

Planning Board Meeting Minutes – January 11, 2021

A meeting of the Town of Yorktown Planning Board was held on **Monday, January 11, 2021 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:

- Bill LaScala
- Aaron Bock
- Rob Garrigan

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town 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 the regular session portion of the meetings will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.

Correspondence/ Liaison Reports

The Board reviewed all correspondence. Chairman Fon noted the following:

- Correspondence from resident, Susan Siegel dated 12/9/2020 with respect to Planning Board procedures, televising work sessions, etc. Mr. Bock stated that at the prior meeting, the Board deferred discussion of this item until the full Board was present. He suggested the same principle be applied to this evening’s discussion as Mr. Kincart was not present. He noted that the televised aspect of the meetings are not within the Planning Board’s control and would fall under the Town Board’s purview. The Board agreed to review this item at the next meeting with the full Board present.

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the meeting minutes of December 21, 2020 with corrections as submitted previously by Mr. Kincart.

Motion to Open Work Session

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

WORK SESSION

IBM Solar Canopy

Discussion: Amended Site Plan & Special Use Permit

Location: 69.16-1-1; 1101 Kitchawan Road

Contact: Ella Wynn, EnterSolar, LLC

Description: Proposed installation of a 5.5 MW solar parking canopy over existing employee parking lot located in the rear of the building.

Comments:

Kimberly Fasnacht of Spott, Stevens & McCoy was present. Ms. Fasnacht stated that they are here this evening as a follow-up to the 12/21/2020 Public Informational Hearing. During that meeting, they received some comments from surrounding residents to increase the landscaping on the east side of the site. To address these concerns, the landscape plan has been amended to include 4 deciduous trees and 5 white pines to help shield the view on the eastern property line. An expanded view of the amended landscape plan and aerial was shown.

Chairman Fon asked the Board and Counsel if there were any comments and there were none. The Board requested that the Planning Department schedule a Public Hearing for the February 8th meeting. Martin Flannery, resident of 22 Adams Road, requested that the Board note he would like to speak at the Public Hearing.

Wells Fargo Bank

Discussion: Lighting Plans
Location: 16.09-2-14; 1342 East Main Street, Shrub Oak
Location: 37-14-2-59; 1937 Commerce Street, Yorktown Heights
Contact: Natalie Sell, Bureau Veritas
Description: Proposed lighting upgrades for existing sites.
Comments:
This item was withdrawn from the agenda.

Hansmann Major Subdivision

Discussion: Subdivision
Location: 6.13-1-10, 6.17-2-63; 280 East Main Street, Jefferson Valley
Contact: Ralph Mastromonaco, PE
Description: Proposed 5-lot subdivision on 11.43 acres in the R1-80 zone.
Comments:

Ralph Mastromonaco, P.E. was present. Mr. Mastromonaco stated that he is here as a follow-up to the 10/26/2020 Board meeting. A full set of updated plans has been submitted to the Planning Department for review. He informed the Board there was a typographical error on his map and noted that the site borders the Town of Carmel and not the Town of Putnam Valley. The map will be revised accordingly. A tree survey was prepared by Bartlett Tree service and the complete tree list has been added to the plans. There is a disturbance limit line on the plan where they assume those trees would be removed due to construction. The stormwater will be treated by infiltration systems and a combined detention and water treatment basin for the roadway as shown in the improvement plans. The proposal is for a 5-lot subdivision on 11.43 acres. Each lot will be served by individual septic systems and Town water.

Chairman Fon noted that the Board received a memo from the Tree Advisory Commission today. The Planning Department will send a copy of the memo to the applicant for his information. Chairman Fon asked about the reserve strip and its restriction. Mr. Mastromonaco stated that as discussed at the last meeting, they could not find any restriction. It is noted on the filed map, but there is no definition as to what it means and unless there is an objection from someone who claims that there is a restriction, he thinks they could proceed to a Public Informational Hearing. Mr. Glatthaar stated that they received an email from a resident today who claims that the restriction does prohibit this development and will look into this further with the assistance of the Planning Department. Mr. Tegeder asked Mr. Mastromonaco to submit a brief on the reserve strip to the Planning Department and Mr. Glatthaar for review. Chairman Fon noted that they also received a petition that was included with the resident email noted by Mr. Glatthaar. The Planning Department will send a copy of the email with attachments to the applicant.

