

Planning Board Meeting Minutes – March 13, 2023

A meeting of the Town of Yorktown Planning Board was held on **Monday, March 13, 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 February 27, 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 February 27, 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

IBM Battery Energy Storage

Discussion: Public Informational Hearing Site Plan & Special Use Permit

Location: 1101 Kitchawan Road; 69.16-1-1

Contact: Michael Landler, Powerflex

Description: Proposed 1 MW AC battery energy storage system to support solar canopy.

Comments:

Upon a motion by Bill LaScala, and seconded by Bob Phelan, and with all those present voting “aye”, the Board opened the Public Hearing. Dennis Phayre of Powerflex. was present. Mr. Phayre stated that the proposal is for the installation of a 1MW AC Battery Energy Storage System to support the solar canopy. The system is proposed to be installed to the rear of the parking lot behind the salt barn. Photos of the site and system were shown. He noted that the land slopes behind the salt barn so the system will be lower in elevation. An access road is proposed to be built to allow for construction as well as access for Con Edison and emergency vehicles. The battery itself will be 40-ft wide and is contained. The battery units are modular and will consist of 6 side by side stacked units with a series of transformers. The proposed system will be fenced in. He noted that the battery system and the solar canopy are one unit. The solar will feed the battery, and the battery will discharge to the grid when it needs the power. The actual purpose of the battery is to stabilize the grid for the entire community so that when the grid is stressed the battery will then put power into the grid to reduce any outages. They performed a sound study that shows it is well below the tolerances within the code.

Mr. Bock asked how long the system supplies energy. Mr. Phayre responded that it is a 1MW 4-hour battery. He added that they are limited to 5MW for any single site within the state, so the solar carport is 4MW and this system is 1MW which can produce 4 continuous hours of 1MW of capacity to the grid. Usually this occurs when the grid is in trouble during the 2:00 to 6:00PM period.

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

1. Jay Kopstein, resident – Mr. Kopstein questioned what kind of containment will be used around the system in the event they have to use foam to put out a fire.

Mr. Phayre responded that the battery unit itself contains a safety mechanism within it. If by chance there was a fire, it would burn itself out within the container. Nothing will escape from the container. Once stabilized, the container would then be removed.

2. Kate Bolger, 245A Pines Bridge Road – Ms. Bolger stated that she is the closest residential property to the site. She is concerned about how the proposal will affect their quality of life and property value. At times the on-going construction and lights have impacted their home life. She reached out to IBM and was told the permanent lights are necessary at night and was requested by their employees. She added that the IBM representatives have worked with them to find a compromise to which they are grateful. However, since then another construction light has been placed at the site which faces their house and is still ongoing today. She added that there is an existing broken fence between the IBM property and their home. As a solution, she is proposing that IBM install a new higher fence than what currently exists to block out the view of the solar canopy and construction activity. She added that she supports solar energy and feels that this would be the simplest solution to ensure that all parties can coexist peacefully.

Mr. Phelan asked who owned the fence. Ms. Bolger responded that it was owned by IBM. Mr. Bock questioned if there was natural screening existing that could be enhanced in addition or in lieu of the fence. Ms. Bolger responded that there is a light tree line with downed trees but during the winter there is no screening and during the summer it is very sparse and not well kept. Mr. Phayre stated that IBM wants to be a good neighbor and are open to all reasonable options. He added that there is about 20 feet of woods between their lot and the IBM lot. He will speak to the IBM representatives with respect to the fence. Mr. Tegeder stated that a combination of evergreen trees and a new fence would help with the visibility and the additional trees would count toward their mitigation for the project. Chairman Fon stated that they will have the applicant look at the fence and the area.

Chairman Fon asked if the lights were construction lights or permanent. Mr. Phayre responded that the construction on the parking lot closest to their property is complete. The permanent lighting was a requirement by IBM and doesn't cast up at all. The lights that were there were solar but, in the winter, they didn't stay lit long. Mr. Phayre stated that all construction lighting will be removed once the work is complete. There will be no lighting associated with the battery system except for the dark sky lighting for night access. Mr. Tegeder informed the applicant that a lighting plan will need to be prepared and submitted for review.

The Board agreed to schedule a site visit in conjunction with the Fire Commission. Mr. Tegeder stated that the local Fire Department was trained as part of the BJ's project, but noted that additional training could be considered. He added that a safety plan should be prepared as part of the approval process. The applicant was advised to meet with the neighbor regarding the proposed fencing.

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

SDML Realty, LLC aka Dunkin Route 202

Discussion: Public Hearing Site Plan & Special Use Permit

Location: 35.08-1-11, 14, 15, 23; 3735 Crompond Road (Route 202)

Contact: Reuben Buck

Description: Proposed 3,069 square foot Dunkin with drive thru, parking, and associated site improvements.

