

# Planning Board Meeting Minutes – March 14, 2022

---

A meeting of the Town of Yorktown Planning Board was held on **Monday, March 14, 2022 at 7:00 p.m.** in the Town Hall Boardroom.

Chairman Rich Fon called the meeting to order at 7:00 p.m. with the following Board members present:

- Rob Garrigan
- Bill LaScala

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- Dan Ciarcia, Town Engineer
- James W. Glatthaar, Esq.
- Councilman Sergio Esposito, Town Board Liaison

---

## **Correspondence**

There was no correspondence.

## **Motion to Approve Meeting Minutes of February 28, 2022**

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 February 28, 2022.

## **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**

### **Well Fargo, Yorktown Heights - Lighting Upgrade**

Discussion: Decision Statement

Location: 37-14-2-59; 1937 Commerce Street, Yorktown Heights

Contact: Natalie Sell, Bureau Veritas

Description: Proposed lighting upgrade for existing site.

Comments:

No representative was present. Ms. Steinberg informed the Board that since the application was last before the Board, the plans were revised to show a 16-ft free standing light pole in order to be compliant with the Town Code. The Board had no planning issues.

**Upon a motion by Bill LaScala, and seconded by Rob Garrigan, 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 Bill LaScala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving an amended lighting plan for Wells Fargo Bank located at 1937 Commerce Street, Yorktown Heights.**

### **650 Pines Bridge Road**

Discussion: Decision Statement

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

Contact: Alex Cochran

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

Comments:

Alex Cochran was present. Mr. Cochran stated that the proposal is to subdivide the 8-acre property into 3 lots that will eventually be sold. One of the lots is already improved with an existing house. The application was referred to the Town's outside environmental consultant, Barton & Loguidice, for review. They have received their report and have addressed their comments. He is here this evening to review and finalize the decision statement with the Board.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder noted that the resolution should be amended to include language that the lots return to the Board for the individual site plans. Ms. Steinberg noted that they will have to return for the SWPPP permit but could add this language to make it clearer. Mr. Glatthaar stated that the maintenance agreement should be referenced in the deeds to the individual lots as conveyed so that the homeowners are on direct notice to maintain their stormwater annually. The Board agreed to these changes and had no other comments.

**Upon a motion by Rob Garrigan, and seconded by Bill LaScala, and with all those present voting "aye", the Board declared themselves Lead Agency.**

**Upon a motion by Rob Garrigan, and seconded by Bil LaScala, and with all those present voting "aye", the Board adopted the Negative Declaration.**

**Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board approved the resolution approving subdivision plat titled subdivision of property prepared for Pines Bridge Road, LLC.**

### **Ryder Subdivision**

Discussion: Public Informational Hearing

Location: 48.06-1-12; 532 Underhill Avenue

Contact: Site Design Consultants

Description: Proposed 2 lot subdivision on 6.086 acres in the R1-40 zone.

Comments:

**Upon a motion by Rob Garrigan, and seconded by Bill LaScala, and with all those present voting "aye", the Board opened the Public Informational Hearing.**

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the parcel is located on Underhill Avenue. The property is a total of 6 acres and is zoned R1-40. The applicant is proposing to subdivide the property into two parcels. There was an existing residence on the property that was condemned and removed about two years ago. The project will utilize the existing driveway and then split off accessing the two proposed residences. No permit is required for the driveway as they are using the existing driveway location. The front part of the property has some wetland area that borders the driveway. The residence on the west side is proposed to be placed over the footprint of the original house location to minimize the amount of disturbance to the slope. The second residence is proposed to be placed in the back further up the hill. Both of the proposed residences are in the buffer. A mitigation plan has been provided to enhance the buffer area with various plantings. The light green section on the plan is an area that was maintained as a lawn that is now proposed to be removed and replanted with a seed mix to establish a higher quality wetland. The property will be served by septic systems and Town water. The septic systems will require Health Department approval.

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

- Susan Siegel, resident – Ms. Siegel stated that she didn't have a question about the site plan and the Town's review of it. She noted that in the previous item it was indicated that Mr. Ciarcia had recused himself and thinks it is because before he was the Town Engineer he worked as a private engineer on that project. She thinks the same issue applies here as he was the previous engineer for this project. She is not implying that there is a conflict and has high regard for Mr. Ciarcia but thinks it is a question of appearance and wondered if the Planning Board should seek an advisory opinion from the Ethics Committee in terms of whether a Town official should recuse themselves when he or she has worked on a project privately. She is raising this issue since it came up for the previous project, this project and is also relevant to the Stony Street subdivision. She questioned who reviewed the 650 Pines Bridge plan from the Town's perspective.

