpretation that a house of worship use is a residential use for front yard parking. The rear yard was approved in a prior ZBA application. The center-line variance was approved. The side yard variance for parking was approved for 2-feet where 5-feet is required. Parking across the street was grandfathered due to a long standing prior use. Off-site parking, 900 feet from the proposed structure, was allowed, which permits parking of 25 vehicles at the Hudson Valley Federal Credit Union. Capellini explained the Building Inspector's approach to the special use permit was to say section 300-54 was not controlling, but had to meet the requirements of all special use permits as contained in section 300-36. Capellini state the general requirements for a special permit deals with there being, or not being, an adverse effect on the community. Capellini stated I point out; this is a preexisting use, the parking lot and the site. What will be accomplished will be the removal of two dwellings and the church , which will all be replaced with one efficient modern building that will beautify this corner. A special use is a use determined by the legislative body to be compatible with the residential zone. With that understanding, a house of worship use was originally a main use in Yorktown until 2006, and now is a special use with a long history in the Town of Yorktown. Riina stated the site plan and the EAF were updated, and essential reports and correspondence were submitted. At the request of the Board, a timeline was submitted explaining what went on with the application from the beginning. The site is made up of 5 lots. Across the street from the main structure is a gravel parking lot (Lots 9 & 10). It has been documented through aerial photographs back to 1960 that this was a parking area. The site contains a DEC regulated wetland, Mohegan Lake, which has a 150ft wetland buffer, and a 100-year flood plain. The flood zone comes through the site, but is not affected by any of the proposed work. The proposal is to construct a new church, razing all the existing buildings. The new foot print for the new building will be approximately 7800 sf. The existing structures contain approximately 5500sf. There will be a plaza area along the front entrance. Parking within the three lots calls for 64 spaces with another 25 at the Hudson Valley Federal Credit Union. The required parking is determined by 1/parking space for 4/pew spaces, and there are 344 seats. Riina stated the parking lot will remain asphalt, pervious pavers may be added. The existing gravel lot will have the gravel scarified, the area curbed and new gravel added. There will be breaks in the curb with runoff will be directed to these breaks to help control stormwater. The proposal calls for control and treatment of stormwater, which is not occurring at this time. There will be LED lighting in the parking lot. which will be down facing, none shedding light offsite. Riina stated the revised site plan has parking in the gravel lot pulled back, which adds to water quality. Proposed improvements will add to pedestrian and traffic safety, along with environmental benefits. The proposal calls for stormwater to receive treatment through an infiltration system, considered the best way to handle stormwater. The project calls for a raingarden, or bio-retention in the front of the building that will handle the roof run-off. An infiltration system will be installed beneath the parking lot. A SWPPP has been prepared and submitted to the Town Engineer for review. Another environmental benefit is abandoning the current septic and installing a low-pressure sewer system and tying into the existing sewer along Route 6. Additionally, the applicant will install a 4 inch force main that will be in the place for any future use desired by the Town. If the Town intended to expand the sewer district and install sewers for the adjoining community they would have a location to install a pump station. With the modification of the intersection we will remove a pervious area and install landscaping, reducing the pervious area by 30%, add additional fire hydrants, enhance the wetland , increasing the green space, plant street trees along Sagamore and Mohegan Avenues, and install screening along the two residential properties. Fon asked if the 86 spaces included stacking. Riina replied the proposal has the required parking without stacking. As for the off-site parking, the church goers will be shuttled from the off-site parking by a church owned van. Fon asked to have the applicant state each of the required variances. Riina stated variances are as follows: rear yard variance, front yard variance from the center of Mohegan Ave., and Sagamore, parking in the side yard, the distance to off-site parking. Capellini stated in each case the ZBA determined the granting of each variance would not have an adverse effect on the neighborhood. Fon asked about the

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future sewer tie in. Riina stated it is significant because we have to cross the Mohegan Outlet with our sewer line. It will either go over the culvert or strapped to the bridge. If we install a dry main it opens up the potential for the area to be sewerred. Riina stated this project was formally introduced April 2009.

Grealy stated traffic studies were standard procedures that evaluated both weekday and weekends. The study documented existing conditions at the church and along Sagamore Ave. and Mohegan Ave. The study evaluated future conditions with and without the project based on the sanctuary and the 344 seats. It was determined that the level of service was satisfactory. This was also reviewed by Town Traffic consultants Jacobs. As part of the study, the following improvements were suggested: curbing and defining the intersection, signage, an all-way stop, and restriping of the approaches. This was found by Jacobs to be consistent with proper design. It was found that the intersections would operate satisfactory, and there would be significant improvements in traffic control and pedestrian safety. Fon stated the project will yield a safer environment. Grealy stated yes for both autos and pedestrian.

Coleman stated he has been involved in this project since 2008 when the wetlands were delineated. At the time, the applicant looked at development strategies, green technology, that would have little or no impact on the wetland or wetland buffer and improve function. Elimination of the area septic, and going to the sanitary sewer is the best method of improving water quality. Future sewer hook-ups for residents is probably the biggest environmental benefit. Phosphorus loading is one of the biggest impacts on lake management. There are no current stormwater practices in place, and Lake Mohegan has a history of high phosphorus levels. The 30% reduction in impervious material gives the wetland area a better chance of filtering nutrients. Bioremediation is another layer of treatment to remove and enhance the area. We are in compliance with town's wetland codes and incorporating green technology to try and improve and sustain Lake Mohegan. Kincart asked if this was an environmental benefit. Coleman stated we are working hard to reduce nutrient loading to sustain and maintain the wetlands.

