

# Planning Board Meeting Minutes – January 23, 2023

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A meeting of the Town of Yorktown Planning Board was held on **Monday, January 23, 2023 at 7:00 p.m.** in the Town Hall Boardroom.

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

- Aaron Bock
- Rob Garrigan
- Bill LaScala
- Bob Phelan
- Bob Waterhouse, Alternate

Also present were:

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

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## **Correspondence**

The Board reviewed all correspondence.

## **Motion to Approve Meeting Minutes of January 9, 2023**

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the meeting minutes of January 9, 2023.

## **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**

### **Boniello Equities Subdivision**

Discussion: Request for 1st 90-Day Time Extension

Location: 37.09-1-67, 70, 71; 2012-2016 Crompond Road

Contact: Gus Boniello

Description: Approved resubdivision of three lots to create 4 lots and construct two new two-family residences.

Comments:

Gus Boniello was present. Mr. Boniello stated that he is requesting a 1<sup>st</sup> 90-day time extension as they are still waiting on the Health Department approval. Chairman Fon asked the Board and Counsel if there were any planning objections and there were none.

**Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the 1<sup>st</sup> 90-day time extension for the Boniello subdivision.**

### **Colangelo Major Subdivision**

Discussion: Request for Reapproval

Location: 35.16-1-4; 1805 Jacob Road

Contact: Hocherman Tortorella & Wekstein, LLP

Description: Approved 6-lot subdivision in the R1-160 zone by Resolution #21-01 dated February 8, 2021.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the applicant is requesting a reapproval as they are still working on the legal instruments for the subdivision as noted in the letter by Geraldine Tortarella, Esq. of Hocherman, Tortorella & Wekstein, LLP dated 1/12/2023. Chairman Fon asked the Board and Counsel if there were any planning objections and there were none.

**Upon a motion by Aaron Bock, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution reapproving the stormwater pollution prevention plan permit, wetland permit, tree permit, and final subdivision plat titled Colangelo Subdivision aka Featherbed Properties, Inc.**

**Lowes Pad C – Chipotle**

Discussion: Public Hearing

Location: 26.19-1-1; 3180 Crompond Road (Route 202)

Contact: Site Design Consultants

Description: Proposed 2,283 square foot Chipotle with drive-thru, parking, and associated site improvements.

Comments:

**Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board opened the Public Hearing.**

Michael Grace, Esq.; Joseph Riina, P.E. of Site Design Consultants; Abigail Adams of A2 Land Consulting; and Frank Campione of Create Architects, were present. Mr. Grace stated that the proposal is to develop the last remaining pad at the Lowes shopping center into a Chipotle Restaurant with drive-thru.

Mr. Riina stated that a full set of engineering drawings were submitted for review. The location of the site was shown on the plan. The entrance to the site is the same as the original site plan approval for the center. A partial curb cut currently exists. Upon entrance to the site, there is parking on both sides with the trash enclosures to the left. Two-way traffic is proposed on the main entry drive. The drive-thru and digital pick-up station were shown on the plans. The digital pick-up operates through orders that are placed on an app and then picked up at the window. The circulation is proposed around the south side of the building with the exit on the north side. Thru traffic is also proposed. The loading area was shown on the plans. The site sits below Crompond Road and the main entry drive. As a result of the elevation change, a retaining wall is proposed that rings three sides of the site. The site is served by water and sewer. The drainage will connect to the existing drainage that is already in place and designed as part of the original approval. The main entry door faces Route 202. An outdoor patio, concrete sidewalk and landscaping is also proposed. The photometric lighting plan shows that the lighting levels are consistent with the code. The proposed lighting fixtures are consistent with what is used throughout the site and will be shielded and downward facing. The delivery truck movement and loading area was shown on the plans. Chipotle will be using a 28-ft box truck for deliveries. The proposed monument sign will be installed by the main entry drive and Route 202.

Mr. Tegeder noted that the lighting detail sheet shows 30,000K (LEPD30K) and questioned if this was correct. Mr. Riina responded that he thought it should be 3,000K but will confirm this. Mr. Tegeder asked about the light pole on the west side. Mr. Riina responded that it should just be a pole box and will be removed.