Ms. Steinberg responded that the plan was reviewed by the Town's outside environmental consultant.

Mr. Ciarcia stated that he is aware of the situation and noted that he was working as a private engineer over the past 20 years prior to his employment with the Town which created some conflicts. His former clients now have to spend more money by hiring other consultants. This is not something he created or is trying to leverage in his relation with the Town. The Pines Bridge application was done and for his client to have to hire a new engineer and start all over again did not seem fair. In order to address this, the Town's outside environmental consultant was brought in to review the SWPPP. He informed the Board that he also sought an advisory opinion from the Ethics Committee recognizing that this could be an issue. It was the Committee's determination that moving forward he should just disclose the fact that he was involved with these projects. He hasn't taken any action yet, but as they are coming in now he will file a letter with the Town Clerk. Chairman Fon questioned if there is an oath that professional engineers must take. Mr. Ciarcia responded there is and if they go outside their ethical conduct, the State Education Board has the ability to investigate and revoke their license. Mr. Riina stated that he has worked with Mr. Ciarcia for many years and noted that both their goals are to design plans according to the highest standards and what is best for the Town. Chairman Fon stated that he has volunteered for the Town for 17 years and has seen both engineers in a professional and private manner and had no concerns or issues with the matter raised and the Board agreed. Ms. Siegel thanked Mr. Ciarcia for the clarification and stated that she was not aware that he went to the Ethics Committee.

Chairman Fon asked the Board if there were any comments. Mr. Tegeder questioned the 10-ft wide strip. Mr. Riina responded that he wasn't sure and noted that the surveyor for the project is now deceased. They will need to find a new surveyor to figure it out and will report back to the Board.

**Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the Public Informational Hearing.**

**Motion to Close Regular Session and Open Work Session**

Upon a motion by Rob Garrigan, 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**

**Grishaj Major Subdivision**

Discussion: Subdivision  
Location: 16.17-2-77; 3319 Stony Street  
Contact: Site Design Consultants  
Description: Proposed 10 lot subdivision on 8 acres in the R1-20 zone. Plan proposes to connect to High Point Drive and South Shelley Street.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Chairman Fon informed the Board and applicant that he received a call from Highway Superintendent Dave Paganelli noting that he was unable to attend the meeting this evening but wanted the Board to know that he was not in favor of the Shelly Street connection. Mr. Riina stated that at the last meeting the Board requested a perspective showing the lengths of the roadway alignments connecting through the proposed subdivision. The potential length extension of Shelly Street from the intersection is about 730-ft, coming in to the property line at the end of High Point Drive is about 640-ft, and then continuing into the property will have a total length of 1,150-sf. They received a memo from the Fire commission dated 3/3/2022 that noted if the Shelly Street connection were to be eliminated they would require special approval and a variance from New York State as the maximum length for a dead end fire apparatus access road is 750-ft.

Mr. Tegeder informed the Board that he included some guidance in their meeting packets from the American Planning Association regarding dead end streets which basically reflects the requirements of the Fire Code. Chairman Fon suggested that the Planning Department, Highway Superintendent, Fire Inspector and applicant meet for further discussion with respect to the connection and the fire code.

## **Granite Knolls Park Solar Project**

Discussion: Site Plan & Special Permit  
Location: 26.09-1-22; 2975 Stony Street  
Contact: HESP Solar LLC and Bergmann PC  
Description: Proposed 1.3 MW-AC community solar project including ground mounted solar panels, solar carport system, and battery storage system at Granite Knolls Sports Complex.

### Comments:

Darius Chafizadeh of Harris Beach, PLLC; Eric Redding, P.E. of Bergmann; and Susan Brodie of HESP Solar were present. Mr. Chafizadeh stated that since they were last before the Board, they have submitted updated site plans, photo simulations, line of sight profiles, tree mitigation plan and project phasing schedule. They are requesting to schedule a Public Hearing for the April 25<sup>th</sup> Board meeting.

Chairman Fon stated that the Planning Board's biggest concern is the screening and compliance with the Town code and added that the Recreation Commission is concerned with the construction schedule and how it will affect their activities. Mr. Chafizadeh stated that a screening and mitigation plan with visuals were submitted for review. A phasing schedule was also submitted and noted that some of it overlaps their construction schedule timing which is about 170 days. He noted that about 45 of those 170 days would be for the electrical work. The proposed schedule is to create minimal impacts to the recreational facilities and will not impact the facilities themselves. The parking will be maintained with minimal impact during the construction phase and noted that there will be times when some spaces will not be accessible while others will.

