

Planning Board Meeting Minutes – May 20 , 2024

A meeting of the Town of Yorktown Planning Board was held on Monday, May 20, 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:

Rob Garrigan
Bill Lascala
Aaron Bock
Bob Phelan

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

Correspondence

Chairman Fon noted the following late breaking correspondence:

- Dunkin 202 (SDML Realty) – Conservation Board memo dated 5/15/24
- Ryder Subdivision – Conservation Board memo dated 5/17/24
- Teatown Lake Dredging – Conservation Board memo dated 5/15/24
- Jacob Road Solar (Colangelo property) – Conservation Board memo dated 5/19/24, TCAC memo dated 5/20/24; resident correspondence dated 5/20/24,
- Nantucket (Marsel Prela) – Resident correspondence dated 5/18/24
- Homeland Towers Granite Springs – Conservation Board memo dated 5/15/24

Motion to Approve Meeting Minutes of May 6, 2024

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the meeting minutes of May 6, 2024.

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

Village Traditions

Discussion: Decision Statement
Location: 15.16-1-32; 1821 East Main Street
Contact: William Bottiglieri
Description: Seeking to amend previously approved site plan to 5 apartments consisting of four 1 bedroom apartments and one studio apartment in the upstairs of the existing structure instead of the previously approved four 1 bedrooms by Resolutions #18-05 dated May 21, 2018 and #21-08 dated May 10, 2021.

Comments:

JD Summa and Randy Castaldo, were present. Mr. Summa stated that they received the draft resolution and had no issues. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

Upon a motion by Aaron Bock, and seconded by Bob Phelan, and with all those present voting “aye”, the Board approved the resolution approving an amended site plan for Village Traditions.

SMDL Realty, LLC aka Dunkin Route 202

Discussion: Decision Statement
Location: 35.08-1-11, 14, 15, 23; 3735 Crompond Road (Route 202)
Contact: Engineering & Surveying Properties, PC
Description: Proposed 3,069 square foot Dunkin with drive thru, parking, and associated site improvements.
Comment:

Reuben Buck, P.E.; and Mario Sardinha, property owner, were present. Mr. Buck stated that he received the draft resolution and had no issues. He requested for the Board to consider permitting the applicant to begin site work prior to signing the plans while they are waiting for the DOT approval. The DEP approved the project but they are still waiting for the DOT to finalize their approval for the left turn lane and the utility connections within the right-of-way.

Mr. Garrigan asked the Board and Planning Department if they were satisfied with the site plan and conditions currently. Mr. Tegeder responded that they would need to have an erosion and sediment control permit and tree permit in place. If this is allowed to go forward he would suggest as part of the permit that a meeting is conducted with the Engineering Department in advance of the signed site plan. Mr. Garrigan asked the applicant about the timing for the DOT approval. Mr. Buck responded that he didn't know but noted that the DOT can take a while.

Chairman Fon noted the Conservation Board memo dated 5/15/24. Mr. Buck stated that he received the memo. The Conservation Board requested that they provide different species of evergreens along the rear of the property of which they have done. They also asked to look into pervious pavers in the area within the wetland buffer. He noted that their on site soil testing with the DEP and their stormwater design indicated that the underlying soils are not permeable. The stormwater for the project is not using any infiltration practice so this ruled out pervious pavement for the project.

Mr. Bock noted the DOT letter dated 4/15/24 and asked if their comments would affect allowing the site work to move forward. Mr. Buck responded that the comments had to do with the grading into the site which would not affect the first floor elevation of the building or any grades around the site. It will be minor modifications to the entrance and exit road from the facility. He added that their traffic consultant is addressing those comments presently. Mr. Phelan asked if this was for the state property. Mr. Buck responded that the comments from the DOT are regarding the portion of the access roads that are within the right-of-way. Mr. Garrigan asked what the date of the latest site plan was and if there were any significant changes anticipated to the plan. Mr. Buck responded that it was dated 4/17/2024 and they didn't anticipate any changes. Mr. Bock noted that is if they don't run into any problems with the DOT. Mr. Phelan asked if bonding was required. Chairman Fon stated that this would be part of the permits required by the town.