Delfino stated the proposed structure is approximately 8,000sf. This structure efficiently incorporate the functions of the three existing building into this one building. The proposed building takes into consideration the residential neighborhood. The existing building has 40ft setbacks from the property line. The new building has 30ft. setbacks and a footprint that is increases from 13% to 20.5% where 25% is allowable. The building height will be approximately 3ft lower, as the proposal no longer calls for enclosing the existing building. Fon asked if the applicant was going to ABACA, and was told yes.

Fon asked about the Article-78. Capellini state there was a prior article-78 that was dismissed because the church had not been served. The current article-78 is based on the ZBA's approval of the five variances. Currently, there is a reply period. Fon stated the Planning Board is requesting a lighting plan, landscape plan and tweaking of the crosswalk. Fon opened the meeting to the public.

Pat Francois-Conservation Board, Mr Francois state the Conservation Board was in agreement with the modified plan. Evan Bray- 3496 Mohegan Ave. Mr. Bray stated his belief that the Planning Board was familiar with his comments and objections. Mr. Bray felt according to the Town code, the Hudson Valley Federal Credit Union, which the applicant had a licensing agreement for parking, was now considered an interested party, as per section 205-2. If the Credit Union is an interested party, the adjacent property owners would have had to be receive notification of the public hearing. Capellini stated what is meant by the owner, in the Town Code, is the applicant, the Hudson Valley Federal Credit Union is not an entity with a legal or contractual agreement. Wagner asked Mr. Bray if he had any other questions besides this. Mr. Bray asked if the Maiser traffic study included the proposed shuttle service or the remote parking. He asked if the letter grade for at Mohegan Ave. and Sagamore get better or worse, and was told better. Fon requested the discussion center on new topics, not those for which Mr. Bray has submitted written comment. Mr. Bray stated the lot coverage on Lots 50, 53, and 54, if one included the roof and the area of the proposed retaining wall yields coverage greater then 25%. The Zoning Board determined that an email from Building Inspector to John Tegeder was a final determination, but this seems a random email. Mr. Bray clarified there was an

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article-78 but the Town and the Hudson Valley Credit Union did not reply until today. Currently, an amended article-78 has been filed. Mr. Bray displayed a site plan approved in 1962. Flynn explained the Planning Board must uphold the decisions of the ZBA. The approval of 1962 has been altered by the ZBA's current findings. Mr. Bray stated his concerns for screening and parking. In 1962 there was no parking allowed in the first 30ft front of the yard. Mr. Bray wanted to ensure that the public hearing remained open. Mr. Bray brought up the requirement for religious uses to have setbacks. Fon reminded Mr. Bray that this has been addressed by the ZBA. Flynn stated that no matter what opinion any member of the Board might have, the ZBA is the legal authority, and their decision is binding.

Pastor Carmine Zotolli, Faith Bible Church, Pastor Zotolli stated many of the issues brought up by Mr. Bray are ZBA issues that have been addressed. There has been much misinformation distributed in newspapers and blogs.

Fon stated this Board still needs the time to make a decision that the proceeding are carried out correctly.

Capellini stated part of the problem is that objections of the past are brought forward. Mr. Bray knew about the Building Inspector's memo in June 2013 as it was brought up in an article-78. Kincart stated this Board does not take anyone's word on their interpolation of the code, we research and find the facts and we ask for legal opinion when required. Capellini stated the public hearing notice was gratuitous and not required. Fon we want to ensure the public trust by doing and that things are done correctly.

Upon motion by Kincart, seconded by Flynn, and with all those present voting aye, the Board adjourned the public hearing.

Upon motion by Kincart, seconded by Rivera, and with all those present voting aye, the Board closed the regular session.

WORK SESSION

Hilltop Hanover Farm Lot 23

Discussion Site Plan

SBL: 48.19-1-23

Location: 1221 White Horse Lane

Contact: Gregory McWilliams, RA, AIA

Description: Proposed individual lot site plan approval for Lot 23 in the Hilltop Hanover Farm subdivision.

Greg McWilliams, project architect, was present with applicants Cyril and Karin Cabral. McWilliams stated this structure will have geothermal heating and cooling, and solar panels, and include the following amenities: in-ground swimming pool, and spa, patio/pool deck, pergola, shed, and greenhouse. In order to best utilize the solar elements being installed, the house needs to be on a North/South axis, which currently it is not. Additionally, the original approval called for the house to be placed in the center of the lot, which is not what the applicant's feel is best. The proposed structure is a two-story central hall colonial, approximately 3400sf. The septic system will remain as approved. The project was approved in 2003, and filed in 2006. Steinberg stated her concern with the lack of screening between this house and the proposed house across the street. The applicants agreed that screening would be beneficial and will have this installed. Fon stated the Board will review a resolution at the next meeting.

Upon motion by Rivera, seconded by Kincart, and with all those present voting aye, the Board adjourned the meeting at 10:00pm.