

Planning Board Meeting Minutes – February 26, 2024

A meeting of the Town of Yorktown Planning Board was held on Monday, February 26, 2024, 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; David Chen, Esq., Planning Board Attorney; and Councilman Sergio Esposito, Town Board Liaison.

Correspondence:

The Board received no correspondence.

Meeting Minutes:

Upon a motion by Aaron Bock, and seconded by William LaScala, and with all those present voting “aye”, the Board approved the meeting minutes of February 12, 2024.

REGULAR SESSION

BJ’s Wholesale Club – Propane Filling Station

Special Use Permit Renewal

Location: 36.06-2-75; 3303 Crompond Road

Contact: Diane Rae, BJ’s Wholesale Club, Inc.

Description: Request for renewal of a Special Use Permit for a Propane Filling Station approved by Resolution #14-03, dated February 10, 2014.

Upon a motion by William LaScala, seconded by Aaron Bock, and all those present voting aye, the Board approved the renewal of the special use permit for the BJ’s Propane Filling Facility for a period of 5 years.

IBM Battery Storage

Discussion Site Plan

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 Resolution #23-08 on May 8, 2023.

Dennis Phayre from Powerflex was present.

Upon a motion by William LaScala, seconded by Aaron Bock, and all those present voting aye, the Board approved special use permit for a 2 MW Tier 2 Battery Energy Storage System at the IBM TJ Watson Research Center.

WORK SESSION

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.

Joseph Riina, project engineer, and Steve Marino, project environmental consultant, were present. Riina explained Marino has been working over the past few months to resolve comments from Barton & Loguidice, which the final response was submitted to the Board for this meeting. Prior to that, the Board held a Public Informational Hearing. When the Board think s the application is ready, the applicant would like to schedule a Public Hearing.

Marino received the Barton & Loguidice memo from mid-January and responded at the end of January. The comments focused on the wetland delineation and Marino adjusted his plan to show the same line. Marino also submitted a wetland mitigation summary and proposal to document what is being proposed. The mitigation area is proposed as a conservation parcel. Whether it is a separate nonbuilding parcel or conservation easement can be discussed with the Board as we move forward. B&L commented that the wetland mitigation plan as proposed seems reasonable. Marino will apply to the Army Corp of Engineers once the layout is finalized and the impacts are known. Lastly, the tree summary was reviewed and proposed a tree bank fund payment. B&L confirmed the payment was reasonable.

Bock asked if Marino had seen the Conservation Board's last memo. Marino stated that he had seen the memo. He and Riina had appeared before the Conservation Board a couple of weeks ago. There concern was the hydrology to the wetland. Marino is investigated using an adjacent detention basin and using the water as it flows out of that to feed the mitigation area. Bock asked if this would be reflected on any filed plans and Marino said yes, revised plans will show this for the Public Hearing. The Board scheduled a Public Hearing for the next available meeting based on notice requirements.

ZBA Referral #02-24 – Confident Kids Club

Special Use Permit Application

Location: 36.05-1-14; 3535 Crompond Road

Contact: Chris Berlow

Description: Application for a Special Use Permit for a Child Fitness & Before and After School Program.

Joel Greenberg, project architect, and Chris & Brandon Berlow, were present. Greenberg stated he has read the comments from the Planning Board and they have changed their plans. The school district buses will not enter onto private property. Since the Board thought the best plan was to have a bus drop off the students in front of the building near the entrance of the facility, therefore the applicant has decided to purchase their own

bus to do this. When parents drop off or pick up their children, they will park in 3 designated parking spaces in front of the building. No children will be walking around on the site at all. They will be guided by either the staff or their parents. Bock stated he thought this change was positive, but had questions about the playground in the rear of the building. The plans don't show what else is going on in the back parking lot. Greenberg explained that employees of the other businesses park in the rear of the building and there is a refuse area. These details will be added to the plans. Bock said the Board needed this information to access the safety of children walking to and from the play area. Waterhouse was concerned that the other businesses would receive deliveries in the back of the building as well and therefore a designated walkway should be painted for the students to walk on. Waterhouse also noted that the 3 parking spaces designated for parents are the only 2 handicap parking spaces. Greenberg stated the handicap parking spaces will be relocated adjacent to the parent parking spaces. Greenberg explained although there are no plans to use the recreation area, he would add a walkway to show how they would walk if it is used.

Waterhouse expressed concern for the possibility of a bus stopping circulation in the parking lot and causing cars to back up onto Route 202 when the bagel shop is busy. Greenberg stated he did not think the drop off and pick up at the club would coincide with peek bagel shop traffic nor did he feel the minibus would be stopped for more than a few minutes to let children off the bus. Bock requested bollards be placed in the fence around the play area and asked the distance to Old Crompond Road from the play area.

