

# Planning Board Meeting Minutes – July 17, 2023

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A meeting of the Town of Yorktown Planning Board was held on Monday, July 17, 2023, at 7:00 p.m. in the Town Hall Boardroom.

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

- Rob Garrigan
- Bill Lascala
- Bob Phelan
- Bob Waterhouse, Alternate

Also present were:

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

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## **Correspondence**

Mr. Bock noted that a letter was received from the NYSDOT dated 7/7/23 issuing a stop work order at the Lowe's site with respect to construction activity occurring in the NYSDOT right-of-way of the Taconic State Parkway. Mr. Tegeder noted that construction was stopped until they get a permit.

## **Motion to Approve Meeting Minutes of June 26, 2023**

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board approved the meeting minutes of June 26, 2023.

## **Motion to Open Regular Session**

Upon a motion by Aaron Bock, and with all those present voting "aye", the Board opened the Regular Session.

## **REGULAR SESSION**

### **Walgreens fka CVS Pharmacy**

Discussion: Amended Decision Statement

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

Contact: 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 she is here as a follow up to the June 26<sup>th</sup> meeting with respect to the amended decision statement for the approved site plan. She reviewed the draft resolution and had no comments. Mr. Bock asked the Board and Counsel if there were any comments and there were none.

**Upon a motion by Bob Waterhouse, and seconded by Bill Lascala, and with all those present voting "aye", the Board approved the resolution approving an amended site plan and stormwater pollution prevention and tree permit for Walgreens.**

### **Staples Plaza Battery Energy Storage System Expansion**

Discussion: Decision Statement

Location: 36.06-2-76; 3333 Crompond Road

Contact: IPP Solar, LLC

Description: Proposed installation of 2 additional Tesla megapack units with a total energy capacity of 7,833 kWh, next to the existing system. Installation would remove 4 parking spaces.

Comments:

Mr. Tegeder informed the Board that the applicant could not be present this evening. The draft resolution was reviewed and there were no comments. Mr. Bock asked the Board and Counsel if there were any comments and there were none.

**Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving a special use permit for a Tier 2 Battery Energy Storage System 2 at the Staples Plaza Shopping Center.**

### **Shrub Oak International School**

Discussion: Request for 1st One-Year Time Extension

Location: 26.05-1-4; 3151 Stony Street

Contact: Zarin & Steinmetz

Description: Approved site plan and stormwater permit by Res #22-18 dated August 15, 2022.

Comments:

David Steinmetz, Esq. was present. Mr. Steinmetz stated that the applicant is requesting a first one-year time extension for the approved site plan. He noted that they are still waiting to hear back from the Town Engineer with respect to the stormwater drainage. Mr. Bock asked the Board and Counsel if there were any comments and there were none.

**Upon a motion by Rob Garrigan, and seconded by Bill Lascala, and with all those present voting “aye”, the Board approved the request for the first one-year time extension.**

### **Underhill Farms**

Discussion & Decision Statement

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.; Joseph Riina, P.E. of Site Design Consultants; and Paul Guillaro, property owner were present. Mr. Bock stated that this item is before the Board for consideration of documents that will lead to the approval of the project. The Board received updated versions of the draft resolution and Negative Declaration with some revisions for review. He added that the Board has devoted a considerable amount of time and energy to get the project to its current state. He noted that one of the Planning Board members, Rich Fon, is currently out of town but would be available next week for a decision and asked for the Board’s thoughts. Discussion followed. Mr. Garrigan asked if the applicant reviewed the latest draft documents. Mr. Tegeder responded that anything discussed since the draft documents were released on Friday is embodied in the late breaking version and are color coded. The changes are predominantly grammatical and syntax changes for clarity; there are no substantial changes. He added that there has been discussion with the Planning Department, Counsel and the applicant’s representative. Mr. Bock noted that the public hearing and written comment period was closed, however, they just received late breaking correspondence from the Heritage Commission. The Board felt that correspondence will continue to flow in despite the close of the hearing process. Mr. Glatthaar informed the Board that the Heritage Preservation Commission’s comments does not change what they should be doing this evening. The Commission has the right to present a petition to the Town Board but that does not stop what the Planning Board has to do under the Zoning Ordinance as a site plan approving agency and as a Lead Agency under SEQRA. He added that they are under a 62-day timeline from the complete application submission in May. The Commission’s comments is not a basis to delay action or to include what they said into the decision-making process. He stated that there aren’t many revisions to the Negative Declaration and that the changes proposed will not change the merits of the document. He added that a lot of work went into the document and the quality of information that came out through this process is remarkable as it is targeted and useful not only from the applicant but also from the public. He felt that voting this evening would be appropriate. Mr. Glatthaar and Mr. Tegeder reviewed the revisions for both documents with the Board. The Board had no issues or comments with the proposed changes. Mr. Bock asked the applicant if they had any comments with the proposed documents before them and there were none. Mr. Guillaro thanked both the Planning Board and staff.

