

Planning Board Meeting Minutes – October 16, 2023

A meeting of the Town of Yorktown Planning Board was held on Monday, October 16, 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
- 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
 - Councilman Sergio Esposito, Town Board Liaison
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Chairman Fon called the meeting to order.

Chairman Fon noted the following:

1. The November 6th Planning Board meeting will be held at the Albert A. Capellini Community & Cultural Center.
2. The Executive Session is canceled as Counsel is not present.

Motion to Approve Meeting Minutes of October 2, 2023

Upon a motion by Bill Lascala, and seconded by Bob Waterhouse, and with all those present voting “aye”, the Board approved the meeting minutes of October 2, 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

Colangelo Subdivision

Discussion: Request for 2nd 90 Day Time Extension

Location: 35.16-1-4; 1805 Jacob Road

Contact: Hoberman, Tortorela & Wekstein, LLP (HTW)

Description: Approved 6-lot subdivision in the R2-160 zone by Res #21-01 dated February 8, 2021.

Comments:

Joseph Riina of Site Design Consultants was present. The applicant is working on the legal instruments for the trail easement as explained in the HTW letter submitted to the Planning Board on 10/2/23. Chairman Fon asked the Board if there were any issues and there were none.

Upon a motion by Bill Lascala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the 2nd 90-day time extension for the Colangelo subdivision.

Catalo Building

Discussion: Outdoor Seating

Location: 37.18-2-66; 1929 Commerce Street

Contact: Perry Gusikoff

Description: Proposed outdoor seating area and elimination of 4 parking spaces.

Comments:

Perry Gusikoff, property owner; and Joseph Riina of Site Design Consultants were present. A special use permit application and updated plan with parking schedule was submitted to the Planning Department. Once the plaza area is constructed, there will be a total of 51 parking spaces where 58 would be required based on their calculation.

Mr. Bock asked what was currently approved in terms of parking spaces. Mr. Tegeder responded that the original 1960 site plan was approved for 49 spaces. Chairman Fon asked the Board if there were any issues. Mr. Tegeder stated that he had no issues with the proposed plan but noted that the applicant is proposing a refuse enclosure to the rear of the building which should also be included on the plan. The Board agreed and had no issues with the proposed plan.

Upon a motion by Bill Lascala, and seconded by Bob Waterhouse, and with all those present voting “aye”, the Board approved the resolution approving a special use permit for outdoor seating at the Catalo building.

Motion to close Regular Session and open Work Session

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

WORK SESSION

Nantucket Sound Sons

Discussion: Proposed Field Changes

Location: 37.18-2-86; 385 Kear Street

Contact: Joseph Thompson Architect

Description: Proposed siding material changes to approved site plan by Planning Board Resolution #21-14 dated August 9, 2021.

Comments:

Joseph Thompson, Architect; and Marsel Praela, property owner were present. Mr. Thompson stated that the project was originally approved by the Planning Board in 2021. The ownership has since transferred and construction has begun. The applicant is proposing a material substitution for the approved site plan. The siding is proposed to be changed from James Hardie fiber cement siding in the colors of heathered moss and Navajo beige to CertainTeed MainStreet vinyl siding - double 4” woodgrain Dutch lap in the colors of cypress and desert tan (physical samples were shown to the Board). The color proposed is comparable to what was previously approved. They met with the ABACA on 10/10/23 and there were no issues, however they were advised that they will need Planning Board approval for the proposed change.

Discussion followed amongst the Board members with respect to the proposed material and the building overall. Chairman Fon asked Mr. Tegeder if there were any other concerns with respect to the site. Mr. Tegeder stated that per the conditions of the approving resolution, an Environmental Systems Planner must be retained by the applicant to provide bi-weekly inspection reports to the Engineering and Planning Departments which they have not received. In addition, the trail mitigation needs to be done in order for the project to be complete. Mr. Thompson responded that they are working on this and hoping to submit the inspection reports soon. With respect to the mitigation, he will review the resolution with the applicant to ensure all conditions are met.

