

Planning Board Minutes September 25, 2017

A meeting of the Planning Board, Town of Yorktown, was held on September 25, 2017, at the Yorktown Town Hall Board Room, 363 Underhill Avenue, Yorktown Heights, NY 10598. The Chair, Richard Fon, opened the meeting at 7:00 pm with the following members present:

John Savoca
John Kincart
William LaScala
Robert Garrigan, alternate

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Town Planner; Tom D'Agostino, Assistant Planner; and Kristen Wilson, Planning Board Counsel.

Courtesy of the Floor: Ed Ciffone addressed the Board regarding the proposed relocation of the highway garage in a piecemeal fashion. Ciffone notified the Board that he submitted over 2000 signatures against the relocation and engineering work being performed to further this development.

Correspondence: The Board reviewed the correspondence.

Meeting Minutes: Upon a motion by LaScala, seconded by Savoca, and with all those present voting aye, the September 11, 2017 Meeting Minutes were approved with changes noted on the Chair's copy.

2018 Meeting Schedule: The Board had no issues with the proposed 2018 schedule.

REGULAR SESSION

Orchard View Realty Subdivision

SBL: 36.06-2-78

Public Hearing for Final Approval of a Major Subdivision

Location: 2425 Sherry Drive

Contact: Zappico, LLC

Description: Proposed 9 lot subdivision on 9.2438 acres in the R1-20 zone granted preliminary subdivision approval by Resolution #17-01 on January 9, 2017.

Upon a motion by Savoca, seconded by Kincart, and with all those present voting aye, the Board opened the Public Hearing.

Present were the applicants, Jim and Brian Zappi. Brian Zappi reviewed the proposed subdivision. No wetland or wetland buffer will be disturbed. A Conservation Easement is proposed along the western side of the property and an existing Conservation Easement will be extended on the eastern side of the property. A split rail fence is proposed to delineate both boundaries. The site will have Town sewer and water. The water service will connect from Sherry Drive to Pine Grove Court. The sewer will connect from Pine Grove Court. Stormwater is being held onsite in a gallery under the cul-de-sac and another gallery on Lot 4. There is a swale behind the lots on the west side of the site. The applicant has been working with the NYCDEP to approve the stormwater plan.

Frank McNamee – 2383 Pine Grove Court

McNamee stated his biggest concern is the water runoff from the site. He asked who is responsible for the maintenance of the stormwater system. An HOA (Homeowners Association) has no responsibility for

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protecting the neighbor's rights. There was a lot of runoff created by the self-storage site. This project will cause more.

David Miller – 2378 Pine Grove Court

Moved in December of 1968. When we had rain, there was always some puddles in the backyard. Heavy rain caused flooding. Concerned about runoff from the development. The drainage system should go down the hill and into the storm drains, not infiltrated into the property and runoff onto me.

Shea MacDonald – 2406 Pine Grove Court

MacDonald asked if in the future when the Pine Grove Court homes are flooded, who is responsible for the cost of repairs to neighboring properties due to flooding.

Ed Ciffone

Ciffone asked if this property is in the Peekskill Sewer District. Fon stated yes. Ciffone then asked if Mandalay's apartments are built, what affect that development will have on this development and the neighbors. Kincart asked if the Mandalay Project was still active. Tegeder stated that the Mandalay project is not currently active.

Jim Zappi responded to the neighbors' comments pointing out where the runoff will be directed from the development. Zappi described the topography of the site and how the swale on the western side of the site is proposed to work collecting all the runoff from the lawns. The swale is designed to capture this water and bring it to an underground gallery that will hold the water and release it slowly. The driveways and road are being captured in the collection galleries under the cul-de-sac. Runoff should not be piped directly to the storm drainage because it will cause flooding downstream. Each home will have its own underground cul-tech unit or drywell. Behind Lot 5, a rain garden is proposed. The Homeowners Association will be responsible for maintaining all of the drainage. The sewer and water will be maintained by the Town. There is a deed restriction on all the properties that they must be a part of and pay into the HOA. The HOA acts as a second level of defense to ensure the systems are maintained. There is no other development that will drain onto this property to cause additional flooding. The properties south of the site currently drain across the site and to the north and the proposed subdivision will not change that flow. There is also a Conservation Easement along the western side of the property. The applicant will also fund a \$5,000 bond to the town in case the HOA doesn't complete the maintenance. [All comments included in this paragraph were made by Jim Zappi]

Shea MacDonald – MacDonald asked if a Conservation Easement means the trees will remain. She also asked that if she gets flooding from the development, should she contact the HOA. Jim Zappi stated the existing trees in the Conservation Easement will remain and that the proposed plan reduces the runoff from the site, therefore no flooding should come from the development.

