

Planning Board Meeting Minutes – March 8, 2021

A meeting of the Town of Yorktown Planning Board was held on **Monday, March 8, 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:

- John Kincart, Secretary
- 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 will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All meetings 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 John Kincart and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the meeting minutes of February 22, 2021 with corrections as noted.

Motion to Open Regular Session

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

REGULAR SESSION

Gallinelli Minor Subdivision

Discussion: Request for First 90 Day Time Extension

Location: 27.13-1-49; 2777 Quinlan Street

Contact: Site Design Consultants

Description: Approved 2-lot subdivision on 1.48 acres in the R1-20 zone, by Planning Board Res #18-16, dated September 17, 2018 and reapproved by Res #20-12 on August 10, 2020.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the applicant is requesting a first 90-day time extension in order to continue working on the project.

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the first 90-day time extension for the Gallinelli Minor Subdivision.

Hansmann Major Subdivision

Discussion: Adjourned Public Informational Hearing

Location: 6.13-1-10, 6.17-2-63; 280 East Main Street, Jefferson Valley

Contact: Ralph Mastromonaco, PE, PC

Description: Proposed 3-lot subdivision on 11.43 acres in the R1-80 zone.

Comments:

Ralph Mastromonaco, P.E. was present. Mr. Mastromonaco stated that he is present this evening for the adjourned Public Informational Hearing of 2/8/2021. The proposed subdivision has been revised from a 5-lot to a 3-lot subdivision with a cul-de-sac at the end of Osceola Road that will serve as frontage for the 3 lots. He noted that this would be the extent of the proposed public improvement. Once the cul-de-sac is constructed the lots will stand on their own. Each lot will be sold or developed separately and the access will be off the cul-de-sac. As shown, the lots are zoning compliant and will be served by Town water and individual septic systems. A tree survey was also submitted. Three stormwater basins are proposed to treat the impervious areas from the proposed driveways. A portion of Osceola Road is also proposed to be improved. Mr. Mastromonaco informed the Board that he recently learned that three of the notices were mailed with incorrect addresses and noted that they downloaded the information from the Westchester GIS. He stated that he had no issue with postponing the hearing to resend the notices if the Board agrees. Adjacent property owners Patricia Burke and Lindsay Feller both noted that they did not receive notices.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Bock stated that the proposed project starts on Osceola Road and proposes work west of the border to the site but the property owners immediately adjacent to that work are not on the notice list and he feels they should be noticed as well. Mr. Mastromonaco responded that the list is generally comprised of the residences that abut the property but will expand it for the next meeting. Mr. Bock noted that the Town Code permits the Planning Board to define the scope of mailing notices to go out and cited Section 195-4 that defines interested parties and suggested to the Board that the mailing list be expanded to include a much broader area to include those affected by this proposal. Chairman Fon stated that this seems to be a sensitive application based on the amount of correspondence received and agreed that the notice list should be expanded. Mr. Tegeder noted that the additional residences should be designated by the Planning Board. Discussion followed. Mr. Glatthaar stated that the notices should be sent out for a new Public Informational Hearing and not as an adjourned hearing. The applicant agreed and will resend the notices to include the additional property owners as discussed. Ms. Steinberg informed the applicant that all property addresses should be obtained from the Town Assessor in order to have the most updated information.

Upon a motion by Aaron Bock, and seconded by Bill LaScala, and with all those present voting “aye”, the Board agreed to define the “Notice to Interested Parties” to include not only those defined by statute but also the additional homeowners whose properties front on Osceola Road in addition to the properties that front on Pike Place in the Town of Yorktown.

Nantucket Sound, LLC

Discussion: Public Hearing
Location: 37.18-2-86; 385 Kear Street
Contact: Site Design Consultants
Description: Proposed three story, 8,169 sf building consisting of 2,567 square foot retail use on the first floor and two upper floors of 2,801 square foot and 3 apartments each on 0.36 acres in the C-2R zone.

