

Planning Board Meeting Minutes – April 11, 2022

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

- Aaron Bock
- Rob Garrigan
- Bill LaScala

Also present were:

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

Correspondence

The Board reviewed all correspondence.

Motion to Approve Meeting Minutes of March 28, 2022

Upon a motion by Aaron Bock and seconded by Bill LaScala and with all those present voting “aye” the Board approved the meeting minutes of March 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

Village Traditions

Discussion: Request for One-Year Time Extension

Location: 15.16-1-32; 1821 East Main Street

Contact: Timothy Mallon, property owner

Description: Approved site plan by Planning Board Resolutions #18-05 dated May 21, 2018 and #2108 dated May 10, 2021.

Comments:

No representative was present. The Board had no objections to the request for a one-year time extension for the approved site plan.

Upon a motion by Rob Garrigan, and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the one-year time extension.

Motion to Close Regular Session and Open Work Session

Upon a motion by Chairman Fon, 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. Mr. Riina stated that he is here as a follow-up with respect to the discussion of the extension of Shelley Street. He previously submitted information with respect to the roadway alignments connecting through the proposed subdivision for review. The Planning Department also submitted some guidance from the American Planning Association. He would like to know if the Board has made a decision in order to move forward.

Chairman Fon asked if a meeting was set with Highway Superintendent Dave Paganelli to discuss his concerns. Mr. Tegeder responded that the Planning Department did discuss the connection with Mr. Paganelli with respect to the Fire Commission code requirements and best practices related to planning. Given the code requirements, Mr. Paganelli is not against the connection, but was concerned about the neighbors and wanted them to be respected as much as possible. However, he now understands that the code prevails and that the connection and safety is of utmost importance. He noted that Mr. Paganelli may be willing to put something in writing. Chairman Fon stated that basically it sounds like this connection needs to happen. Mr. Tegeder stated that the Fire Code requires it and the planning practices highly recommend not having long dead ends without turnarounds and basically promote connections. Mr. Bock stated that he drove by the site this past weekend and didn't see any real issues with the connection. He also read the information provided by the Planning Department and sees value in these connections rather than a lot of dead end streets. He feels it would diffuse the traffic rather than concentrate it. Mr. LaScala stated that he also drove by the site and agreed with Mr. Bock. The Board agreed that the connection to Shelly Street made sense.

Mr. Riina stated that the mitigation plan has been prepared. Per their discussion at the previous meeting, a number of trees will be saved which will require some frontage variances. The Planning Department will refer the application to the Town's environmental consultant for review prior to scheduling a public hearing.

Dorchester Glen Subdivision

Discussion: Subdivision

Location: 15.20-3-6; 1643 Maxwell Drive

Contact: Site Design Consultants

Description: Proposed 4 lot subdivision on 24.26 acres in the R1-20 zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated the property is owned by John & Elaine Kincart. The property is a total of 24.26 acres and is zoned R1-20. The proposal is for a 4-lot subdivision. The property is bordered to the west by the Dorchester Heights subdivision. There is an extension of the right-of-way that abutts the property to the west. Behind the property is the Grange fair grounds and Maxwell Drive comes in at the north end of the property which is the Kincart residence. To the south of the property is about 11 acres of open space that was part of the Hanover East subdivision. There is a DEC wetland on the east side of the property. He stated that they worked on multiple iterations for this property and noted that on a conventional layout they are able to create 13 lots. However, the applicants are not interested in this and would like to maintain the character of the Dorchester Heights subdivision. The conventional layout is based on the current standards for the R1-20 zone and most of the lots are an acre or more. The proposal is to extend the town road from Dorchester Heights into the property ending in a cul-de-sac. The project would be served by Town water, sewer and gas if available. There is an existing stone wall that delineates the upland side of the property. They are not proposing to disturb the 100-ft buffer. The applicants are requesting to utilize the Town's flexibility standards that would allow them to shorten the road for more flexibility in the layout of the homes and driveways on the property. If the Planning Board is in favor of this concept, they would then like to move forward to the Town Board with a request for the flexibility standards.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. LaScala stated that under the flexibility standards, the homes would be much nicer. Mr. Bock stated that he supports the flexibility standards and suggested sending a memo to the Town Board. Mr. Garrigan also supported the flexibility standards and felt it was a good use. Mr. Tegeder suggested referring the application to all involved agencies for feedback before moving forward to the Town Board and the Board agreed.