Comments:

Upon a motion by Aaron Bock, and seconded by Bob Phelan, and with all those present voting "aye", the Board opened the Public Hearing. Reuben Buck, P.E.; Phil Grealy, Traffic Consultant of Colliers Engineering; Isaac Gadikian and Christopher Peltier, Acoustics Consultants of Cerami; Mike Elkin, Architect of GKA Architecture; and Paul and Mario Sardinha, property owners were present.

Mr. Buck stated that the proposal is for a 3,069SF Dunkin with drive-thru to be sited on four tax parcels that are to be combined as part of the application. The total acreage for the lot is just under a half acre. The business hours for the facility will be from 4:30AM to 10:00PM daily. An 18-wheeler delivery will be made twice a week from 7:00AM to 4:00PM. Garbage pick-up will be from 7:00AM to 4:00PM three times a week. The donuts will be delivered daily

between 12:00PM and 2:00AM. The site is laid out for guest parking on the west side, and the east side will be reserved for employee parking. The loading and unloading, as well as the dumpster enclosure, will be located on the side of the building. The access aisle next to the drive-thru will allow for deliveries, garbage pick-up and also serve as a bypass lane. The entrance to the site is on Crompond Road (Route 202). The westerly entrance will be a full service entrance. Improvements are proposed to Route 202 to facilitate a safe access to the site. The site is proposed to be lit by several pole mounted fixtures in addition to building mounted fixtures. The lighting plan is designed to show no spillage over the property lines. To the rear of the site closest to the neighbors, there will be a 3 ½ to 5-ft retaining wall, fence and plantings to aid in the shielding of the light and sound. A landscape plan was prepared that shows small plantings around the parking areas and building with some larger trees to the rear of the property. Evergreens are proposed to be planted in the rear of the property between the property and adjoining neighbors. Line of sight profiles were also prepared for the three neighboring residences on Old Crompond Road. They received an email from one of the neighbors at 3738 Old Crompond Road (Kaylan Robstad) noting some safety concerns. He noted that they are proposing an 8-ft high fence that will be 2-ft from the property line in addition to the plantings of evergreens and a retaining wall which will provide screening and safety measures. A car would not be able to exit their property onto the residential property due to the change in elevation. The dumpster was moved 90-ft further from its initial location and will be picked up three times a week which should mitigate any trash concerns.

Dr. Grealy, Traffic Consultant, stated that a traffic study was prepared for the facility. They documented the existing traffic conditions along that section of Route 202 for the morning and afternoon peak hours. Based on the thru volumes along that section of road it warrants a left turn lane for vehicles turning left into the site. So if heading westbound the proposal is to widen Route 202. There is good sight distance at the entrance left and right. The exit point for the driveway to the east is for right turns out only. The plan was submitted to the DOT for review. He noted that the DOT is in favor of the left turn lane but they are waiting for input on the driveway configuration. In terms of peak hours, in the morning the heavy flow is east bound; and in the evening the heavy flow is west bound. They provided stacking on the site from the pick up window for 14 plus vehicles with a bypass lane. Chairman Fon asked about the sidewalk comment. Dr. Grealy responded that there isn't much pedestrian activity along this section of Route 202 and noted that the DOT is requesting sidewalks for most of the projects. He anticipates that it may be required, and that there may also be a small land dedication to the state. The widening will primarily be on the south side of Route 202. Mr. Phelan asked how far east and west will the widening take place. Dr. Grealy showed the area on the plans.

Christopher Peltier, Acoustics Consultant, stated that they conducted an acoustical survey of the site to study the impact of potential sounds to the adjacent residential properties. Their criteria is based on the local noise ordinance and DEC for guidance as well as other studies in the area. They established a 6 dBA overage of ambient sound for daytime and 3 dBA overage in the evening. The survey on site consisted of a 24-hour noise monitor and several spot measurements at various locations around the property line to understand the noise sources. The main focus of their study was on the kiosk operation and donut box truck delivery. The findings of their study with the site improvements, retaining wall and fencing is that the majority of the noise sources do not exceed the 3 dBA overage in the evening and the 6 dBA overage in the daytime. He noted that they are actually significantly lower in most cases with the exception of the highest level of the box truck delivery which exceeds by a decibel or two of the strict criteria they established. Some of the factors that were key in their findings were the orientation of the kiosk loudspeakers. They are oriented away from the residential properties. The speakers will also have an automatic control that will adjust the volume. They studied everything at the loudest it could possibly be and in reality everything should be quieter than their results.

