

Planning Board Meeting Minutes – June 26, 2023

A meeting of the Town of Yorktown Planning Board was held on Monday, June 26, 2023, 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
- Bob Phelan
- Bob Waterhouse, Alternate

Also present were:

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

Chairman Fon informed the public that the Board will be entering into an executive session for discussion with Counsel. Mr. Glatthaar, Esq. stated that he will discuss his legal opinion on the calculation of the floor area ratio in the overlay zone.

Upon a motion by Aaron Bock, and seconded by Bill LaScala, and with all those present voting “aye”, the Board entered into an Executive Session.

Upon a motion by Chairman Fon, and with all those present voting “aye”, the Board closed the Executive Session and returned to the regular portion of the meeting.

Board Discussion

Chairman Fon noted that he has been receiving emails with respect to applications to his personal email address and has been forwarding them to the Planning Department without a response. He asked Counsel if this was appropriate. Mr. Glatthaar responded that it was appropriate to forward the emails and noted that all emails/correspondence should be sent directly to the Planning Department as they are the record keeper not the Planning Board members. Chairman Fon also questioned if it was appropriate for them to converse in general about an application if approached on the street by another committee member, or chair of another board. Mr. Glatthaar stated that they could feel free to talk about what was received at meetings as it is public information; official action can't be taken.

Motion to Approve Meeting Minutes of June 12, 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 June 12, 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

SDML Realty, LLC aka Dunkin Route 202

Discussion: Negative Declaration

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

Contact: Engineering & Surveying Properties, PC

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

Comments:

Reuben Buck was present. Mr. Buck stated that since they were last before the Board, he has been working with the Planning Department with respect to the draft Negative Declaration. He also received the Town Engineer's memo this

evening and will address his comments. He is requesting the Board to consider the adoption of the Negative Declaration so they can proceed with their application to the DOT and DEP to further their site plan design. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

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

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

Gardena Hotel

Discussion: Decision Statement

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.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that he reviewed the draft resolution and had no issues. Chairman Fon asked the Board and Counsel if there were any comments. Mr. Glatthaar suggested minor rewording of language on page 3 in one of the resolved clauses. There were no other comments.

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 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 approved the resolution approving site plan, special use permit, stormwater pollution prevention plan and tree permit for the Gardena Hotel.

Dorchester Glen Subdivision

Discussion: Request for 1st 90-Day Time Extension

Location: 15.20-3-6; 1643 Maxwell Drive

Contact: Site Design Consultants

Description: Approved 5 lot subdivision on 24.26 acres in the R1-20 zone by Res #22-28 on November 14, 2022.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that the applicant is requesting a 1st 90-day time extension. Chairman Fon asked the Board and Counsel if there were any issues and there were none.

Upon a motion by Bob Phelan, and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the 1st 90 day time extension.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

Garden Lane Apartments fka Hoffman Decision

Discussion: Residential Site Plan

Location: 35.08-1-27; Old Crompond Road & Garden Lane

Contact: Dimovski Architecture, PLLC

Description: Proposed 20 unit apartment units with associated parking and site improvements pursuant to a 1990 rezone of 1.56 acres to the R-3 zone.

Comments:

Steve Dimovski, Architect; Dan Collins, P.E. of Hudson Engineering; and Dan Sherman, Landscape Architect, were present. Mr. Dimovski stated that they responded to the Planning Department's comment memo dated 6/21/23 as follows:

- Comment 1 - They calculated the open space based on 400SF/unit. The recreation space has been increased to 10% of the lot size with no deduction and are providing 6,788SF of recreation space. A small portion of it does go into the wetland buffer. He noted that the code doesn't specify whether or not this use can be in the wetland buffer.
- Comment 2 - The wetland delineation has been addressed and no action is required.
- Comments 3 and 4 - These comments work together with respect to the floor area ratio and is a Planning Board decision. He noted that they followed the Hoffman Decision for the number of units. For the Hoffman Decision, the units averaged about 880SF per unit, their proposal is averaging 875SF per unit so they are little less. The difference in the calculation is due to the deduction of the wetlands buffer area.
- Comment 5 - Catalog cut sheets for the lighting fixtures are provided on drawing E-101.
- Comment 6 - The driveway slope on the south side of the site is at 14% exceeding the 10% requirement. Mr. Collins, P.E. showed the driveway profile and discussed the topography of the site with the Board. He felt that the 14% slope is not unreasonable.