Fon asked when the bagel shop opens and no one was sure. Fon stated the submitted plans do not have the right detail to be able to access the application and suggested a site visit. Phelan agreed the plans require more details and wanted to see the approved site plan for the site. Phelan also was uncomfortable with children walking behind the building, across the parking lot area to the play area. Greenberg explained that the applicant has no plans to use the recreation area. He is only showing it on the plan because the code requires it. Tegeder stated the applicant was asked to show the recreation area because it is in the code. Phelan understood that it may be required but did not feel it was safe, therefore just showing it to comply doesn't make sense if it doesn't work. Tegeder stated there is no minimum play area size required in the commercial zone.

Phelan asked what the parking distribution is between the other uses in the building and if any of the leases required a certain number of parking spaces. Greenberg had a copy of the approved site plan that shows all the parking spaces and will use this as a basis. The previous tenant in this space was a gym, which would require more parking spaces. Phelan questioned the overall parking on the site, not the parking for this use. Fon asked if the code required parking has been determined for the site. Tegeder stated the Planning Department has not done this yet.

Bock asked if there was a gate with access to Old Crompond Road. Greenberg stated that there was a gate on the site plan, however he didn't believe the gate was ever used. Waterhouse confirmed there is no gate at this site, but other sites have gates for emergency access.

The applicant will go back to the Zoning Board next month. The Board will make a site visit and have the applicant back on the next agenda.

Town Board Referral
Large-Scale Solar Energy Systems Moratorium

Description: Proposed amendment to Chapter 300 “Zoning” regarding a moratorium for large scale energy systems.

Bock asked Esposito if a hearing date has been set yet. Esposito stated the Town Board has not set a public hearing date yet because they were waiting for comments back. The idea is to pump the brakes and collect some of the data that we’ve learned from some of the current solar farms that we have approved to see if we can come up with a better plan. The Town Board has not made any decisions. The Board reviewed a memo drafted by the Planning Department. The Board discussed whether to include substantive comments in the memo to the Town Board now or wait until changes are referred to them to review. The Board discussed some of the issues that came up on projects they have reviewed and approved so far. LaScala stated that in his opinion the solar panels at Hill Boulevard can be seen from everywhere and he feels they are visual pollution and they were a mistake.

Bock brought up that the current moratorium law prevents the issuance of COs and building permits and the draft memo points out that this would essential stop already approved projects. Garrigan would be concerned if there were any grants or incentives that would expire before the moratorium is over and would have a negative impact on the applicants. The Board is currently only reviewing two solar projects. Phelan said those projects should acknowledge the moratorium and decide to go forward with the review or not. The draft memo recommends that already approved projects be allowed to go forward. Esposito stated that the Town Board will take that recommendation in to consideration however they will also consider the negative impacts and make sure that there are no negative impacts to the Town of Yorktown either and that why the Board wants to move forward with the moratorium. Waterhouse questioned if the Town Board can stop a project that already has Planning Board approval and if they have the authority to undo the approval. Phelan agreed the decision needs to be made where to draw the line and maybe it’s whether the project has a building permit. If a project already has a building permit, is under construction, and has financing in place, that is a different story. Bock asked if the moratorium prevents the Board from taking any action. Tegeder stated the draft law does not allow the Board to review applications. Tegeder explained that during the moratorium for the comprehensive plan, the applicant was required to acknowledge the moratorium and proceed with review at their own risk. Chen stated he shared the concern about exposing the Town to litigation from people ready to move forward on their project and like Tegeder’s proposal that language be added that the applicant acknowledges the Town may be changing the regulations and you are okay with that. From a risk mitigation standpoint, it’s the best option. The most significant issue with Dell Avenue has been with screening from adjacent properties and one that was in another Town. Waterhouse agreed the same issue will come up on Jacob Road. It should be clear whether the Planning Board needs to protect the residences in the other town. Garrigan brought up that the problem has been with the “fully screened” language. Bock takes issue with the cutting down of trees for solar panels and additional trees that may cast shade. The Board needs the tools to be able to consider whether they can say no to cutting down trees for shade.

The Board agreed to support the moratorium, to allow approved projects to go forward, to add a moratorium acknowledgement to be able to review applications, an appeal process should be added, and add a summary of some of their concerns to be discussed more in depth at a later date when the law is referred.

Upon a motion by William LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the meeting closed at 8:30 PM.