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

**Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board adopted the Negative Declaration as amended.**

**Upon a motion by Rob Garrigan, and seconded by Bill Lascala, 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 Underhill Farms site plan as amended.**

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

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

**WORK SESSION**

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

Discussion: Site Plan & Special Permit

Location: 36.06-2-72; 3241 Crompond Road

Contact: Zarin & Steinmetz, Site Design Consultants

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

Comments:

David Steinmetz, Esq.; Joseph Riina, P.E. of Site Design Consultants; Anthony Russo of Environmental Compliance Services, Inc.; and Dr. Phil Grealy, Traffic Consultant of Colliers Engineering, were present. Mr. Steinmetz gave a brief history of the site since they were last before the Board in February. A public informational hearing was held and closed at that time. The site was previously owned by Temple Israel and approved to be redeveloped with a synagogue, event space, and associated parking that never happened. The property is now owned by Guiding Eyes. The proposal is for the construction of a guide dog training facility on the site with a single point of egress/ingress from Mohansic Avenue. The neighboring property, Signs Ink, had some encroachment on the Guiding Eyes property and the applicant has folded this into their proposal so that Signs Ink can keep their parking where it is.

Mr. Riina stated that since they were last before the Board, the site has not changed with respect to the footprint, however, the configuration and shape of the building did change. A complete submission (engineering site plans, updated EAF, traffic report, tree mitigation report and SWPPP) was submitted to the Planning Department. They are compliant with the zoning requirements; the parking and project disturbance schedules are shown. The existing driveway access off Mohansic Avenue will remain and be used as the main access. As you enter the site, there is a stream crossing. The existing 12” culvert that runs under the driveway is proposed to be replaced with a new 36” culvert to increase the capacity and minimize or eliminate backup or flooding upstream in this location. The wetland disturbance is a little over 600SF. The site circulation and parking was reviewed; the flow is proposed to be one way. Upon entry, to the left is the visitor and employee parking in the front part of the building, and to the right is the gated access for employees only. Porous asphalt is proposed for some of the parking spaces.

The proposal is for a 35,587SF two-story building with a partial basement that is not included in the square footage. A courtyard is also proposed. Previously the pods were located to the rear of the building but have since been revised so that they now wrap around the building. There are 11 pods in total; each pod contains 10 kennels with yard space. Sidewalks with crossings are simulated on the site that will be used for training. The dogs will be with a handler at all times and do not have a tendency to bark. An open lawn area is also proposed on the site. The delivery entrance previously located on the south side has been relocated to the north side. The site was lowered a foot and a half to what was shown previously. They almost completely balanced out the amount of fill on the site including what is required to cap the landfill with a 1,500 cubic yard deficit. All of the stormwater generated within the curb line of the pad will be picked up and brought into the stormwater management system. DEP testing was performed. They are proposing to install a water main into the site from the main entrance with a hydrant. On the Route 202 side, there is an existing sewer manhole installed as part of the Lowes project that is proposed to be extended up the hill for the sewer connection.

The landfill capping and landscape plans were shown. Mr. Garrigan asked about the culvert increase. Mr. Riina responded that there is erosion occurring upstream that could be a result of the existing culvert being too restrictive and causing back water into the site and feels that it would make sense to increase the culvert to eliminate potential erosion and flooding. The downstream will be addressed as part of their drainage. Mr. Waterhouse asked about the sight line for the neighboring homeowners. Mr. Riina stated that they will be disturbing up to 50-ft of the property line and will leave a natural buffer between. The proposed screening was reviewed with the Board; Mr. Riina noted that the landscape architect will go over this in detail at a later date.