Upon a motion by Bill Lascala, and seconded by Aaron Bock, and with all those present voting "aye", the Board approved the resolution approving a site plan, special use permit for a drive-thru, stormwater pollutoin prevention plan, and tree permit for SDML Realty, LLC aka Dunkin Route 202.

Motion to close Regular Session and open Work Session

Upon a motion by Rob Garrigan, and seconded by Aaron Bock, and with all those present voting "aye", the Board closed the Regular Session and opened the Work Session.

WORK SESSION

Ryder Subdivision

Discussion: Minor Subdivision
Location: 48.06-1-12; 532 Underhill Avenue
Contact: Joseph C. Riina, P.E.
Description: Proposed two lot residential subdivision to be served by a single (existing) common driveway. Each home will have a septic sytem and will be served by Town water.

Comment:
Joseph Riina, P.E. of Site Design Consultants; and Steve Marino, Environmental Consultant, were present. Mr. Riina stated that the proposal is for a two lot residential subdivision. The property is a total of 6 acres and zoned R1-40. There was an existing residence on the property that was condemned and has since been demolished. The project will utilize the existing driveway and then split off accessing the two proposed residences. The footprint and driveway location has not changed. Since they were last before the Board, they performed testing at the site and have approved septic areas with the Health Department; the SWPPP has been prepared. The existing driveway crosses the wetland in front of the

property; part of the wetland will be disturbed to accommodate a pocket wetland to treat the stormwater. The project already had a public informational hearing. They are still working on finalizing the details of the site plan and mitigation plan and hope to discuss scheduling a public hearing when they return to the Board.

Mr. Marino stated that the wetland on the site was initially flagged in 2014 with Bruce Barber at that time, and then revisited in 2017 and again in 2021. The pink triangle shown on the plans is the area of actual wetland disturbance; the yellow area is the flagged wetland line. The area has been maintained for a number of years as lawn area. They are proposing to restore the existing wetland by overseeding the existing lawn and reestablishing the wetland vegetation in that lawn. The wetland is proposed to be expanded on either side of the new driveway and those areas will be planted with trees and shrubs. Further up the hill it is dry and is where the septic systems have been approved.

Chairman Fon noted the Conservation Board memo dated 5/17/24. Mr. Riina responded that he received the memo. He asked the Board if they would consider that the tree survey and tree removal be done for each individual lot as it would be less of an expense for the property owner and noted that there aren't a substantial amount of trees to be removed. Mr. Tegeder asked if they would do a survey at that time. Mr. Riina responded that when they were ready to construct each lot they would then do a survey and return for a tree permit. Mr. Phelan asked if they anticipated the location of the houses to be modified or adjusted. Mr. Riina responded that the house location, septic locations and proposed grading will not change. Mr. Bock asked about the customary practice. Mr. Tegeder responded that they usually approve the tree permit at the time of site plan review. Discussion followed.

The Board agreed that language could be placed on the subdivision plat stating something to the effect that if the property was conveyed in part or in whole that they have to return to the Planning Board.

Teatown Lake Reservation - Campus Renovation

Discussion: Site Plan

Location: 69.14-1-5,6,7,8,9; 1600 Spring Valley Road

Contact: Alan Sorkin, Managing Director

Description: Campus renovations including the Nature Center and the adjoining areas north and south of Spring Valley Road.

Comments:

Aaron Bock recused himself from this agenda item as his wife is a member of the Board of Trustees Teatown Lake Reservation. A letter dated 5/20/2024 was submitted to the Planning Department for the record.

Alan Sorkin, Managing Director of Teatown; and Andrew Tung, P.E. were present. Mr. Sorkin stated that since 1963, Teatown has been serving the local community with its environmental efforts with the largest community funded nature preserve from Westchester County with over 1,000 acres under management. Their mission is to inspire life long environmental stewardship within the community. Faced with their aging infrastructure and buildings, they embarked on a historic capital campaign to improve the facilities; they labeled it the "Teatown Campaign for Future Generations" to raise funds to preserve their natural resources and strengthen their community impact. They are looking to enhance their mission impact and not expand their capacity.

