

# Planning Board Meeting Minutes – December 4, 2023

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A meeting of the Town of Yorktown Planning Board was held on Monday, December 4, 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
  - David Chen, Esq.
  - Councilman Sergio Esposito, Town Board Liaison
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## **Correspondence**

The following was noted:

- Letter from Ricciardella Estates LLC dated 11/25/2023 with respect to their bond.
- NYCDEP letter dated 12/4/2023 with respect to the Stahmer Subdivision, revised Lot 2 (Kane residence), approval of SWPPP amendment.
- Planning Department comment memo with respect to the proposed Penna subdivision.

## **Motion to Approve Meeting Minutes of November 20, 2023**

Upon a motion by Rob Garrigan, and seconded by Bob Phelan, and with all those present voting “aye”, the Board approved the meeting minutes of November 20, 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**

### **Guiding Eyes for the Blind**

Discussion: Decision Statement

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:

Joseph Riina, P.E. of Site Design Consultants; David Cooper, Esq.; and Guiding Eyes representatives - Tom Panek, President and CEO; and Bill Ma, Head of Technology and Operations were present. Mr. Riina stated that their attorney, Mr. Steinmetz, was not available this evening, however, Mr. Cooper was present should there be any questions. The draft resolution and Negative Declaration were reviewed and they have no issues.

Mr. Bock noted that the resolution should be revised to reflect the correct EAF date of July 6, 2023; and to also include the most recent Barton & Loguidice memo dated November 30, 2023. Mr. Bock asked the Board, Counsel and Planning Department if there were any issues and there were none.

**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 Bill Lascala, and seconded by Bob Phelan, and with all those present voting “aye”, the Board approved the resolution approving site plan, special use permit, stormwater pollution prevention plan, wetland permit, and tree permit for the Guiding Eyes for the Blind Canine Health and Wellness Center as corrected.**

Mr. Bock stated that Guiding Eyes is a great organization and that the Board is pleased that they are expanding their business within Yorktown. Mr. Panek thanked everyone and added that it is a pleasure to serve their mission within Yorktown.

**Motion to close Regular Session and open Work Session**

Upon a motion by Rob Garrigan, 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**

**IBM – Temporary Lab Waste Emergency Storage Tank**

Discussion: Site Plan

Location: 69.16-1-1; 1101 Kitchawan Road RTE 134

Contact: Scott T. Miller, SSM Group

Description: Proposing eleven, 16,000 gallon, temporary Storage Frac Tanks to be used during the replacement of the existing lab waste tank. Each tank will be placed on a temporary bed of gravel fill.

Comments:

Scott Miller of Spotts, Stevens and McCoy; Don Demouth, Environmental Department of IBM Labs; and Anthony Manzi, Design and Construction Program Manager were present. Mr. Miller stated that a pre-preliminary application was submitted to the Planning Department for discussion and next steps. IBM is proposing to replace one of the existing wastewater tanks (165,000 gallons) on the IBM campus in kind at the same location. As a result, they need to provide temporary tank storage while the tank is being replaced. The intent is to do both projects simultaneously. The proposal is to provide 11 double walled 16,000 gallon temporary tanks on the property. The existing tank is self contained in a concrete pit that will be lowered slightly during the reconstruction; the tank sits about 3 or 4-feet above the ground. He noted that both locations are in the wetland buffer and they applied to the state with respect to the encroachment. The site plan showing the locations of the existing tank and temporary tanks were shared with the Board.

Mr. Phelan asked about the project timeframe and if the temporary tanks were to be removed once the original tank was replaced. Mr. Miller responded that the project should take about 10 months and the temporary tanks will be removed once the project is complete. Mr. Bock asked what was in the area proposed for the temporary tanks. Mr. Miller responded that it was basically gravel that they are proposing to reinforce and will be reestablished once the project is complete. Mr. Waterhouse asked about the wastewater makeup and maximum usable capacity for the permanent ground storage tank. Mr. Demouth responded that the storage is 165,000 gallons. The makeup of the wastewater can vary greatly due to the nature of the research; the PH varies depending on the process. There are limitations to what the wastewater system can be used for at the labs; most of the organics are collected in containers and shipped off site; the nature of the wastewater is dilute and combustibility is not a concern. Mr. Waterhouse asked about the analytical process. Mr. Demouth responded that information is collected on a monthly basis and sent to the County on a semi-annual basis. Mr. Bock asked about the site location. Mr. Miller responded that the tanks are located on the main campus behind the building; the footprint of the existing tank to be replaced will not change. Mr. Garrigan asked if the temporary tanks will match the capacity of the permanent tank and the response was yes. Mr. Garrigan asked if there were any other containment precautions proposed in the gravel area. Mr. Miller responded that the construction drawing details will be provided with the next submission. Discussion followed with respect to waste removal, containment and leak detection. Mr. Demouth noted that the waste removal process will remain the same and discharge to the sanitary sewer system. The tank is monitored by the control center and central utility plant.

Mr. Tegeder stated that they should consult with the Engineering Department and questioned whether this application was a Planning Board matter since they are replacing the existing approved tank in kind in the same location. A wetland permit may be required by the Engineering Department and if the thresholds are crossed, it would then be referred to the Town Board unless the Planning Board felt that there were site planning issues. Mr. Bock stated that he

assumed that when the site plan was originally approved for the equipment it was reviewed and analyzed so if the threshold is met there is no issue. Mr. Garrigan asked if the temporary tanks change the site. Mr. Tegeder stated that it doesn't as it is a temporary measure; what they are looking at is the placement of the tanks and the reconstruction of the existing tank in the same footprint.