Chairman Fon asked if there was anything out there that could be done to possibly reduce the noise level. Mr. Peltier responded that they are waiting to review the mechanical equipment for the site as there are screenings that could be done to address this but noted that there is not much that can be done for the vehicles. Mr. Garrigan stated that the highest level was the box truck delivery and noted that the deliveries are between 12:00PM and 2:00AM daily and thought this may be a concern. Mr. Peltier responded that it is the loudest of the noise sources on site but is about 4 decibels over the level at that time of day which is a low level. He noted that the plantings were not taken into account. Discussion followed with respect to the decibel levels and the box truck deliveries. Chairman Fon asked if the back up beepers were considered. Mr. Peltier responded that the beepers were not reviewed. Mr. Sardina stated that the deliveries are quick and take about ten minutes. The trucks will pull in, unload and depart.

Michael Elkin, Architect, reviewed the building architecture and materials with the Board. The rooftop mechanicals are proposed to be fenced in with a flat roof and shingled wall behind the units. The proposed fence is 3 ½ feet high and the wall is 8 feet high. The fence is proposed to be white decorative vinyl. They will ensure that the fence is as high as the units so they will not be seen. Mr. Garrigan asked if the compressors will emit any noise. Mr. Peltier responded that with the fencing and landscaping there should be no issue. Councilman Esposito questioned if there was something not as decorative but better at blocking the sound. Mr. Elkin responded that they could leave the fence but install something solid behind. Mr. Phelan noted that the flat area is facing east so the pitch of the roof is shielding the side of the compressors.

Chairman Fon questioned if the retaining wall, fence and landscaping would help with the neighboring facility. Mr. Peltier responded that depending on where the issues are coming from it could help in the order of 5 decibels or more.

Mr. Sardinha stated that with respect to the overnight box truck deliveries, the trucks will enter the site to the handicapped parking, deliver the donuts and exit out. They will not be anywhere near the neighbors and will not be backing up.

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

1. Patrick Barnett, 3744 Old Crompond Road – Mr. Barnett’s main concern is the noise level and he also is worried about idling cars. He questioned if there will be a fence on his side of the property.

Mr. Buck responded that there will be an 8-ft fence, landscaping and retaining wall between the two properties.

2. Susan Siegel, resident – Ms. Siegel questioned who will pay for the widening of Route 202 and sidewalk.

Dr. Grealy responded that as part of the highway work permit with the DOT, the applicant will be responsible for the road improvements and sidewalk.

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

Mr. Buck asked the Board if they could make a SEQRA determination for the project in order to move forward with the DOT and DEP. Mr. Tegeder noted that this is typically done when the resolution is adopted, however, the Board can decide provided that they have enough information to do so. The Board advised the applicant to work with the Planning and Engineering Departments. The applicant was also advised to work on the sound study, lighting plan and screening for the rooftop mechanicals.

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

Swope Trust

Discussion: Pre-Preliminary Application
Location: 6.17-1-30; 322 East Main Street, Jefferson Valley
Contact: Glenn Griffin
Description: Proposed 3,000 square foot commercial building for office use on approximately 2 acres in the Country Commercial zone.

Comments:

Glen Griffin was present. Mr. Griffin stated that he was before the Board a few years back but the project was stalled due to the pandemic. He purchased this property from the Swope Trust and is proposing to construct a commercial building. The property is vacant and mostly wooded. Before moving forward he is seeking feedback from the Board.

Mr. Bock questioned the strip on the east side of the property. Mr. Griffin responded that it was part of the property and thought it may be an easement but wasn’t sure. Mr. Bock stated that he had concerns with the proximity of the proposal to the lake shore and questioned if there was a 100-ft wetland buffer. Chairman Fon stated that it seemed the whole project was in the buffer with the exception of the septic system. Mr. Griffin stated that the property is actually dry as it was raised 3 or 4-ft a few years back. The Board advised the applicant to obtain an updated survey which will help to

clarify the easement on the east side; and to flag the wetlands. Once submitted it will be referred to the Conservation Board.

670 East Main Street

Discussion: Site Plan

Location: 16.08-1-34; 670 East Main Street, Jefferson Valley

Contact: Hahn Engineering

Description: Proposed to remove existing single family house and detached garage and construct five two-story, three-bedroom townhouses and 15 parking spaces.

Comments:

Will Angelillo of Hahn Engineering was present. Mr. Angelillo stated that since their last meeting the plans were revised to show four townhomes with more details based on the Board's feedback. A formal application was submitted to the Planning Department. They met with the ABACA and received their comment memo. They are here this evening to request to move forward with the proposal.