Frank McNamee – McNamee asked if the \$5,000 would be enough to fund any repairs of the drainage structures. McNamee asked how big is the swale and how close it is to the property line. The HOA still isn't responsible for damage to neighboring homes. Fon stated the Town is the regulating agency therefore if the HOA is not maintaining the infrastructure properly, the Town has enforcement capabilities. Wilson stated that being a member of the HOA is a requirement in the deed. Homeowners cannot back out of it. Zappi stated that the biggest item for the HOA is to maintain the swale as a swale; that it is not filled in or the yard leveled out. The maintenance easement is also in favor of the Town to enter the property if needed. McNamee asked the size of the Conservation Easement. Zappi stated the easement is approximately 50 feet wide to as much as 125 feet along the western property line.

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Garrigan asked if the swale is intended to discharge into the underground containment and if the containment system comes in different sizes or ratings. Zappi stated that the underground infiltration is rated to handle up to the 100 year storm.

Fon asked Wilson if the HOA and easement documents were reviewed. Wilson stated that all the documents have been reviewed by the Planning Board attorneys and the Town Attorney.

David Miller – Miller asked where the water draining from the house gutters is going. Zappi responded that all roof leaders discharge to the cul-tech drywells.

Fon reviewed the final issues for the subdivision. NYC DEP approval is required and some additional conditions.

Zappi stated that typically projects are approved with conditions. Conditions would be fees to be paid, approval from outside agencies, endorsement of plat by the BOH, etc. The only thing we don't have is the DEP approval. DEP is fine with the sequencing. The Town Engineer had asked for larger pipe to Pine Grove Court and the NYC DEP asked for an updated flow analysis on that larger pipe. Zappi requested the hearing be closed and the Board grant a final approval pending the conditions are met.

Wilson recommended waiting to get DEP approval before approving the final plat, but the hearing can be closed.

Upon a motion by Kincart, seconded by LaScala, and with all those present voting aye, the Board closed the Public Hearing.

Kincart and LaScala stated they were comfortable with conditional approval of the subdivision. Tegeger stated DEP can change the project, so if an approval from them is forthcoming, he recommends the Board wait until the DEP approval is received.

Dubovsky Site Plan

SBL: 59.14-1-18

Decision Statement

Location: 702 Saw Mill River Road

Contact: Albert A. Capellini, Esq.

Description: Approved site plan to construct a 3,900 SF building with commercial space on the first floor and two apartments above and a 2,040 SF garage in the rear of the property approved by Resolution #13-21 on September 9, 2013.

Present were: Al Capellini, project attorney; Joseph Riina, project engineer; and Mike Dubovksy, the property owner. Capellini explained that the approved site plan from 2013 was changed by the Board of Health approval that was finally acquired recently. Capellini stated the applicant is asking the Board to approve the plan approved by the Board of Health.

Ed Ciffone asked if the developer of this project is the Marathon Construction Group that is constructing the building on Kear Street. He stated that he is asking because this site plan seems like the same type of building, with three stories. Ciffone also asked if the apartments would be affordable housing. Capellini responded that the developer is Mike Dubovsky, the building is only two stories, and the apartments on the second floor will be market rate housing.

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The Board received a memo from the Conservation Board regarding showing trees on the site. Riina stated that he added the trees that were on the original survey to the plan Sheet 3 of 7. There are 5 trees of significance, which are in the bottom right-hand corner of the property. These trees will be removed. The other significant trees are in the rear of the site and will not be removed. Riina clarified that 4 trees will definitely be removed. The 5th tree may be removed. The Conservation Board has not seen the planting plan.

Tegeder stated he recommends adding a clause to the draft resolution stating that the Board has reviewed the number of trees that must be removed as shown on the drawing sheet 3 of 7 and has agreed to issue a tree permit for a maximum of 5 trees to be removed. Riina stated the drawing sheet 3 of 7 has a revision date of today, September 25, 2017.

Riina also addressed comments from the Planning Department. The curbing was removed in front of the garage spots in the rear of the building. Riina also revised the size of the building to keep it the same as was originally approved, which was 65 feet x 30 feet (1,950 square feet). The August 1st drawing had shown the building as 62 feet x 30 feet. Riina would like to leave the building as 65 feet x 30 feet, pending Health Department approval. Tegeder recommended the Board add a clause to the draft resolution stating the original footprint of the proposed building will remain as approved. Kincart asked if any variances would be needed because of the plan changes. Riina stated that no variances are needed.

