

Planning Board Meeting January 14, 2013

A regular meeting of the Planning Board, Town of Yorktown, was held on January 14, 2013, at the Yorktown Town Hall, 262 Underhill Ave. Yorktown Heights, NY 10598. The Chair, Rich Fon, opened the meeting at 7:35P.M. with the following members present:

John Flynn
John Savoca
Darlene Rivera
John Kincart
Ann Kutter

Also, present were: John Tegeder, Director of Planning, Robyn Steinberg, Planner, and Karen Wagner, attorney to the Planning Board.

Discussion No discussion took place at this time.

Correspondence No discussion took place at this time

Liaison Reports Kutter presented information from the Conservation Board regarding: Teatown, Creative Living, Osceola Lake and the change to various sections of Chapter 300 concerning parking and off-street loading zone requirements in Commercial Districts and Commercial Regional Center Districts and changes concerning parking and off-street loading zone requirements in commercial districts. These laws have just been mailed to Albany and will be in effect when the received in the office of the Secretary of State.

Minutes: December 17, 2012

Upon motion by Kutter, seconded by Savoca, and with all those present voting aye, except Fin, who abstained due to absence, the Board approved the minutes of December 17, 2012.

Regular Session

Adrian Auto Body

Request 2nd One-Year Time Extension

SBL: 26.18-1-24

Location: 3330 Old Crompond Road

Contact: Joseph Adrian

Description: Site Plan approved by Planning Board Resolution 10-25, dated December 13, 2010.

Joe Adrian, applicant's representative, was present. Adrian explained this was representing, his son, owner Joe Adrian Jr. Adrian stated another 1-year extension was needed due to financial problems, and the need to stabilize the hillside as the excavation is not complete. The work has been confined to the area permitted by the Board. Kutter stated an area resident complained that about the removal of the trees, requesting a buffer be installed. Adrian stated many of the remaining trees are not in good condition. Adrian stated also need to go to the Building Department. Tegeder asked why the applicant was moving forward with excavation when the site plan has not been approved. Adrian stated the applicant payed the excavation permit fees of approximately \$25,000. (Wetland & excavation -WPE-012-10 erosion control \$3,500, wetland bond \$2,500, and inspection escrow \$1,200.) Tegeder asked what conditions of the resolution have been met. Tegeder explained that excavation is part of the site work but not part of the resolution. Tegeder stated the Planning Board allowed the applicant to move ahead with some of the excavation, but the conditions of the resolution for the site plan need to be satisfied. Kutter stated a resident complained that extra trees came down and asked if a buffer could be installed. Adrian stated the Town's Environmental Inspector, Mike Dubovsky, conducted a site visit and found two trees were dead and these were taken down after the inspection. Fon stated there are two issues 1) reapproval for 1 year and 2) having the site plan signed. Fon stated the Board wants to make sure the site plan is signed. Tegeder stated if there are no impediments to having the site plan signed then the applicant should have it done. Kincart explained that having a signed site plan will keep things in order, and eliminate the applicant's need for time extensions. Adrian asked to make an appointment with Tegeder and it was agreed. Fon stated the time extension can take place after the meeting with the Planning Department where conditions of the resolution can be confirmed. The approval for the expansion of the existing shop is under 5,000sf.

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Hilltop Associates

Request for Reapproval

SBL: 37.06-1-25

Location: Hilltop Road

Contact: Al Capellini

Description: A subdivision approved by Planning Board Resolution 08-02 on January 14, 2008.

Al Capellini, project attorney, was present. Capellini stated this site has quite a history with this Board. It is a major subdivision as conditions require the installation of a town road, the cul-de-sac. When the applicant went to the Dept. of Health and the NYC DEP, there was a problem with water, The agencies 15% slope requirement caused the applicant to lose another lot. At this time, the applicant is submitting a new plan showing 2-building lots and one non-building lot. The surveyor has passed away, and therefore we are delayed with the new site plan. There is less environmental impact with the reduced number of building lots. Tegeder stated after 5-8 years there should be more than a yes or no answer regarding environmental impact. The Board is requesting a more substantive explanation. Fon asked for the applicant to return when a map is available. Capellini wanted to ensure that the applicant would not be starting over.

Arrowhead Subdivision

Request for Reapproval

SBL: 48.13-1-6

Location: Underhill Avenue

Contact: Al Capellini

Description: A 5-lot subdivision considered under flexibility standards on 45 acres in the R1-200 zone, which was approved by Planning Board Resolution 07-23 dated October 15, 2007.

Al Capellini, project attorney, was present with applicant, Chris O'Keefe.

