

Planning Board Meeting Minutes – August 14, 2023

A meeting of the Town of Yorktown Planning Board was held on Monday, August 14, 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 Lascale
- Bob Phelan

Also present were:

- John Tegeder, Director of Planning
 - Ian Richey, Assistant Planner
 - Nancy Calicchia, Secretary
 - David Chen, Esq.
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Correspondence

- Staples Plaza Shopping Center - The applicant is requesting to install two new trash enclosures to accommodate the medical building (middle building) and the three new businesses in front of the former A.C. Moore space. The Planning Department visited the site with the property manager and they do not feel the addition of either enclosure will compromise the parking on site as explained in their memo of 8/11/23. The Board had no planning objections; a memo will be submitted to the file and appropriate departments.
- Gardena Hotel – NYCDEP letter dated 8/9/23.

Motion to Approve Meeting Minutes of July 17, 2023

Upon a motion by Bill Lascale, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the meeting minutes of July 17, 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

Mucci Residence aka Brookside Village Subdivision Lot 1

Discussion: Decision Statement

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. Bock stated that comment memos were received from the Conservation Board, ABACA and Town Engineer. He noted that the Town Engineer commented that the plans indicate that a swale connecting the property to the detention basin constructed as part of the original subdivision will be re-established. The swale must be functional through the adjoining properties to the pond. If the applicant cannot divert the run-off from the developed portion to the rear of the lot to the detention basin, additional infiltrators will be required. In addition, the plans show the sanitary service connecting to the manhole. The sanitary system constructed with the subdivision should have provided a sewer lateral to the lot and the plans should indicate the connection to the existing lateral.

Mr. Annicchiarico stated that that they had no issues with the Town Engineer or Conservation Board comments. He noted that there was no indication of an existing sewer lateral when the sewer infrastructure was put in for the subdivision. They will look at the as-built to see if the service is shown; if there is an existing lateral they will connect to it. Mr. Phelan questioned if the swale was in an easement and who it was in favor of. Mr. Annicchiarico responded that it was but was not sure if it was part of the town’s infrastructure. Mr. Tegeder stated that he believed it was in favor of the town. The Board agreed to amend the resolution to include the Town Engineer’s comments.

Not particular to this application, Mr. Bock asked the Board what their thoughts were on including an additional condition to the generic language of approving resolutions going forward. Mr. Tegeder stated that this issue relates to approved residential and commercial site plans in that they be completed to a satisfactory degree prior to the request and issuance of a certificate of occupancy. This will allow the town and the applicant to be certain that the site is completed in an appropriate amount of time prior to the end of the project so that if a bond, etc. is required, it can be done in a timely fashion. Mr. Bock added that the language could be as follows - “upon completion of construction or at least 10 days prior to the application for the certificate of occupancy, the applicant shall certify in writing to the Planning Board that all conditions and requirements of the approving resolution have been complied with.” Discussion followed amongst the Board members. Mr. Phelan and Mr. Lascala thought that this may be a good idea. Mr. Garrigan had some reservations with this proposed condition. The Board agreed that this needed further discussion and asked Counsel to review this further and provide guidance.

Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting “aye”, with the exception of Rob Garrigan voting “nay”, the Board approved the resolution approving site plan, stormwater pollution prevention plan, wetland permit, tree permit, and change in finished floor elevation for Lot 1 of the Brookside Village subdivision with changes to include the Town Engineer’s comments.

Malendowicz Residence aka Anderson Subdivision

Discussion: Decision Statement
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. of Site Design Consultants was present. Mr. Riina stated that he received the draft resolution and had no comments. Mr. Bock stated that comment memos were received from the Conservation Board and Town Engineer with no concerns. 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 site plan, stormwater pollution prevention plan, wetland permit, and tree permit for Lot 20.1 of the Anderson Subdivision.

Dorchester Glen Subdivision

Discussion: Request for 2nd 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:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the applicant is requesting a 2nd 90-day time extension. 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 2nd 90-day time extension for the Dorchester Glen Subdivision.

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:

Anthony Pili, partner; Vito DiMatteo, partner; Steve Dimovski, Architect; and Dan Sherman, Landscape Architect; were present. Mr. Pili stated that they received the draft resolution and are in agreement with most of the items. There was a section with respect to the recreational requirement that needs to be finalized. The proposed recreational plan (open

space and recreational space); and code requirements were reviewed with the Board. Recreational amenities proposed are a play area, volleyball field, bird feeder, bird house, 5 metal commercial benches, 4 metal commercial tables, putting green, golf driving area, frisbee net and walking path. The walking path is just under 1,000-sf with a 5-ft walk.