Mr. Tung stated that they worked to identify how best to update the facility for the next generation. The captial campaign started before the pandemic. They have activities all around the nature center and carriage house on Spring Valley Road both on the north and south side. The 5 parcels in question are about 132 acres as shown on the plans. The activity revolves around reorganizing both the buildings and the site to better serve their mission and programs that were developed by Teatown over the years. The proposal is to remove the red barn used as a maintenance facility that is located in the center of the campus in order to use that space more efficiently. They are proposing to create a 5,700SF one story education building that will consist of classrooms, gathering space and a green roof that will serve as the center of the education component. The maintenance function will be relocated across the street on the south side adjoining the science building (Croft building). They are proposing to remove the parking lot that adjoins the nature center to the west and replace it with plantings but still have maintenance access; and create a second access point to the center of the campus of the existing Blinn Road lot to the north with a new loop drive to provide a place for buses and cars to drop off students approximate to the new education building. The Blinn Road lot will be reconfigured slightly. Stormwater management is proposed for the parking lots as there is none currently. More detail will be provided with their next submission.

Chairman Fon asked about the next steps. Mr. Tegeder responded that it will be a site plan application. Mr. Garrigan asked the applicant about the timeframe for the project. Mr. Tung responded that it should take about 18 months to complete and noted that the facility will continue to operate during the construction phase. Chairman Fon asked about the lake dredging. Mr. Tung responded that it will be coordinated closely with their project.

The Board requested for the Planning Department to schedule a site visit with the applicant.

Town Board Referral - Teatown Lake Dredging Project

Location: 69.14-1-5; 1600 Spring Valley Road

Contact: EcoAssessment, LLC

Description: Application for a stormwater and wetland permit to dredge the south east corner fo Teatown Lake to maintain the existing channel between the shore and Wildflower Island.

Comments:

Aaron Bock recused himself from this agenda item as his wife is a member of the Board of Trustees Teatown Lake Reservation. A letter dated 5/20/2024 was submitted to the Planning Department for the record.

Timothy Judge of EcoAssessment was present. Mr. Judge stated that since the application was last before the Board, they submitted their responses to requests for more information from the NYSDEC and NYCDEP that included plans and additional details. He stated that there was a question about the permit from the Army Corp and noted that the Army Corp communicated that a permit for this project was not required as no sediment is returning to Teatown Lake except water and no alteration of any wetlands will occur. The geotubes used for dewatering the solids will return the the decanted water back to Teatown Lake through the temporary return flow pipe. Testing was performed with the DEC and NYS Department of Health. The dewatering is at Blinn Road and Hidden Valley Meadow which is part of the meadow restoration plan.

Mr. Garrigan asked what the plan was for the solids. Mr. Judge responded that the resulting solids from the dredging will be used on site and reviewed the process with the Board. Chairman Fon asked how many yards were to be removed. Mr. Judge responded that they tested for 20,000 yards but will probably end up with 15,000 to 12,000 yards to come out. Chairman Fon asked how they determine where they hit. Mr. Judge responded that they are dredging about 3-ft as it is only for the return of the hydrology around Wildflower Island as well as to prevent invasive species from getting on the island. The island will maintain its shoreline and they will not dredge any closer than about 12-ft from the exisiting shoreline. Mr. Phelan asked about the geotubes and Mr. Judge explained the system to the Board. Mr. Garrigan asked if they will be disruptng amphibian wildlife. Mr. Judge responded that they will follow the same protocol that the Army Corp and DEC use to scare off the wildlife during the process.

The Board had no planning objections and requested that the Planning Department submit a memo to the Town Board.

Jacob Road Solar

Discussion: Site Plan and Special Use Permit

Location: 35.16-1-4; 1805 Jacob Road

Contact: Nicholas Vamvas

Description: Seeking site plan and special use permit approval to develop a 3.125 mega-watt AC solar facility on a 53-acre project site in the R1-160 zone. This property is Lot #6 Colangelo Subdivision.

