

Planning Board Minutes December 7, 2015

A meeting of the Planning Board, Town of Yorktown, was held on December 7, 2015, at the Yorktown Town Hall Board Room, 363 Underhill Avenue, Yorktown Heights, NY 10598. The Chair, Richard Fon, opened the meeting at 7:00 pm with the following members present:

John Flynn
John Savoca
Darlene Rivera
John Kincart

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Town Planner; Tom D'Agostino, Assistant Planner; and Anna Georgiou, Planning Board Counsel.

Minutes – September 21, 2015 & November 23, 2015

Upon motion by Savoca, seconded by Kincart, and with all those present voting aye, the Board approved the September 21, 2015 minutes with the change as shown on the chair's copy.

Upon motion by Flynn, seconded by Kincart, and with all those present voting aye, the Board approved the November 23, 2015 minutes with the change as shown on the chair's copy.

REGULAR SESSION

Creative Living Development

SBL: 6.14-1-2

2nd One-Year Time Extension

Location: 3000 Navajo Street

Contact: Al Capellini Esq.

Description: Site Plan extension of a proposed air-supported dome over the existing southern field and associated improvements including an access road and wetland mitigation plan.

Al Capellini, project attorney, and the applicant, CJ Diven, were present. Georgiou clarified that the applicant is requesting a 2nd one-year time extension. Capellini stated the applicant is still waiting to receive approval from the NYSDEC for the dome which requires a wetlands permit from them. There are still open items with the Building Department regarding some of the improvements that were made that required Building Permits. Tegeder stated that building permits were issued for improvements required by the original Town Board approval. There has not yet been a building permit issued pursuant to the Planning Board's approval. Fon asked if there are violations on the site. Fon asked the Building Inspector, John Winter, to address any violations. Winter stated that certificate of occupancies still must be issued for the structures that have been built. Winter's has a little concern regarding a fire access road out to the dugouts that was relocated. The location is better, however it is only 15 feet wide, which is not acceptable. The project engineer needs to sign off on two items on each building and the handrails on the stairs were not code compliant. The greenhouse type tent structures need to be re-permitted every year because tents are a temporary structure. The Planning Board's approval required one of them to be relocated, which has been done. Winter questioned if the Planning Board was okay with him issuing the greenhouse permits again.

Fon asked about photos showing parking on the road to Route 6N. Tegeder stated this road was not supposed to be used at all. Fon asked what is going on, on the lower fields. Capellini stated this area was proposed for future use for paddocks. There has been some sports activity for kids there without any alteration of the soils or to create the fields, but there has been use of them. Tegeder asked for

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confirmation that there has not been any alteration to the lower fields. Capellini stated that to his knowledge, he did not believe any earth had been moved in this area. Tegeder stated that the Town Board resolution and the Planning Board resolution prohibited use of the lower fields or road. This was because this area is part of the wetland network.

Bruce Barber, the Town's Environmental Inspector, stated he has heard there has been use of these lower fields which include wetland areas designated by the town and the state. To date, no approvals have been given for this use. The letter from the NYSDEC has three points that need to be resolved. Staff has been trying to conduct a group meeting on the site to assess the NYSDEC issues and clarify and put together any substantive issues the board should be aware of. Tegeder clarified that the issues the NYSDEC has are with the original wetland permit approval as a result of the Town Board's approval. The NYSDEC has not yet reviewed the plans for the Planning Board's approval that occurred afterwards. Barber stated the Town Board originally issued a wetland permit for work on the site. There were some additional elements of that work that were done that were not included in the permit that were done within both town and DEC wetlands. This letter reflects the requirements to correct those conditions. Subsequent to that the Planning Board has reviewed its application and some of this work has been completed and some not. Staff is trying to get a hold of the entire situation. Flynn reiterated that the NYSDEC is still working on the first plan and has not even yet reviewed the Planning Board approval. The Planning Board's current approval expired December 3, 2015. Fon clarified that the violation on the site is using the buildings without certificate of occupancies.

