

Planning Board Meeting Minutes – November 20, 2023

A meeting of the Town of Yorktown Planning Board was held on Monday, November 20, 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
 - Ian Richey, Assistant Planner
 - Nancy Calicchia, Secretary
 - David Chen, Esq.
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Correspondence

Chairman Fon noted the email from Walt Daniels dated 11/18/2023 with respect to the Planning Board’s response to the Town Board referral to amend Chapter 275 – ATVs and Ebikes. Discussion followed with respect to the noise ordinance and site plan reviews. The Board agreed that their response to the Town Board was appropriate.

Motion to Approve Meeting Minutes of November 6, 2023

Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting “aye”, the Board approved the meeting minutes of November 6, 2023 with corrections as noted by Aaron Bock.

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

Stahmer Subdivision - Kane Residence

Discussion: Decision Statement

Location: 59.1-1-10.1; 535 Jerome Road

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

Description: Proposed site plan for a 3,383SF 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 380SF 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. Chairman Fon asked Mr. Scott if he received the most recent correspondence from Mr. Fiore. Mr. Scott responded that he did. He informed the Board that the landscape plan was revised to include six additional green giant arbovitae (two clusters of three each) to provide screening for Mr. Fiore. This will be in addition to the previously approved landscape plan consisting of a skip laurel hedge along the perimeter and green giant arbovitae along the roadway. As discussed at the previous meeting, Mr. Fiore requested a windbreak between the clearing and their house site. The topography of the site was discussed with the Board. He noted that the proposed arbovitae will achieve heights of up to 55-feet. He added that the winds are from the northwest predominantly. The areas selected for the clustering will buffer the tennis court and lot #1.

Mr. Tegeder asked Mr. Fiore if he would consider increasing the number of trees to provide more of a windbreak. Mr. Scott responded that they would be agreeable to increasing the number of arbovitae to ten (two clusters of five each). Chairman Fon asked the Board and Counsel if there were any issues and there were none.

Not pertaining to this application and before voting on the resolution, Mr. Bock asked Counsel his opinion about their prior discussions with respect to resolution conditions. Mr. Chen suggested moving into an Executive Session.

Motion to open Executive Session

Upon a motion by Aaron Bock, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board opened an Executive Session to discuss conditions of resolutions.

Motion to close Executive Session and return to Regular Session

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

REGULAR SESSION

Stahmer Subdivision - Kane Residence – Continued

Comments:

The Board advised Mr. Scott that the draft resolution provided for review will now include two additional resolved conditions as follows:

- Resolved, no building permit shall be issued until all requirements of this resolution, as listed and/or delineated on a summary sheet, and signed by the Town of Yorktown Director of Planning, or duly appointed representative, have been met or completed. The Director of Planning, or duly appointed representative, shall obtain the approval of Planning Board members prior to signature; and;
- Resolved, a certificate of occupancy may not be issued until all site work is complete, and an as built has been submitted, and the Director of Planning, or duly appointed representative, has certified that the site is complete and all conditions of this approval have been met.

Mr. Scott had no issues.

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving an amended site plan, stormwater pollution prevention plan permit, and tree permit for the Stahmer Subdivision, Lot 2 with revised landscape plan and additional conditions as noted.

Motion to close Regular Session and open Work Session

Upon a motion by Bill Lascala, 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

Mucci Residence aka Brookside Village Subdivision Lot 1

Discussion: Site plan changes
Location: 37.10-2-77; 274 Landmark Court
Contact: Cronin Engineering
Description: Proposed change to first floor elevation from 405’ to 407’ previously approved by Planning Board Resolution #23-14 dated August 14, 2023.

Comments:

Matthew and Melissa Mucci, property owners were present. Mr. Mucci stated that they are proposing to change the previously approved first floor elevation from 405’ to 407’ as they hit water 3-feet down during excavation. The grading will be adjusted accordingly. Mr. Phelan asked if there will still be a basement. Mr. Mucci responded that the basement is to remain and will have a sump pump. They are proposing to raise the house 2-feet and then use gravity to run the drains to the town’s catch basin at the front of the property so as not to run the sump pump 24/7. Originally the sump pump was draining to a swale along the driveway.