Mr. Garrigan questioned the amount of open space being allocated on the site as well as the grade. Mr. Pili responded that the recreational area is where they anticipate the residents to play and participate as it is relatively flat. Mr. Garrigan asked if the intended amenities were for the residents of the development only and the response was yes as per the code. Mr. Phelan asked if there was a requirement in the code with respect to the grade and open space. Mr. Tegeder noted that it states usable space with no mention of a grade; it is up to the discretion of the Board. The Board noted the Town Engineer's comment memo dated 8/14/23. Mr. Phelan asked for clarification about the cross hatched section along the eastern boundary that was noted in the memo. Mr. DiMatteo explained that the hatched area was set aside as a town easement that was never completely established. They decided to treat it as if they did not own it and kept their layout out of the area. After discussion, the Board agreed that that the proposed layout provided adequate usable recreational facilities and makes good use of the open space. The Board agreed to accept the proposed recreational plan in lieu of the recreational fee; the resolution will be amended accordingly.

Mr. Dimovski asked the Board for clarification on the general development fee. Mr. Tegeder explained that the fee is a mandatory payment that must be paid prior the obtaining the Chairman's signature for the approved plans.

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 Rob Garrigan, and seconded by Bill Lascala, and with all those present voting "aye", the Board adopted the Negative Declaration.

Upon a motion by Bob Phelan, and seconded by Bill Lascala, and with all those present voting "aye", the Board approved the site plan, special use permit, stormwater pollution prevention plan, and tree permit for the Garden Lane Apartments with changes as discussed.

670 East Main Street

Discussion: Public Hearing

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:

Upon a motion by Bob Phelan, and seconded by Rob Garrigan, and with all those present voting "aye", the Board opened the Public Hearing. Will Angelillo, P.E. of Hahn Engineering was present. Mr. Angelillo stated that the parcel is located between East Main Street and Old Jefferson Valley Road. The site is currently improved with a single-family home and detached garage that is proposed to be removed as part of the application. The proposal is for the construction of four (4) two-story, three-bedroom townhouses with 12 parking spaces, dumpster enclosure, and stormwater management system. They were before the Zoning Board and received the necessary variances required for the project (ZBA Decision #16/23). They also met with the ABACA and received their comment memo dated 8/10/23.

Mr. Bock asked the public if there were any comments and there were none.

Mr. Bock informed the applicant that they received the Building Inspector's memo dated 8/9/23 stating that he had no objection to this application but noted that the townhomes will be required to have fire sprinkler systems installed as per the code. The applicant responded that they had no issues with this and will address this as part of their building permit application.

Upon a motion by Bob Phelan, and seconded by Bill Lascala, and with all those present voting "aye", the Board closed the Public Hearing.

The applicant was advised to work with the Planning Department. The application will be placed on the September 11th meeting agenda for a decision statement.

Lowe's Home Center

Discussion: Special Permits for Outdoor Service

Location: 26.18-1-19; 3200 Crompond Road

Contact: Lowe's Companies, Inc.

Description: Renewal of a Temporary and a Permanent Outdoor Storage & Display Special Permits approved by Resolutions #19-17 and #17-08 respectively.

Comments:

Louis Ricciardi, store manager, was present. Mr. Ricciardi stated that they are requesting to renew the special use permits for the Lowe's outdoor storage and display areas. The plan with designated display/storage areas were shown to the Board. Mr. Ricciardi explained to the Board what each area was used for.

Discussion followed with respect to the parking. Mr. Garrigan raised the point that Trader Joe's opened since this special use permit was initially granted. Mr. Ricciardi stated that the parking area outside of the garden area would have no impact on Trader Joe's parking and added that it has never been used at full capacity since they opened. Mr. Bock noted that the plan shown is the original layout for the lot and it is unclear as to how the temporary storage area will affect the parking. Mr. Phelan stated that he was uncomfortable with providing the temporary storage on the parking spaces in front of the garden area due to the capacity of the site being almost at maximum. Mr. Tegeder asked the Board to view the photos of the site that were provided this evening to gain a clear picture of how the site is currently used. Mr. Tegeder discussed how roughly 50 parking spaces are being taken up by storage on the west, south, and east sides of the building and noted that these spots are not designated for storage by the special use permit; this would be an issue if the parking capacity were to reach maximum. Mr. Bock noted the Building Inspector's comment memo dated 8/9/23. The Building Inspector stated that he opposed the renewal of the permit for several reasons - the removal of roughly 70 parking spaces, the removal of a pedestrian walk-way, the encroachment of merchandise on the fire lane, and the obstruction of the emergency exit doors. Mr. Ricciardi stated that the blocking of the fire lane as well as the exit doors never happened at his building. After discussion, the Board requested for the applicant to submit a complete updated plan with an accurate parking count in order to make an informed decision.