Comments:

David Cooper, Esq., Jamal Batar of Freestone Renewables; and Nicholas Vamvas, P.E., were present. Mr. Cooper stated that they are here this evening to continue the project review. They recognize that the Town of Yorktown enacted a moratorium with respect to solar development and acknowledge that they are proceeding at their own risk pursuant to the moratorium which is noted in their submission letter of May 3, 2024. As requested by the Board, they provided additional materials that included an updated site plan, visual simulations and assessment, etc. The originally proposed 25-ft limit of clearing from the northern and western property lines has been expanded to 80-ft to address the potential visibility of the site and the neighboring residences. It will also reduce the acreage of proposed tree removal from 19.4 acres to 16.1 acres.

Mr. Vamvas showed the revised property boundary with the 80-ft buffer to the Board. As requested, existing and proposed visual simulations and assessments from several different vantage points along the property boundary were submitted for review. Various views from Jacob Road with the buffer in place were shown to the Board. Mr. Garrigan

asked if the pine trees shown on the simulations were proposed. Mr. Vamvas responded that they were and are proposing to plant vegetation at the extent of their limit of clearance to provide screening and offset the tree removal. Mr. Garrigan asked if the array could be seen from in between the proposed trees. Mr. Vamvas showed the line of sight and discussed the topography. Mr. Tegeder asked if the tree planting would be denser than what is shown with a staggered double row of trees. Mr. Vamvas responded that a single row of trees is proposed where the chain link fence is proposed as there is not enough room; a double row of trees is proposed along the north, east and west perimeter of the array to limit visibility. Mr. Vamvas stated that the line of sights were produced based on the original plan and have not been updated to reflect additional plantings and basically demonstrate the topography. Discussion followed with respect to the cross sections. Mr. Tegeder stated that they would have a better perspective standing in the rear yards of the homes. He asked if a wall of trees will be provided as opposed to the trees spaced apart as shown in the visuals. Mr. Vamvas responded that this was correct. Mr. Tegeder noted that the expectation is to provide screening to the greatest extent possible and requested to know the type of species, installation height, and expected growth for the screening wall.

Chairman Fon referenced two solar project sites, one in Greenburgh and the other most recently in the Town of North Castle, that were both planted with vegetation screening that removed the visibility of the solar array immediately upon installation. He stated that the Town Code states that the arrays are to be fully screened and he would like to see the arrays fully screened from the onset. He noted correspondence received from two residents and the Conservation Board stating that they were not in favor of this application. Mr. Cooper responded that he received the correspondence. He added that part of the visual analysis was to limit the views. The landscape plan is conceptual and added that the topography of the site will help to hide most of the panels from the viewshed; they will focus on the areas of concern. Mr. Garrigan questioned if they should move all the proposed landscaping to concentrate on the areas in need of screening. Mr. Cooper responded that that they still want to keep the planted buffers. He understands the Board's concern and as they go through the process they will hone in on the areas of concern.

Chairman Fon stated that they need to review the entire site as to what is proposed and what can be proposed. Mr. Phelan stated that they are going in the right direction in terms of the views for the existing homes in the neighborhood. He noted that there is an approved undeveloped residential portion of this property and questioned if their regulations would require them to look at these potential future homes with respect to the visibility. He understands that part of this property is proposed for solar and the other part is approved for residential. Mr. Cooper responded that this shouldn't be an issue as the property owner will have control. They could show the approved subdivided parcels as cited for this property on the map to show the viewshed and noted that there is a significant buffer on that side. The Board agreed that this should be looked at.