Mr. Tegeder asked Mr. Mastromonaco about the status of the tree mitigation plan. Mr. Mastromonaco responded that a mitigation plan has not been prepared as yet. Once they evaluate the Tree Commission memo, they will prepare a mitigation plan and report back to the Board for the next meeting.

Mr. Mastromonaco stated that as part of the project, they will need to request permission from the Town Board to increase the road grade to 12% since anything over 8% requires approval from the Town Board. He noted that most of the work can't be done until they know they have this approval and is not sure how to proceed. Mr. Bock responded that typically when the Town Board receives a request from the applicant for a grade variance it would be circulated to various agencies, including the Planning Board, for an analysis or comment and he feels the Board needs more information to be able to make that recommendation. He asked the applicant if he would consider changing the proposed 12% grade or if there was any way to avoid it? If the roads were made to be within the permissible grade, how would it affect the rest of the subdivision? Would it reduce the number of lots or change the placement of the houses? He would like to see some discussion as to alternative layouts before passing on a recommendation to the Town Board for a decision on the

grade variance. Mr. Mastromonaco responded that he will prepare an analysis as to why they need the 12% grade to develop the property for discussion at the next meeting.

Mr. Tegeder informed the Board that a Public Informational Hearing could be scheduled in order to introduce the proposed project to the public and receive feedback. Mr. Bock asked if the Board needs to be Lead Agency before moving forward. Ms. Steinberg responded that this is typically done after the Public Informational Hearing. Chairman Fon stated that the Public Informational Hearing is an initial introduction to the public and is unique to the Town of Yorktown in that it provides more of an opportunity for the public to be heard.

The Board requested that the Planning Department schedule a Public Informational Hearing. Mr. Glatthaar stated that he will review the information submitted by the resident and Mr. Mastromonaco.

650 Pines Bridge Road

Discussion: Subdivision

Location: 70.10-1-29; 650 Pines Bridge Road

Contact: Ciarcia Engineering, P.C.

Description: Proposed 3-lot subdivision on 8.06 acres in the R1-80 zone with one existing residence.

Comments:

Daniel Ciarcia, P.E. of Ciarcia Engineering was present. Mr. Ciarcia stated that the application was last before the Board on 10/26/2020. A Public Informational Hearing for the application was held on 2/24/2020. A revised set of plans, subdivision plat and SWPPP was submitted to the Planning Department for review. He noted that he has addressed the Town Engineer and Planning Board comment memos. The Tree Conservation Advisory Commission (TCAC) requested that they list the species and conditions of the trees of which they have completed and will add to the plan. Once the plan is finalized, they will work with the TCAC to develop a mitigation plan. If the Board agrees, he is respectfully requesting to move forward with a Public Hearing.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder asked Mr. Ciarcia about the status of the tree mitigation plan. Mr. Ciarcia responded that there was discussion about removing invasives and cleaning up the property with the TCAC. Once the new information is submitted to the TCAC, they will then be able to prepare a proposal for the tree mitigation plan. Mr. Tegeder requested that the applicant submit a proposal for the tree mitigation plan prior to the public hearing as this would be helpful to the Board and the public. The Board agreed and advised the applicant to work with the Planning Department, TCAC, and Conservation Board with respect to the tree mitigation plan prior to scheduling a Public Hearing.

Stahmer Subdivision Lot 2

Discussion: Amended Site Plan

Location: 59.10-1-10.1; 535 Jerome Road

Contact: P.W. Scott Engineering & Architecture, P.C.

Description: Proposed amended site plan for Lot 2 of an approved subdivision.

Comments:

Peder Scott of P.W. Scott Engineering & Architecture was present. Mr. Scott stated that they were last before the Board on 12/7/2020. He is currently in the process of preparing the special use permit application and required fee for the home office which will be submitted to the Planning Department prior to the next meeting. The application is compliant with all the requirements per the Town code for the home office with respect to size, parking and usage.

Mr. Scott stated that he will submit all the data that they have from Tesla with respect to the special permit application for the solar power generation for the next meeting. He noted that the proposal is for a Tesla house with a Tesla roof and will try to set it up as a small-scale generator but because of the efficiency of the roof system, they may exceed 20 kW DC allowed for a residential system. Four on-site battery storage units are also proposed. Mr. Scott is trying to ensure that the power demands do not exceed the ordinance. He noted that they do have the right to sell to the network as indicated in the zoning if they have excess power. The proposal is to use the power generated, however the issue is when the cars are not being charged, they will have excess power. This power is all going into the grid, and their power system is fully integrated and automatic in regards to the transfer so they are trying to fit Tesla's efficiency into the ordinance.