Comments:

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board opened the Public Hearing. Joseph Riina, P.E. of Site Design Consultants and Patrick Murphy, property owner were present. Mr. Riina stated that the site is located at the corner of Kear Street and Saw Mill River Road. To the south of the site is the Caremount facility. The property is a total of .36 acres and zoned C-2R. The proposal is for a 3-story mixed use building with retail use on the the lower level and 6 residential apartment units (*3 units on each level*) on the upper two levels. The site access will be from the main entry point at Kear Street which serves 345 Kear Street as well as the Caremount facility. There are two separate parking areas and two entry points for the building. The lower level retail portion of the site will have a parking area with 5 spaces total, loading zone, trash containment area and plaza with seating off to the side. The upper level residential portion will have a parking area with 18 spaces total, trash containment area, bike rack and small common area with seating off to the side. A total of 23 parking spaces are proposed where 23 are required. The building residents will have access to the Town’s recreation facilities nearby which include Railroad Park and a trailway. Due to the grade change, they cannot provide full ADA access from the crosswalk area and are proposing steps near the southwestern corner of the building. They are also proposing to extend the sidewalk from the corner of Route 118. The building footprint is proposed to be a total of 8,200 sf. The building meets the dimensional requirements for the zone. With respect to the front and side yard setback, the Building Inspector stated that on a corner

lot the property owner can pick one front yard and one side yard. Kear Street will be the front yard and Route 118 will be the side yard. Two separate stormwater management areas are detailed in the SWPPP. The lighting plan meets the requirements and was reviewed by ABACA. The landscape plan is basically the same as what was shown previously to the Board. The only difference is that the plantings along the edge are less dense and lower in height to create a green buffer but not totally screen the view to the retail plaza area as suggested by the ABACA. Due to a site easement, the southern corner of the site will remain as a lawn to maintain visibility. The landscape plan calls for planting 93 trees and 94 understory plants. Mr. Riina noted that he responded to the Tree Commission's comments in a letter to the Planning Board dated 8/25/2020.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart asked if the proposal conforms to the current zone and has nothing to do with the overlay zone for the Heights area. Mr. Riina responded that the proposal is strictly based on the underlying zone for the site.

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

- **John Flynn, resident** – *Letter with detailed comments was submitted to the Planning Department for the record.* Mr. Flynn stated that he is basing his comments on the site plan dated June 17, 2020. The following points were mentioned:

Parking - The new site plan borrows a parking space from the parking area for the adjacent Caremount facility. How will you keep Caremount customers from using that space when parking at Caremount returns to pre-virus levels? How will cars access the last two parking spaces in the residential lot when the gates on the residential dumpster are left open?

Waste Management - The new plan shows a commercial dumpster located approximately five feet from the corner of the building. What kind of renters does the developer envision will want to live with a commercial dumpster directly beneath their apartment windows? Are the dumpster enclosures large enough to accommodate trash and recycling containers necessary for residential and commercial occupants?

Open Space - How do you avoid creating substandard housing in the C-2R zone district, which does not require any outdoor recreation space for residents? The applicant is within the code requirements in terms of not providing open space but that's only because the zone doesn't have any requirements on this.

Other Design Considerations - New design considerations include green building practices and protecting people from the corona virus. The corona virus has been called not simply a health crisis, but also a design problem. Earlier presentations of this project showed apartments accessed via a common doorway, stairs, and hallways into the complex. Will tenants want to share building entrances and hallways with neighbors and their guests? The parking plan for this building is very conventional and pre corona virus. Will retail shoppers continue to enter buildings to select goods and order services as they have in the past or will they prefer to place orders in advance and pick them up outside the store? Will retail stores begin to look more like drive-thru banking and fast-food pickup? Is it a good idea for Planning Boards to require parking lot design that is flexible enough to accommodate both types of shopping?

Green Building Design - The proposed development offers many opportunities to do better in green building design especially now that so many businesses have come before this Board to initiate solar energy projects. The southern side of the site receives unobstructed sunlight courtesy of the Caremount parking lot. So, why isn't this building designed to generate solar power? The current site plan envisions an extensive underground system to catch and retain storm water. Considering the expense of constructing and maintaining this system, not to mention the high cost of municipal water, why not collect water run-off from the building's roof, and use it for toilets and other gray water applications?