Mr. Cooper asked if the Board was requesting any other items for review. Chairman Fon noted the Conservation Board memo. Mr. Cooper responded that they met with the Conservation Board and tried to have a conversation about the balance; there is value in conservation but they also need to look at the investment in renewable energy. Mr. Tegeder stated that his concern is the view from the homes bordering the property in Yorktown and Cortlandt. He is also concerned about the proposed single row of plantings on the western side and suggested possibly moving the fence and border to achieve a double row of plantings. There is some detail that needs to be looked at which can be done with the line of sight. Mr. Garrigan asked about the viewsheds for the visuals and noted that it could be a different perspective from the rear of the resident's property. Mr. Cooper noted that the visuals were from public viewsheds per the regulations. Mr. Bock stated that they would have to get permission from the homeowner to do so. Mr. Tegeder stated that this could be done with the line of sight. Chairman Fon advised the applicant to meet with the Town Engineer to discuss the stormwater; work on the details of the visual simulations; and provide a landscape and engineering plan.

Mr. Garrigan asked if the intent of the moratorium was to determine if they were maxed out for solar in Yorktown. Councilman Esposito responded that it could be part of it, but basically it was to make the law more effective based on their knowledge and past history of solar projects within Yorktown. Chairman Fon noted that the state's mandate for solar is 2030. Mr. Bock asked if the Town Board was considering the eligibility of certain zones to host solar arrays and noted that there are other towns that don't allow solar development in residential zones. Councilman Esposito wasn't sure about this but it could be something to be considered. Mr. Cooper stated that they look forward to being involved in the conversation and thinks there should be a balance.

Nantucket Sound Sons LLC

Discussion: Field Changes

Location: 37.18-2-86; 385 Kear Street

Contact: Joseph Thompson Architect

Description: Proposed changes previously approved site plan by Res #21-14, dated August 9, 2021.

Comments:

No representative was present while this item was discussed. Councilman Esposito stated that he received a communication that the applicant would not be present this evening as the site is not energized as yet so there is no information with respect to the condensers. Mr. Tegeder added that he spoke to the architect and asked him to submit a note which was relayed. He suggested that the Board continue with their discussion and added that he thought the applicant should have been present even if they were not ready to schedule another site visit once the units were energized.

Mr. Garrigan thought that they didn't understand the process and feels that a revised site plan should be brought back to the Board and added that waiting for the site to be energized makes it sound like the Board is complicit which they are not. He noted that they had an approved site plan which they chose not to comply with. Chairman Fon noted that the applicant knew enough to return to the Board for the siding change; the location of the condensers is a major change to the site plan and should have been discussed.

Mr. Bock asked if there was a stop work order and if so how would they get energized. Mr. Tegeder stated that there is a stop work order and they requested to energize the building, all other work is ceased. This was worked out with the Building Department which was the agency that issued the stop work order.

Mr. Phelan stated that the Board performed their site visit and felt that they should continue their discussion without the applicant present. In his opinion, he feels that the condensers are located in a setback area of the property and questions their legality; they may require a variance from the Zoning Board. He noted that they received a resident letter stating that there seems to be an additional unit installed. Aside from the visual and noise aspect, he is also concerned about the heat generated from the units. The signed site plan clearly shows a 900-ft depressed roof area to house mechanical equipment with two access shafts; the shafts would be to convey the duct work. Mr. Prela made the decision to place these units on the ground 9 months ago as he stated at the previous meeting and the fact that the building is finished inside is his issue. His thought is that they could go through the existing shafts or create a chase within the building. The units are designed to go through a doorway and could be hoisted through the shaft that goes up to the roof. He emphasized that the building was designed to shield the units. His feeling is to relocate the units to the roof as originally approved. He would be more understanding if there was a real problem such as an unforeseen issue but this is not the case.

Mr. Bock asked if the Planning Board could authorize the Planning Director to issue a stop work order independent of the current stop work order issued by the Building Department. Mr. Phelan stated that it is his understanding that the Planning Board can make the recommendation and the Planning Director can take the action. Mr. Bock asked Counsel for his input. Mr. Chen responded that he believed what Mr. Phelan stated was correct. Mr. Lascala asked if their stop work order would supercede the Building Department's stop work order. Mr. Bock stated that his understanding was that the permit was issued for the mechanical equipment and not the location. Mr. Chen informed the Board that he was not in favor of dueling stop work orders issued by two different entities within the town and thought there was a better way to synthesize the two. Councilman Esposito informed the Board that he received a message from the Building Inspector stating that the stop work order was lifted. The Board agreed to issue a stop work order.