Abigail Adams, landscape architect, stated that the plans have been revised since the last meeting based on site plan changes to the delivery area and comments from the Planning Department as detailed in the proposed planting plan. Some of the existing trees at the site have also been incorporated into the landscape plan. They are proposing that these plantings either stay in place or be transplanted to appropriate islands or used for ornamental plantings throughout the site. As a result of the site plan change to the delivery area, the planting scheme in that area will include more lawn while maintaining the robust plantings throughout the site. Trees and low plantings are proposed at the island ends using some of the existing maples on site. Street trees line the access drive. Ornamental and screen plantings are proposed at the patio area. Additionally, plantings were added above the retaining wall to create a buffer and make it more visually appealing. There is an existing redbud and austrian pine in the southeastern corner that was planted as part of the overall Lowes planting plan. They are proposing a few more evergreens in that corner as well. They assessed the existing buffer plantings related to the DOT right-of-way area and it appears that most of the evergreens are dead or in decline. They are proposing to replace 14 of those trees with a variety of trees.

Mr. Campione reviewed the architectural plans with the Board. Parapets are proposed around the building and the roof will be sloped within the parapet. The rooftop units will be screened accordingly. The proposed colors of the building integrate well with the existing pad sites while still allowing Chipotle to have their branding and identity. Mr. Tegeder questioned if the height of the parapet was designed to hide the rooftop unit. Mr. Campione responded that it was and is based on the majority of the grade. Mr. Garrigan stated that his main concern was the delivery and the pull-off in the

traffic lane which was resolved by the applicant and also supplemented with plantings and more natural coverage. Mr. Phelan agreed and was also pleased with the plantings in front of the retaining wall on the 202 side.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon thanked the Breslin Group for all of their work and feels that the development itself is a great addition to the area.

Mr. Ciarcia, Town Engineer, submitted a comment memo to the Board for the record. He stated that the applicant should verify that the impervious surfaces associated with the application does not exceed the area considered in the overall SWPPP for the shopping center; sewer tap and water tap permits are to be obtained prior to the issuance of a building permit; any slope failures along the eastern property line are to be stabilized; and to confirm that there are no utility conflicts where the proposed sewer service crosses the proposed drainage. He noted that in the draft resolution there are blanks for the inspection fees and erosion bonds which will be provided once they receive the site work estimate. Chairman Fon added that they received a memo from the Water Department today with no issues.

**Upon a motion by Bob Phelan, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board closed the Public Hearing.**

**Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the resolution approving amended site plan and special use permit for the Lowes Shopping Center Pad C – Chipotle.**

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

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

**WORK SESSION**

**Burger King**

Discussion: Amended Site Plan  
Location: 37.18-2-57; 385 Downing Drive  
Contact: Michael Grace, Esq.  
Description: Proposed second ordering line for drive-thru and restriping of parking adjacent to the new drive-thru lane.

Comments:

Michael Grace, Esq.; and Peg Caniff, franchisee owner were present. Mr. Grace stated that the proposal is to renovate the existing Burger King located at Downing Drive in the Yorktown Green Shopping Center. During the public hearing of 6/13/22, the Board discussed the above ground propane tanks. During that meeting it was noted that the prior site plan approval required the tanks to be underground. The applicant is proposing for the tanks to remain above ground for safety purposes. Since then, they had a propane gas vendor (Suburban Propane) inspect the site and it was determined that above ground tanks would be a better scenario as the water table is too high for underground tanks and had popped out of the ground in the past. This was discussed with the Planning Department. They are proposing to move the tanks further back and provide protective bollards and fencing. The applicant is proposing to install a second lane to the existing drive-thru to better accommodate the drive-thru services. The footprint of the building is essentially the same with the exception of the proposed canopy extension over the pick-up window. Renovations are also proposed to the exterior and interior of the building. The landscaping at the site is maintained by Oster Properties as it is under their jurisdiction.

Mr. Bock questioned if the location of the tanks were final and how far away they were from Route 118. Mr. Grace responded that they will be pushed back and thought the distance was quite substantial. Mr. Tegeder requested to see the details for the bollards and fencing for review.

Mr. Tegeder asked about the lighting plan. Ms. Caniff responded that the existing poles at the site will remain the same (Oster has 5 poles and Burger King has 3). The building itself will have new lighting as part of the renovation. Mr. Tegeder requested that the applicant submit a lighting plan and specifications of proposed new lighting for review.