Par 3 Golf Course

Discussion: Tree Mitigation Plan

Location: 16.07-1-38; 795 Route 6

Contact: James Martorano Jr., Parks & Recreation Superintendent

Description: Proposed Par 3 golf course and clubhouse with restaurant on Town owned Parkland.

Comments:

James Martorano was present. Mr. Martorano stated that a revised mitigation plan was submitted later today as a result of the Conservation Board's (CB) comment memo dated 4/7/2022. The plan now reflects a planting schedule and the scientific names of the plantings that are proposed to be installed. The CB also asked for a mix of trees, but he noted that the trees currently proposed are due to their root system. They also suggested to include multiple types of tall grasses along the bank slope which is now included on the plan.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder stated that the CB recommended native hardwoods and evergreens. Mr. Martorano responded that they would like to stay with the giant trufa and Norway spruce. Mr. Bock asked if the plans were modified since the last CB meeting with respect to the plantings on the bank slope. He noted that the chart on the plans show fescue which also have a shallow root system and stated that it may not be appropriate as some of the other grass additions and asked if it would be a mix of all three. Mr. Martorano responded that it would be a mix. Mr. Bock stated that the recommendation was to not use the fescue 100%. Mr. Tegeder asked if they were still using the tall fescue. Mr. Martorano responded that they were and it will be a mix of grasses. They will be using the non-invasive species type of tall fescue. The Board had no issues with the revised mitigation plan. The Planning Department will request final plans from the applicant for signature and the record.

Foothill Street Solar Farm

Discussion: Site Plan & Special Permit

Location: 15.07-1-5; 3849 Foothill Street

Contact: Con Edison Clean Energy Businesses, Inc.

Description: Proposed installation of a 1.875 MW ground mounted solar panel system and Tier 2 battery energy storage system along with associated access road, electric utility upgrades, and perimeter fencing.

Comments:

Joe Shanahan of Con Edison Clean Energy Businesses, Inc., was present. Chairman Fon stated that since their last meeting they received a subsequent environmental consultant report from B&L dated 4/4/2022 responding to the Board's various concerns. Mr. Shanahan stated that he reviewed the report and will comply with the recommendations. The only item he had an issue with was the fencing as there are requirements they have to follow.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Bock stated that the report closes the issues and concerns that he had and completes the record to the extent that he now thinks the Board can make a final decision for this application. He noted that one of the findings in the report that he found significant was the fact that the forest was not a good forest in terms of its function and health. It also doesn't have an understory. One of the consultant's recommendation was that some of the tree bank fund money go towards the portion of the woodland on the other side of the stream that is going to remain. Their recommendation was to plant native understory species and install a deer enclosure to help regenerate a more healthy forest on that side. He would like this concept to be explored and put in as a condition of the resolution. Mr. Shanahan responded that he had no issues with this request and will work with the Planning Department. Mr. Bock added that this would be active mitigation on the same site. The Board had no issues. Mr. Tegeder stated that the additional mitigation will need to be included on the mitigation plan.

The Board agreed to hold off voting on the decision statement until the mitigation plan is revised on the advice of Counsel. The applicant was advised to work with the Planning Department. The Board agreed to place this item on the April 25th meeting agenda. Mr. Shanahan thanked the Board for all their attention, diligence and patience while reviewing this project.

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board opened a Special Session.

SPECIAL SESSION

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

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

Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the Special Session.

WORK SESSION

Old Hill Farm Solar Farm

Discussion: Site Plan & Special Use Permit

Location: 16.08-1-4 & 17; 571 East Main Street, Jefferson Valley

Contact: Hillside Solar, LLC

Description: Proposed 3.75 MW ground mounted solar panels disturbing 15 acres on a 19.4 acre property in the R1-20 zone.

Comments:

Kathryn Hoenig, property owner; and Ben Reisman of PowerFlex, were present. Ms. Hoenig stated that since they were last before the Board, they have spent most of their time working with the Planning Department on various site sections with respect to the tree plantings that included looking at the species, size and placement. As a result, they revised their plan to include an additional 60 trees. They will now be planting almost as many trees as are proposed to be removed under the tree law. The species and actual placement of the trees will happen in conjunction with the Planning Department and neighbors to execute the best plan possible. They have responded to all comments received from various agencies and feel that they are now ready to move forward with a decision statement.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Glatthaar stated that Ms. Hoenig’s statement with respect to the final placement of the trees makes sense and should be left somewhat vague and subject to field conditions as grades can change and agrees with this concept. Mr. Ciarcia stated that he has no issues as long as there is the standard provision in the resolution for the final sign-off of the SWPPP as there may be some tweaks. The Board agreed to place this item on the April 25th meeting agenda.