Planning Process, Segmentation - Site Design Consultants could have easily solved the problems with parking, open space, and waste management if they had another quarter acre of land to work with. Had the town considered Nantucket and Caremount as related projects, a simple lot line adjustment could have provided workable layouts for both projects. He noted New York's law prohibiting segmentation during SEQRA review. Does the Town's separation of two projects on adjacent sites violate the letter of the segmentation law? Has the decision to plan the two properties separately now forced the Town to either reject this building as proposed or accept its negative features and all of the problems they create such as a dumpster under the windows of a residential building?

Plan Changes - Last year, this Board approved significant changes to the original, approved site plan for Lowes Depot without first holding a public hearing. This included expansion of a building's footprint from 7,500 sf to 12,500 sf. If the Board approves this site plan, will it allow the developer, later in the process, to increase significantly the size of the proposed mixed-use building as done at Lowes Depot?

- **Susan Siegel, resident** – Ms. Siegel stated that Mr. Flynn mentioned borrowing one parking space from Caremount and urged the Board to consider the viability of this. She questioned if the trucks for the trash pickups and deliveries for the residential apartments would back out into the Caremount lot? What will prevent the trucks as well as the residents from entering on Underhill Avenue and driving through the Caremount lot to get to the apartments? She thinks it will create more traffic to an already congested parking lot and should be considered. The fire trucks will also have access issues and she thinks there was a response from the Fire Inspector. She would like to know what the practice is in terms of getting recommendations from the Fire Inspector as opposed to the Fire Commission. Are they two different bodies? If the fire trucks have to park along the road can the ladders access all parts of the building. In an earlier memo, some site plan modifications were needed to address the fire impacts about the parking lane. She asked to clarify the issue between the bulk regulations between C-2R and C-2. Is a dumpster still planned to be close to the outside seating area for the commercial residents. With respect to the mitigation plan, there was a memo from the Tree Commission commenting on what needs to be done and there seems to be a dispute as to the cumulative DBH. She reminded the Board that landscape plans are not the same as mitigation. She asked that a condition be placed in the approving resolution for protection of the trees along Route 118 in the state of right-of-way during the construction phase.

Mr. Murphy stated that he has driven through the Caremount parking lot and noted that the bottom ten spots between Caremount and the proposed project are never full. With respect to the trees in the state right-of-way, he noted that there are wires running through the trees currently. He has been trying to get in touch with the NYSDOT to fix this and noted that the integrity of the trees are already compromised.

Mr. Riina responded that he addressed the comments made by Mr. Flynn and Ms. Siegel in a letter to the Planning Board dated June 30, 2020. With respect to the offsite parking space, the current plan proposes all 23 parking spaces to be on site. The commercial dumpster was moved to another location as shown on the plans. The location of the residential dumpster is slightly recessed and if the gates are left open, they will be closed by whoever is parking in those spaces. They meet the requirements for open space and are providing some form of open and passive area for the residents. Within a short walking distance there is a Town Park and trail way. With respect to the corona virus comments, he noted that there are plenty of existing residential uses that have come up with a plan to stay safe. The architect, Joe Thompson, presented all the green attributes of the building during a previous presentation. They feel that they were able to fit the building comfortably into the site and have dealt with the grade change. With respect to Ms. Siegel's comments about driving through the Caremount lot, he thinks inter-connectivity is a good idea and would help to remove traffic from the main road. He noted that the Fire Inspector presents the applications to the Commission during their meetings and speaks for the Commission. Regarding this site, the Fire Commission made it clear that they would not bring their trucks into the parking lot of the site and asked for fire lanes and postings which have been added to the plan. With respect to the trees, they responded to the Tree Commission on 8/25/2020 and have not received a response. If the Planning Board feels that additional mitigation is warranted, the applicant will consider payment to the tree bank fund to make up the difference.