Diven addressed the Board stating that he has certificates of occupancy for the two buildings. The Building Inspector has requested a determination from the State on the classification of the greenhouses. The NYSDEC requested that one greenhouse be relocated. All town staff had a meeting regarding the violations and there were none. To clarify the NYSDEC letter, the original reviewer was relocated. Joe Murray is now the reviewer and Heather Gierloff performs the inspections. It took from 2013 to September 2015 for her to make a site visit. Diven responded to all Gierloff's requests, but did not receive a response. Diven was surprised to finally receive the letter from Murray in the mail and was concerned that it did seem to account for his conversations with Gierloff. This past Friday Diven spoke to Gierloff again. Gierloff is concerned with extension of a path onto the north side of the stream corridor which is in the buffer and requested the path be replaced with grass. This was done. The road that is referred to was removed 2 years ago. The greenhouse was relocated as shown on the 11/22 plan in Planning. The third request is to submit an as-built plan showing the greenhouse was relocated. In the areas that were said to have too many chips, chips were removed.

Tegeder asked if NYSDEC has deemed the permit in compliance and closed out the permit. Diven stated he has voice confirmation from Gierloff and that a follow-up letter should be forthcoming. Tegeder stated that the lower fields are prohibited from being used in both the Town Board and Planning Board resolutions. The road and fields are being used. It is true that there are no written violations. The meeting with staff and Diven's team revolved mostly around some bonding so that the bonds can be reduced or released. While there are no written violations, the fields are still being used which violates both approvals. The DEC's compliance has nothing to do with your approval which was done subsequently.

Fon stated the Board has heard from the Building Inspector, Bruce Barber, the Town Planner, and the applicant. The site is an asset to the town, however it should be in compliance with all approvals. The Board agreed to table this extension until the next meeting.

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Winter stated that having an open permit is not a violation. Using the building without a certificate of occupancy is a violation. The greenhouses need to be renewed, is it okay with the Board whether or not these permits be issued again.

Upon a motion by Fon, seconded by Flynn, the Planning Board tabled a decision on the time extension.

The Planning Board did have the exhibits attached to the NYSDEC letter.

Hilltop Associates

SBL: 37.06-1-25

Reapproval Subdivision

Location: 450 Hilltop Road

Contact: Al Capellini Esq.

Description: Subdivision reapproval for a 3 lot subdivision approved by Planning Board Resolution 08-02 on January 14, 2008.

Al Capellini, project attorney, was present. Capellini stated the applicant is attempting to transition to a different engineer. At the same time the property owner has initiated talks with neighboring properties regarding sewer access. Tegeder questioned whether the Planning Board ever modified the approval from 3 lots to 2 lots. Capellini stated the applicant did submit a modified plan, however he does not think the Board ever approved it. Flynn asked if the modifications would affect the need for a cul-de-sac and town road. Tegeder reviewed the file and did not find a resolution indicating any modification was approved. There is no reason to not go ahead with the extension tonight. If the applicant does obtain approval for a sewer, the Board will have to review the SEQRA record and possibly modify their approval.

Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board approved a reapproval of the Hilltop Associates

Hanover Corner Inc.

SBL: 37.18-2-77 & 78

Decision Statement

Location: 1803 Commerce Street

Contact: Site Design Consultants

Description: Property owner is proposing on-site parking to accommodate the existing two-story building.

Flynn requested to view the site plan that is being approved. Capellini asked to review the revised resolution distributed tonight. Flynn asked what the demolition plan was for. Part of the sidewalk is proposed to be demolished. Flynn asked about the tree to be removed. The latest 10/23/2015 plans show the tree to be removed for site distance. The draft resolution added conditions to modify the site plan to show several additional items on the plans. Capellini stated the applicant had no objections to the added site plan modifications.

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Upon a motion by Rivera, seconded by Kincart, and with all those present voting aye, the Planning Board approved the site plan for the Hanover Corner Site Plan.

Upon a motion by Rivera, seconded by Kincart, and with all those present voting aye, the Planning Board closed the Regular Session.

WORK SESSION

Marathon Development Group

SBL: 37.18-2-51

Discussion Site Plan

Location: 322 Kear Street

Contact: Site Design Consultants

Description: A three story commercial/residential building with associated parking on 0.4098 acres in the C-2R Zone.