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board open a Special Session.

Upon motion by Aaron Bock, and seconded by Bob Phelan, and with all those present voting "aye", the Board made a motion for the Planning Director, John Tegeder, to issue a stop work order on all site work and interior modifications for Nantucket Sound Sons at 385 Kear Street.

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the Special Session.

Foothill Street Subdivision

Discussion: Major Subdivision
Location: 15.07-1-7; 3850 Foothill Street
Contact: Peder Scott, P.E., R.A.
Description: Proposed 7 lot single family subdivision on a 16.8 acre lot in the R1-40 zone.

Comments:

Peder Scott, P.E. and Anthony Genovese were present. Mr. Scott stated that the subject property is 16.9 total acres and is the site of an old abandoned dam. The goal of the applicant is to explore the possibilities of substituting alternate plans in lieu of a subdivision once an appropriate lot count is determined. These alternate development plans would consist of some sort of clustering scheme. There is a wetland on the property and they are currently waiting for the DEC to verify the wetland boundary. Mr. Scott went on to display the concept clustering plan, stating that he believed that up to 30 units could be established.

Mr. Phelan stated that a delineation of a recreation area was not shown on the plan. Mr. Scott stated that roughly 10 acres on the south side of the property is the proposed open space for the subdivision. This open space will consist of improvements such as a pond, a dam, etc. This area can be used to create some sort of recreation area that will have frontage on Foothill Street if the clustering method is pursued. Mr. Garrigan asked if the current parcel is subdivided into the 7 lots shown on the plan and Mr. Scott confirmed that the plans show the proposed subdivision and that the current parcel is one lot. Mr. Phelan stated that he has not seen any sort of cluster method in the Town but that he is willing to consider the cluster method if there are any existing that he can review. Mr. Phelan asked why there are 7 lots on the subdivision feasibility plan but only 5 clustered buildings on the clustering plan. Mr. Scott responded that he was equating the potential bedrooms in a 7 lot project to a number of bedrooms in a clustered design. Mr. Phelan stated that the process for clustering begins with an overall lot count and that the clustering is based off of that number, not the number of bedrooms. Aaron Bock asked how many dwelling units would be proposed in the clustering plan. Mr. Scott described the process that he used where he took the overall bedroom count and applied that to a number of single or double bedroom units. Mr. Phelan stated that the bedroom count has nothing to do with the clustering process and that only the lot count applies. Mr. Garrigan asked for clarification on the zoning requirements for this lot. Mr. Tegeder informed the Board that the zone was in fact R1-40 and that a re-zone would be required to achieve the 30 units proposed. Mr. Fon asked what the difference in impervious area is between the two proposed plans. Mr. Scott responded that the difference was the same.

Chairman Fon advised the applicant to meet with the Planning Department to eventually go before the Town Board. Mr. Tegeder explained that the applicant must go through the clustering formula, which will rely on their conventional subdivision layout to determine a lot count. Once the lot count is determined, the Planning Board can then refer the application to the Town Board to determine the clustering authorization.

ZBA Referral #05-24 – Cunha

Discussion: Zoning Variance Application
Location: 37.19-1-78; Summit Street
Contact: Rui Cunha
Description: Application for a Zoning Variance to construct a two-family dwelling on 10,000 square foot lot in the R-2 zone.

Comments:

Rui Cunha, property owner, was present. Mr. Cunha stated that he is proposing a 2-family dwelling on a 10,000-sf lot in the R-2 zone. He is scheduled to appear before the Zoning Board on May 23rd.

Mr. Bock noted that they have seen proposals like this in that neighborhood. Mr. Tegeder stated that there was one instance and noted that a location map was provided at the Board's request. Mr. Lascale asked if there was a precedent in this area for a house on a lot of 10,000-sf. Mr. Tegeder responded that there was and informed the Board that they needed to see more details on the adjacent lot that is owned in common and noted that if the lots are deficient in size they are supposed to be combined into one lot in order for it to be zoning compliant. Mr. Phelan asked if this was determined by the Zoning Board. Mr. Tegeder responded that the Zoning Board is reviewing it but in terms of development for the town, the Planning Board can provide their comments.