Mr. Tegeder asked if they were raising the garage and basement elevations. Mr. Mucci responded that they were raising it 2-feet but not the garage as it is on grade and will be maintained. Steps will be added in the garage and possibly to the front porch. Mr. Phelan asked if the slope of the driveway was changing. Mr. Mucci responded that it shouldn’t but it may have to come up a foot or so to get into the garage. He noted that it is a level lot.

Chairman Fon asked if the Town Engineer had any comments. Mr. Tegeder informed the Board that the Town Engineer submitted a memo this evening stating that he has no objection to the change in the first floor elevation. He noted,

however, that he has not looked at it in terms of a new site plan; the site plan they have shows a first floor elevation at 405'. There is no new grading plan, discussion about the driveway, catch basin, etc. He asked the applicant if additional fill will be required and Mr. Mucci responded that it will.

Chairman Fon questioned if they could move forward to approve the change in the first floor elevation without a revised site plan. Mr. Tegeder responded that the Planning Department has no issues with the change to the first floor elevation but as a condition of the amended resolution a revised site plan showing the changes as discussed will need to be submitted for signature and the record. The Board agreed. Chairman Fon added that the connection to the basin may have to be looked at. Mr. Bock added that this will also need to be reflected on the revised plans.

Upon a motion by Rob Garrigan, and seconded by Bill Lascala, and with all those present voting “aye”, the Board approved the first floor elevation from 405’ to 407’ previously approved by Planning Board Resolution #23-14 dated August 14, 2023 only.

Mr. Tegeder advised the applicant to work with their engineer and contractor with respect to the revised plans.

IBM Battery Energy Storage System

Discussion: Site Plan Changes

Location: 69.16-1-1; 1101 Kitchawan Road

Contact: Powerflex

Description: Proposed amendment to the Tier 2 Battery Energy Storage System (BESS) Special Use Permit by increasing the capacity of the BESS from 1 MW to 2 MW previously approved by Planning Board Resolution #23-08 dated May 8, 2023.

Comments:

Dennis Phayre of Powerflex was present. Mr. Phayre stated that they are requesting to increase the capacity of the Battery Energy Storage System (BESS) from 1MW to 2MW that is to be paired with the IBM solar canopy system. The system will remain in the previously approved location to the rear of the parking lot behind the salt barn. The location and limits of disturbance will not be affected; the only change is the battery capacity and manufacturer. They are switching from Powernet 1MW to Tesla 2MW. The pad size will not be affected. The proposed increase has been approved by the utility company and IBM. He informed the Board that the solar canopy is currently under construction and is expected to be done next year. The EV charging stations are currently being installed. Viewsheds from the battery site, Pinesbridge Road and the neighboring property were shown. He informed the Board that IBM replaced the neighbor’s fence (Bolger) along with some landscaping as a condition of the approval and they are satisfied.

Chairman Fon asked if there was a required distance from the equipment to the nearest structure. Mr. Phayre responded that the nearest structure is the salt barn and noted that the distance is in excess of what is required by the code. Chairman Fon asked about the Fire Department. Mr. Phayre stated that they will bring the Fire Department in to discuss the protocol and safety features once the plans are complete. Mr. Phayre discussed the permitting process and requirements with the Board. Mr. Tegeder requested that all requirements be placed on the plans.

Chairman Fon stated this project is looked at holistically and will help the community not just IBM. Mr. Phayre responded that this was correct and added that this is an identified substation (LSRV) where they specifically want smart capacity – batteries that can respond rather than solar that comes and goes with the sun. Mr. Garrigan asked if the increase is because they are experiencing fuller utilization of the array than planned. Mr. Phayre responded that this was not the case and explained that the increase gives them the ability to store and export more power when needed. The Board had no issues and agreed to place this item on the next meeting agenda for an amended resolution.