Motion to Close Regular Session and Open Work Session

Upon a motion by Bob Phelan, 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

Kitchawan Solar

Discussion: Approved Landscape Plan

Location: 70.06-1-2 & 3; 716 Kitchawan Road

Contact: Ecogy Kitchawan Community Solar Farm, LLC

Description: Proposed changes to Landscape Plan

Comments:

Julia Magliozzo and Shelby Hang of Ecogy were present. Ms. Magliozzo informed the Board that the applicant is proposing to revise the approved landscape plan. A letter dated 8/10/23 detailing the specific changes with plans were submitted for review. The same number of trees (198) from the originally approved plan are still proposed to be planted; the locations and species have changed slightly. The proposed changes are as follows:

- Site wide - 11 trees originally marked for removal will now remain.
- Site wide - The white spruce is proposed to be substituted by norway spruce in accordance with recommendations received from their landscape architect, landscape contractor and property owner.
- Area 1 - The screening for this area will include more plantings.
- Area 2 - Due to the installation of a geothermal wall, the flowering ornamental trees in this location have been relocated to area 7.
- Area 3 - The trees in this area were relocated to area 13 for more screening.
- Area 4 - The tree planned for this area is no longer feasible for this location and was removed from the plan. An additional tree has been added elsewhere on the plan.
- Area 5 - The two trees in this area are no longer feasible in this location and were removed from the plan. Two additional trees have been added elsewhere on the plan.

- Area 6 - Due to accessibility concerns to this portion of the property, the proposed birch grove has been removed from the plans. Additional trees have been added elsewhere on the plans.
- Area 7 - This area now contains the relocated tree from area 2.
- Area 8 - Shrubs were relocated from areas 11 and 12 for continuous screening.
- Area 9 - The access gate was relocated from the northern side of the arrays to the eastern side to allow for easier access to the solar system. The plantings have been shifted accordingly.
- Area 10 - The proposed plantings were relocated to area 14 to provide screening along the southwest property line.
- Area 11 - This area of plantings were relocated to areas 1, 8, 13, 14.
- Area 12 - Similar to area 11.
- Area 13 - Additional plantings were identified for this area to provide better screening.
- Area 14 - A new area of plantings for the relocation of plantings from areas 10, 11 and 12.

Mr. Bock stated that he had no issues with the movement of the plantings on the site as long as the counts stayed the same. Ms. Maglioza responded that the counts are the same. Mr. Lascala asked if a Landscape Architect was involved. Mr. Hang outlined letters that they received from their Landscape Architect and their Arborist to further explain why certain species were being preferred. Mr. Hang stated that an access gate in the north-eastern corner of the property was moved from the northern side to the eastern side of the corner as noted in their letter.

After discussion, the Board had no planning objections. The Planning Department will submit a memo to the file and appropriate departments reflecting the changes with the updated landscape plan.

Old Croton Gatehouse

Discussion: Review Lighting Plan
 Location: 58.16-1-11; Croton Dam Road
 Contact: Mark DelBazo, PE, NYCDEP
 Description: Proposed substitutions to approved Lighting Plan.

Comments:

Mark Delbalzo, P.E. was present. Mr. Delbalzo reviewed the lighting plan and lighting specifications with the Board as a condition of the approving resolution. The plans were modified to state that all A & B type fixtures will be tilted 90 degrees downward; the C type fixtures were replaced to be fully shielded in accordance with the Town Code; and all fixtures show a color temperature of 4000K or less. The Board had no planning objections to the proposed lighting plan. The Planning Department will submit a memo to the file and appropriate departments. The applicant was advised to submit updated plans for signature.

Miles of Smiles Daycare

Discussion: Site Plan
 Location: 16.08-1-1; 3667 Hill Boulevard
 Contact: The Helmes Group, LLC
 Description: Proposed daycare in the former Gymboree at the Biffer shopping center.