Building Inspector Referral - Solar Application for 2641 Deer Street

Location: 26.18-1-31; 2641 Deer Street

Contact: Michael Miele

Description: Proposed 18.5 kW ground-mount solar adjacent to home on 1.26 acre property in the R1-40 zone.

Comments:

Mark Gearing was present. The application is for a proposed ground-mounted solar system on a corner residential property with two fronts. He noted that although the system is not proposed in the front yard, there is a street in the rear and the application will need to be referred to the Zoning Board of Appeals (ZBA).

Mr. Tegeder asked the applicant if he is requesting a setback variance. Mr. Gearing responded that he was. Mr. Tegeder informed the Board that in the meeting packet there is a highlighted section of the law with respect to small solar energy systems. Since this is not a roof mounted system, it was referred by the Building Department to the Planning Board for their review. With respect to the variance it appears that it needs to be referred to the ZBA once the Board gets a sense of the proposal. Mr. Bock asked what the variance was for. Mr. Gearing responded it was for the Stony Street side. Mr. LaScala asked if this was permitted. Mr. Tegeder responded that it was permitted in residential zones of an acre and above. Chairman Fon asked if there were any trees proposed to be removed. Mr. Gearing responded that the applicant will keep as many trees as they can but will include shrubs to cover the system. He noted that since the array is on a slope, the highest point of the panel will be less than 12-ft. Chairman Fon stated that the Board is consistent with their review of solar systems and they will need more details for this proposal. The application may also need to be referred out to various agencies for feedback. The applicant was advised to work with the Planning Department for further details (drawings, tree removal, mitigation and street views).

Town Board Referral - EV Charging Stations

Contact: Cuddy & Feder, LLP

Description: Proposed amendments to Chapter 300 to add a definition for EV Charging Stations and make the electronic signage on them exempt from the sign ordinance.

Comments:

Kristin Motel of Cuddy & Feder and Sam Lee of Volta Charging was present. Ms. Motel stated that she is representing Volta Charging, LLC. The proposal is to amend the zoning text to add a definition to accommodate electric vehicle (EV) charging stations in the CRC and C-1 zoning districts. Volta is seeking this amendment because their charging stations have electronic displays built into the model and the current zoning regulation does not contemplate this type of sustainable infrastructure. Volta is a publicly traded company that operates the most utilized universal EV charging system in the country. This system would be available to the public free of charge or subsidized as time goes on. The cost of charging is offset by the digital displays. Volta partners with large retailers to install these EV charging stations in large parking lots and shopping malls as these are places where people spend more time and there is more foot traffic. The displays are non-video, static images and completely silent. The language proposed to address these charging stations include some limiting conditions. The advertising or message system refresh rate will be no less than 8 seconds and the screen will be equipped with an auto-dimming feature. She noted that there are prohibitions on where they can be located. There are also exemptions proposed from off-site advertising prohibitions and illuminated electronic display prohibitions that are currently built into the sign provisions in the zoning amendments. Volta is proposing to install four stations at the Jefferson Valley Mall and two at the Staples Plaza. If the amendment is adopted, they will return to the Planning Board with formal applications. They feel that this proposal advances the Town's sustainability and economic initiatives that are outlined in the comprehensive plan. She noted that the Planning Department thought that they should contemplate gas station displays as well since they are the same sort of infrastructure.