Mr. Flynn asked about the waste management and dumpster size. He noted that he spoke with the Yorkridge apartment management and was told they were overwhelmed with cardboard due to the "Amazon effect". Mr. Riina responded that the commercial portion of the site will have either a single 8-cubic yard container or two 6-cubic yard containers depending on their needs. The trash enclosure for the residential portion of the site is sized for two 4-cubic yard containers, one for recycling and one for trash.

Ms. Siegel agreed that the connectivity between the uses for the parking lot is a good idea but was concerned about the trucks backing out of the residential parking lot into the Caremount parking lot. She also asked for confirmation about the difference between the Fire Inspector and Fire Commission with respect to their comments. Ms. Steinberg stated that Mr. Riina's comments with respect to the Fire Commission were correct. Mr. Riina stated that he responded to the garbage trucks in his June 30th letter.

There were no further comments from the public. Chairman Fon asked the Board and Counsel if there were further comments. Mr. Bock asked if the commercial seating area could be shared with the residential tenants. Mr. Riina responded that it is meant for the retail use but could be used by the residents.

Mr. Glatthaar stated that he does not believe the treatment of this application is segmentation. Segmentation is a conscious decision by an approving agency to divide an action into multiple steps for the purpose of evading environmental review. An example of that would be if the Board only reviewed the retail portion of the project and not the whole project combined. There is an abutting property that was developed earlier pursuant to a separate site plan. It did not commit the Planning Board to review or approve this particular action so it is not as if the approval of the medical facility forced the Planning Board to approve this project which did not come in until sometime later. He does not believe there was any segmentation here, a decision was made to submit one project several years ago which was reviewed on its merits and approved. The only thing to do with this project is to review it on its merits.

Mr. Bock questioned if the hearing should be held open since the mitigation plan is still pending as was done with a prior application. Discussion followed. Mr. Tegeder noted that the plan is not finalized but Nantucket has developed reasonable mitigation which may be slightly modified. They have also offered to pay into the tree fund. The Planning Department and Tree Commission will finalize their recommendations on the mitigation but he does not think there would be substantive changes. Mr. Riina stated that they are fine with discussing the mitigation further. The Board had no issues and agreed to close the public hearing.

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

650 Pines Bridge Road

Discussion: Public Hearing
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:

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board opened the Public Hearing. Dan Ciarcia, P.E. and Alex Cochran, property owner were present. Mr. Ciarcia stated that the proposal is for a 3-lot subdivision on 8.06 acres and zoned R1-80. The property is located on Pines Bridge Road. The property is currently improved with a house, garage, barn, tennis court and in-ground pool that will remain as part of the application. The septic system was updated several years ago to accommodate the existing house. The largest lot will be a total of 4.23 acres and contains the existing home; the other two lots will be 1.95 acres and 1.88 acres. All the lots conform to the zoning district requirements. The SWPPP was prepared and submitted for review. An aerial map of the neighborhood was shown. They met with the Conservation Board and Tree Commission. They are still waiting for some feedback from the Tree Commission with respect to the tree mitigation plan. A tree survey was prepared and a letter dated 2/4/2021 was submitted with respect to their mitigation proposal that includes invasive removal and tree planting. The applicant is also willing to contribute to the tree bank fund if necessary. 84 trees are proposed to be removed to develop the lots and 6 additional trees at the request of the neighbor for safety purposes. They are proposing green giant arborvitae to provide screening between the adjacent properties and 4 deciduous trees in other locations. They received the NYCDEP letter dated 3/8/2021 today. With respect to the trees to be removed, only clearing of the primary septic area is shown, the expansion area might not be required for decades so he did not show that being cleared at this time. Mr. Ciarcia noted that there are no immediate plans for development by the applicant and that this property may be developed by different people. The sale of these lots is not pending and they will likely remain undeveloped for some time. They are just demonstrating that houses can work in this location, but the footprint could change based on the preference of whomever constructs the homes.

