

## Planning Board Meeting January 11, 2010

A regular meeting of the Planning Board, Town of Yorktown, was held on January 11, 2010, the Yorktown Town Hall, 363 Underhill Ave, Yorktown Heights, NY 10598. The Vice Chair, John Flynn opened the meeting at 7:55 P.M. with the following members present:

John Savoca

Bob Giordano

absent: Dave Klaus

Also, present were: John Tegeder, Director of Planning, Karen Wagner, attorney to the Planning Board, and Ann Kutter, Conservation Board member.

Discussion	No discussion took place at this time
Correspondence	No discussion took place at this time
Follow-up Correspondence	No discussion took place at this time
Liaison Reports	No reports were submitted at this time
Courtesy of the Floor	Joe Riina and Esposito Riina stated Fire Marshall Beaumont was agreeable to the plan. Subsequently, it was determined that the Fire Chief was not. The Fire Chief suggested two parallel parking spots, and a change in the loading zone. Riina stated these spaces will be employee parking so the cars can be moved when necessary. Giordano asked for written acceptance from Mohegan Fire on their letter head. Additionally, Riina asked if the compact spaces could be conservation spaces. Tegeder stated the request for conservation spaces would alter the plan and should not be considered at Courtesy of the floor.

**Upon motion by Giordano, seconded by Savoca, and with all those present voting aye, the Board approved the minutes of December 14, 2009.**

### Regular Session

#### **Sarubbi**

**SBL: 17.18-1-11**

*Location:* 336 Homestead Road

*Contact:* Ralph G. Mastro Monaco, PE, PC

*Description:* A 2 lot subdivision approved by Planning Board Resolution 06-06 dated October 16, 2006 and reapproved by Resolutions 08-12 dated June 9, 2008 and 08-23 dated December 8, 2008.

Dan Ciarcia, project engineer, was present. Ciarcia stated the applicant has had many delays with the Department of Health and in pursuit of public sewers.

**Upon motion by Savoca, seconded by Giordano, and with all those present voting aye, the Board reapproved the minor subdivision.**

#### **Request for Reapproval**

#### **Aspen & Mill Street Subdivision**

**SBL: 16.5-1-13**

*Location:* 3810 Mill Street

#### **Public Informational Hearing**

## Planning Board Meeting January 11, 2010

*Contact:* Site Design Consultants

*Description:* Proposed 4 lot subdivision where 1 multifamily and 1 single family existing residences will remain on one of the proposed lots.

Joe Riina , project engineer, and Al Capellini, project attorney were present with the applicant. Capellini stated this is an application for a 4-lot subdivision. Currently there exist a 9-family dwelling and a single family house on one lot. Capellini explained each of these structures will have their own lot and two new lots are being proposed with one dwelling on each of these proposed lots. Capellini stated the 9-family home is a non-conforming use. In addition, as it exists, there is a second dwelling on the lot. The ZBA has reviewed this proposed and decided the subdivision would not increase the conformity. The non-conformity was the use of a multifamily building, and the use was not increasing. Capellini stated the project will comply with R1-40 zone proposed with the Comprehensive Plan, as each lot is greater than 1-acre. Riina stated this is a 5.6-acre site on Aspen St. and Mill St. Three lots will use the existing driveway, and the fourth will use a newly installed driveway along Aspen St. Riina stated the southwest corner is cut off by Shrub Oak Brook, and there are two wetland areas on the west side of the brook. Riina stated the proposal will not disturb this area. The new location of the common driveway will be moved away from the brook, increasing the buffer area. Although one side of the stream is lined with concrete, the applicant proposes to enhance plantings in the buffer area between the stream and the common driveway, and to help return the area to a more wooded state. Work proposed for the along the common driveway will require a wetland permit. Riina stated that although the two new lots are located within a designated flood zone, both residences are out of the flood zone, and both will be connected to public utilities. Flynn asked about road frontage. Riina stated each lot had adequate frontage on a town road. Flynn stated Bruce Barber, wetland consultant, found that the flood zone was not clearly delineated on the plan. Riina stated there is an updated map that Barber must not have received yet. The site is located legal zone. Flynn asked if the portion of the site located in the flood zone should be subtracted from the lot size calculations. Both Riina and Capellini stated their calculations were accurate. Capellini stated lot size calculations would be verified. Flynn felt that the applicant should be subject to R-3 requirements, as this was the example Capellini used before the ZBA. Capellini stated the use of R-3 was an example of multi-family use. Flynn requested the plan include a 400sf of open space per unit and a 1200sf play area. Capellini maintained the use of the site was legal, although non-conforming. The site was located in an R1-20 zone (one-half acre lots) and the applicant was using the future Comprehensive Plan zone of R1-40 (one acre lots)

**Upon motion by Giordano, seconded by Savoca, and with all those present voting aye, the Board closed the public informational hearing.**

### **Village Traditions**

**SBL: 15.16-1-32**

*Location:* 1821 East Main Street

*Contact:* Rayex Group

*Description:* Expand existing parking lot to improve traffic and accommodate additional parking for existing 2nd floor and barn.