Mr. Scott asked the Planning Board if there was a possibility to move forward with the approval for the amended site plan for the larger home and special use permit for the home office and work on the solar power generation part of the project separately as they need to continue working with Tesla to comply with the ordinance. Mr. Tegeder responded that this could be done, but noted that the applicant would proceed at their own risk. The approval would be for the amended site plan for the larger house only and not for the solar roof. Mr. Bock stated that this was done with other projects and cited the Staples Plaza battery storage application.

Chairman Fon asked the Board and Counsel if there were any comments and there were none. Mr. Scott stated that he will submit a complete package to the Board prior to the next meeting.

Gardena Hotel

Discussion: Amended Site Plan

Location: 37.14-2-54; 1952 Commerce Street

Contact: Site Design Consultants

Description: Proposed demolition of the existing building to construct an 18-room hotel with rooftop bar & grill on 0.3 acres in the C-2R zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants; Frank Guiliano, landscape architect; and Jack Xiao, property owner were present. Mr. Riina stated that the proposal is for the construction of a 3-story boutique hotel containing 18 guest rooms and a rooftop bar and grill. The total footprint of the building is proposed to be 4,700 sf. The owner of the property is Jack Xiao who is a local business owner of multiple restaurants (Wild Fusion Restaurant on East Main Street and Flame Asian Bistro in the Jefferson Valley Mall).

Mr. Riina presented the site plan. The site is located at the corner of Commerce Street and Veterans Road on 0.3 acres. The parking lot access and main access to the building will be on Veterans Road. A total of 17 parking spaces are provided, 3 of which are underneath the building. Based on the preliminary parking analysis for the guest rooms, café area and lounge, he determined that 21 parking spaces would be required. For the rooftop amenity, which is proposed to be a bar and tapas grill totaling 2,600 sf, they will need another 26 parking spaces which leaves them with a deficit of 21 parking spaces. He noted that there is on street parking on Veterans Road and public parking at the Community Center building. In addition, the property owner is communicating with adjoining property owners with respect to parking alternatives. The primary need for the hotel is addressed, and he feels that the difference of the four spaces can be obtained with the on street parking. This project will be a mainstream establishment for a typical downtown business. Patrons will park on the street and walk to the site. Mr. Garrigan asked if there was contemplation for valet parking. Mr. Riina responded that they may entertain this idea.

The plan proposes to continue the streetscape from Commerce Street to the front of the site on Veterans Road. A 6-ft sidewalk is proposed that will mimic the concrete sidewalks and stamped brick along Commerce Street. The sidewalk will extend along the front of the site up to the Reliable Oil driveway. The existing curb line on Veterans Road will be maintained. There are existing tree wells along Commerce Street that will be duplicated on Veterans Road. Light fixtures that are similar in appearance and spacing to what is existing on Commerce Street are also proposed.

Chairman Fon asked Mr. Riina about the zoning. Mr. Riina responded that the site is zoned C-2R and would require a code amendment to allow for this type of use. The proposal will require variances from the Zoning Board for the parking and building height. He noted that the Planning Board only has the flexibility to reduce the parking by 25% .

Mr. Bock asked why the front of the building was facing Veterans Road and if it would make sense to have more of a presence on Commerce Street. Mr. Riina responded that they looked at many different iterations but the proposed layout made the most sense. Mr. Guiliano stated that the streetscape on Veterans Road is much more conducive to parking as patrons of the hotel would park on the street and enter from Veterans Road. It also has a better connection to the Community Cultural Center building and Jack Devito field. Chairman Fon asked what specifically is a boutique hotel. Mr. Riina responded that it is not a chain hotel but more of a small neighborhood establishment that would be utilized by patrons for the weekend or short stays while visiting family, etc. Mr. Tegeder added that boutique hotels have a uniqueness about them which makes them desirable. As stated by Mr. Riina, they are not a chain in the sense that they are a prototype; they are sought out for their charm and uniqueness.

Mr. Guiliano reviewed the landscape plan with the Board. Green giant arborvitae are proposed along the front of the site to screen the parking from Veterans Road. In addition, the corner by the Reliable Oil site is proposed to be screened as much as possible. The trees proposed along Veterans Road will pick up some of the same varieties that are existing on Commerce Street. A short privacy hedge is proposed around the plaza area for the patrons. In addition, grassed areas will be incorporated throughout the site.