Mr. Tegeder thought that the proposed plan seemed reasonable and is the best layout for this property. He added that the landscape plan will need more attention. The Board agreed that the proposed plan was less intrusive than what was originally proposed. Mr. Bock noted that he still had some concerns with the access on East Main Street and is not sure if it would make sense to eliminate that access. Mr. Waterhouse noted that there is limited sight distance on East Main Street. Chairman Fon added that there is a proposal with the adjacent property and thought that the whole area could be reviewed in their traffic study. Mr. Angelillo responded that he was in touch with the engineer for that project, and this site will be included in their study. The Board agreed to refer the application to the Zoning Board of Appeals for the required variances and to schedule a Public Informational Hearing.

Gardena Hotel

Discussion: Site Plan & Special Use Permit

Location: 37.14-2-54; 1952 Commerce Street

Contact: Michael Grace, Esq. & Site Design Consultants

Description: Proposed demolition of existing building and construction of an 18-room boutique hotel with rooftop bar/grill, parking, and landscaping.

Comment:

Michael Grace, Esq., and Joseph Riina, P.E. were present. Mr. Grace stated that since they were last before the Board they received comment memos from the Planning Department and ABACA. He is here this evening to address the comments in order to move forward with the Public Hearing. He stated that the application is for a Boutique Hotel and is a use that is only allowed in the Overlay District. The Town Board later passed the area and bulk requirements for the use which wasn't defined in the original legislation. The proposed project comports with the legislation and it also anticipates that the Board will use the flexibility that is provided to it under the Overlay District legislation with regard to the setbacks.

1. Mr. Grace stated that the lighting plan will be submitted shortly.
2. Mr. Grace felt that this project presents a great opportunity to continue the existing streetscape along Commerce Street.

Mr. Tegeder noted that the width at the throat of the intersection is tight but immediately opens up to the point where the end of the proposed building is about 42-ft wide and thought they should think about where the final curb line should be. Discussion followed with respect to the utility poles.

3. Mr. Riina stated that the tree removal will depend on the streetscape.
4. Mr. Grace stated that the various setbacks will be shown and are all within the tolerances provided by the flexibility standards. There were some concerns about some of the site amenities that are in the mapped right-of-way and noted that there will be an agreement with the town. They will have to comport with the streetscape and added that he thinks this may be funded through the Covid money from the state for those improvements.
5. Mr. Grace state that the parking calculation was reviewed in terms of the regulations and for the area bulk and requirements for the hotel. One parking space for 250SF of patron area to cover the rooftop amenity.

Mr. Tegeder asked if this is imbedded in the special permit section that was just enacted. Mr. Grace replied that it was and there is specific language for this. Mr. Tegeder noted that this is a new use to be adapted towards a lesser parking requirement and felt that the Board needs to anticipate what the parking situation will be for the resolution. Mr. Grace noted that this particular use in this particular zone has to be put in the context of the overlay zone and the idea of the zone is to create a walkable vibrant downtown area. He feels that there is ample parking in the town. They already know that the Heights area can accommodate quite a number of people and cited the summer concerts, feast and various town events.

6-9. The architectural features, elevations and dimensions were reviewed with the Board. Mr. Tegeder asked if the color palette changed as he thought it was similar to the existing buildings in the area with the red brick. Mr. Riina responded that it changed to a brown, beige color at the request of the owner as they are trying to balance the applicant's desire to go totally modern yet fit in with the existing streetscape. Discussion followed with respect to the building material/color palette.

Mr. Tegeder stated that the site is within the designated main stream area. Mr. Riina stated that they already performed the testing with the DEP. Due to the size of the project, it falls under their new category as a simplified SWPPP. They will alter their design based on their testing and meeting with the DEP. It will not change the project as they have ample space on the site and are increasing the impervious area significantly.

Chairman Fon stated that the Board has been excited about this project from the beginning and discussed the parking previously with respect to the zone and the walkable concept. He feels that this proposal will be a positive addition to the town. Mr. Grace added that they have enough rationale in the enabling legislation and specific regulation to this use to rationalize the parking requirements as proposed.

Mr. Bock stated that he has every confidence that the technical issues will be satisfied and thought that the architecture could be reviewed during the next meeting and the Board agreed. Mr. Phelan noted that the building was very well designed but could be fine-tuned and the color scheme could be looked at. Mr. Riina stated that he will supply materials for the Board's review. Mr. Garrigan added that this is an area where it's good to spend some time as it should not be so much as what the town looks like but rather what they want it to look like.

The Board agreed that the applicant should meet with the Planning Department to review the architectural details and return for review and discussion during the March 27th meeting. The Board agreed to move forward with a Public Hearing for the April 10th board meeting.

Meeting Closed

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting at 9:10PM.