Tegeder stated the Board would have to determine if this public hearing should be opened, as the applicant has outstanding fees. Flynn stated that the interested public may be in attendance or viewing from home, therefore, the Board will open the hearing, however, all required fees must be paid before the applicant can

### **Public Hearing**

## Planning Board Meeting January 11, 2010

return. Willie Barsharat, project attorney, and Al Capellini, project attorney, were present. Capellini stated this application is a one-acre improved lot on the corner of Route 6 and Lakeland St. Barsharat stated the proposal follows the overall plan designated for Celestial Route 6. A comprehensive plan was developed for intersection. The present site has a 7200sf building and a barn. The current proposal is to add a second floor to the existing building then remove the barn and replace it with a barnlike building that will be used as office space. The proposed barn will be larger than existing barn, but, will be moved out of the wetlands buffer. Additionally, there will be shared parking with adjacent property Dana Cole. Barsharat stated the plan calls for a second floor which will require additional parking. Additionally, the applicant will install the office space, perform wetland mitigation and improve the egress. Parking along Lakeland St. will be moved to the rear of the building, and a landscaped area installed. Two access ways will be installed, but only one will be two way. To accommodate the connecting driveway to the adjacent Dana Cole site, the applicant will do some work in the wetland buffer area. This wetland disturbance will be mitigated with plantings in the old barn area. Flynn asked about parking flow in relation to Dana Cole. Flynn asked the consequences to this project if Dana Cole is not developed. Barsharat stated there is no impact to this project whether Dana Cole precedes or not. Bruce Barber, town wetland consultant, requested the wetlands be reflagged. Flynn opened the meeting to the public.

Chris Sciarra, 2911 Gomer St. Mr. Sciarra asked if there was a traffic study, and was told there was.

**Upon motion by Savoca, seconded by Giordano, and with all those present voting aye, the Board adjourned the public hearing.**

**Upon motion by Giordano, seconded by Savoca, and with all those present voting aye, the Board closed the regular session.**

### Special Session

**Upon motion by Savoca, seconded by Giordano, and with all those present voting aye, the Board opened a Special Session to discuss the Esposito site plan.**

The Board accepted the revised plan for Yorktown Realty pages 1-8, last revised 1/11/10, subject to written verification by Brian Walert, of the Mohegan Lake Fire Dept. The revised plan requires two parking spaces in front of the dumpster. The applicant explained this would be employee parking, allowing the cars to be moved when necessary. Additionally, the applicant requested four conservation spaces. Tegeder felt this request required additional review and the applicant should return to the Planning Board as an agenda item to allow the Board to revisit the parking issue.

**Upon motion Savoca, seconded by Giordano, and with all those present voting aye, the Board closed the Special Session.**

### Work Session

#### **Bonsignore Wetland Permit**

**SBL: 16.7-1-37**

*Location:* 738 East Main Street

*Contact:* Brian Bonsignore

*Description:* Construction of a 1,500 SF residence.

#### **Town Board Referral**

## Planning Board Meeting January 11, 2010

The applicant was present before the Board. The applicant stated this plan had been approved twice in the past by the Town Board. Additionally, at the time the Planning Board had no objections. The first permit expired while the applicant waited for financing. The second permit expired as he was mistakenly told he needed to go to the ZBA for a variance. The Conservation Board is requesting the wetlands be reflagged. Tegeder stated the footprint and location of the house has changed with this application. Tegeder wanted the Board to advise the Town Board to that a clear limit of disturbance should be required, and suggested the house be moved away from the wetlands as much as possible. The Board requested the applicant return after the wetlands are flagged and the Conservation Board conducts a site visit. The applicant was agreeable to this.

### **Mongero Properties, LLC Referral**

### **Zoning Board of Appeals**

**SBL: 37.14-1-44**

*Location:* Saw Mill River Road & Downing Drive

*Contact:* Al Capellini

*Description:* Approved 3,848 SF bank on 2.2 acres in the C-1 zone.

Al Capellini, project attorney, and Joe Riina, project engineer, were present with the applicant. Capellini stated the application is currently before the ZBA for an area variance. Capellini explained this action would help the adjacent property, Cablevision, as they have used this area for parking for 20-years. Tegeder asked when this portion of the site would be conveyed. Tegeder stated there are some improvements must be made on the site. If land is conveyed prior to making the installation of the improvements, they may not be completed. Capellini stated the applicant will make all necessary improvements, including: drainage, curbing, storm basins, and paving. The Board had no objections, as long as the improvements were installed.