Mr. Redding stated that the biggest change to the plan was to the layout. They discovered that there is a sewer force main and water line that runs through the site. As a result, they offset their panels on either side and maintained a 5-ft. distance from both of the lines as shown on the plans. The panels were rotated to be parallel to those lines as well. This will also help to maximize the area and maximize the output of the power. With respect to screening, they are proposing a row of evergreens along the north side as well as screening along Stony Street on the east side, where the trees are proposed to be removed, that will include four different types of evergreen species. Additionally, they updated the photo simulations and line of sight profiles to show the screening. The trailway is proposed to be rerouted through the site as shown on the plans. The trail was kept close to the line to where the trees are proposed to be cleared and will meander toward the southern end, cut across and tie back in the northeast corner.

Walt Daniels, Trail Commission, stated that with respect to the trail, he thought it would be a better idea to come out the driveway and go straight across Stony Street into the woods on the other side. He is also concerned about the construction timing and removal of the current trail boardwalks. He stated that they will need some or all of them for the new route and noted that they are not sure yet where the wet areas will be. Mr. Redding responded that they did make provisions in the plans with respect to the boardwalks so that during the construction phase if there are any wet areas identified they would place them down to ensure there is adequate access for the trail. Mr. Daniels requested to work with the applicant with respect to the boardwalks.

Patrick Cumisky, Vice Chair of the Recreation Commission, stated that he is still concerned with the construction schedule. He noted that the schedule provided is a list of activities and it is difficult for him to understand what is happening. He noted the 170 days and asked if it was consecutive days or working days. Mr. Redding responded that it was calendar days. Mr. Cumisky stated that it seems the phasing plan seems to show that they are taking up the overflow parking for their staging area. Phase 1 shows they are removing two rows of parking. The Commission will need to know how traffic will get in and out. Phase 2 shows three levels of parking will be removed. He feels that this would be impossible for them to operate the facility with three levels of parking unavailable. The Commission is adamant that this work should not go forward during their season. They have a slow season during the summer. They are still pressing for the work to be done during the months of November thru March to allow them to operate their facility fully without any construction. He is also concerned for the safety of the public. Parking is an issue and is the biggest restriction they have on that facility. He feels that the construction phasing plan is not detailed enough.

Mr. Daniels informed the Board that the Trail Commission had discussions with Highway Superintendent Dave Paganelli about creating trailhead parking by the old barn on the other side of Stony Street which could accommodate

about 30 or 40 parking spaces. He noted that he was told it could cost between \$30,000 and \$40,000. He thought that since parking was an issue, this could be a consideration for additional parking as it is not too far from the fields.

Chairman Fon asked about the screening and the visual impact of the solar panels. Mr. Redding stated that overall, they are proposing to plant 38 new trees for screening purposes. The trees proposed to be planted are a mixture of white fir, white spruce, Canadian hemlock and Colorado spruce. Visual renderings showing 7 different locations at the site were shown to the Board. He noted that with respect to the screening from the roadway on Stony Street (location #4), they are proposing rows of evergreens coming in from the right and another row of evergreens to the left closer to Stony Street. Mr. Chafizadeh added that they met with the Conservation Board previously and they suggested the proposed plan and noted that they are scheduled to meet with them again on Wednesday.

Mr. Tegeder asked about location #3 along Stony Street to the northwest. Mr. Redding stated that they are leaving the existing trees at this location and noted that with the elevation up off the edge of the road you will not be able to see the arrays so they did not add any trees along the southern edge. Mr. Tegeder questioned if they are proposing that the arrays will not be seen by virtue of the existing vegetation and elevation from this viewpoint. Mr. Redding stated that it would be very close to completely screening it. Mr. Tegeder requested another line of site diagram be prepared for this location. He noted that the concern is that there is no control of the existing vegetation and if it should die off, there would be no screening. They need to understand what the viewshed would be without the existing vegetation by virtue of the grade.

Mr. Tegeder informed the Board that the canopy over the parking lot could be seen from a couple of vantage points and noted that they will never be hidden from view completely and will have visibility from the interior of the site. The question is to what extent do they want to screen the canopy from the approach and Stony Street. Chairman Fon stated that it should be treated like every other application and be screened from the street level to be consistent. Mr. Redding showed the view from Stony Street looking up the hill (location #1). He noted that on the left side the canopy can't be seen but on the right side you will be able to see the underside of the canopy. Chairman Fon stated that this needs to be reviewed.

