

Planning Board Meeting November 24, 2014

A meeting of the Planning Board, Town of Yorktown, was held on November 24, 2014, at the Yorktown Community & Cultural Center, 1974 Commerce Street, Room 104, Yorktown Heights, NY 10598. The Chair, Rich Fon, opened the meeting at 7:30 pm with the following members present:

John Flynn
John Savoca
John Kincart

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Planner; Anna Georgiou, attorney to the Planning Board, and Lisa Hochman, attorney to the Planning Board for Costco. Ann Kutter has resigned from the Board.

Discussion:

Correspondence: Town Board referred BJ's rezone. Steinberg stated the Board already sent a memo for this referral therefore if the Board agrees, staff will simply reiterate the original memo and send it to the Town Board. The Planning Board agreed this was fine.

Liaison Reports: No reports.

Courtesy of the Floor: No one came forward.

Upon a motion by Savoca, seconded by Flynn, and with all those present voting aye, the Board approved the minutes of November 10, 2014.

WORK SESSION

PEG Realty Corporation

SBL: 16.8-1-2

Discussion Approving Resolution

Location: 3699 Hill Boulevard

Contact: Architectural Visions, PLLC

Description: Approved 2-Lot subdivision and site plan for a 11,600 SF one-story commercial building.

Joel Greenberg, of Architectural Visions and Mr. Becker, were present.

The environmental consultant felt the Planning Board should see the mitigation plan. Bruce Barber, the town's Environmental Consultant, suggested a plan with a rain garden. The resolution is written that it has to meet Planning Department approval.

There is an issue with posting the performance bond. The Applicant cannot obtain a building permit until the bond is met. They are willing to do the work but not obtain any certificates of occupancy until they meet the Board's satisfaction. Savoca said the bond is a form of security that the infrastructure work is finished. Greenberg said they have the finances, they have a contractor, but they don't have the bond. This is because the property owner is not a developer with a track record therefore he has not been able to secure a performance bond. It was asked if we have proof of insurance from the contractor? Greenberg stated yes, the contractor's insurance is on file with the Building Department. Bond is 4%. Provide a bond or modify the resolution. Georgiou said that the work would still need approval. Fon asked if they have the tenants lined up. Greenberg said 60% rented. By next summer all the work needs to be done. Kincart said you usually do one or the other: post the bond or complete the work. A letter of credit is acceptable

but Greenberg & Becker had not looked into this before the meeting. Tegeder said the Board could ask for inspection reports to ensure work was being completed. They have \$230,000 for the job. Not typical of the process and setting a precedent for other people to come before the Board with the same request. The Applicant wants to put in foundation before the winter. Fon asked if they get the permit, how long before the foundation begins? Excavation will take 3-4 days and then they can start the foundation. Sidewalk work will continue and so will the drainage work. Kincart is for it but wants the reasons explicitly stated on the record so that the Board's decision doesn't necessarily set a precedent for future applicants. By issuing a permit the site will be scrutinized by Building Department anyway. Steinberg said they need to get the permit before December 3rd, when the Site Plan approval will lapse. Georgiou feels the deliberations should state special circumstances. Fon again stated if we allow this the Board may be setting a precedent. Georgiou asked if there is a time frame for obtaining the letter of credit. A majority agreed on the following conditions be enumerated in a motion allowing the foundation permit to be issued:

- (1) The Board hereby amends their Resolution #09-30 dated December 14, 2009 to allow a bond or Letter of Credit be acceptable forms of security;
- (2) Only a Foundation Permit may be granted at this time;
- (3) A Letter of Credit must be obtained within 30 days from the date of the Foundation Permit;
- (4) If a Letter of Credit is not obtained within 30 days, the project will not move forward;
- (5) Erosion Control measures will continue to be in place in compliance with the approved site plan and SWPPP Permit.