Mr. Bock asked who would handle the driveway grade variance - Planning Board or Town Board. Mr. Tegeder stated that per Chapter 195 the Planning Board has the authority to modify the requirement. He noted that the Town Board has granted driveway grade variances. This can be discussed further.

Chairman Fon asked about the floor area ratio calculation. Mr. Tegeder noted that it is a zoning code issue. The Town Board adopted the rezoning over the allowable unit count when the calculations were done at that time for the 20 units. Mr. Phelan questioned what the floor area ratio would be without the removal of the wetlands controlled area. Mr. Dimovsky responded that it was closer to the .2 requirement and are now at .3 which is not a big difference. Mr. Phelan questioned if the wetland controlled area is defined as a wetland area with respect to the calculation. Mr. Bock thought that the code requires the wetlands and the wetlands controlled area. Mr. Tegeder stated that it is required per the zoning code. Mr. Dimovski added that during the Hoffman decision, it didn't seem like there were any deductions required. The floor area ratio went up due to the fact that over time requirements changed with respect to larger hallways, stairs, ADA accessibility, etc. He noted that they are not grossly adding to the previously approved floor area ratio.

- Comment 7 and 8 – Proposed fence on southern side of the property. Mr. Dimovski stated that the proposed fence is not a privacy fence. Per their discussions with the neighbors, arboviataes are proposed for privacy screening and the fence will serve as a physical barrier for protection between the properties. The fence will be masked by the trees. Mr. Sherman, Landscape architect, reviewed the landscape plan with the Board.

Mr. Tegeder asked about the location of the fence in relation to the arboviates. Mr. Dimovski stated that the fence will be on the project side of the property. Mr. Tegeder asked if the proposed fence was a black chain link fence with nylon slats. Mr. Dimovski responded that this was correct. Mr. Tegeder requested for more details to be placed on the plan.

- Comment 9 – Trash enclosure. Mr. Dimovski stated details are provided on drawing A-200 and noted that it has already been reviewed and approved by the ABACA.

Mr. Bock stated that the sewer capacity issue needs to be addressed and noted the Town Engineer's comment memo dated 5/22/23. Mr. Collins explained the existing pump systems to the Board and noted that they will work with the Town Engineer.

Chairman Fon noted the Recreation Commission memo dated 5/22/23. Mr. Tegeder stated that there needs to be discussion about the demands that this development imposes on the recreation system which will aide in their decision to either accept the land for its intended use per the code or if there is a default for the payment in lieu. Mr. Garrigan asked what the intent was for the open space (i.e. - playground, recreational facility). Mr. Dimovski responded that it would be an open area for play and noted that the code doesn't define what happens in these spaces. Chairman Fon stated that he was concerned about the wetland buffer and the significant grade issue along the road. He doesn't feel that the plan meets the intent of the code and thinks that the fee should be applied in this case. Mr. Glatthaar noted that there are two different sections of the code, the first is 400SF of usable open space for outdoor living uses which includes a play area; and a separate requirement for a 10% set aside of the site for parks or recreational facilities. The applicant

has to meet them both but can't use the same land. If these are not met, then they will have to pay the \$4,000 per unit. Mr. Dimovski stated that the two spaces are separated and shown on the plans; the bulk of the wetland and wetland buffer are not calculated in either area except for one corner which is about 1,000SF. He noted that the code doesn't state that they cannot use the wetland buffer. Chairman Fon again noted that he was concerned with the 15% slope on the side of the driveway next to the recreational area. Discussion followed with respect to recreational requirements and past applications; it was noted that the characteristics are different in each application. Mr. Tegeder asked if a playground could be considered. Mr. Dimovski responded that they would consider it but didn't know what was required. Mr. Tegeder noted that a playground will keep the residents within the development as opposed to the public facilities. Chairman Fon advised the applicant to work with the Planning Department.

Mr. Bock stated that the density and unit number needs to be addressed. He felt that they could go with the 20 units since the Town Board already approved it, however, the Board will need to decide. Chairman Fon asked about the driveway grade variance. Mr. Tegeder responded that he will look into it with Counsel and the Town attorney.