The Board had no issues with the proposed material change. The Planning Department will submit a memo to the Building Department and file. The applicant was advised to work on the outstanding conditions of the approving resolution.

Upon a motion by Bill Lascala and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the material change as discussed for the Nantucket building.

Stahmer Subdivision Kane Residence

Discussion: Residential Site Plan

Location: 59.1-1-10.1; 535 Jerome Road

Contact: P.W. Scott Engineering and Architecture, P.C.

Description: Proposed site plan for a 3,383 sf single-family residence, a 1,300 sf barn, and a 1,080 sf pool, located on a 4.3 acre parcel, previously approved for a different applicant. Construction has been reduced by 380 sf from original approved plan. Previously approved SWPPP will remain. Tree removal has already taken place following previously approved Tree Mitigation Plan.

Comments:

Peder Scott, P.E. was present. Mr. Scott gave a brief history of the site which is also detailed in his submission letter dated 9/27/23. The site was previously approved by Planning Board Resolution #21-04 (Lot 2 - Miressi). They received all of their approvals which includes the NYCDEP, Westchester County Department of Health, and town approvals.

Work then began, however, the former owner was transferred to Florida so the property was then sold to the new owner, Michael Kane. Mr. Kane purchased lots 2 and 3. The design is the same as the previous applicant, however, the footprint of the house is smaller; a future barn and pool is also proposed. The area of disturbance is somewhat similar. The DEP required them to have an extensive infiltration basin system that is located at the southwestern corner of the property; and a large septic system that is located at the northeast section of the property. The trees were cleared with the previous application and is identical to what was approved. The intent was to buffer the development from the existing houses along Jerome Road to the north with green giant arbovitae; black american arbovitae are proposed along the northern property line; and to the east skip laurels are proposed on the hillside along the property line. The bamboo and contaminated soils will be removed; a mixed variety of decorative plants are proposed. They are 303-ft away from the property line to the south and are not proposing plantings in this area as it is undeveloped and very steep. As mentioned previously, his client also owns lot 3 to the west which is currently vacant.

Chairman Fon asked the Board if there were any comments. Mr. Tegeder asked about the tree mitigation in terms of what was cleared for the previously approved plan. Mr. Scott responded that about 140 trees were removed with a majority of those being dense black locusts. 8 green giant arbovitae, 28 black american arbovitae, 100 skip laurels, and two separate planting beds of over 400 plants are proposed. He added that trees cannot be installed near the septic or infiltration basin. The mitigation plan is essentially the same as the approved plan except for some minor orientation of the house. Mr. Scott stated that he will provide the Board with a comparative colored map outlining the limits of disturbance for the next meeting.

Guiding Eyes for the Blind – Training School Kennel

Discussion: Site Plan

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:

Joseph Riina, P.E.; Abigail Adams, Landscape Architect; and Sumeet Gawali, Acoustics Specialist of Cerami & Associates; were present. Ms. Adams reviewed the revised landscape plan with the Board. The evergreen screening originally located at the top of the slope on the southern side of the property has been moved up to the property line removing the 10-foot wide strip of existing vegetation that the neighbor was concerned about. Existing trees will not be removed. On the southwest corner of the property, a denser understory screening of mixed natives will be planted to create an even stronger buffer. Ms. Adams discussed the provided cross section. The slope will consist of a road-side matrix mix consisting of grass, perennial and shrub seeds. Mr. Tegeder asked for clarification on the elevation difference on the provided cross section. Mr. Riina stated it is roughly 22-feet, however the difference represents the property line to the bottom of the cut. The actual cut will only be 15-feet.