Mr. LaScala questioned who will pay for the stations. Mr. Lee stated that building an EV charging infrastructure is expensive and the landlords do not want to pay for it. Most EV companies build them out and that is what Volta is doing. The media advertising will offset the costs. Mr. Bock stated that the Staples Shopping Center has an existing charging area with about a dozen or so stations all lined up in parking spaces and questioned if this law would permit installation of this type of advertising into those stations. Mr. Tegeder responded that he thought the answer would be yes. Mr. Lee stated that speaking from Volta's business model perspective, it doesn't benefit them to have 12 screens side by side as it would be oversaturated at that point. Volta's projects would include 2 or 4 stations depending on the size of the lot. Most of the other EV charging companies make their revenue based off of cost per charge. Mr. LaScala questioned where the power will come from - will it be a utility pole or the building. Mr. Lee responded that they connect to both. He noted that there are two different types of EV stations. The L2 stations are the slower trickle charge stations in which they are able to pull power directly from the building. The DC fast stations, which they are proposing for the Staples Plaza, would pull power from the existing utilities through a pole or existing transformer. He noted that they have different kinds of partnerships and will need the landlord's consent. Their source would come from the utility or the landlord's house power and Volta would have their own meter. Councilman Esposito questioned the difference between the two charging stations. Mr. Lee responded that the L2 charger will not be a full charge as that would take much longer. The intention is to dictate where consumers will shop so that they can get a top off in order to pay for itself so they don't lose anything in terms of mileage. The DC fast charger takes about two to three hours for an 80% charge and is the ideal choice for the consumer while shopping.

Chairman Fon stated that his concern is that it would be an attractive nuisance especially if there were a row of these stations along Route 202 at the Staples Shopping Center. He is also concerned with the potential amount of these stations as well as the impact to the residential areas nearby. Mr. Tegeder stated that they will require a site plan amendment and the Planning Board will have site planning authority in terms of public health, welfare and safety issues. Mr. Glatthaar stated that he would prefer to see something such as a setback requirement which would address the Board's concern about traffic safety. Mr. Tegeder stated that originally they were proposing to install them in all commercial zones and his thought was to start small with the mall and C-1 where there are larger interiors to select from and would be less impactful. He noted that the JV Mall and Staples Plaza have master sign agreements that also need to be amended in addition to the site plan. Mr. Bock stated that he had no issue with the concept as long as the Planning Board has the right to review the impacts and that the proposed law makes this clear. He noted that the amendment should take into

account whether or not it would just be a standard charging station or enhanced charging station with the electronic display. Chairman Fon stated that he was concerned with the glow from the display and the residential neighborhood. Mr. Tegeder stated that he agreed and doesn't think these stations should be on the periphery of sites whether they are illuminated or not because on the periphery of a site the Board is either endeavoring to protect a neighbor or presenting a pleasant streetscape to the public. Mr. LaScala questioned the size of the video screen and if it could be made smaller per the sign ordinance. Ms. Motel responded that they are proposing an exclusion from this as they are technically not signs and are viewed as co-dependent accessory displays as part of the infrastructure. Mr. Bock stated that as long as there is language in the proposed law that states that the Planning Board has discretion to apply the standards that they normally consider in a site plan he is fine with it. Mr. Garrigan asked if there was an application before the Board. Ms. Motel responded not currently as the law doesn't contemplate them as yet. If the law is passed, they will then submit their applications. She noted that the law does include a provision that notes "compliance with these standards shall be regulated and maintained through site plan or special permit approval..." The Planning Department will draft a memo for the Town Board with the Board's concerns in terms of their authority under the site plan amendment and locations.

Zoning Board Referral - ZBA #22/22 Clifford

Location: 48.07-2-28; 1625 Central Street

Contact: Michael Grace, Esq.

Description: To allow the subdivision of an existing single-family lot into two non-conforming lots; one fronting on Central Street and one front on Summit Street.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that the application was referred to the Planning Board for review. The proposal is to subdivide an existing single-family lot into two sub-standard lots. He noted that this area was formerly zoned R1-10 and there are still a few lots that front two streets. The proposal will require subdivision approval by the Planning Board and an area variance for both the existing and proposed residences. He stated that this proposal comports with the idea of diversifying and making affordable housing stock. He noted that he did have a discussion with the Town Board with respect to looking at some of the oversized lots that would be amenable to a subdivision. The proposed plan was shown to the Board.

Mr. Bock noted that the area started as R1-10. Mr. Grace responded that it did and once the area was upzoned, it basically eliminated the possibility of development which may have made sense then but not sure if it makes sense now. He noted that it is a wonderful neighborhood within walking distance to the Town. Discussion followed with respect to zoning. Mr. Tegeder stated that most often the Planning Board refers applications to the ZBA after they have reviewed the proposed subdivision and have concluded that it is a reasonable request. He feels that this application should be looked at in terms of grading, etc. He noted that there is the issue of the size of the lots that are also substandard to the past R1-10 zone. Mr. Grace stated that he needs to be cognizant of his client's investment in soft costs. Chairman Fon suggested that the Board conduct a site visit to gain a better understanding of the area and proposal. The Planning Department will look at the technical end to see if it is at all possible. Mr. Bock suggested scheduling the site visit on April 23rd as they already have a site visit with the Conservation Board scheduled for that day for another application. Chairman Fon stated he will go on his own. Mr. Garrigan stated that subdividing this property may not be out of character with the rest of the development and feels that it would be a great use for this parcel as it would be providing a potential residence.