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.; Bill Ma of Guiding Eyes; and Sumeet Gawali, Acoustics Specialist of Cerami & Associates were present. Chairman Fon shared the latest Tree Commission memo with the applicant. Mr. Steinmetz informed the Board that his team had a phone call meeting today with the Planning Department that he was unable to participate in. He added that since the last meeting, they have been working with the Planning Department with respect to the tree and noise mitigation. Mr. Russo addressed the concerns raised by the Tree Commission and Planning Department and submitted a response letter dated 11/7/23 and revised tree and mitigation plan dated 11/8/23 to the Planning Department for review. The acoustics specialist also submitted additional information dated 11/2/23 for noise mitigation, specifically the specification of building materials as well as the soundwalls. He thinks that they are at a point where they have mitigated the concerns and feels that they are in a position to move forward with an approving resolution for the next meeting.

Chairman Fon asked the Planning Department about the tree mitigation. Mr. Tegeder responded that the Planning Department, Barton & Loguidice (environmental consultant), and the applicant are all in agreement that the mitigation package is adequate and sufficient. He noted that there is some additional work that needs to be done with respect to the wetlands but this can be handled as a condition of the resolution. Mr. Bock stated that he had no issues as long as the impacts were identified.

Mr. Tegeder noted the response memo indicates that the applicant has decided not to offer the conservation easement. Mr. Steinmetz stated that Barton & Loguidice asked their client to place a conservation easement on the property. He noted that Guiding Eyes position is that this site is already highly regulated with a wetland to the east, wetland to the west, and a stream culvert corridor along the north side next to Route 202 that already constrains the property. They are obligated by the town code to abide by this and comply with those requirements. Additionally, they spent the last three months working with Barton & Loguidice on the trees resulting in a forest plan for the site. They comply with the town's tree removal law in terms of mitigation. In summary, Guiding Eyes position is why are they being asked to go further and constrain this property in perpetuity by imposing a conservation easement; to them this is not a property that calls for a conservation easement. If in fact the kennel structure needs to be modified or expanded they would have to return for an amended site plan approval. Conversely, if Guiding Eyes should leave Yorktown and the site is sold and the structure removed, they will have to comply with site plan review, SEQRA, wetlands and trees. They do not want to constrain their property further with a conservation easement in perpetuity on this site. The Board agreed with Mr. Steinmetz.

Mr. Tegeder asked about the selected sound barrier. Mr. Gawali stated that since the last meeting, they had a detailed discussion on the sound mitigation and noise levels with the Planning Department. Since then, he submitted an additional report dated 11/2/23 to the Planning Department. Pages 3 and 4 of the report show the STC ratings, façade elements and noise barrier selection. Discussion followed with respect to the selected noise barrier product. Mr. Waterhouse asked if there was a way to make it more sound proof if there was a deficiency. Mr. Steinmetz noted that the town has a noise ordinance. Mr. Gawali responded that they are not targeting inaudibility; they are targeting for the noise levels of the dogs to be below the ambient noise level (wind, traffic, etc.). He added that this was mentioned before and if necessary, additional mitigation could be to raise the wall and/or possibly change the programming. Chairman Fon stated that at a previous meeting there was discussion about the landscaping and topography of the site that was not included in the sound mitigation. Mr. Gawali responded that this was correct and would add to the sound mitigation.

Mr. Bock stated that the issue was not limited to the material but rather to ensure that the approving resolution incorporates the goals that they are trying to accomplish in that the noise be limited to certain ambient levels of what is projected. Mr. Steinmetz responded that with respect to the noise condition, he doesn't want it to be inconsistent with the town's noise ordinance. While he understands that they want an objective, he wants to use the town's noise ordinance to provide guidance rather than pick something and in effect create a noise legislation. Mr. Bock responded that it would be based upon the materials submitted by Cerami. Mr. Steinmetz responded that as long as they tie it to those standards; additionally if necessary they could explore an adjustment to the fence or programming changes. The Board agreed to place this item on the December 4th meeting agenda for a resolution.

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 8:34PM.