Mr. Gawali reviewed the sound study report submitted on 10/9/23 with the Board. He stated that the study began by first taking ambient noise levels at existing neighboring properties. After 24 hours of recording, the lowest possible ambient noise level was selected as the baseline for comparison. The existing kennel was then used as the source for comparison. Noise levels were measured both inside and outside the kennel. The noise levels from the dogs tended to be louder while inside than outside. Mr. Tegeder asked for clarification on Table 2 of the sound report. Mr. Gawali explained that these were all ambient noise measurements from both recording locations on the neighboring property to the proposed site. He went on to describe the different acoustic treatments that are being proposed to reduce sound both inside and outside of the proposed building. The southern most yards will have acoustic barriers completely surrounding them on all three sides. The southeastern and southwestern yards will have acoustic barriers on the southern side of each. Inside the facility, insulated glazing in window panes and acoustical wall panels will be used to absorb and lower overall noise levels. Mr. Phelan asked if the calculations that were provided included the elevation change from the cut and noted its benefits. Mr. Tegeder asked why certain walls were chosen to include acoustic barriers and others were not. Discussion followed pertaining to the proximity of the adjacent neighbor and why extra measures were being taken to reduce noise levels to the south. Mr. Tegeder asked Mr. Gawali to explain why the recorded sound levels were so different inside the kennel versus outside if they were both recorded at the same distance from the source. Mr.

Gawali spoke on the difference in settings and how reflection off of the walls without any acoustical absorption increases the sound. Councilman Esposito asked if all of the walls inside of the proposed facility would have sound absorption methods installed. Mr. Gawali responded that absorption on the walls is not being planned for because there are only cages with partial-head walls; this means that sound is being funneled up into the ceiling. Sound absorption materials will be installed in the ceilings to mitigate the overall sound levels. Exterior walls will be made of 8" CMU (concrete masonry unit) which will further reduce sound leaving the building. Discussion followed with respect to the noise levels and potential dog noise. Councilman Esposito asked how they came to the number of 8-feet for the height of the proposed sound attenuating barriers. Mr. Gawali responded that the main factor for determining this height has to do with the distance from the source to the barrier. The distance from the dogs to the walls is short enough that 8-feet would act as a tall enough height to be effective in attenuating sound. Mr. Bock suggested that a condition be made in the resolution that the projected decibel numbers from Cerami be made the standard and if sound exceeds that standard, the applicant must remediate this by increasing the sound mitigation techniques on the outside of the facility. Mr. Phelan asked for clarification on how the proposed cut and overall grade change would impact the transmission of sound to the southern property line. Mr. Gawali discussed the calculations provided and how they are taken at line of sight which he states as the worst case, or highest level, of sound transmission. The benefits of the grade change was not included in the calculations at this time. Mr. Tegeder asked if the proposed source of the noise, with the mitigative designs, and the grade difference, would not be audible when they are outside. Mr. Gawali stated that he is not claiming that they will not be audible, but that they will not exceed the current ambient noise level of the site. Mr. Gawali reminded the Board that the recorded noise levels at the current kennel were recorded from 30 dogs being let outside but the new facility will only be letting out 10 dogs into a yard at a time. Mr. Tegeder asked for the design and rating of the sound attenuating walls of the inside. He also asked if there was a final decision made on the proposed sound barriers for the external yards. Mr. Gawali stated that it had not been finalized and that the color, company, etc. has yet to be chosen.

Mr. Riina stated that the tree mitigation was updated and submitted to the Planning Department. They received the latest Tree Commission memo dated 10/16/23 which also refers to further discussion at their upcoming commission meeting to be held on 10/18/23. He noted that they have been going back and forth with the Tree Commission and thought that the environmental consultant and the Planning Board could weigh in. They provided all the information and offers of mitigation within their report. Mr. Phelan thought it would be reasonable to say that with the misunderstanding or disagreement with the Tree Commission that they could come back to the Board for a final resolution. The Board agreed to discuss this further at the next meeting.

Town Board Referral - Toll Brothers at Catherine Street

Location: 35.12-1-2 & 35.08-1-45; 2302 Catherine Street & 2448 Catherine Street

Contact: Zarin & Steinmetz, Site Design Consultants

Description: Discussion of an amended layout and supporting studies for the proposed rezone of the site to construct a 118-unit townhouse community with clubhouse and pool for 55+ active adults.