Mr. Ciarcia informed the Board that the Town of Yorktown has retained him for engineering services. Normally he would not be here this evening but he has been working on this project for several years. The notices were sent out prior to him knowing for certain that he would be working for the Town. In order to prevent a conflict of interest or the appearance of it, he will have another engineer review these plans without his involvement. Chairman Fon stated that it was his understanding that another engineer was appointed by the Town as well. Mr. Ciarcia responded that LynStarr Engineering has also been retained by the Town to help out. Chairman Fon stated that to be clear, Mr. Ciarcia will not be reviewing his own plans. Mr. Ciarcia responded that this was correct.

Chairman Fon noted the Conservation Board memo from 1/21/2021. Phyllis Bock, Co-Chairperson for the Conservation Board, noted that the Board’s latest comment was that when a tree mitigation plan was developed by the applicant that

satisfied the Tree Commission, it should then be shared with the Conservation Board. Mr. Ciarcia responded that the tree mitigation plan is still being worked on.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder stated that the tree mitigation needs to be finalized with the Tree Commission. There was discussion about utilizing the property held in common ownership for possible invasive removal and plantings. With respect to the two lots being sold and developed by someone else, this will need to be discussed to determine what requirements the resolution should impose in this regard. Mr. Cochran stated that he spoke with the parties involved and does not think it would make sense to do mitigation on the other property as there is a possibility of a new owner. He is proposing mitigation for this property only. Discussion followed with respect to potential mitigation.

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

- **Susan Siegel, resident** – Ms. Siegel asked for clarification of Mr. Ciarcia’s role as the acting Town Engineer. Ms. Siegel also noted that the DEP letter raised several issues for this application.

Chairman Fon responded that the review of Mr. Ciarcia’s applications would be a question for the Town Board.

There were no further comments from the public or the Board.

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

Stahmer Subdivision Lot 2

Discussion: Adjourned Public Hearing Tree Permit

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. Proposed residence is to be a Tesla showhouse that includes a 24 kWh solar roof, which exceeds the small-scale solar permit.

Comments:

Peder Scott of P.W. Scott Engineering & Architecture was present. Mr. Scott stated that he is here this evening for the adjourned Public Hearing of 2/22/2021 with respect to the tree permit for the proposed amended site plan. A letter dated 2/24/2021 with details of the tree mitigation and tree plan was submitted to the Board and Tree Commission. Due to the nature of the solar project, they are proposing to clear the southwest corridor for sun exposure. The mitigation will include the removal and restriction of bamboo on the northeast corner. A 4-ft deep plastic lined trench will be installed to prevent further migration. In addition, they are proposing to install buffers along the eastern property line, west side of the driveway, and northern property line along the edge of the septic system as detailed on the site plan (sheet SY4). A memo from the Tree Commission dated 3/8/2021 was received supporting the proposed mitigation and recommending approval of the tree permit.

Chairman Fon asked the Board and Counsel if there were any comments and there were none. Chairman Fon asked the public if there were any comments. Public comments as follows:

- **Jay Kopstein, resident** – Mr. Kopstein noted that several issues were brought up by the ZBA that had to do with the house appearing to be more like a commercial demonstration project. He said that they also commented on the size of the home office, etc. and asked if the Board received a comment memo from the ZBA.

Mr. Scott responded that he submitted a letter to the ZBA stating that they are now eliminating all customers to the site. His client will have a commercial space off-site so that the home could be viewed virtually by potential customers from another location.

Mr. Kopstein asked if the home office will be excluded from the application. Mr. Scott replied that the home office will remain and be occupied by three employees.

There were no further comments from the public or the Board.

Upon a motion by John Kincart, and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the adjourned Public Hearing.

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

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board adopted the Negative Declaration.

Upon a motion by Aaron Bock, and seconded by Bill LaScala, and with all those present voting “aye”, the Board approved the resolution approving amended site plan, stormwater pollution prevention plan permit, tree permit and special use permit for a large-scale solar power generation system for Stahmer Subdivision Lot 2.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

Town Board Referral - Illington Road Dam

Location: 69.08-1-11; 408 Illington Road

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

Description: Application for a Wetlands and Tree permit for dam repair and restoration.