Mr. Bock stated that after reviewing the elevations, he liked the current flow of the application. He noted that this may be the only property that was not part of the urban renewal back in the early 1970's. Mr. Tegeder stated that it may be cited in the historical study that was done for the town as a resource. Mr. Riina noted that they tried to use the existing building but it didn't work with the applicant's goal.

Mr. Riina showed various elevations of the building. The main level of the building will consist of the main entry, reception area, lounge and café. The café will be for the patrons of the hotel with access to the outside plaza. It has not been decided if non-hotel patrons will be welcomed to the café. The second and third floors will contain 9 guest rooms each for a total of 18 guest rooms. The rooftop area will contain an indoor tapas bar with lounge area. Renderings of the proposed interior design were shown.

With respect to the building architecture, a tower feature with a clock is proposed on the Commerce Street side of the building. The clock will be visible from three sides. The clock tower is a result of the emergency stairwell tower that is located on this side of the building. The tower will be unique to the building and could be known as a signature part of the Town and this corner specifically. It would also help to mitigate the impact of the Commerce building. A 15 or 16 ft variance would be required for the height of the clock tower.

Mr. Guiliano stated that he did not think there was a boutique hotel of this kind in Westchester County and noted that it would be unique to Yorktown.

Chairman Fon stated that he thought this was a well thought out proposal and feels that it would be a great asset for the Town of Yorktown but there is still work that needs to be done. The zoning, parking, variances and possible historic nature of the building need to be addressed. Mr. Riina responded that they need to overcome the parking hurdle and will try to convince the Board that there is enough parking around the site to support the proposal. The rooftop amenity will draw the additional parking but this would take place later in the day. As stated earlier, the height variance is tied to the clock tower. Councilman Lachterman stated that he thought the clock tower adds more presence to the building and gives it more of a retro look.

Mr. Bock stated that he was very excited for this project and noted that over the last 25 years between the Chamber of Commerce and the Town's master plan, the biggest demand for new uses in town has been for a hotel use. He is pleased that it's not coming in as a "cookie cutter" hotel from a chain, but rather as the proposed boutique hotel. The challenges in terms of parking will lead the Board to look for ways beyond the automotive components for these sites in that we don't necessarily have to provide on-site parking for everything but could look for alternative ways of bringing people into the downtown area, and this may be a very good first step in that direction. Chairman Fon agreed and noted that there are municipalities within the County that have approved apartment buildings with zero parking as they count on public parking. Mr. Riina noted they have been working with the Planning Department over the past few months to refine the building to ensure that it ties into the downtown area nicely.

Chairman Fon asked the Board and Counsel if there were further comments. Mr. Tegeder stated that the Planning Department will submit their recommendations after they review the plan. There were no other comments.

Zoning Board Referral - Medina #38-20

Location: 17.05-1-3; 445 East Main Street, Jefferson Valley

Description: Request to allow a deck with a side yard setback of 4.59 feet where 15 feet is required in the CC zone.

Comments:

No representative was present. The Board discussed the proposal and had no planning issues.

Zoning Board Referral – Carvalho #44/20

Location: 14.08-115-38; 1681 Summit Street

Description: Request for a subdivision leaving an existing residence on a 10,000 SF lot where 20,000 SF is required in the R1-20 zone and a vacant lot with frontage on Front Street.

Comments:

Michael Grace, Esq. was present. Mr. Tegeder informed the Board that the existing residence fronts on Summit Street and the part of the lot that the applicant is proposing to subdivide fronts on Front Street which is located next to the only residence left on Front Street. He noted that when a property is deficient in lot size and there is additional property that it abuts and owns, it is merged together in order to be compliant with the zoning and in this case the minimum lot size is 20,000 sf. This may have been a separate lot at one time.