Comments:

David Cooper, Esq.; Kevney Moses of Toll Brothers; and Joseph Riina, P.E. of Site Design Consultants were present. Mr. Cooper stated that the proposal is to redevelop a portion of the Field Home-Holy Comforter property with a 118-unit townhouse community targeting the 55-plus active adult community. The property will require a zoning map amendment to the RSP-2 district by the Town Board. The Town Board, as Lead Agency, referred them to the Planning Board as part of SEQRA for review and recommendation on the proposed rezoning. They have been working through the issues that were brought up through their discussions with the Planning Department and town staff. The layout has changed since the Planning Board has last seen the plan however the density remains the same. They are hoping that the Planning Board are at a place where they could provide a recommendation back to the Town Board and/or let them know if more information is required.

Mr. Moses stated that the site is located at 2300 Catherine Street. He gave a presentation on the history of the project and how it has evolved. In 2021, the road network was different than what is currently proposed. The limits of disturbance was greater as it proceeded closer to the wetland areas, the watercourses; and to the eastern portions of the site. In 2022, they revised the 2021 conceptual site plan, condensing the development and providing some environmental enhancements, however during the wetland verification process, the town's wetland consultant found an additional watercourse on-site. After working with the Planning Department, the 2022 conceptual site plan was revised further

condensing the development to avoid adverse environmental impacts and reduce the limits of disturbance; it still maintains the 112-unit density and relocates the amenity complex to the bottom of the site which is shown this evening as the 2023 conceptual site plan. The proposal is for a 55-plus age restricted development with clusters of 3 and 4 townhomes. Some of the benefits of the project include no school children; it identifies a critical need with respect to senior housing and housing variety as noted in the town's comprehensive plan; and will produce over \$1M of annual net tax surplus. Additionally, they anticipate a \$472K recreation fee to be associated with this development and are willing to make a voluntary \$100K contribution toward the recreation fee. He noted that there is also a robust on-site amenity complex that includes a pool, clubhouse, gym, pickleball courts, etc. that will further reduce the demand on the town's facilities.

At the request of the town staff, the following information was provided for review - conceptual site plan, site plan drawings, Recreation Impact Analysis, Historic Analysis, Stormwater Analysis, Environmental Impact Analysis, Tree Inventory data, updated EAF, and INI (in-flow and infiltration) Analysis. The town staff requested additional information on the potential in-flow and infiltration on-site related to the town's sewer capacity issues.

With respect to the recreation analysis, there is an existing practice field presently on-site which came about from the Glassbury project. The field is currently leased from the town and is set to expire in January 2026. They have been told by the Fieldhome owners that they will not be seeking renewal. They looked at the conditions, quality, and usage of the field and identified potential mitigation opportunities for the field loss. This was done through conversations with the Parks & Recreation Superintendent and Town Board. He noted that they are willing to increase the voluntary contribution to \$150K for the benefit of the community.

With respect to the historical analysis, the existing Field Home building is not incorporated into their plan; they are proposing to donate it to the town or possibly find a third party vendor for a future adaptive reuse. They believe that there may be an opportunity for some type of continued senior use as it is already in the RSP-3 district.

A preliminary SWPPP and stormwater plan was submitted for review. With respect to the environmental analysis, they were made aware of some anecdotally historical dumping activity at the site. They performed a phase 1 and 2 environmental investigation of the area. A supplemental environmental review memo dated 10/5/23 was recently submitted by their consultant (SESI Consulting Engineers) which concludes that no justification exists to further investigate the site or seek involvement of the NYSDEC or any other regulatory agency. SESI has followed the applicable guidance and regulations for all appropriate inquiries and investigations. The material that was present and investigated by SESI was found to be entirely organic (landscape materials) which can be reused on site; no action is necessary locally or at the state level.

A tree survey was completed showing all trees over 8 inches in caliber throughout the site's limit of disturbance, and all trees over 6 inches in caliber within the buffer areas. There are approximately 1,500 protected trees to be removed (46% red maple, 13% sweet birch, 8% beech, 8% tulip trees) Mitigation measures include trees and native plantings to meet the town's requirements.