Al Capellini, project attorney; Joseph Riina, project engineer; Ed Vogle, project architect; and Mark Beida, the applicant, were present. Vogle showed a photo depiction of the proposed building in the streetscape as well as a new elevation of the building. The façade steps in and out and uses different materials and colors. These revisions were made to the proposed design to avoid the feeling of a straight wall all one distance from the road. Canopies were added to the commercial space to create a more human scale. Tegeder stated he thought this elevation would bring people down the street more than a parking lot. Kincart pointed out that you can still see the dentist office next door and it is very small. A photo depiction from the other direction may be a slightly different picture. The circulation around the building is much improved, but he still has reservations if the scale of the building is appropriate for this street. Fon asked about if variances would be required. If a common street line is followed a front yard variance is not required. The applicant is still requesting a parking waiver from the Planning Board for reducing the parking up to 25%. The building is 32 feet to the flat roof, where the maximum height is 35 feet in the C-2R zone. The HVAC for the retail spaces will be placed on the west side of the building. All the HVAC for the residential units will be contained in the units. There will be vents and exhaust fans that will be located on the roof, but no mechanical equipment.

The residential units will be accessed from an internal hallway. The Board reviewed the floor plans. The current plans shows three one-bedrooms, and three two-bedroom units on each floor. The commercial space has been reduced to 2,673 SF. All deliveries and garbage removal for the commercial space will be through the front doors.

Kincart asked about the restrictions that would be on the residential units. Beida handed out a proposed Rent and Income Limit summary. Georgiou asked the sources of funding the applicant has applied to use. Beida stated that Westchester County has committed funding and he has applied to HCR for the home and commercial CIF program. The project is too small to apply for tax credits.

At the suggestion of Capellini, Beida performed a parking survey at the Underhill Apartments. This development, also owned by Beida's company, contains 60 units, including 1-4 bedrooms, and 89 parking spaces, which equates to 0.74 parking spaces per bedroom. Beida counted the parking spaces used for 7 days in a row at 10 pm. The worst case scenario (least amount of vacant spaces) was 28 vacant parking spaces.

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On Kear Street, the applicant is requesting to supply the 4 parking spaces per 1,000 square feet for the commercial and 1.5 parking spaces per residential unit, where 2.2 spaces/unit is required by the zone. The Planning Board can reduce the required parking by up to 25%. The current plan shows 28 parking spaces. The Town Code requires a total of 37 parking spaces.

Flynn asked about commercial delivery through the front door and if any spaces on the street going to be restricted for loading. Riina pointed out the loading area on the east side of the building. Flynn thought commercial delivery trucks may still unload in the street especially on days of inclement weather. D'Agostino asked where residential deliveries will be delivered. The door on the east side of the building will be the entrance to the lobby for the residential units.

Georgiou asked the Board if they were okay with the front of the building being in line with the rest of the buildings in the streetscape. The Board agreed this alignment created a better site plan.

Flynn asked about a possible entry to the commercial on the east side of the building to again avoid trucks unloading on Kear Street.

Staff will review the parking and what Beida submitted and have information for the Board at the next meeting. Fon asked if the applicant could show the perspective from the west, which would be helpful.

JCPC Holdings, LLC

SBL: 48.07-2-2

Discussion Site Plan

Location: 1550 Front Street

Contact: Ciarcia Engineering P.C.

Description: Applicant proposes to construct a 5,000 sf building for an engine building shop and to restore and repair cars.

Dan Ciarcia, project engineer, and John & Patty Cerbone, the applicants, were present. Flynn asked about wetlands on the site. Ciarcia stated that water naturally drains off the hill and the construction of Front Street inhibited this flow. NYCDEP did come and witness test holes. No hydric soils were found, however still needs to be documented. The lot-line adjustment is moving forward with the Town Assessor. The Town Code requires 12 parking spaces for this site, however the proposed use does not need 12 spaces. There is only one employee. The applicant would like to bank the spaces on the site to use in the future if needed. Barber stated that he will have to reconfirm if any wetlands are on the site. At that time a functional analysis should be reviewed. Ciarcia stated the wetlands still need to be flagged. The proposed building will still comply with the side yard setback with the new lot line. Tegeder stated that once the wetlands are confirmed, the Board can move forward with the layout of the site.