Upon a motion by Kincart, seconded by Garrigan, and with all those present voting aye, the Board approved revisions to the Dubovsky Site Plan.

Upon a motion by LaScala, seconded by Kincart, and with all those present voting aye, the Board voted to move into the work session portion of the meeting.

WORK SESSION

Lowe's Home Center

SBL: 26.18-1-17, 18, 19, 26.19-1-1, and a portion of 26.18-1-28

Discussion Approved Site Plan

Location: 3200 Crompond Road

Contact: Provident Design Engineering

Description: Proposed revisions to the site plan approved by Resolution #16-22 on December 19, 2016.

Present were: Nick Panayotou and Tom Holmes from Provident Design Engineering; and Al Capellini, project attorney. Panayotou stated in regards to the NYCDEP review, his office submitted their response to the DEP's latest comments on September 19th. Panayotou stated that Mary Galasso of the DEP told him that she had reviewed the submission and she and their inspector just have a few tweaks. Panayotou stated he would be talking to Galasso and the inspector tomorrow and will revise the drawings accordingly. Panayotou stated the demolition was supposed to start this week. The client has some last minute discussions with the demolition contractor and will start soon. Preconstruction meeting was held on September 13th. Panayotou will notify the Town 24 hours in advance. Panayotou stated he received a letter from the WIG (Watershed Inspector General). One comment must be resolved with the DEP. The second comment was to redo sedimentation calculations to be more conservative and that applicant can easily do this. WIG's concern is more regarding Phosphorus. WIG wants a sand filter instead of a bioretention facility because it removes more Phosphorus. Panayotou stated he must work that out with the DEP as WIG has no approval authority.

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Panayotou stated that the NYS DOT main reviewer is currently away, but stated to him that he was leaning towards approving the alternate section the Board had reviewed. Panayotou stated he will submit the drawings showing the alternate section to the DOT on Monday.

Fon asked about the water and sewer issues. Panayotou stated that the Town Engineer asked Panayotou to sign the drawings as a design engineer and as an agent of the Town. Panayotou stated that he was asked to call the Town Supervisor, Michael Grace, who had the Town Engineer, Michael Quinn, the Town's Water Superintendent, Kenny Rundle, and the Town Attorney, Michael McDermott, also in the office, to explain why the water and sewer on site needed to be public. The call resulted in the decision to have all the lines be public however the applicant will establish a new water district funded by a common area maintenance agreement (CAM). Panayotou stated that if this can't be done, Lowe's would have a problem because they would not have a loop around the building, and Lowe's would only have one connection to water. Tegeder stated the Board needs to see a draft of the CAM because the town would have to enforce it. Panayotou agreed to draft the CAM. Panayotou stated that once he's an agent of the town, he will submit the drawings to the Health Department.

Tegeder asked about the subdivision. Panayotou stated he did not submit a revised subdivision plan yet.

Garrigan asked how long demolition should take. Panayotou stated the demolition is scheduled for 20 days. Then the trees that were previously cut down and laid in place must be removed before Phase 2 can begin.

Unicorn Contracting

SBL: 37.18-2-73, 74, 85, and 86

Discussion Site Plan and Subdivision

Location: 355 Kear Street

Contact: Ciarcia Engineering, P.C.

Description: Proposed demolition of the existing restaurant and barn to construct a three story, 40,000 sf building with a mix of retail and office uses along with a new 2,925 sf building on lot 86. All other existing buildings are proposed to remain.

Savoca recused himself from this item.

Present were: Dan Ciarcia, project engineer; Phil Grealy, project traffic engineer; and Paul Guillaro, the applicant. Grealy was present to discuss the traffic study for the proposed development. Grealy stated he used historical counts and new counts from this summer. The traffic study included reoccupancy of the Food Emporium building, as well as several pending projects, like Pied Piper and The Weyant, should they also be approved. Grealy stated that closing the existing access to Underhill Avenue is good because it will move the site access further from the intersection. This access could have restricted left turn movements. Users could use the entrance further to the east on Underhill instead. Grealy stated that tweaking of signal timing at the Route 118 and Underhill Avenue light and at the Kear Street light would be recommended. Site distance improvements should be made on Kear Street due to the curve of the road. Grealy stated the curb radius into Murphy's driveway could be altered to better align with the shopping center access. Also the sidewalk system should be connected. Grealy recommended better definition of traffic flow from the Murphy's driveway, which is also used to get to the rear of the Brookside building. Pedestrian connections are important at this intersection. Grealy recommended timing changes at the Kear Street and Commerce Street intersection. Grealy stated that the traffic study was based on 40,000 square feet of office and retail space. The study also included the previously proposed corner building as retail instead of a bank. Grealy

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stated that many of the off-site traffic improvements he recommends are as a result of current conditions and he would recommend making these improvements even without the development.