Walgreens fka CVS Pharmacy

Discussion: Approved Site Plan

Location: 26.18-1-23, 25, 26; 3320 Crompond Road

Contact: Lucia Chiochio, Cuddy & Feder

Description: Approved site plan for a 14,698 square foot CVS Pharmacy with drive through and associated site improvements by Resolution #20-02 dated February 24, 2020.

Comments:

Lucia Chiochio, Esq. was present. Ms. Chiochio stated that the applicant is requesting to bifurcate the construction of the project. They are seeking an amendment to the resolution so that the applicant will construct the on-site improvements for the Walgreens store and the Town will undertake the construction of the off-site improvements in the Town right-of-way. The applicant will fund the work for the off-site improvements. They received the DEP approval and are ready to move forward. She added that they met with the ABACA with respect to the signage and elevations and received their approval. The size and location of the store will remain the same. The materials and colors that were proposed for the CVS will be used for Walgreens. The landscape plan was expanded. They worked with the Town Engineer with respect to the drawings and details for the off-site improvements in order for the Town Board to start the bidding process. A cost estimate will be provided for the applicant to set up an escrow with the Town. Construction drawings were submitted to the Building Inspector after the ABACA approval. Once the Planning Board issues the amended site plan approval the Building Inspector will issue the permits.

Mr. Tegeder informed the Board that after a number of discussions and meetings, he feels that this is the best solution presented in order to move forward. As discussed, the Town will manage the construction project for the road network but the cost will be assumed by the applicant as a condition of the original site plan. The only difference is that the management will be different. Chairman Fon noted that this will benefit the traveling public for the area and the community. Mr. Garrigan asked who will manage the funds for the roadway improvements. Mr. Tegeder responded that it would be the Engineering Department. Mr. Bock asked how the Town would fit into the amended resolution; would they have to sign off on it as well? Mr. Tegeder responded that the Town would have to sign off and advised the Board to look at the language to ensure it is satisfactory. The resolution could be approved at the next meeting after the Board's review and comments.

Underhill Farms

Discussion: Site Plan

Location: 48.06-1-30; 370 Underhill Avenue

Contact: Tim Miller Associates, Site Design Consultants, Colliers Engineering, Hudson Cultural Services

Description: Proposed mixed use development of 148 residential units, 11,000 SF commercial space, and recreational amenities proposed on a 13.78 acre parcel in the R1-40 with Planned Design District Overlay Zone authorization from the Town Board. Original main structure to remain and be reused.

Comments:

Mark Blanchard, Esq.; Dr. Phil Grealy, Traffic Consultant of Colliers Engineering; and Paul Guillaro, property owner were present. Chairman Fon noted that the Board received quite a bit of correspondence.

Dr. Grealy discussed the improvements proposed for the Rochambeau intersection. He noted that in their original study they identified potential improvements for the Rochambeau access to Underhill for both entering and exiting traffic. The vegetation at the Rochambeau intersection will be pruned and cleared within the right-of-way to increase the sight distance; and dynamic speed control signs are proposed to slow down traffic. With respect to pedestrian movements, a crosswalk is proposed, and as part of the intersection improvements, they will be reconstructing a portion of the sidewalk due to the widening and positioning of the added lane approaching Route 118. The queue approaching the Route 118 intersection will be reduced to under 200ft. The right turn movement from Route 118 southbound on to Underhill will be reconstructed and under signal control. It will be a fully controlled pedestrian intersection. The driveway to the townhouses are opposite Rochambeau so they are making their own sight distance improvements. From a traffic standpoint, the impact is minimal as this will only be used for the townhouse traffic. The signage for the area was shown to the Board. This is all identified in their study and will be shown in more detail on the plans. Councilman Esposito asked if they are recommending to reduce the speed limit on Underhill. Dr. Grealy responded that it was part of their recommendation to reduce the speed towards 118 but this would be a Town Board action. Mr. Tegeder asked if they analyzed the level of service at Rochambeau for the future with the project. Dr. Grealy responded that they did and noted that the level of service coming out of Rochambeau in the worst time period is a level C. The increase from the project is less than 5 seconds; the improvements will make it safer and benefit the operation. Mr. Tegeder asked if the total improvements including the 118 intersection will have a positive effect on the level of service at Rochambeau. Dr. Grealy responded that it will and noted that it is not just the level of service but the safety as well. Mr. Tegeder stated that Rochambeau will remain in the peak period at a level C without a noticeable increase in delay. Dr. Grealy responded that this was correct. Mr. Tegeder asked if the intersection will create a little gap for the residents to take advantage of. Dr. Grealy responded that the improvements would provide some more gaps for the residents exiting at that location and noted that lowering the speed limit from the other direction would also help. Mr. Tegeder stated that with the “Do Not Block the Box” sign and the 118 intersection improvements that they didn’t expect the queues to reach Rochambeau often or at all. Dr. Grealy responded that it shouldn’t unless there is an event out of the ordinary.