Mr. Grace stated that historically this was its own lot and is all part of the Depot Plaza. These were all 20-ft wide lots in an R1-10 zone which means originally it was a 10,000 sf minimum lot size. The existing house was originally conforming under the R1-10 zone but once the requirement changed to R1-20 it forced a merger of the two lots. Currently, this piece of property acts as a residential backyard fronting on Front Street which, in his opinion, doesn't make sense. He noted that this may have been before the Town Board at one time in the past. He stated that the application would need approval from the Planning Board for the subdivision, approval from the Zoning Board as it creates a non-conforming situation with the residence, and approval from the Town Board to change the zone of the lot on Front Street.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder stated that the typical process for this type of application is that the Planning Board would assume Lead Agency for the subdivision. The Zoning Board does not usually act until they receive a referral from this Board. The applicant would need to submit a conceptual plan of what might be offered for development for the Board's review. Mr. Grace responded that his client has no particular plan in mind as there is no interest in its present state, however, it will most likely be developed as a mixed-use building similar to the George Roberta site. He noted that there is a demand from smaller businesses for these type of lots. Mr. Tegeder stated that the concern is if a lot of this size could be developed as a commercial lot with required parking, etc. This would need to be known in advance through a site plan to determine what is feasible in order to avoid the risk of having a lot that can't be developed and is eventually abandoned. Mr. Bock asked who owned the piece of Virginia Road that comes in off Summit Street and if it could be added to the square footage of the Front Street property. Mr. Grace responded that it may be owned by the Town but will do a title search to find out.

Mr. Grace stated that this was a preliminary discussion to introduce the concept to the Board and noted that the application is scheduled for the January 28th ZBA meeting agenda. He will work on a conceptual plan for the site. The Planning Department will prepare a comment memo to the ZBA for the Board's review.

Zoning Board Referral - Grace #45-20

Location: 59.07-1-4; 959/965 Hanover Street

Description: Request for a special permit for a caretaker's cottage pursuant to Town Code Section 300-47.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that he is before the Board to request a special permit to build a caretaker's cottage on his own property at 959 Hanover Street. The survey and location of the proposed cottage was submitted to the Board. He noted that 959 Hanover is approved as a single family residence and 965 Hanover is a separate lot that conforms in every aspect except for the road frontage. Between the two lots there is a total of almost 7 acres. He is proposing to potentially construct an 800 sf single bedroom cottage on the 959 lot next to the existing barn and could propose a conservation easement on the 965 lot. Discussion followed with respect to the Town code in relation to the application.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder stated that the application will need to conform with the special permit standards. Mr. Grace responded that he will have to show the ability to subdivide the property except for road frontage and noted that this is possible because the second lot is already a separate undeveloped lot. The Planning Department will prepare a comment memo to the ZBA for the Board's review.

Town Board Referral - Chapter 135-13 – Yorktown Zombie Properties Law

Description: Proposed local law amendment to Chapter 135 of the Town Code of the Town of Yorktown entitled “Buildings, Unsafe” by adding a new section 135-13 – “Yorktown Zombie Properties Law”

Comments:

Councilman Lachterman stated that the Town Board is proposing to amend the local law to include the Zombie Properties law in order to make the banks more responsible for maintenance of abandoned and neglected properties within the community. This would be specific to bank owned properties. The Town Board is looking for feedback from various agencies. Mr. LaScala asked what constitutes a zombie property. Mr. Glatthaar stated that based on his review of the proposed law, it is once the bank issues a notice of default on the property, and questioned how they would know if the bank issued a notice of default to the owner of the property. Councilman Lachterman responded that they would be notified by the tax office. Mr. Bock stated that he was not sure about this as these are preliminary steps to actual foreclosure actions which are recorded and available to the public, but if someone is in default it is not public knowledge. Mr. LaScala stated that he was concerned with how this law may affect a property owner with a hardship that does not have a mortgage. Mr. Tegeder asked about the property maintenance code. Mr. Glatthaar responded that this law would put the obligation on the bank, and not the property owner, and to that extent it can be a useful tool. The property maintenance code would require property owners to maintain their property to a certain level and if they don't, the Town can issue a summons. The proposed law is just a way to put an obligation that would normally be on the owner who can't financially do it on the bank who is holding the mortgage. Mr. Bock stated that this law fills a gap between an abandoned property and a property that is not maintained. Discussion followed. Mr. Glatthaar stated that the Board could propose a hearing mechanism of some sort where the property owner and the lender would be summoned to a hearing before a Town agency where they would be given instructions as to what has to be done and after that, fines could be imposed for work not performed. Councilman Lachterman felt that there should be some mechanism to reach out whether it be through the Town Board or Code Enforcement. Mr. Glatthaar will prepare a draft comment memo for the Board's review.

Town Board Referral - Amending Chapter 275 – Vehicles and Traffic

Description: Proposal to add the following no parking areas:

- Commerce St., both sides, from its intersection with Route 118 to its intersection with Hanover St.
- White Hill Road, both sides, from its intersection with Mohansic Avenue to its intersection with Hunterbrook Road.

Comments:

The Board discussed the proposed amendment and had no planning issues.

Motion to Close Meeting

Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the meeting at 9:30 p.m.