Comments:

Peder Scott of P.W. Scott Engineering & Architecture was present. Mr. Scott reviewed the history of the site with the Board. The applicant is proposing to repair and restore the existing dam. The property was purchased 10 years ago from the Town of Yorktown. The dam failed as a result of trees that fell into it and was breached. Twenty permits were issued for approval of the dam repair that include the DEC, DEP, Army Corp and Delaware Indian Tribe, among others. The project was also reviewed by the Town Engineer and the SWPPP was approved. 21 trees are proposed to be removed. He noted that trees are not permitted within an earthen dam or within a certain distance of the perimeter of a dam. The tree removal is required for the DEC dam permit. The DEC approved plan consists of 1,200 plants that include shrubs and herbacious bushes, but nothing woody in order to comply with dam regulations. A buffer of holly bushes is proposed along the cemetery on the property and 18 Norway Spruces along the street frontage of the dam to serve as a visual buffer as shown on the plans. Chairman Fon asked the Board and Counsel if there were any planning issues and there were none. The Planning Department will submit a memo to the Town Board.

Alek-Tris Subdivision

Discussion: Subdivision

Location: 16.10-3-26; 1075 East Main Street, Shrub Oak

Contact: Architectural Visions, PLLC

Description: Proposed 3 lot subdivision where one two-family home and cottage currently exist on 1.66 acres in the R1-10 zone.

Comments:

Joel Greenberg was present. Mr. Greenberg stated that the proposal is for a 3-lot subdivision on 1.66 acres of land. The property is located at the corner of East Main Street and Frost Road. The front of the property facing East Main Street is currently improved with a restored two-family house and cottage. Behind the house and cottage are Lots 2 and 3. He noted that the requirement for the R1-10 zone is 20,000 SF per lot, but a variance was granted on June 25, 1981 for this property indicating that the two rear lots could be 14,043 SF and 14,482 SF. They have applied to the Westchester County Department of Health for perc testing but this can't be done until the snow is gone. A survey and tree plan will be submitted for the next meeting. Most of the trees are located on lot 3 with a few trees on lot 2. The proposed houses will be served by Town water and septic systems. The proposed driveways will be off of Frost Road. The proposal meets all the required setbacks for the two new lots and existing residence.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart asked about the decision referenced with respect to the lot sizes and if there was any mention with respect to the use of the existing home and cottage. Mr. Greenberg responded that the two rear lots were approved for the reduced lot size and there was a stipulation that the front large lot could not be further subdivided. The proposed plan shown is the max allowed for the property. Mr. Tegeder noted that he does not think that the Board is bound by this decision in terms of laying out a subdivision. Mr. Kincart stated that there was another application similar to this with a 3-family house in a single-family zone served by sewer that was seeking to create an additional lot. The existing house did not conform to the zoning and the application did not

move forward. Mr. Greenberg responded that the two-family house and cottage were before the Zoning Board and the front lot more than conforms at it is 72,000 sf which is 3x the amount allowed for the R-10 zone. Mr. Kincart stated that it is still a non-conforming use in a single-family zone albeit a legal use per the ZBA decision's for the two-family home. Mr. Tegeder asked if a ZBA decision was issued to convert the existing home from a one-family to a two-family residence. Mr. Greenberg responded that it was and will provide the paperwork to the Board for review. He noted that the cottage is also pre-existing and legal and they currently have a permit to renovate the cottage. Mr. Greenberg stated that he will provide a tree plan, survey and documentation as discussed for the for the Board's review.

Yorktown Energy Storage Tier 2 Battery Storage System

Discussion: Acceptance Decommissioning Plan & Bond
Location: 6.17-1-24; 3901 Gomer Court, Jefferson Valley
Contact: Melissa Samaroo, PV Engineers, P.C.
Description: Approved Tier 2 (5,000kW/15,000kWh) battery energy storage system which will be no more than 15% of the lot coverage with a maximum of five containers.