The INI analysis was performed to determine if there was any improper in-flows into the sewer system emanating from either their site or the neighboring site that could be contributing to some of the issues at the Hunterbrook pump station. A plan was shown with the flow monitoring locations and sewer flow. The study showed existing minor issues related to the INI. They feel that those present issues would likely be solved once the site is redeveloped with new infrastructure. The town staff has indicated that they would like additional studies conducted and he noted that they are open to this but would need direction on how and where this should be performed. Mr. Moses asked if there were any questions.

Chairman Fon asked the Board if there were any comments. Mr. Waterhouse asked if any calculation was done on the increase in capacity to the Hunterbrook pump station. Mr. Moses responded that they have an understanding of what the development would produce but what is still unknown is what is contributing to the present issues. Mr. Waterhouse was under the impression that Hunterbrook was almost at its capacity. Mr. Tegeder stated that he was correct and noted the indication from the Town Engineer is that there are capacity problems emerging at Hunterbrook in particular during rain events so the INI was of particular interest and needs to be worked through. Mr. Cooper responded that it is an issue and they have been doing a little more research in the town's studies for the entire system as a result of the DEC for their consent. From an analysis point of view it seems that the issue doesn't seem to be from this site or proposed development, it looks like it may be somewhere else on the line. However, they would need to sit down with the Town Engineer and are ready to move forward if this is an issue. Mr. Tegeder noted that in the current state there is a problem

in heavy rainfall events and felt it would be difficult to add this number of units without having some remediation so that the pump station functions properly if and when this project comes on line.

Mr. Ciarcia, Town Engineer, stated that the town has an on-going consent and part of what they are doing includes a closed circuit tv investigation to identify where the problems are. They are also evaluating the actual pump station to make sure it is functioning properly as the facility gets stressed when it rains. He feels they can address these problems and thinks they will find that there are leaks that will be identified. There is a leak they are aware of currently that is 20-ft down and are trying to figure out how to get to it. On the west side of Hunterbrook Road is the newer system that was largely built by the Field Home. On the east side of Hunterbrook Road are old developments dating back to the 1960s with transite pipe which they think is a contributing factor. They need to identify the leaks and work with the applicant for participation in the remediation. Discussion followed with respect to the pipes and existing aging infrastructure. Chairman Fon asked about the timeframe. Mr. Ciarcia stated that they should have a list of what needs to be fixed by the Spring which will help them prioritize what needs to be done first. Mr. Waterhouse asked if the Garden Lane project would impact the the same sewer line. Mr. Ciarcia responded that it would.

Mr. Cooper stated that waiting until Spring to identify the mitigation for this project is a concern. The applicant is not responsible for the entire issue; the question is calculating the INI mitigation attributable to the project and quantifying it in monetary terms and noted that this is how the County does it. He thinks they have all the information they need and if the Town Engineer knows they will need to line a certain amount of pipe, etc. they can take the added capacity and calculate the appropriate mitigation. From a timing perspective, the town would know in advance what needs to be done before this project would come on line. He noted that they are at the rezoning part of the process and still have to go through the site plan review with the Planning Board.

Mr. Bock asked what the as-of-right situation was for the property without the rezoning. Mr. Cooper stated that as of now the townhomes would not be permitted under the current zoning. The RSP-3 zoning permits multi-level nursing homes, assisted living facilities, hospices, and similar uses involving high intensity care which is more of an intense use. The proposed use would be less intense than what is permitted under the zoning. Even with the split zoning, the RSP-3 allows uses that have more traffic, more density, and more demand. Nursing homes and hospices are different types of uses.