In addition, the resolution shall include the following special circumstances that were considered by the Board in determining to amend Resolution #09-30: Tenants expect to occupy space in 8 months, due to inclement weather approaching, and due to erosion control started. After much discussion, the Board decided in a 3-1 vote to amend Resolution #09-30 as stated herein.

Upon a motion by Kincart, seconded by Flynn, Fon voted aye, and Savoca voted Nay, the Board amended Resolution #09-30 subject to the conditions as documented in the minutes.

Kiederer

SBL: 27.14-2-4

Discussion SWPPP & Tree Permit

Location: 362 Granite Springs Road

Contact: Ciarcia Engineering

Description: A 2 lot subdivision approved by Planning Board Res #05-21 dated 09/12/05.

Dan Ciarcia, project engineer and Charles Kiederer, property owner, were present. Ciarcia was asked to create a tree preservation/mitigation plan for the subdivision. Even though the subdivision is approved, the applicant is requesting the environmental permits now and therefore must also comply with the Tree Ordinance. Since project is not on sewer there is limited space on the subdivided lot to preserve existing trees. The Health Dept requires the septic primary septic fields, 100% expansion area, and an additional 10 foot buffer surrounding these areas to be cleared. Ciarcia was able to pull grading back on Lot 4.2 and pulled back the drainage location. Ciarcia was not able to add new trees along the stone wall between Lots 4.1 and 4.2. Some trees may be able to be preserved along the northern boundary of Lot 4.2 and possibly a few closer to the septic. Ciarcia stated the applicant is trying to provide a reasonable onsite

solution to the mitigation. Resident Ann Kutter, who co-wrote the tree ordinance stated she thought the ordinance did not require 1:1 tree replacement, but to replace the function that were being removed, which in this case are for shade. Kincart said the tree ordinance has language in it that makes it difficult to interpret. Ciarcia stated the idea when the subdivision was created was to protect the farmhouse and the trees around it fronting on Granite Spring Road and this has been accomplished. What this does is create a buffer between the existing home and the new lots. Kincart asked what the Board did with Santucci (the Yorktown Farms Subdivision). Tegeder stated that on the Yorktown Farm project, the applicant obtained a tree permit for the entire subdivision and then the Planning Department when out to the individual lots as they came in for building permit and assessed the condition existing trees on each lot. They are offering to plant trees in some areas. Sharon Robinson (Acting Town Engineer) sat down with Ciarcia and tried to carve out on the site greater tree preservation and plant trees in the areas she thought would work. Ciarcia suggested he meet on site with Bruce Barber or Planning Department staff to assess the existing trees. Given the proposal from Barber and Robinson and what Kutter said about the tree ordinance, Kincart is in favor of the plantings as indicated since the project is hindered by the septic. Barber is to approve the final tree preservation plan.

Upon a motion by John Savoca, seconded by John Flynn, and with all those present voting aye, the Board opened a Special Session.

Upon a motion by John Savoca, seconded by John Flynn, and with all those present voting aye, the Board approved Tree and Full Stormwater Pollution Prevention Plan Permit #T-FSWPPP-060-14 for the Kiederer Subdivision with the condition that Cornerstone Associates approve the final Tree Preservation plan.

Upon a motion by John Kincart, seconded by John Savoca, and with all those present voting aye, the Board closed the Special Session.

Lake Osceola Square

SBL: 6.17-1-43, 45, 46

Discussion Site Plan

Location: 393 East Main Street

Contact: Site Design Consultants

Description: Requested site plan approval for construction of a three story 27,000 total square foot building including parking, landscaping, as well as connection to the Peekskill Sewer District and town water service. The beach is proposed to be open for public access

This item was withdrawn from the Agenda by the Applicant and was therefore not discussed by the Planning Board.

3525 Crompond Rd, LLC

SBL: 36.05-1-13

Zoning Board of Appeals Referral

Location: 3525 Crompond Road

Contact: Al Capellini

Description: Request for a Special Permit to allow the outdoor storage of vehicles on a portion of the premises.