Mr. Russo stated that they were brought in to evaluate the 3.5 acre landfill on the site as Guiding Eyes was concerned as to whether there was an environmental risk and liability for purchase of the property. The site was visited in 2009 by the state pursuant to a complaint by the DEP as they were concerned about possible offsite water quality contamination (groundwater and surface water). Another site visit was conducted in 2018 and from there tests wells were done in which trace contaminants were found in the groundwater; nothing that excited the DEC except that the site was listed on an active landfill initiative program so it has to be investigated. The applicant then came along and was willing to investigate the landfill and worked closely with the state to come up with a plan. The limits of the landfill are shown in yellow on the plan. The boxes shown are test pits that included soil samplings are various points. Test pits 10 to 13 and south of the that came up clear with no contamination. To the north of that approximately one acre, test pits 7 to 18, had construction and debris waste in them (fencing, rotting metal, siding, bottles, old wood, etc.) some of which was near the surface and most of it buried near the surface about 3 or 4-ft down. Of the 7 test pits that had waste, 4 had the most waste so they obtained soil samples below the waste, 5-ft down, to determine if there was any contamination and the result was mostly trace contaminants. The state agreed with their findings. This then brought them to a remedy which was to cap the 1-acre landfill area; it was agreed that the 2.5 acres to the south was clear. The plan involves an 18-inch soil cap. Boulders and blocking are proposed around the slopes to the west and north to keep the cap back. There are four monitoring wells in the area; one is within the limits of this one-acre landfill. An access road is proposed to import, construct and maintain the materials for the cap. The applicant will be responsible for the voluntary clean-up and maintenance. Discussion followed with respect to the DEC schedule and maintenance. A deed restriction would be issued to ensure that the area is not used and would include periodic monitoring. He noted that this is not a major landfill and they are trying to prevent further infiltration which will be resolved with the cap.

Mr. Russo stated that they received the Tree Commission memo. The plans were reviewed again since the design has changed and they were able to save some more trees. As part of their mitigation they are proposing to install wetland and waterway plantings; invasive removal in the wooded area; and some mechanism to preserve what remains of this area. The applicant is also willing to fund some type of town project (i.e. – parks and recreation, etc.). Given the importance of the landfill and access road, they are seeking the Board's consideration to offset or not require mitigation for the wetlands and trees as they are installing the landfill cap. The applicant is also proposing to clean up and enhance the wetland area with shrubs and ground cover. Photos were shown.

Dr. Grealy stated that they prepared a traffic study report for the site in April, 2023 which was submitted to the Planning Department. The study included new traffic counts and project out to 2026 as the design year. They included a background growth factor (CVS now Walgreens, Chipotle, Taco Bell, Wendy's, etc. along the corridor). He noted that when this site was evaluated for the synagogue it was at the time when the Lowes project was being designed. The improvements along Route 202 at that time incorporated the traffic that was estimated to be generated by that project and are accounted for. Under this application, the peak traffic numbers would actually be less than the highest peak projected for the synagogue. With respect to the access, vegetative pruning is proposed for the sight line along Mohansic Avenue but is nothing significant. Over time, there will probably be some adjustment to the signal operations at 202 with the time schemes. From a traffic standpoint, there are no significant impacts from this project; peak traffic generation is less than what was considered in the previous studies.

Mr. Steinmetz stated that the architectural plans are currently being finalized for review by the ABACA for their next meeting agenda. He requested to move forward with a public hearing.

Mr. Bock stated that he didn't have any objections to scheduling a hearing and asked the Planning Department if it was referred to the various agencies. Mr. Tegeder responded that it was as a matter of routine. He noted, however, that the application should be referred to the Town's outside environmental consultant and the Board agreed. He added that there were some outstanding questions with respect to the mitigation; and potential noise during the evening when the

dogs are in their kennels. Mr. Steinmetz responded that this was discussed during their previous presentations and noted that the kennels are state of the art and sound proof. However, if the Board wishes, they are agreeable to installing a fence for additional sound mitigation. Mr. Steinmetz added that the architect will discuss this further. Councilman Esposito thanked the applicant for working with the small businesses and making Yorktown their home.

The applicant will return to the Board for the August 14<sup>th</sup> meeting. The Board agreed to a public hearing for the September 11<sup>th</sup> meeting.

### **670 East Main Street**

Discussion: Residential 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 4 two-story, three-bedroom townhouses and 12 parking spaces.

#### Comments:

Will Angelillo, P.E. was present. Mr. Angelillo informed the Board that since they were last before the Board they received Zoning Board approval for the requested variances (*ZBA Decision #16/23 dated 6/23/2023*). A SWPPP was prepared and submitted to the Engineering Department for review. They hired a landscape architect to consult on the planting plan. He noted that the tree originally proposed to be saved will now be removed as it will be severely impacted from the construction of the parking lot. A conceptual plan was submitted but more details will be provided going forward. They are now requesting to move forward with a Public Hearing.

Mr. Bock asked the Board and Counsel if there were any comments and there were none. Mr. Phelan asked if the plan submitted reflects the approved variances. Mr. Angelillo responded that it did. The Board agreed to schedule a public hearing for the August 14<sup>th</sup> meeting.