Tegeder asked if the stormwater management could be accomplished underground. Ciarcia stated that the NYCDEP was not in favor of underground because soil mottling was observed. Tegeder requested the plan show the locations of the garage bays on the side of the building. Barber asked if any credit can be taken for green infrastructure. Ciarcia stated that if credit can be obtained for the grass pavers, then the basin can be smaller. The site is in the NYCDEP Main Street Area. Cerbone stated that he has

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about 24 clients per year. Some cars he has for a few days and many for a few months. The applicant will work on the wetland issues before returning to the Board.

Prunty Subdivision

SBL: 26.08-1-54

Discussion Preliminary Subdivision

Location: 3017 Old Yorktown Road

Contact: Ciarcia Engineering P.C.

Description: Applicant proposes to demolish existing residence and construct two (2) new single family homes.

Al Capellini, project attorney, Dan Ciarcia, project engineer, and the applicant, Peter Prunty, were present. The site has an existing unpaved driveway, house, and garage. The proposal is for two new homes. Ciarcia stated he started preliminary work with the Health Dept to look at the soils. The subdivision proposal requires a variance for frontage from the Zoning Board of Appeals. The shape of the frontage was given to simply minimize the degree of variance. There was no other reason for the boot shape of the flag lot. Tegeder requested photos of the existing structure be submitted. Fon asked if the entrance to the driveway can be shared on Route 132 to reduce the number of driveways. Ciarcia stated a shared driveway could be used. Ciarcia stated the site is not within the Hallocks Mill District. Connections for individuals are permitted, but not for sewer district extensions. The sewer line is in the far rear of the property and would require an easement from a neighbor and through town property. Ciarcia will also test the soil for septic.

Tegeder stated that irregular shaped lots and flag lots are discouraged in the Town Code. Kincart asked if the NYSDOT has any requirements. A permit is required for an additional access onto Route 132. A second water tap would also require a permit for work in the state right-of-way. Kincart asked if the driveway can be on the north side of the lots instead. Ciarcia will look into this. The frontage could also be regraded to improve site distance.

The applicant will work on the driveways to see if the Board will support the flag lot with shared driveway. The septic vs. sewer issue also needs to be solved. The front lot is approximately 29,000 SF, the rear lot is approximately 38,000 SF. The NYCDEP is also going to be a permitting authority for the septic. In regards to the flag lot, the Board is concerned about site distance and added driveways on Route 132. If those issues can be solved, the Board is generally not opposed to the subdivision. The property is a tough site.

CPD Energy Corporation – (Mobil Gas Station)

SBL: 37.14-2-51

Town Board Referral

Location: 2035 Saw Mill River Road

Contact: MAP Architecture

Description: Applicant wishes to amend the current special-use permit for the construction of a new convenience store in the place of the current one.

Michael Piccirillo, project architect, was present. The applicant is proposing to remove the existing nonconforming store building and build a new 3,000 SF building. Flynn asked about fuel truck delivery. Piccirillo stated he had not reviewed the truck delivery path. The Board should recommend

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this be added to the plan. The new building will conform to the setbacks. No variances are required. The new building will be in a grassed area, so the impervious surface will be increased. Tegeder stated the new, larger building will be on the slope facing the Triangle Shopping Center and this aesthetic impact needs to be reviewed. The topography of the slope behind the building is important, but not apparent on the submitted drawings. The topo and grading must be added to the plan. Barber stated this is a designated hot spot area by the NYCDEP so infiltration will probably not be possible. Flynn stated that the short form should indicate the site is in a critical environmental area. Tegeder stated the sidewalk on the north side of the site should be continued out to the street. The size and approximate location of the sewer line in the easement behind the proposed building must be identified because there may be separation distances required. The Planning Department will draft a memo to send to the Town Board.

RPG Properties Inc.

SBL: 15.15-1-22

Town Board Referral

Location: 3574 Lexington Avenue

Contact: Gerry Walsh and Phil Sanders

Description: Applicant is requesting a rezoning from R1-20 to R-3 for this property.