The Board asked about the landscaping. Ms. Caniff responded that the landscaping on the site is provided and maintained by Oster Properties as per the 1997 resolution. However, they are proposing landscaping between the median that separates the two lanes. Mr. Tegeder requested that the applicant submit a landscape plan for review. Discussion followed with respect to the landscaping maintenance by Oster Properties. Mr. Grace stated that he can look into it but noted that it has nothing to do with the applicant and they don't have the legal authority to change it. Mr. Bock agreed that they need to be sensitive to this issue as Oster Properties is involved and not the tenant but wants to ensure that they are obligated to do what they are responsible for. Ms. Caniff informed the Board that the landlord has been very responsive and is bound to the landscaping maintenance per the 1997 resolution. The Board agreed that this should be referenced in the record.

Mr. Garrigan questioned if the height of the parapet could be increased to shield the rooftop mechanicals from view. Ms. Caniff responded that it is higher but is not sure if they will be covered so they are proposing to install decorative fencing to match the building material. Mr. Tegeder requested to see the details for the decorative fencing.

Mr. Tegeder requested for the applicant to move parking spaces 16, 17 and 18 further down to create a walking area for the pedestrians and the applicant agreed.

The Planning Board had no objections to the proposed above ground propane tanks provided that they are protected by safety bollards. The Board advised the applicant to work with the Planning Department to finalize the details.

### **Guiding Eyes for the Blind – Training School Kennel**

Discussion: Site Plan & Special Permit

Location: 36.06-2-72; 3241 Crompond Road

Contact: Site Design Consultants

Description: Proposed construction of a Guide Dog training facility/kennel/veterinary hospital and office space with associated parking, stormwater management, utilities, landscaping, and lighting on 12.24 acres in the interchange zone.

#### Comments:

Dave Cooper, Esq., Joseph Riina, P.E. of Site Design Consultants; and Bill Ma of Guiding Eyes were present. Mr. Cooper stated that in October of last year, the Town Board amended the IN district to permit non-commercial kennels. As a result, a site plan application was submitted to the Planning Board proposing the construction of a new training facility/kennel/veterinary hospital at the site.

Mr. Riina stated that the site is located on Crompond Road. The entrance to the project is proposed off of Mohansic Avenue over the existing driveway that served the abandoned residence on the property. The proposed two-story building lands on the footprint of the existing residence but will be much larger. There is an existing narrow channelized wetland along the east edge of the property that continues along the Crompond Road side and expands to the west along Sherry Brook. The green shaded area on the plan is a landfill of construction debris. The DEC is currently involved with a closure plan that involves capping this area with one to two feet of clean fill which will then be revegetated with seed. They are proposing to replace the existing 12" culvert with a new 36" culvert at the existing crossing which will require some filling of the wetland in that area. There is some buffer intrusion with the driveway and parking area. The building will be utilized by the staff and visitors. The veterinary hospital is for the use of the facility only and is not open to the public. The loading area and trash enclosure locations were shown on the plans. The proposed building is where the business end of the facility will operate which includes the veterinary hospital, office, training rooms and community rooms. The kennels/pods jut out from the building and are used to keep the dogs separated for health reasons. Each pod will have an individual yard area for the dogs to run around and train. A common yard area is proposed for multiple dogs. Screening is proposed along the south edge of the property adjacent to the residential area. The existing conditions plan and contours of the site were reviewed with the Board. The pad is essentially flat with enough pitch for the drainage to make its way off the site. One corner of the site is cut in about 15-ft and the west and northern edge is in fill. They are looking to drop the site about a foot or two if they can to balance the amount of excavation. All the drainage is proposed to be collected in a series of catch basins and drainage pipe. A stormwater management system is proposed in an area to the west. They have an appointment with the DEP for testing in March. A tree inventory and removal plan was provided for review as part of the proposal. The traffic circulation and parking area was reviewed with the Board. The parking schedule is slightly different than what was submitted. Originally they had 89 employees

but are now showing 75 employees requiring 50 spaces. They are showing 65 spaces and are proposing to land bank 26 spaces should the need arise in the future. The site disturbance is 3 ¾ acre which includes the landfill area. A full EAF, Parts 1 and 2 along with additional supplements was submitted for review.