Comments:

Peter Helmes, Architect; Jody Fitzgerald Mathias, proposed tenant; and Helen and Lydia Biffer, property owners were present. Mr. Helmes stated that the applicant is proposing a daycare with outdoor play area in the space formerly occupied by Gymboree in the Lourdes Shopping Center also known as the Biffer Shopping Center. The outdoor play area is proposed to be fenced in. They are scheduled for the Zoning Board of Appeals September 14th meeting agenda for a special use permit. The existing space is 3,488-SF; at the south end is a large concrete patio area that they intend to use for an outdoor play yard to accommodate 14 children. They are proposing to remove the concrete patio and install a duraflex product thereby reducing the overall impervious surface by about 519-SF. A 6-ft fence is proposed for privacy and security purposes. They are proposing to designate three parking spaces to the south closest to the tenant space in front as dedicated daycare spaces for drop-off and pick-up of the children. The staff will park in the north parking lot. The hours of operation will be from 6:30AM to 6:00PM, Monday thru Friday. The proposal is not much different from the previous use. As required, signage will be submitted separately.

Mr. Tegeder stated that the application will return to the Board after the ZBA approval for review of the site plan. Mr. Bock noted that his concern is that the original approved plan shows the driveway access in front of the proposed site as an exit only and doesn't recall seeing signage that would indicate this. He asked if they are proposing to maintain this distinction and suggested signage be put in place. Mr. Helmes stated that the 1975 approved drawings do show the south curb cut as exit only with an ingress/egress in the center. The applicant plans to maintain this and they agree that signage would be appropriate. Mr. Bock noted that safety measures should be incorporated with the fencing around the play area. Mr. Helmes stated that the upper patio shows a 4-ft stone retaining wall setback from the intersection of Route 6 which will contribute to the safety measures. Mr. Phelan suggested moving the existing exit only curb cut further north to avoid confusion. Mr. Helmes stated that it would need DOT approval which would be an expense for the applicant. He felt that the alternative solution of installing appropriate signage may be a better option. The Board encouraged the applicant to look at this further.

MJM Land Development

Discussion: Subdivision

Location: 17.18-2-2; 3232 Gomer Street

Contact: Site Design Consultants

Description: Proposed flexibility alternative for 13-lot single family subdivision on 12 acres in the R1-20 zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the last time they were before the Board, they showed a plan utilizing the flexibility standards to reduce the impacts on the wetland buffer. The Town Board has since authorized the use of flexibility standards for this proposal. The proposed plan was reviewed with the Board with some slight revisions. He asked the Board for their thoughts on the plan in order to move forward.

Mr. Phelan thought they did all they could to stay out of the controlled area as much as possible and noted that the lots off Gomer Street are out of the controlled area completely. He asked Mr. Riina to summarize where the flexibility standards were used. Mr. Riina responded that it was mostly in the lot areas and frontage. Mr. Bock asked if this applied to the road width off of Cordial. Mr. Riina stated that the width is shown at 24-ft but could be brought down. Mr. Phelan asked what the length of the cul-de-sacs were. Mr. Riina responded the one off of Gomer is about 500-ft and the other is about 800-ft. Mr. Bock stated that he didn't have a conceptual problem with the proposed layout and thinks it is reflective of the Board's comments. Mr. Bock noted that they received a letter from the public stating their concerns about drainage. Mr. Riina stated that his client is willing to go beyond the existing code requirements to capture and treat more water than what is required. Discussion followed with respect to drainage. Mr. Phelan noted that one of the topics that came up during the Town Board public hearing was the width of Cordial Road (20-ft) and thought it may make sense to explore improving the width of this road to 24-ft. He noted that there is a 50-ft right-of-way that is owned by the town.

The Board agreed to schedule a Public Informational Hearing for the September 11th meeting. Mr. Tegeder informed the applicant that they will need the wetland delineation report for review by the town's environmental consultant. Mr. Riina responded that they are in the process of finding a new wetland consultant. The Board had no issue as this is an informational hearing only.

Grishaj Major Subdivision

Discussion: Subdivision

Location: 16.17-2-77; 3319 Stony Street

Contact: Site Design Consultants

Description: Proposed 10 lot subdivision on 8 acres in the R1-20 zone. Plan proposes to connect to High Point Drive and South Shelley Street.

Comments:

Joseph Riina, P.E. of Site Design Consultants; and Steve Marino, Environmental Consultant of Tim Miller Associates, were present. Mr. Riina stated that the proposal is for a 10-lot subdivision. A Public Informational Hearing was held and closed. Since they were last before the Board, they have been working on the environmental portion of the project. A wetland mitigation/tree replacement plan was submitted to the Planning Department for review. If the Board agrees, they are hoping to move forward with a public hearing.