Chairman Fon noted the WCPD letter dated 6/22/23. Mr. Tegeder stated that the letter seemed to focus on complete street design and pedestrian connectivity. He feels that the intersection is well done and will provide the connection to the area. Currently using the intersection, you are led into the property. He noted that there may not be an understanding that from Glen Rock and Rochambeau that they can walk through the property or even be inclined to do so. He feels that there needs to be some pedestrian amenities that go up to Rochambeau and Glen Rock. He noted that on the other side there is a sidewalk that goes up to Rochambeau which probably needs to be reconstructed as it was made of asphalt.

Mr. Bock reviewed the WCPD comment letter with the applicant. The letter states that they agree that the proposed development would be an appropriate level of residential and commercial density to the Yorktown Heights hamlet area. The following comments were noted – complete street design methods (PDDOZ regulations - sidewalks, bicycle infrastructure, etc.); parking in the front yard; shared parking; affordable housing; wetland remediation; stormwater management; DOT review; recycling provisions; bikes and e-mobility devices; green building technology and universal design. Mr. Bock stated that he would like to consider how this connects to the downtown area. The letter noted that they questioned the purpose of establishing a large setback containing a parking lot fronting one of the main gateways into the hamlet. They are disappointed with the conclusion that affordable housing is not provided because the town doesn’t require it. The wetlands was already addressed by the applicant. They pointed out the need for an enforceable stormwater maintenance program; recycling provisions need to be shown on plans; and recommended provisions for bicycle parking and green technology on the rooftops.

Mr. Guillaro stated that with respect to items 3 and 4, the basic design is in place and they are preparing their submission to the DEP. With respect to the DOT, the plans have already been submitted. The recycling provisions; bicycle and e-mobility devices; green building technology and universal design is fine. Items 1 and 2 have been discussed with the Planning and Town Boards. There is no affordable housing requirement. However, he noted that they are providing three different levels of housing (townhomes, condos and apartments) that provides diversity. Mr. Blanchard stated that with respect to the affordable housing comment presented by the WCPD, the County is advancing their policy

initiative and it is not a question related to the hard look issue under SEQRA. They have covered this under their fiscal analysis and with the type of housing provided. Mr. Tegeder stated that the County does have a policy that they follow that advocates for “fair and affordable housing”. They have a model ordinance that they asked the municipalities in Westchester to adopt which they did. They always have comments such as this because it is their requirement to do so. Mr. Glatthaar stated that the County is asking that they look at affordable housing but it is not the job of each applicant that comes before the Board to meet every possible housing need that the town may have. The Board may decide that the town needs rental housing, or senior housing, etc., and that this project advances those goals; or they may say that the project doesn’t address affordability. He doesn’t think it has to address it and noted that many projects being built in Westchester are not addressing affordability but are addressing a need for market rental housing. Councilman Esposito noted that the Town code does not have a set aside law. Mr. Blanchard noted that this is not binding and is an advisory letter, however, you could have a defect in the review if they failed to refer out to the County. The letters do not supersede the Planning and Town Boards’ jurisdiction. Mr. Bock felt that it is raising an issue that he doesn’t want to dismiss by saying that there is no set aside law but is appreciative of the multi-housing approach. Mr. Blanchard reminded the Board that even with their own sister agency within the Town of Yorktown, this issue of affordability has been part of the record and discussed. Mr. Bock acknowledged this. Mr. Garrigan felt that the WCPD letter highlights all of the same topics that the Planning Board has been discussing and developing over the course of their review. He noted that the housing diversification is meaningful to him; having a property with three different types of opportunity to purchase or rent is unique.