The location map was reviewed with the Board. Chairman Fon asked if Yorktown Autobody was behind the property and the response was yes. Mr. Cunha stated that there is a temple to the left and residential house to the right. Mr. Tegeder asked the applicant if he owned lot 78 with the two family dwelling and the response was yes. Mr. Garrigan stated that he thought they determined at the previous meeting that all the setbacks were met. Mr. Tegeder stated that they will now have 4 units on a less than 20,000-sf parcel. Chairman Fon noted that there was a utility pole in the middle of the driveway and suggested that the applicant reach out to the utility company with respect to moving it. Chairman Fon suggested that the Board perform individual site visits and send their comments back to the Planning Department so that they can draft a memo to the ZBA for their meeting of May 23rd.

TJ Maxx – Yorktown Green Shopping Center

Discussion: Site Plan

Location: 37.18-2-56; 355 Downing Drive

Contact: Mathew Dudley, Harris Beach PLLC

Description: Seeking site plan approval to construct a new loading dock, trash compactor, and trash enclosures in the rear of the existing building.

Comments:

Matthew Dudley, Esq., and Gerry Gesario, P.E. of Jarmel Kizel Architects and Engineers P.C., were present. Mr. Dudley stated that they are here this evening for continued discussion with respect to the application. Mr. Gesario stated that as discussed at the previous meeting, the rooftop mechanical screening was removed. During that meeting, they received the original landscape plan for the site. They have since reviewed the area based on this plan and filled in the landscaping to mimic what was originally approved within the area of the DOT right-of-way.

Chairman Fon asked if there was anything existing that resembled the originally approved landscape plan. Mr. Gesario responded that there were gaps and a few tree stumps and is not sure what happened. They are proposing to fill in the gaps with a total of 36 dwarf norway spruces between the height of 8 and 10-ft. The spruces grow about a foot a year and should reach about 18 to 20-ft during the span of 10 years. The landscaping along the front of the building has been revised to include raised planters. The existing tree wells are proposed to be filled in with bricks to match the existing pattern and replaced with raised planters that are to be built. Each planter will have a maple tree and a mixture of lower plantings as shown on the plans. Mr. Garrigan and Mr. Phelan thought that the existing tree wells were to be made wider. Mr. Gesario responded that they will be wider in the form of the raised planters, about 7 feet long by 39 or 40 inches wide and about 6 inches in height. He added that the raised planters will help to preserve the health of the trees and protect them from snow removal and salting which was a concern. Mr. Tegeder asked what they meant by raised planters. Mr. Gesario responded that they are proposing block planters to match the building.

Mr. Gesario continued that the rear signage for TJ Maxx was removed from the plan. The plan includes two monument signs. The single-faced existing sign on the corner of Kear Street and Rt 118 is proposed to be updated (33SF total); and the second new double-faced monument sign is proposed to be installed at the corner of Downing Drive and Rt 118 (66SF total). The signage meets the 100SF requirement for the code.

Mr. Phelan asked why the rooftop screening was removed. Mr. Gesario responded that it may have been due to the quantity; they are proposing landscaping as a screening option. Mr. Phelan stated that the original proposal was to screen the individual units and at that time he suggested that the parapet wall be increased to screen the entire roof area rather than the individual units as he thought the cost would be advantageous to the applicant with respect to the amount of material required. He noted that he never received an answer to this. Mr. Garrigan asked Phelan if he was opposed to the natural screening. Mr. Phelan responded that the new plantings will take years to grow and added that this area was never maintained. The approving resolution dated March 19, 1997 called for landscape screening or to extend the parapet along the top of the building around the back to shield the HVAC units. He feels since the screening was never maintained, he would like to see a parapet wall. He added that he provided photos which shows that the roof could still be seen from Route 118. Mr. Gesario explained that Route 118 is higher than the building and discussed the proposed landscaping. He added that the wall would have to be structurally engineered and substantial and felt that the landscape screening would be more attractive. Mr. Garrigan thought a maintenance commitment would be required to ensure that the area is well kept. Mr. Dudley informed the Board that there was a subsequent resolution dated July 10, 2000 that modified the 1997 resolution that stated to modify the landscape plan to provide 24 arbourvite near the Kear Street/Route 118 intersection and provide visual buffering in lieu of the parapet set forth in the earlier resolution.