Tegeder presented the preferred and proposed plans to the Planning Board. Flynn asked why the request wasn't spot zoning. Georgiou asked if the proposal complies with the Comprehensive Plan. Tegeder stated that the proposal does not comply with the Land Use Plan in the Comprehensive Plan because it shows the site to remain as R1-20, however the general recommendations of the plan are to allow more of a mix of housing. Flynn asked why the adjacent parcel isn't also included. The site is between the nursing home, an old home being used as multi-family house, and the elementary school. Rezoning the adjacent site could increase its density. Tegeder stated the Board needs clarity on whether the action is just the rezoning alone or is there a proposed development. The Board would have to preserve in the record a SEQRA review by the Planning Board for any proposed residential site plan. The Planning Department will supply the Board with more information about the area, in the Town of Cortlandt as well, and pertinent sections of the Comprehensive Plan for the next meeting.

Triglia-Rezi

SBL: 16.17-1-51

Discussion Subdivision

Location: 1415 Christine Road

Contact: Al Capellini Esq.

Description: Proposed to subdivide 1.145 acre parcel to create one (1) new additional lot to construct a single family dwelling.

Al Capellini, project attorney; Peter Gregory, project engineer; and Rocco Triglia, the applicant, were present. Capellini stated the applicant was present to respond to a memo from the Planning Department. The applicant met with the Highway Superintendent and Town Engineer in the office. Their concern was with the open channel swales proposed to the existing catch basin. The Highway Superintendent does not want open channel swales and would rather a new catch basin installed to town standards. The plan shown reflects the as-built of the dwelling on Lot 1. Some more of the trees behind the home have been saved. The limit of disturbance was brought in closer to the home than originally shown. The plan shows underground storage, not infiltration, to be installed. The

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calculations will be included in the stormwater plan when submitted. Gregory stated that only perc tests were performed. No test holes were dug. The bulk regulations are all being met. Tegeder asked if there was any ground water found. Gregory stated the proposal is to be down 2 – 2 ½ feet so we can test for ground water at that depth. Barber stated the town will review the stormwater plan in respect to the flooding complaints by the neighbors. Tegeder request the applicant tie in any pipes from the neighbors to the existing catch basin be tied into the new catch basin. Capellini stated the right-of-way is only 45 feet wide so a 5 foot widening strip will be given. Capellini stated the Highway Superintendent did not want to take over the road. Tegeder stated that the Planning Board is the authority for planning town roads, therefore whether this roadway network is continued must be reviewed. Fon asked if segmentation will be an issue with the one home already being built. Tegeder stated that he met with Triglia on the 2 lot subdivision before the building permit was applied for the first lot. So there was a second project thought of at the outset. The Board needs to deal with the issue and review both lots and their cumulative impacts. The stormwater plan will be for both lots. A second variance will be needed for a second lot without frontage on a town road. A drainage easement will be required between Lot 1 and Lot 2 for the drainage pipe. The applicant's contract on Lot 1 will wait until the approval and filing of the subdivision. Capellini agreed that the applicant will not seek a Certificate of Occupancy on Lot 1 until the subdivision is complete.

Savoca asked what the additional improvements would be to make Baker a town road. Tegeder stated a town road would include pavement, curbing, and possibly one additional catch basin. Savoca asked if a town road would alleviate the issue of drainage with the neighbors. Barber suggested putting the proposed drainage pipe within the 5 foot widening strip and therefore in the town right-of-way. If it's not a town road, the town still would not maintain it. Fon asked Gregory if a road built to town road specs would solve the drainage problem. Gregory stated he did not think so because the road is currently crowned already. The problem may be solved by adding a drain inlet on the other side of the street. This new inlet would not be on town property though so maintenance would be an issue. Tegeder stated that he knows the neighbors like the dirt road, but the Board has to determine whether that is best.

Gregory will submit a preliminary stormwater plan for the Town Engineer's review. Sewer and water lines are proposed in the right-of-ways. Kincart asked about the water line to an existing home on Turus Lane. The town would have to be aware of any spaghetti lines in the right-of-way.

Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board voted to close the meeting at 10:05 pm.