Mr. Phelan stated that the proposed recreation fee and contribution assumes that there will be a fee in lieu of the land. He questioned how they came to this conclusion as this is determined by the town and not the applicant. Mr. Moses responded that it was based on the condition and use of the field. Per the Parks & Recreation Superintendent, the field is more of a practice quality field and not a game play field. The town's comprehensive plan notes that game play fields are needed. They tried to pinpoint a like for like mitigation strategy. This is a field of practice quality with a lease that would not seek renewal in less than 2 and half years. The comprehensive plan also notes that Yorktown has an abundant supply of parkland exceeding national standards for park acreage, etc. The mitigation effort based on the comprehensive plan in collaboration with the Parks & Recreation Superintendent was the Hunterbrook facility. The Hunterbrook facility has an upper field which could be improved. Mr. Phelan stated that his concern was that they reached a conclusion before the Planning Board has gone through their site plan approval. Mr. Cooper stated that the recreation fee proposed is associated with the per unit amount and not the practice field itself and agreed that it is the town's decision ultimately. He noted that the current field is a rental and is not guaranteed, but the upgrade to the Hunterbrook field is forever as it is town owned and would be a better mitigation approach. He noted that the discussion was advanced through conversations with the Town Board and town staff. Their understanding is that rather than trying to lease the field, a contribution towards the upgrade of a permanent field seemed to be a better solution from a mitigation perspective.

Chairman Fon asked Mr. Ciarcia if mapping was available with respect to the sewer. Mr. Ciarcia responded that there was and would share the link with the Board members. Mr. Ciarcia informed the Board that the Garden Lane project is not in the county district and that they would have to buy in. He noted that the county sewer district change takes a least a year.

Mr. Cooper again stated that they would prefer not to wait until the Spring time; all of the monetary amounts may not be available. He agrees with the Town Engineer with the 2 to 1 mitigation to identify the costs for this development. The INI report shows that there is nothing that can be do on site as it is not contributing to the issue. Discussion followed.

Chairman Fon advised the applicant to meet with the Town Engineer for further discussion. Mr. Ciarcia informed the Board that a letter has to be provided to the Westchester County Department of Health stating that we have adequate capacity and are willing to serve them as part of their approval; as of now they don't have the capacity. They will work together with the applicant, but as of now they don't have all the answers.

Chairman Fon noted that this is a Town Board referral on the rezoning but they may need to speak to Counsel as the project moves forward. Mr. Tegeder noted that their recommendation should follow the Town Board's review process. The project rises or falls as to whether or not this issue gets solved properly in an appropriate time regardless of what their mitigation requirements will be pursuant to it. The Planning Board needs to advise the Town Board what to look at. He noted that the recreation component is determined and accepted by the Planning Board during their site plan review; knowing all the information beforehand is helpful but it will need to be discussed again in greater detail. They need to see where they are in the process and what information is needed. Mr. Cooper stated that the Town Board is the Lead Agency and some of the determinations will have to happen at the town level by virtue of this. Mr. Bock asked if this was formally referred. Mr. Cooper responded that it was formally referred by the Town Board on the rezoning.

Mr. Tegeder continued that another issue is the historic aspect of the Field Home mansion and its final disposition. In terms of the landfill, he read the report and thinks as a matter of course that the DEC will make the final conclusion. Mr. Cooper responded that it is 1,000CY of lawn material. The question was whether or not this material is potentially regulated; DEC regulations don't start regulating this type of material until it reaches 10,000CY and this is way under the threshold.

Mr. Tegeder continued that the stormwater is important and is guided by regulations. With respect to the recommendations and timeline, it has to follow the steps that the Town Board is taking. He noted that the Planning Department hasn't reviewed the full submission in depth as yet.

Councilman Esposito clarified that the Town Board hasn't made any decisions or agreements and are waiting to hear back from the Planning Board. Mr. Tegeder noted that the project is proceeding through the normal process.

Mr. Cooper asked the Board if they needed anything further to make their determination and noted that they have answered all the questions put before them.

The Board had concerns with respect to the open issue of the sewer capacity and advised the applicant to meet with the Town Engineer. The Board agreed to have the Planning Department draft a memo to the Town Board with their comments.

Motion to Close Meeting

Upon a motion by Aaron Bock, and seconded by Bill Lascala, and with all those present voting "aye", the Board closed the meeting at 9:24PM.