Ciarcia updated the Board regarding the proposed lot lines. Ciarcia stated that he met with the new Building Inspector, John Landi. According to Ciarcia, Landi recommended the applicant not create their own hardships by drawing new lot lines that do not provide the proper setbacks for the existing Grace Building. Then the only setback issue remaining is the pre-existing nonconforming setback with the existing hair salon building and the state right-of-way. This condition resulted from a NYS DOT taking for the widening of Route 118. Ciarcia stated Landi determined the front yard should be Underhill Avenue, because there is no access to Route 118 from the site. The side yards will be Route 118 and the boundary with Courtyard at Underhill and Brookside.

Kincart asked how tall the retaining wall would be behind the proposed new building. Ciarcia stated he did change the building footprint slightly in response to the Fire Bureau. A hydrant was added next to the building. Ciarcia stated the applicant has a landscaping plan that can be submitted for the next meeting. The roof top mechanicals will be screened from view with a parapet wall. The applicant is having new renderings prepared showing this.

The Planning Board scheduled a Public Hearing for the October 16, 2017 meeting. Tegeder requested the applicant have information on the proposed stormwater system to present at the hearing.

Colangelo Subdivision

SBL: 35.16-1-4

Discussion Subdivision

Location: 1805 Jacob Road

Contact: Site Design Consultants

Description: Proposed to subdivide the subject property into 5-lots utilizing "Flexibility" provisions in the Town Code. The remainder of the 53.5 acre parcel is to provide for a single-family residence, open space and lands to be used for agricultural use.

Present were: Joseph Riina, project engineer; Al Capellini, project attorney; and a representative of the applicant. Riina stated that the submitted plans were a fully engineered set with the alternate road layout. Since the last time the Board discussed this item, the applicant also performed soil testing and prepared a stormwater pollution prevention plan. Riina stated the applicant is still in the process of getting into the sewer district. The County is waiting for the Town Engineer to supply information. Capellini agreed to send the notices by regular mail as well as certified to make sure the Cortlandt residences receive them in time for the hearing.

Gallinelli Subdivision

SBL: 27.13-1-49

Discussion Subdivision

Location: 2777 Quinlan Street

Contact: Site Design Consultants

Description: Proposed two lot subdivision on 1.47 acres in the R1-20 Zone. Each house to be serviced by town water and sewer.

Present were Joseph Riina, project engineer, and Al Capellini, project attorney. Riina stated that town sewer is now available and therefore the property owner would like to subdivide the property into two lots. Riina stated that as shown, the subdivision complies with the zoning code. No variances would be required. The existing house will be removed. A new driveway cut is proposed for the existing home site.

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The Town owns the adjacent property on Ogden Drive, which is park land. The property is in the sewer district. Riina stated that he was not proposing a sewer extension. The proposed plan shows individual sewer connections to the main at the intersection of Ogden Drive and Quinlan Street. The individual connection is 150 feet beyond the property line. The Board agreed that they would prefer the sewer line be extended to that it would be public and other homes across the street could also connect. Riina stated the applicant could extend the line and would discuss the issue with Quinn. Tegeder asked if the driveway could be shared to save a curb cut on Quinlan Street. The Board requested the plan be referred to the Town Board to request the public sewer to be extended.

Town Board Referral – Celestial Associates (Mohegan Avenue)

SBL: 15.16-1-21 & 21.2

Discussion Rezone

Location: 3571 and 3555 Mohegan Avenue

Contact: Al Capellini, Esq.

Description: Requested rezone from the Office Zone (O) to Commercial Limited Zone (C-3).

Al Capellini, project attorney, was present. Capellini stated the property has remained unbuilt because it is zoned office. The owner has been unable to find a tenant in the last 10 years since the rest of the site was developed. Tegeder recommended not changing the daycare parcel zoning to C-3. Only the front vacant parcel should be changed and the Board agreed. The Board would prefer only changing the front parcel and leaving the back parcel as is.

Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board voted to close the meeting at 9:00 pm.