### **Old St. George's LLC Referral**

### **Zoning Board of Appeals**

**SBL: 15.12-2-53**

*Location:* 1715 East Main Street

*Contact:* Louis Spizzirro

*Description:* Site plan review for ZBA Application #60/09.

Louis Spizzirro, project attorney and Chris Sciarra, applicant's representative, were present with applicant Tom DeChiaro. Spizzirro asked about the Town Engineer's memo, and was told all of the items will have to be included in the site plan submitted to the Board. Sciarra stated he had come before the Board and asked if there were other conditions and was not told about requirements requested from the Town Engineer, or the Conservation Board. Flynn stated the Planning Board refers projects to other departments and boards. When these departments and boards complete their review, they forward memos with their requirements to the Planning Board. The Planning Board does not have advanced knowledge of what each department or board will require from the applicant. The Board explained that the last time this project was being reviewed a final parking plan was not in place, nor was there adequate

## Planning Board Meeting January 11, 2010

remediation for work in the wetlands. Tegeder stated the prior plan by another applicant, and referred to by this applicant, was never an approved plan.. At this time Sciarra referred again to the proposed site plan submitted by a former owner Mike Palmietto. Tegeder explained that the parking requirements for the Palmietto plan may differ from the requirements of this applicant's different application for a special use permit , which is based on patron space. Tegeder advised the applicant to first determine the patron space and the preparation space to ascertain the required parking for this application and represent that on a site plan. Wagner stated that the parking alternatives must be clarified by the applicant, because what was represented as a lease with New York State DOT and being relied upon for parking area is actually a permit that is revocable by DOT with 10 days notice. Spizzirro offered that the special use permit could be conditioned on availability of the State land for parking. Tegeder again reiterated the Board's request at the December meeting that the applicant submit an updated survey of the parcel owned by the applicant and that includes the other land not owned by the applicant that is being proposed to meet parking requirements under the special permit provision. DeChiaro proposed that gravel will be installed in the wetlands area and there will be mitigation for the new gravel area. Tegeder explained that the wetland area served a function and this wetland function must be upheld with the proposed use. DeChiaro asked if he had to mitigate for areas that were paved/graveled when the site was purchased. Flynn stated the Board could recognize off-site mitigation. Giordano felt mitigation could not happen on-site. Flynn stated the Board works with developers to help them with mitigation. Giordano stated the issues were: parking, traffic, mitigation, and wetlands. Flynn stated the operation of the winery business has different hours then a restaurant.. The ZBA talked about conditions, such as occupancy limits, on their approval. DeChiaro felt occupancy limits might be met by limiting the number of parking spaces. DeChiaro proposed no customer parking on the site, just employee parking. Flynn felt this was a creative approach that the Board would have to think about. Sciarra had questions regarding the difference between Town law and State law. Giordano explained the valet parking at Ceola Manor. Tegeder stated that situation was very different as it is a catering hall and everyone enters and exits at about the same time. The applicant questioned the need for the wetlands flagging the Board had requested at its December meeting. Tegeder said the flagging by the prior owner was too old at this point. Kutter stated the Conservation Board is trying to find creative solutions to the challenges posed by the constraints on this site. DeChiaro proposed a 60-person occupancy limit, while the project goes through the rezoning process. DeChiaro asked if it would be beneficial to pursue a zoning variance or a rezoning. Tegeder reiterated that to advance the application, the applicant needs to submit a parking plan to the Planning Department for review. Sciarra said the applicant did not intend to serve food to patrons with this business. He may have some cheese available. Tegeder asked if the applicant was pursuing the special permit for an immediate solution, and the zone change for a more permanent change, and DeChiaro responded affirmatively. Spizzirro stated there were no temporary permits under Town Code. DeChiaro stated this is a sensitive site and parking is an issue. Tegeder suggested the applicant's attorney speak with the Town Attorney and the Building Inspector regarding an

## **Planning Board Meeting January 11, 2010**

interim solution. Kutter stated the Conservation Board is concerned with wetland mitigation. They would like to be informed when the reflagging is complete in order to conduct a site visit. Tegeder stated that as the Planning Board was approval authority for the parking plan, they may also be the approval authority for the wetland permit. DeChiaro suggested that the laws be rewritten to accommodate the use he wanted for the site. Sciarra stated that land not owned by the applicant which was proposed to be used to meet parking requirements was not in fact available to be used Sciarra claimed he wanted to ensure that the Board was not being influenced by the previous lawsuits. Flynn stated this Board focuses on treating all applicants fairly, we review the problems on the site, and work with the applicant to solve the problems Flynn explained that this is a process, one that unfolds as we go through it. Kutter stated the Conservation Board's concerns were the environmental impacts to the site and not the lawsuits

**Upon motion by Savoca, seconded by Giordano, and with all those present voting aye, the meeting was adjourned at 9:45 pm.**