Al Capellini, project attorney, and Arif Bulutus, property owner, were present. Fon opened by asking if any of the Board members had a chance to drive by the site. Georgiou said only in a commercial zone, can there be two (2) principal uses on a site. There is a residential property across the street and there is a grass area fronting the existing fence. Fon is concerned about the appearance on Old Crompond Road and for the residential properties and said he wanted some shrubs planted in front of the replaced fence along the right-of-way. He also wanted to know the amount of cars that would be parked and the layout of the parking. This was not available. Capellini explained the owner's circumstances and loss of business due to DOT work on Route 202. Right now his business is on the rail and the struggling business could not afford the additional expense of shrubs. Fon understands his circumstances but there are residents in the area and does not feel the fence alone is sufficient. Georgiou stated the Town Code states the Zoning Board can require appropriate screening. Capellini stated the entire fence will be replaced. The parking area will simply have gravel on top of the existing ground, which is currently grass. Kincart felt putting in a new fence is sufficient since anything on the other side will die from lack of maintenance. Kincart asked how much property was located on the other side of the fence. Capellini stated a few feet. The fence is now and will be 7-8 feet high. Capellini stated the new fence will be better than the existing fence and will also be better than the existing fence behind the Nissan dealership. This applicant should not be held to a higher standard. Flynn stated part of the Planning Board's job is to address site conditions when applicant's come before them in order to make conditions better. After much discussion, the Board remained split on whether there should be landscape screening required in addition to the new fence. Tegeder summarized that all members agreed on recommending the new fence on Old Crompond Road. Fon and Flynn agree plantings and fence, whereas Savoca and Kincart felt replacing the existing fence was sufficient. The Board will send a recommendation to the Zoning Board recommending appropriate screening be required to screen the view of the commercial site from the residential zone to the south.

3721 Gomer Street #T-WP-BSWPPP-069-14

SBL: 17.5-1-26

Town Board Referral

Location: 3721 Gomer Street

Contact: Jody Bellamy

Description: Request to construct a 2 bedroom residence, septic, and town water service connecting to an existing private driveway. Water service connection is within a Town wetland buffer. Removal of 39 trees of 6"dbh.

Steven Burns, project engineer, and Jody Bellamy were present. This is a Town Board referral for a one family (2 bedroom) house off of Gomer Street where water service will have to be extended through a wetland buffer. The house will be on septic. The Board wanted to know if it was referred to the Conservation Board. Bruce Barber stated the water service connection was a temporary disturbance in the wetland buffer and that the applicant also requires a tree permit. The Board has no planning related issues with this plan.

Costco Wholesale

SBL: 26.18-1-17, 18, 19 & 26.19-1-1

**Town Board Referral Gasoline Filling Station Special Permit
Discussion Draft Findings Statement**

Location: 3200 Crompond Road

Contact: TRC Engineers

Description: Application for site plan approval to construct a 151,092 sf Costco Wholesale Club store and member only gasoline filling station.

Opened at 8:45 p.m.

The Findings Statement would not be approved tonight as per Lisa Hochman because the Applicant has requested additional time to respond to comments on the FEIS. Recent comments were received from the Watershed Inspector General and DEP on stormwater issues. All the comments on the FEIS need to be reviewed. The Applicant intends to provide the Planning Board with their responses to all comments. Flynn noted that one comment asserted a significant difference in the FEIS projected traffic count as compared to the count by the traffic consultant hired project opponents. Tegeder noted that DEP could make their own Findings.

In response to referral from Town Board re special permit for gasoline filling station, the Planning Board discussed sending a letter to the Town Board saying they cannot issue special use permit until the Planning Board adopts Findings which completes SEQRA review. However, the Board decided not to send any communication to the Town Board yet as they may still issue their findings before the return date of the referral.

Upon motion by Savoca, seconded by Flynn, and with all those present voting aye, the Board voted to close the meeting at 9:09 pm.