Dr. Grealy stated with respect to the parking, it seems that the comments are intertwined. He noted that the shared parking would reduce the overall parking. Mr. Tegeder noted that there is shared parking proposed on-site for use by the senior center and residents during the times that they are not in use. There are benefits associated with the commercial parking spaces as they will not be utilized overnight. He noted that there has been some elimination and movement of parking on the site and is not sure if there can or needs to be more. Mr. Guillaro stated that they are willing to landbank more spaces but for now they feel that the amount of parking proposed is adequate for the site.

Mr. Guillaro stated that with respect to the comment about relocating the parking in the front yard on the Route 118 east side behind the buildings he noted that during their historic review, SHPO requested that the roadway in the front continues. They also wanted to ensure they provided a good means of egress for the Beaver Ridge project. He noted that even if they left a traveled way there is nothing they can build of substance between the drive and the property line on Route 118. He thinks where they positioned it is the best place and noted that that they have two front yards to deal with. Mr. Tegeder noted that there is a difference here as many of the properties existing within the Overlay District are predominantly commercial properties. This property in its current and proposed condition will be more of a campus style and the requirement or direction in the Overlay District to prevent parking in the front yards is meant more toward commercial properties where the pedestrian and streetscape connection is much stronger and more important in the more urbanized areas than it is for this particular property. The LOR speaks to this when it identifies the setting and feel of the property looking into a campus style setting through some old stately trees to the historic building with historic pond, etc. He doesn’t think that the setting, feel and aesthetic quality of this development would benefit from moving the buildings closer to the street to eliminate front yard parking. He noted that front yard parking currently exists on 118. There was discussion about maintaining as many trees possible along 118 as it reads more of a greenway and less of a downtown urban property which will be done. He added that there is potential to install a type of hedge to visually block the cars and still bring the eye toward the architecture.

Chairman Fon stated that they keep going back to the walkability and the ability to move from one area to the other but noted that there are state restrictions as was discussed during the review process. He added that there are pedestrian friendly plans in place and questioned if the County looked at them. Dr. Grealy stated that he is not sure if they looked at the grading as well. He noted that some of the existing sidewalks along the south side of Underhill will be replaced as part of their widening. There are four crossings at the corner to get to the sidewalk on the opposite side of Route 118 that provides walkability. He noted that the areas they focused on provide for the pedestrian connectivity that they are looking for. Mr. Bock asked Dr. Grealy if streets with limited access can be changed based on his experience with the DOT. He feels that they have a project that could be a gateway and connection into a revitalized Overlay District which extends the length of Route 118 on the west side and questioned if there was a way in which they could

incorporate this into the plan. Dr. Grealy stated that it would need to go to the Attorney General's office and could be a multi-year process. He added that they also look at where there are existing sidewalk connections and they want the connections at the controlled intersection. There is this intersection and a controlled crossing at Kear and Allen also. This is where they want the connections to take place and thinks it would be a far reach for a sidewalk along the west side of Route 118. He noted that a good portion of that area is limited as they are maintaining the stone wall so the remaining distance is limited for a sidewalk against this road; DEP will not approve it. Dr. Grealy pointed out where all the connecting points were. Chairman Fon noted that on their end they are dealing with existing conditions that they are trying to make better and again questioned if the County looked at this. Mr. Tegeder stated that they have the plans and the EAF. Dr. Grealy thought that they didn't focus on the existing sidewalk on the south side. The movement at the intersection is there to accommodate not only vehicles but pedestrians as well. With respect to the bicycle connectivity, he noted that there are shoulder areas along Route 118. Chairman Fon noted that bikes are not permitted on sidewalks. Dr. Grealy responded that this was correct, it is supposed to be in the roadway shoulder. Mr. Waterhouse felt that they addressed the County's comments at one time or another during their review. Mr. Garrigan noted that the County letter states that they agree that the proposed development would be an appropriate level of residential and commercial density to the area and added that density was a big issue during their review.

Mr. Tegeder informed the Board that the written comment period closes on June 28th. Chairman Fon asked if the YHPC submitted further comments. Mr. Tegeder responded that they have not received anything to date. Chairman Fon asked about the next steps. Mr. Tegeder stated that they would produce a draft version of their conclusions based on the record, part of that would include the draft resolution and negative declaration as the logical next steps. The Planning Department will work on the documents for the July 17th meeting.

Motion to Close Meeting

Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting "aye", the Board closed the meeting at 9:17PM.