Chairman Fon stated that the Town Board will need to work with the Recreation Commission and the applicant with respect to the construction schedule. He requested that the applicant work with the Trail Commission and to also continue working with the Conservation Board. He stated that the Planning Board is consistent with their message on all solar applications in ensuring that these installations are screened to the greatest extent possible. He noted that some solar applications have provided photo simulations of tree growth from Year 1 to Year 5 for screening purposes which have been very helpful. Mr. Tegeder informed the Board that there was some repeated commentary about the screening being considered as part of the tree mitigation plan and wanted to iterate that he has found nothing in either the Tree Law or Solar Law that prevents them from considering any tree planting related to this project as mitigation whether it is a required function or not. The Board had no issues with this. Mr. Garrigan asked the applicant to provide more detail on the construction schedule. Mr. Cumisky stated that there seemed to be a considerable amount of screening proposed on the access road that goes into the property not owned by the Town and didn't know if it was necessary. Chairman Fon explained that screening is required for the neighboring properties as well. Chairman Fon advised the applicant to reach out to the Shrub Oak International School. Councilman Esposito requested for the applicant to provide a detailed construction plan in order to gain a better understanding of the schedule and how it will affect the recreational activities. Mr. Chafizadeh stated that they will reach out to the Recreation Commission with respect to their activity schedule. The Board agreed to schedule a Public Hearing for the April 25<sup>th</sup> meeting.

**Zoning Board of Appeals Referral #12/22 - Slice Pizza (Lowe's Shopping Center)**

Location: 26.18-1-18; 3224 Crompond Road

Contact: Michael Grace, Esq.

Description: Proposed sign that is 37.675 square feet where 25 square feet is allowed.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that the application is for a variance for a proposed sign that is 37.675SF where 25SF is allowed. The "Slice Pizza" sign will be located on the center of the building between Starbucks

and Triple AAA as shown in the renderings submitted. After discussion, the Board had no planning objections to this proposal.

**Town Board Referral - Gas Station Special Use Permit**

Location: 16.07-1-6; 930 East Main Street, Mohegan Lake  
Contact: Island Pump & Tank Corp.  
Description: Proposed update of existing gas station branding/signage.  
Comments:

Danny Porco was present. Mr. Porco stated that the applicant is proposing to update the existing gas station. The existing monument sign is proposed to be updated with the new Shell signage. The existing canopy is also proposed to be updated and will include two new internally illuminated Shell symbol signs to be located on the north and south end of the canopy. The existing building is proposed to be modified to include a new fascia and non-illuminated sign.

Chairman Fon asked the applicant if they met with the ABACA. Mr. Porco responded that they are scheduled to meet tomorrow. Chairman Fon questioned if there was enough information submitted for review. Mr. Tegeder stated that additional detailed drawings should be submitted along with a lighting package. He noted that the Town Board has been wary of straight angled canopies and would like to see softer or more traditional detailing. He suggested for the Board to request an extension and additional drawings for further review and the Board agreed. Chairman Fon advised the applicant to work with the Planning Department.

**Town Board Referral - Gas Station Special Use Permit**

Location: 36.06-1-25; 3451 Crompond Road  
Contact: Vincent Franceschelli  
Description: Proposed remodel of existing station and convenience store.  
Comments:

No representative was present. Ms. Steinberg stated that the applicant is from out of state and could not be present. The proposal is for the removal and replacement of fuel dispensers, underground storage tanks, pumps and piping and all associated site work at the existing gas station. A new fuel canopy and updated signage/branding is also proposed. Chairman Fon noted that there seems to be quite a bit going on at this site and questioned if all was in compliance with their site plan approval. Mr. Tegeder responded that they will review the site's compliance with the existing approved site plan and the Town code and noted that there were many issues with this site. At one time, there were rental trucks parked at the site without a permit. The rear of the site is not well maintained and the fence is in poor condition. He noted that this is the entry into many residential neighborhoods. Mr. Garrigan stated that to the left there is a maintained landscaped island and to the right it is a mess. Mr. Tegeder suggested for the Board to request an extension in order to produce a list of issues for this site and the Board agreed. Chairman Fon suggested working with the Building Department for this application as well.

**Town Board Referral - Community Choice Aggregation (Energy) Program**

Discussion: Proposed new Town Code Chapter 302 establishing a Community Choice Aggregation Program.  
Comments:

Councilman Esposito stated that the program is to address the high electric, gas and oil prices. This program will enable the Town to opt into a discount program from different energy sources with two different options that they are currently reviewing. He stated that either way it's a lock in program that opts the entire town in but noted that there will always be the ability to opt out. Mr. Glatthaar noted that the biggest issue is the communication aspect for this program and should be focused on. Discussion followed. Mr. Garrigan noted that there is a program already called Westchester Power and questioned if we would be part of that or starting our own. Councilman Esposito stated that we would be joining a program but not sure if it is that specific one. He noted that the adoption of the code doesn't mean that it will go into effect right away. It is basically laying the groundwork for the future if they should decide to opt in. The Board requested for the Planning Department to review the proposal and draft a response memo.

**Motion to Close Meeting**

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting at 8:21 p.m.