Comments:
Melissa Samaroo and Mike Conway were present. Ms. Samaroo stated that they are before the Board to discuss the decommissioning bond estimate and narrative. The present value is at \$24,901.22 and are proposing a future value after 20 years at 2 ½% inflation that the total bond would then be \$40,803.55.

Mr. Bock asked about the life expectancy of the system. Mr. Conway responded that the expected life of the system itself is 25 years. Within the definition of the system there are different subcomponents that have life expectancies (i.e. – the battery itself may only last 15 years and would be replaced throughout the course of the system). The decommissioning bond is meant to capture the system removal at the end of the project. This would include the cost of cleaning up the property, removal of the concrete pads, removal of equipment, salvage value of the various components of the system, etc. Mr. Kincart asked the applicant if there were other agreements in place for a similar project with other municipalities that the Board could reference. Mr. Conway responded that most are for solar projects, this would be the first for an energy storage project. He will provide an example from a solar project with less square footage for the Board's review. Mr. LaScala thought that the estimate seemed low for the decommissioning and should be evaluated. Mr. Tegeder asked the applicant to explain the rates and calculations for the decommissioning of the site. Ms. Samaroo responded that they pulled the labor and operator rates from the Westchester County data. The equipment material and removal rates are based on past solar projects. Most of the costs aside from the equipment and labor are construction costs that include breaking up the concrete pads and hauling them away. The batteries themselves will be removed by the vendor, as they have system contracts in place. There is also a disposal fee per battery accounted for in the bond.

After discussion, the Board agreed that since this is new to them it would be appropriate to have the Acting Town Engineer review the bond estimate and report back. Mr. Bock informed the applicant that it was stated that the estimated life of the system is 25 years but the increase shows 20 years and should be adjusted.

ZBA Referral #6/21 - Little Red House of Westchester, LLC

Location: 37.09-1-59; 2300 Crompond Road
Contact: Melanie Sindaco
Description: The request is for renewal of a special use permit for a daycare in the former location of the Montessori School at the United Methodist Church.

Comments:
Joseph Riina, P.E. and Melanie Sindaco were present. Mr. Riina stated that the applicant is before the Board for a renewal of a special use permit for a daycare in the former Montessori school. Ms. Sindaco, owner of the Little Red House of Westchester, is seeking to expand her daycare program into the former Montessori school for a total number of 58 children and will occupy four classrooms (*3 classrooms will have 16 children each and 1 classroom will have 10 children*). The ZBA decision for the former Montessori School was reviewed with the Board. Mr. Tegeder asked about the wording for the 18 students in the daycare facility noted in the ZBA decision. Mr. Riina stated that if you look back at all the documentation, he thinks it was worded incorrectly and was meant to say up to 18 more students as the Montessori program was already operating with 30 students out of five classrooms. The Little Red House daycare will be held Monday thru Friday during the hours of 7:00 am to 6:00 pm. There will be 8 staff members on site plus one office member. The children occupying the site will range in ages from 18 months through 9 years old. There are 7 toilets and sinks available for the children's use during the day and 2 ADA compliant bathrooms available. A summary of the program was submitted to the Board for review.

Chairman Fon noted that the use is already there and the State covers the childcare and asked the Planning Department if there were any concerns. Mr. Tegeder responded that the Board would be concerned with the difference in the number of children but given that there is the 35 sf required per child it doesn't look like there is anything deficient with the application. Ms. Sindaco stated that she applied to the State for the paperwork and the fire inspection is complete. Chairman Fon asked the Board and Counsel if there were any issues and there were none. The Board agreed to submit a memo to the ZBA in support of the application.

Ms. Sindaco thanked the Board for their time and review of the application and looks forward to growing her business in Yorktown that has been in existence for 13 years. She noted that Yorktown businesses have been hit hard by the pandemic especially childcare.