### **Garden Lane Apartments**

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:

Dan Collins, P.E. of Hudson Engineering; and Dan Sherman, Landscape Architect, were present. Mr. Collins stated that since they were last before the Board they met with the Planning Department to focus on the recreational requirement aspect of the project and received some suggestions. As a result, a plan was submitted for review. The proposed plan incorporates a walking trail, swing set, putting green, driving range, volleyball court, picnic tables, benches and bird house. The open space and recreational area requirements are met per the code. Mr. Sherman reviewed the plan with the Board in detail.

Mr. Waterhouse noted that the Chairman was concerned with the grade along the driveway. Mr. Sherman stated that there is a slope and is part of the open space with the walking trail and benches; the recreation area is to the rear where it is flatter. There is nothing active towards the front. The Board agreed to discuss this further during the August 14<sup>th</sup> meeting.

### **Mucci Residence aka Brookside Village Subdivision Lot 1**

Discussion: Site Plan

Location: 37.10-2-77; 274 Landmark Court

Contact: Cronin Engineering

Description: Proposed site plan, stormwater pollution prevention plan permit, wetland permit, and tree permit for Lot 1 in the Brookside Village Subdivision.

#### Comments:

Jim Annicchiarico, P.E. of Cronin Engineering; and Matthew and Melissa Mucci, property owners, were present. Mr. Annicchiarico stated that the site plan reflects the original approval of the Brookside Village Subdivision and that the house would be connecting to municipal water and sewer. The proposal is for a single-family house and is the last

remaining lot in the 5-lot subdivision. Stormwater mitigation and minor grading is proposed. The only change to the initial grading plan is that the finished floor elevation increased four feet. The initial proposal was for a 401 FFE which has now increased to 405 FFE for drainage purposes. There is a conservation easement that runs along the rear property which they will not disturb. Total disturbance for the project is 18,000SF. The applicants have prepared their own tree mitigation plan. They met with the ABACA and received their approval with respect to the material/color palette for the proposed residence.

Mr. Phelan asked about the change in the elevation and its impact. Mr. Annicchiarico responded that the change would decrease the amount of grading necessary. He added that they submitted a SWPPP to the Town Engineer and received some minor comments mainly with reestablishing the swale that was part of the original subdivision of which they have no issue. Mr. Tegeder stated that there should be a discussion regarding the limits of disturbance due to the presence of wetlands in the area. Discussion followed with respect to the wetland area and potential intrusion. The Board agreed that a permanent demarcation of some sort (i.e. – fence, boulders) would be a sufficient solution. Mr. Tegeder asked if the trees were inventoried and the applicant responded that they were. The Board requested that the application be referred to the Conservation Board. In addition, they would like to hear from the Town Engineer. This item will be placed on the next meeting agenda.

### **Malendowicz Residence aka Anderson Subdivision**

Discussion: Site Plan

Location: 58.09-1-20.1; 1745 Croton Lake Road

Contact: Site Design Consultants

Description: Proposed site plan, stormwater pollution prevention plan permit, wetland permit, and tree permit for Lot 20.1 of the Anderson Subdivision.

Comments:

Joseph Riina, P.E. was present. Mr. Riina informed the Board that the site plan is identical to the original iteration of the approved Anderson Subdivision. He noted that as part of the resolution, there was a condition that they had to return to the Planning Board for site plan approval and issuance of the stormwater permit and wetland permit as there are some buffer incursions accessing the site.

Mr. Garrigan asked where the entrance would be on Route 129. Mr. Riina confirmed that the location had not changed and it would still be across from Bridge Pointe Lane. Mr. Bock noted that there was no significant difference from this iteration to what was approved. Mr. Riina responded that the grading and stormwater aspects are identical. The Board requested that the application be referred to the Conservation Board. This item will be placed on the next meeting agenda for a decision statement.

### **Zoning Board of Appeals Referral - Falcone ZBA #17-23**

Location: 16.09-2-6; 1450 East Main Street

Contact: Sandra Falcone, applicant

Description: Application to reconstruct an existing multifamily structure that has been approved by a variance dated July 29, 1976 for 3 dwelling units, where the applicant is requesting 4 dwelling units. This application will require a front yard variance of 22 feet where 40 feet is required.

Comments:

No representative was present. The application states that the existing structure with three units will be removed and a new structure with four units would be constructed. The Board felt that if this is the case, then the special use permit will no longer apply. Discussion followed. Mr. Bock stated that a memo should be sent back to the Zoning Board indicating the Boards' concerns with the underlying legality of the project prior to their discussion of overall planning aspects. The Board concurred that more information is needed and recommends denying this application.

### **Motion to Close Meeting**

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