Mr. Waterhouse asked if there was any type of sound screening for the neighboring residences and noted that there were some issues with the Granite Springs site. Mr. Riina responded that the Granite Springs site was rectified. With the current proposal, the buildings will be sound proof. Chairman Fon asked about the site lighting. Mr. Riina responded that they are still working on the details. Mr. Bock asked if the capping of the landfill will require maintenance once the initial work is complete. Mr. Riina responded that it could be mowed or grown as a field, but they would want to ensure that it stays stable. Mr. Bock noted that it was referenced in the materials about deed restrictions on this property so it raises a question about future conditions that may have to be kept in check and assumes it will be addressed in the proposal going forward. Mr. Cooper responded that typically the DEC will require some sort of site control for that area so that current owners and future owners are on notice to whatever maintenance requirements will be agreed upon with the DEC which will then be enforced but as of now they don't know what they will be as yet. Mr. Bock felt that this was a positive aspect of the plan. Mr. Phelan asked if the applicant will build new head walls on the existing roadway and if they will act as a barrier when crossing the wetland. Mr. Riina responded that they will completely remove the existing culvert and construct headwalls on both sides. He added that they could extend it or install some type of guard rail. Councilman Esposito stated that with respect to the noise, he visited the existing site on Granite Springs Road and noted that the barking was barely audible as a result of the upgrade and assumes it will be even more sound proof with the proposed site. Mr. Ma stated that the existing kennel building on Granite Springs Road was built in the 1960's and then again in the 1970's and 1980's. Sound mitigation techniques have grown considerably since then. This facility will have the latest and greatest sound proofing available.

The Board agreed to schedule a site visit in conjunction with the Conservation Board and Tree Commission. The Board agreed to move forward with a Public Informational Hearing for the February 13<sup>th</sup> meeting.

#### **Zoning Board Referral - Kurti #57/22**

Location: 48.07-2-31; 1655 Central Street

Contact: Site Design Consultants

Description: Application to construct a new single-family residence with lot area of 5,000 square feet where 20,000 square feet is required and a lot width of 30 ft where 50 ft is required.

#### Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that he submitted additional information at the request of the Board. The applicant is requesting an area variance to construct a residence on a 5,000SF lot where 20,000SF is required. A title report and conceptual elevation of the proposed residence was provided for review. It was noted that his client found the home online and is proposing something similar. There are a number of properties in the neighborhood that are not conforming either by area and possibly by setbacks. A tax map of the vicinity was shown with the subject site and other properties of the same size. There are 31 lots, 7 of which are vacant and the remainder with homes, many of which don't meet the setbacks per today's standard. There are also 75 x 100 lots that do not meet the 100 x 100 originally required in the R-10 zone which now requires 20,000SF.

Mr. Tegeder stated that the architecture proposed seems to be in the right direction but the concern was the lot size. Mr. Bock stated that their main concern initially was whether this was self-created by the applicant which has been cleared up. Mr. Phelan noted that another issue was the proposed architecture which the applicant addressed. After discussion, the Board had no planning objections to the application.

### **MJM Land Development**

Discussion: Major Subdivision  
Location: 17.18-2-2; 3232 Gomer Street  
Contact: Site Design Consultants  
Description: Proposed 13-lot single family subdivision with road to be constructed to access the project from London Road.

#### Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that he was previously before the Planning Board as a Town Board referral for a rezone petition. After discussion with the Town Board, it was concluded that the best approach for this proposal is a conventional subdivision. The applicant is proposing a 13-lot single-family subdivision which meets the zoning requirements of the R1-20 zone. The access to the site is still in the same location off of London Road through an existing town right-of-way. Upon entry to the site there are 7 homes proposed to the left, the center portion of the site is a wetland, and to the right toward the back portion of the site are 6 more homes. Wetland permits will be required for the site. There is some buffer intrusion of the wetland toward the east side of the property. The source for this wetland is run-off that comes in off of Cordial Road and runs through this site. Dave Paganelli, Highway Superintendent, noted that there is a town culvert that dumps onto the property that is the source for this wetland. The applicant would like to proceed with their application for a conventional subdivision and is looking for the Board's feedback on the initial presentation.