Mr. Ciarcia, Town Engineer, stated that not much material is being brought in so it doesn't seem to cross the threshold for permitting; the project area is already disturbed and they are not disturbing new wetlands. Mr. Tegeder asked the applicant if there was excavation involved. Mr. Stevens responded that they are proposing less than an acre of disturbance as they are installing new drainage around the existing wall tank. Mr. Ciarcia stated that once the application is submitted with the quantities and disturbance area they will then decide how to move forward. Mr. Bock felt that the application wasn't a site plan issue as the same standards will apply since it is in the same location and the temporary tanks will be removed once complete. He thought that there were adequate safeguards in the administrative review by the Town Engineer. Mr. Ciarcia asked the Board if they agreed that if the quantity exceeds administrative thresholds it will then be referred to the Town Board. The Board agreed and had no site planning issues.

### **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 from RSP-3/R1-40 to RSP-2 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 they are present as a follow up to the 10/16/2023 meeting. The application was referred to the Planning Board for a SEQRA recommendation as the Town Board is serving as Lead Agency for the entire action which includes the rezoning and a recommendation on the rezoning. With respect to SEQRA, they have been working with the Planning Department/Board to identify a list of items to work through and subsequently received the Planning Department memo dated 12/01/2023 summarizing those issues. They will update the EAF and analyses submitted and provide some additional information concerning impact assessments. They are hoping on the SEQRA end that the Planning Board will direct the Planning Department to submit a memo to the Town Board so the items can be addressed.

Mr. Cooper added that he would like to address the zoning comment that was listed in the memo. The Planning Department recommended altering the lot line on the eastern rear of the site to remain R1-40 and rezone the front to RSP-2. He noted that the current application is proposing to rezone the entire site to RSP-2. He pointed out that the proposed line drawn goes through five townhome units and would render those units non-conforming. Another issue is that it would essentially reduce the lot area of the RSP-2 zone that would facilitate this type of development; the density would then be reduced and the project would not be feasible. If the purpose is to prevent development of the rear portion as it's environmentally sensitive, they can discuss this in the form of a conservation easement or other restriction; removing the entire RSP-2 rezoning of the site won't work for this proposal.

Mr. Bock asked what the Town Board referral for the SEQRA review was in connection with. Mr. Cooper responded that it was for the rezoning and the site plan since the rezoning is facilitating the site plan. Mr. Bock asked if the Town Board was responsible for approving the site plan. Mr. Cooper responded that they were not and added that there will also be a subdivision application as they will be merging lots that will also be before the Planning Board.

Mr. Tegeder informed the Board that with respect to the rezoning of the rear, they are not proposing a lot line adjustment, the comment was more about the zoning district line. He thought that it would be a necessary discussion to have about the proper application and extent of the zoning and area to help the Town Board with their decisions. However, to Mr. Cooper's point they could take in tandem the comment about the conservation easement and noted that the earlier approval did have a conservation easement on that portion of the property. The question is whether or not they want to leave the rear portion as R1-40 with the potential for future development notwithstanding the fact that there is a wetland area or is it appropriate given the discussion to do it as proposed with a conservation easement.

Mr. Bock noted that it's not a lot line adjustment but rather a definition of the zoning line and asked Mr. Cooper his thoughts on this. Mr. Cooper responded that it would depend on where the line is but noted that it's not in the zoning code and could affect the development from a legal standpoint. They would prefer the approach of removing the development rights off of that parcel such as a restrictive covenant with a full rezoning to RSP-2 or conservation easement. He noted that he has seen other municipalities in connection with rezoning and restrictive covenants still allow the restricted area to be counted as part of the density even though it can't be built on. However, his concern is that it would need to be memorialized for the future. Mr. Phelan asked about the line that they are being asked to consider. The zoning map was shared with the Board. Mr. Tegeder noted that the line is a suggestion as a result of viewing the zoning map. Mr. Phelan stated that it was more of an idea and not a given.

Mr. Bock stated that the issue presented to them is whether the Board is interested in recommending a conservation easement and complete rezone or split the property into two zones and go from there. He asked the applicant if the zoning change would affect their lot count. Mr. Cooper responded that it would depend on where the line was drawn but was concerned about the interpretation of the zoning lots. Mr. Bock stated that it would be in the code if it were enacted by the Town Board. Mr. Cooper felt that there needs to be clarity in the law and added that they are measuring density based on the entire property. Mr. Bock asked Mr. Tegeder if it would affect the density of the project. Mr. Tegeder responded that Mr. Cooper was correct as it's not explicit and there is no guidance in the code. His thought is that if it's a single lot regardless of the number of zones, you can avail yourself to all of the square footage that is contained on the lot to do the calculations, however, from a legal standpoint he doesn't know how this would work.

Mr. Garrigan thought that if they were to take this approach, they could request that the site plan show the zoning line so that all of the structures sit within the envelope as part of the memorialization. Mr. Tegeder agreed and added that if it were to move forward in this manner, it would be memorialized in all plans going forward as well as the approving resolution. Mr. Phelan asked if the area in question were to be rezoned to R1-40 would it result in the possibility of additional units. Mr. Cooper responded that it would not but hypothetically they could build in that area. He noted that the applicant is not looking to develop this area. Their concern is that it decreases the overall calculation and would need to be made clear in the rezoning process. Discussion followed.

Mr. Bock asked Mr. Cooper if they were agreeable to placing a conservation easement on the property in question as it would prevent it from further development. Mr. Cooper responded that they were.

Mr. Bock stated that he would recommend the conservation easement with full rezoning of the property to RSP-2 and obliterate the issue of the two zones and the Board agreed. The Board had no issues with the use for the property. Mr. Waterhouse stated that the sewer capacity issue should also be noted in their memo to the Town Board. The Board requested for the Planning Department to draft a memo to the Town Board for review prior to releasing.

#### **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 7:54PM.