Mr. Garrigan stated that ultimately this is a question of aesthetics and, in his opinion, he feels that the area is struggling with poor landscaping and the proposed improvement would help; his only concern is the maintenance. Mr. Phelan stated that it hasn't been maintained over the years and thinks the rooftop screening may be a better option. Mr. Garrigan stated that his thought is that it would look more industrial and noted that driving along Route 118 you wouldn't even notice it. With respect to the aesthetics, the existing overgrown invasives and unmaintained area in front of the fence is not an improvement and asked who would be responsible for maintenance within the DOT right-of-way. Mr. Tegeder responded that they would have to get a permit from the DOT. Councilman Esposito questioned if the original permit was still valid and thought that the applicant was looking into this.

Mr. Garrigan asked if there was any way to convey the landscape maintenance to the applicant. Mr. Tegeder responded that when the landscape plan is approved, it needs to be maintained and is enforceable specifically in the zoning code. If it is within the state right-of-way, there would be an action that states that if you are in violation of your landscape plan it is no longer compliant. They would then need to go back to the DOT to get their permit and if they could not obtain their permit they would need to come back to the Planning Board to modify their landscape plan. The Planning Board can enforce some maintenance per the zoning code for the landscape plan acknowledging that the DOT has dominion over their property. Chairman Fon asked if they needed a license. Mr. Tegeder stated it may be a use and occupancy permit but is not sure; it may just be a work permit in terms of the landscaping. The resolution calls for an annual review and bond to cover not only landscaping but other items, the language is there and it is not a new issue. Mr. Garrigan asked about the right-of-way. Mr. Phelan noted that it is part of the resolution for their property to obtain DOT approval for that portion. Mr. Garrigan asked if it included ongoing maintenance. Mr. Tegeder thought it did and cited the Lowes Center and Patriot Garden as both having plantings on DOT property. Lowes is maintained by the owner and Patriot Garden is maintained by the town.

Mr. Bock stated that he agrees with Mr. Garrigan's concept of a less industrial look and would like to figure out a way to satisfy the DOT requirements and put the burden on the applicant to not only install the plantings but to also maintain it for the future and feels that it would accomplish the screening issue in a better way.

Mr. Garrigan asked who was responsible for maintaining the sidewalk on that side. Mr. Tegeder responded that it is maintained by the town and noted that the town received a permit to build it. Mr. Garrigan noted that the hope is that they will have more residents utilizing this sidewalk so to soften and maintain it would be an improvement.

Mr. Phelan asked if there were specifics to the original landscaping plan. Mr. Gesario responded that the intent as far as quantity will be adhered to but the plantings may differ. Mr. Tegeder noted that they are using spruces to keep them low due to the power lines as they don't want them to be cut by the utility companies.

Chairman Fon requested to see the engineering plan for all of the rooftop equipment as well as the equipment specifications. He noted that the new equipment may be smaller and thought that they could work with the locations to help with the visual aspect from the state road. Councilman Esposito informed the applicant that the Building Department is also requesting for an engineering plan to be submitted for the roof as the current plan doesn't provide enough information for code compliance. Mr. Gesario responded that they will provide a roof plan for review. The applicant was also advised to provide more information with respect to the plantings and the DOT for review. The Board feels strongly that a commitment to landscape maintenance will be required.

Town Board Referral - Local Law Amending Chapter 275 "Vehicles & Traffic"

Description: Revised amendments to Chapter 275 regarding ATVs and E-Bikes.

Comments:

The Board discussed the proposed amendment and had no planning objections. The Planning Department will submit a memo to the Town Board.

Meeting Closed

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting "aye", the meeting closed at 9:39PM