Mr. Marino stated that the wetland delineation was performed a while back and was confirmed by the town's environmental consultant (Barton & Loguidice) and is now shown on the plans. During the interim, a wetland mitigation plan, streetscape plan, and tree plan was submitted to the Planning Department for review. The site access comes in from the west; there is a wetland in the northwest corner of the property that is proposed to be filled in to access the cul-de-sac and the areas closest to Stony Street. A road connection is proposed to the existing road to the south. He stated that the tree survey from several years back was revised to include an additional 100 trees and noted that the most recent submission does not reflect the accurate count. They received the TCAC comment memo and will address their comments with the revised submission. A total of 658 trees were surveyed on the 8-acre parcel. The tree calculation as defined by the code was reviewed with the Board. In summary, 253 trees are proposed to be removed as part of the development, 222 trees will be preserved on site, 76 new trees and 100 shrubs are proposed to be planted on the site and within the wetland mitigation area on the 8-acre parcel.

Mr. Riina asked about the next steps. Mr. Tegeder stated that the town's environmental consultant will need to be re-engaged for review of the updated mitigation/tree plans.

Guiding Eyes for the Blind, Training School Kennel – Crompond Road

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 associated parking, stormwater management, utilities, landscaping, and lighting on 12.24 acres in the interchange zone.

Comments:

Jody Cross, Esq.; Joseph Riina, P.E. of Site Design Consultants; Anthony Russo of Environmental Compliance Services, Inc.; Abigail Adams, Landscape Architect; Paul Gladysz, Architect of BDA Architecture; Tom Panek, President and CEO; and Bill Ma, Head of Technology and Operations were present. Mrs. Cross introduced all individuals representing Guiding Eyes and gave a brief summary of the project. The applicant thanked the Board for their cooperation throughout this process and stated how greatly this project would benefit visually impaired individuals.

Mr. Riina discussed the most recent changes to the project. More trees were added to the landscaping plan in the west and south-west edges of the site. Guiding Eyes retained an Acoustical Engineering firm, Cerami and Associates, to produce a report regarding sound mitigation methods. Some of these methods consist of sound barrier fencing along the southern edge of the kennels. A representative from Cerami will be present at the next meeting to discuss this further.

Mr. Russo discussed the memo received from the Tree Conservation Advisory Commission (TCAC). The applicant is seeking the Board's consideration to forgo mitigation for the 168 trees proposed to be removed in connection with the landfill cap and access road to offset the potential for surface and groundwater contamination. Mr. Russo stated a 1-acre soil cap at a depth of 24-inches would be the correct remedy for the landfill and that Guiding Eyes will maintain it into the future. Since their last meeting, additional survey work was done that yielded a number of 240 total trees to be removed on the site. Mr. Russo stated that several mitigation techniques are being proposed to protect and preserve existing trees on the site. Establishing a conservation easement, removing existing invasive species, implementing best management practices, and funding any forest restoration projects that are being funded by the town, are all proposed.

Mr. Phelan referred to the TCAC memo dated August 12, 2023 to get clarification on the comment about the DEC mandate of the landfill cap. Some of the comments from the TCAC confused the Board and the applicant. Discussion followed and it was noted that this will be discussed at the next meeting. Mr. Tegeder asked if the 168 trees in the cap area have been inventoried. Mr. Russo responded that they have been and that he believes that upwards of 15 trees can be saved.

Abigail Adams reviewed the landscape plan with the Board. Mr. Tegeder asked for clarification on native and non-native trees and shrubs. Ms. Adams responded that the proposed non-native trees and shrubs are benign to the surrounding plant life and will not have any negative impacts.

Paul Gladysz reviewed the architectural renderings with the Board. He spoke about the changes to the overall design features and the reasoning behind them. Mr. Tegeder raised a question regarding the acoustical design of the kennel pods. Mr. Gladysz stated that the goal for sound level is to be at or below ambient sound at the decibel level.

Mr. Bock asked about an earlier comment from the TCAC with relocating the access drive. Mr. Riina explained his thoughts and noted that moving the access drive would do more harm to the trees than good. Mr. Garrigan asked for clarification on the distance from the building to the nearest residence. Mr. Riina responded that it was about 225-ft. Mr. Bock asked Mr. Riina about the Fire Commissioner's comment regarding the emergency access. Mr. Riina responded that the main access will be 26-ft and that a fire hydrant will be brought into the property off of Mohansic Avenue.

Motion to Close Meeting

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting at 9:57PM.