Mr. Bock stated that there is less of a concern with this layout for other means of ingress and egress. Mr. Riina responded that they are avoiding coming off of Gomer Street as there is an existing right-of-way. He noted that there is a little bit of frontage in the corner of the back portion but not enough for a town road as there is only 40-ft where 50-ft is required. Mr. Phelan thought it could be used for emergency access. Mr. Tegeder stated that if it was just a one-line pinch point of 40-ft they could get a variance depending on the layout of the plan and if the Board supports it.

The Board requested to schedule a site visit and requested for the applicant to stake out the site with points of reference if possible.

### **Underhill Farm**

Discussion: Site Plan  
Location: 48.06-1-30; 370 Underhill Avenue  
Contact: Site Design Consultants  
Description: Proposed mixed use development of 148 residential units, 11,000 SF retail, and recreational amenities. Original main structure to remain and to be used for a mix of uses. Development is proposed on a 13.78 acre parcel in the R1-40 with Planned Design District Overlay Zone authorization from the Town Board.

#### Comments:

Mark Blanchard, Esq.; Joseph Riina, P.E. of Site Design Consultants; and Steve Marino, Wetlands Consultant of Tim Miller Associates, were present. Mr. Blanchard stated that the concept this evening is to introduce the Board to a summary of all the information recently submitted. They feel that they are at a place where they are ready to be referred to various agencies. He noted that there aren't many changes to the site plan. Per the Board's request, more work was done on the studies (traffic, environmental, etc.). The applicant is proposing to fund \$450,000 to the improvement of the Route 118, Underhill Avenue intersection. An additional amount of \$350,000 is also proposed for funding but the applicant is seeking to work with the town for a tax abatement against this amount. They are looking at traffic improvements with an E or D level of service. With their project they are projecting a B level of service at that intersection. Positive effects of the project include parking accommodations for the proposed senior center at Beaver Ridge; and improvements to the impact at the intersection not only for their project but for future unknown projects as well which will be incorporated into their project and design. The existing pond/ice pond will be restored and made available to the public. However, it should be noted that the open space is a segregated part of the plan which has to do with the walking trails. Another major aspect of the project is the preservation, restoration and adaptive reuse of the Captain Underhill house which has been a theme from the very beginning of the project.

Mr. Riina stated that since the last submission they prepared a more detailed plan set which includes a full breakdown of the zoning requirements and parking allocation. The plans were revised to show four less townhouse units. The previous plan proposed to relocate the run-off channel in this area to accommodate 10 units. Now that they have eliminated four units, the drainage channel will remain in its original location but will be enhanced. However, the development will still have the same number of units as the 4 units were moved into the apartment building. The stormwater system for the proposed improvement is shown on the plans. The recreational requirements for the project are also addressed for the zone. The tree inventory/removal plan was prepared and is included in the plans.

Mr. Marino stated that they are at the point in the SEQRA process where they compiled all the information that they have been working on as well as what has been reviewed in the past. An expanded EAF was submitted for review which addresses a number of items discussed at the PIH based on feedback from the Board, Planning Department and correspondence from the public on a number of issues. The report covers land use and zoning in compliance with the existing Overlay Zone; visual analyses with renderings of the site; wetlands and surface water resources; trees; cultural resources; fiscal and socioeconomic impacts; traffic; parking; recreation; stormwater; utilities; energy conservation and green technology; and alternatives. He informed the Board that they received correspondence from the Town's environmental consultant and is scheduled to meet with them on Tuesday. The expanded EAF contains separate chapters on each of these topics similar to what an EIS would contain. They expect that each topic could be discussed over the next few Board meetings to bring them up to date on the details as they are working them out and answer questions in order to hopefully move forward with a Public Hearing as part of the process.

Mr. Bock stated that the information submitted will help the Board accomplish the kind of review that they need to do in an efficient manner based on the issues that were identified and appreciated the overview given this evening. He thought it would be helpful to put together a schedule of which topics to review over the next several meetings. Mr. Marino stated that there will be more information forthcoming and will work with the Planning Department on a schedule. Chairman Fon thought that the Town Board and Advisory Boards could be included in the meetings to vet out any issues. Councilman Esposito informed the Board that the Town Board is in the process of reviewing the RFP for the historical consultant.

### **Meeting Closed**

Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting "aye", the Board closed the meeting at 8:35PM.