Zoning Board Referral - ZBA #23/22 Wallack Family Limited Partners

Location: 36.13-1-4; 1549 Jacob Road

Contact: Michael Grace, Esq.

Description: To allow the construction of an accessory barn structure with a building height of 30 ft – 2 in, where 15 ft is the maximum allowed in the R1-40 zone.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that the application was referred to the Planning Board for review. The proposal is to allow for a height variance for the construction of a barn at 1549 Jacob Road which is located in Fox Den Estates. Mr. Garrigan asked what the intended use for the barn would be. Mr. Grace responded that he thought it

may be used for storage. He informed the Board that he did not have a site plan available. Once he gathers all the information, he will return to the Board for further discussion.

Discussion on Traffic Mitigation

Chairman Fon stated that the discussion this evening is a result of the discussion at the previous Board meeting with respect to the intersection at Underhill and Route 118 (Underhill Farm project) and the potential traffic impacts. With the approval of the Overlay District, he anticipates that more projects will be submitted to the Board for review. The concern is how these potential future proposals will impact the area holistically as opposed to reviewing them individually. Mr. LaScala stated that he didn't think it was fair to hold up an application for something that may come in. Chairman Fon stated that when the Shrub Oak International School was proposed, they knew there would be changes to that area. The applicant at that time paid into a traffic fund for review of East Main Street and suggestions were made to improve the conditions in that area which helped. He noted that the Planning Board wants to see revitalization and redevelopment but also wants it to be done in a responsible way. Mr. Bock stated that he would like to hear from the Town Board in terms of how they can approach this so that the concerns about being fair to the applicant currently before them, and also considering the ones that may come later, can be dealt with in an orderly fashion and not in an abstract way. Councilman Esposito informed the Board that they had a consultant come in and there was discussion about a traffic fund. Chairman Fon stated that with the current and potential future proposals, the Board needs to have a plan in place with respect to the traffic. Mr. LaScala felt that they should review each application as to what they will generate. He noted that in the last few years more people are working from home which creates less traffic. Mr. Bock stated that he viewed the Town Board meeting in which this was discussed and noted that a number of options that some of the towns in the Albany area are using to deal with these issues have worked successfully with different developments and looks forward to receiving the tools to review these applications in a responsible way. Mr. Tegeder stated that one thing that can be done short of creating a traffic fund, would be to analyze the traffic impacts for proposals that are likely to come in. The Board would then know what improvements are needed for each intersection. He noted that they already have the first application under the Overlay District and expects more to follow. He feels that the Town should hire a consultant to study this in depth so that there is an actual plan for improvements and how to apportion the fund contribution appropriately. Mr. Garrigan thought that there should be discussion in terms of capital investment and infrastructure for opportunities that are not necessarily tied to a particular applicant. Mr. Tegeder stated that the first application will have a large impact to the intersections that they would be responsible for. Mr. Glatthar stated that they don't want to create a situation where one applicant takes up all the capacity and feels that the potential impacts of the other sites need to be assessed. He noted that funding is always difficult but there are other levels of government involved that can offer assistance. Mr. Ciarcia stated that they need to project what will happen in the Heights area over the next few years to come up with a master plan of what needs to be done with the intersections and possible funding from the state. Chairman Fon thought that if there was a plan in place, the applicants would welcome it. Chairman Fon noted the Gardena Hotel application and associated parking. Mr. Tegeder stated that he thought the Town should hire a consultant to prepare a plan for the traffic impacts and future parking issues. Mr. Garrigan stated that the Heights area seems to be a victim of the 70's with so many parking lots and empty stores. The next model will be some sort of mixed use with residential and retail and feels that while it is about the traffic, it goes beyond that. The Kmart shopping center is a huge opportunity for redevelopment although there is an ongoing lease issue at present. The mixed use will promote more of a walking environment which makes proposals such as Soundview more attractive as residents can walk into town. Mr. Garrigan felt that this issue needs to be looked at in a way that doesn't hinder development potential.

Motion to Close Meeting

Upon a motion by Aaron Bock and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting at 8:50 p.m.