Taco Bell – Mohegan Lake

Discussion: Amended Site Plan
Location: 15.16-1-21; 3571 Mohegan Avenue
Contact: JMC Site Development Consultants
Description: Proposed Taco Bell restaurant and drive-thru on 0.83 acres in the C-2 zone, at the corner of East Main Street and Mohegan Avenue.

Comments:

Paul Dumont, EIT of JMC Site Development Consultants was present. Mr. Dumont stated that at the meeting of 2/22/2021 there was discussion about the project layout and landscape design to establish a more prominent corner at the site and help soften the views of the drive-thru lane in front of the property. Since that time, they have submitted a landscape plan and site sections for the Board's review. They are proposing a combination of low growing shrubs, 3-ft high white picket fence and fountain grasses. The goal is to achieve a layered combination of landscaping. All plantings will be low growing to soften the view and maintain the building's visibility. Site line sections were shown to the Board.

Mr. Tegeder asked about the picket fence. Mr. Dumont showed a picture to the Board and stated that it will be a simple 3-ft high white picket fence with fountain grasses planted behind to layer the landscaping and soften the view. The fence will help break up the areas of landscaping as a hard feature. Mr. Tegeder suggested planting a hedge that would maintain its foliage throughout the year and could be maintained at 3 or 3 ½ feet. Mr. Kincart felt that the picket fence looked out of place for this particular location and Mr. LaScala agreed. The Board advised the applicant to bring the landscape architect to the next meeting to present the plan.

Large-Scale Solar Power Generation System at Shrub Oak Plaza

Discussion: Special Permit
Location: 16.09-2-13, 1426 East Main Street, Shrub Oak
Contact: Ecogy New York
Description: Proposed installation of a 260 kW DC/233.3 kW AC Large-Scale Roof-mounted and Ground-mounted solar energy system at the existing Shrub Oak Plaza. Ground-mounted solar energy system will be three separate accessory canopy structures over existing parking.

Comments:

Julia Magliozzo of Ecogy New York was present. Ms. Magliozzo stated that she is before the Board as a follow up to the 2/8/2021 meeting. As requested by the Board, renderings of the site and canopy structure details were submitted for review. The latest site plan shows the front canopy (labeled #4) to be shorter than what was originally proposed so as not to block the tenant signage at the request of the property owner. The canopy structures will be 14-ft on the shorter end and 16-ft on the higher end from the ground. 23 trees in total are proposed to be removed to avoid shading and will be considered in the landscape and mitigation plan. Plantings are proposed between the road and canopy structures to soften the view but will need to be limited in height. They have not contracted with a landscape architect as yet. The canopy structures will provide additional benefits which include shading for the vehicles and EV charging.

Mr. LaScala stated that he was concerned with the visual aspect of the proposal. Chairman Fon felt that this may not be the proper location for this commercial use as it does not fit in with the historical character of the area and is a very visible location. Mr. Kincart agreed and noted that he looks forward to these applications in appropriate areas of the Town but noted that this is a main road in a quaint hamlet with historic structures.

Ms. Magliozzi asked if the primary objection was the long front canopy and if the rear canopies were more acceptable or are they too close to the roadway as well. The Board agreed that the front canopy was a visual concern. Mr. Kincart

noted that the Town Board is reviewing the overlay zones for the five hamlets within the Town which may include the back road where the rear canopies are located and could be a concern down the road. Mr. Bock asked the applicant if they would consider eliminating the front canopy and moving the rear canopies from the road to the interior of the rear property. Discussion followed with respect to alternate locations. Ms. Magliozzi stated that she recognizes the visual concerns and will provide alternate plans for the Board's review.

Town Board Referral - Granite Knolls Sports Complex

Location: 26.13-1-2; Stony Street

Description: A proposed resolution subject to permissive referendum authorizing the Yorktown Supervisor to sign a lease agreement to lease certain premises between the town and HESP Solar, LLC for the construction of a solar facility and four charging stations at the Granite Knolls Sports Complex.

Comments:

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

Motion to Close Meeting

Upon a motion by Aaron Bock, and seconded by Bill LaScala, and with all those present voting "aye", the Board closed the meeting at 10:40 p.m.