Upon motion by Rivera, seconded by Kincart, and with all present voting aye, the Board went into executive session for advice of counsel.

Upon motion by Rivera, seconded by Kincart, and with all those present voting aye, the Board closed the executive session.

Fon stated this project has been before the board since 2007, and from the Town's perspective there are open issues that must be resolved. Capellini stated the applicant is here for a reapproval. Originally, this was a 5-lot subdivision, however, the Board allowed this to be completed in phases as the applicant requested this become a 1-lot and a separate 4-lot subdivision. Capellini believed the 1-lot subdivision was filed. We are back for reapproval to allow the applicant can get a buyer for either the 1-lot or the 4-lot subdivision. The applicant was to sell the 1-lot subdivision to pay for the remaining work, however, this did not happen. Fon asked what conditions still had to be met. Capellini stated the conservation easement and the Phase I maps were submitted. Capellini stated there was a requirement that a deed be submitted for the top of the mountain. O'Keefe asked to address the outstanding issues. O'Keefe stated the conservation easement was part of the phasing and should have been filed with the county. The deed for the recreation land has to be given over to the Town, as it was filed. Tegeder asked if this was submitted to the Town. Tegeder stated the resolution requires that you file the entire Phase I and Phase II plans and deposited this with the Town Clerk. Wagner asked to discuss the bankruptcy. Capellini stated he was not involved with this. Wagner asked to be contacted by O'Keefe's bankruptcy attorney. Fon asked that the applicant get everything in order and then return to the Planning Board.

Courtesy of the Floor - John Schroeder, President of the Yorktown Land Trust, came forward to discuss the temporary sales office at Trump Plaza. Schroeder stated according to the Assessors records 69 units have been sold and an additional 3 units were purchased by Capelli. According to the approving resolution, this should require the owner to remove the sales office from the recreation/conservation easement. Fon requested the numbers be verified with the Town Assessor.

Upon motion by Kincart, seconded by Rivera, and with all those present voting aye, the Board closed the regular session.

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Work Session

Teatown-Vernay Dam

Town Board Referral

SBL: 69.14-1-8.1

Location: 1595 Spring Valley Road

Contact: Dianne Barron

Description: Wetland Permit application for proposed structural repairs to the existing Vernay Lake Dam. Wagner requested herself from this discussion. John Watson, project engineer, was present. This is a referral for an administrative wetland permit for required maintenance of an existing dam. The dam is within a NYS DEC wetland. There are four issues including: existing trees to be removed (DEC regulations require this), concrete repairs and areas of seepage, stabilization of the dam outlet, and installation of a concrete riprap pad. The dam was built in 1920's. Watson stated the Conservation Board recommended approval of the wetland permit. It will take a month to make the repairs. The adjacent property is owned by Con-Ed. Con-Ed has given permission for the use of their right of way, including the use of smaller machines. The Board was in favor of this project, and will send a memo to the Town Board stating same.

Staples Plaza - Planet Storage

Special Use Permit SBL: 36.06-2-76

Location: 3333 Crompond Road

Contact: Tony Romano

Description: Request for a Special Use Permit for a self-storage facility in the lower level of the existing shopping plaza and related site work.

Tony Romano, project architect was present with Barry Poskanzer, architect, and Bob Aiello, project engineer. Romano stated this is the major portion of the basement area, formerly used by Best Plumbing. Romano asked that the informational meeting and public hearing meeting be combined. Tegeder stated neighbors have issues with lighting and noise and the Board would like to keep these neighbors informed and not shortcut the process. Wagner explained that early input from the neighbors helped to tweak the plan. Aiello stated 85,000 sf. is the subject of this application. Poskanzer stated frequency is approximately 5-8 customers per 30 minutes, and a small office with access from the rear of the building. The number of units will be determined by the size mix. Storage units will be open from 6am to 10pm. The site will be physically appealing, and user friendly, and the applicant will increase the green space, and reconfigured addition green to the existing buffer. The applicant believes the majority of traffic will be cars and vans and only a small, 5%, will be trucks. We have on grade loading and tailgate loading, and canopies will be added to other rear doors. Flynn stated the Board would want to see difference between the area used by vans and the area used by trucks. The parking area adjacent to Subway will be repaved and stripped. The rear property line is 15-16 feet above the parking area and the grade will be improved to allow for real landscaping and landscaped islands. All of the improvements are within the existing curb line and will make the area more functional. We are installing a retaining wall to increase the grade. We have an approximate 7000 sf. decrease in pervious surface. Kutter asked if the truck direction will remain the same and was told it would be the same. Truck parking should be formalized. Kutter asked for the applicant's sidewalks to connect the proposed sidewalks from DOT and for possible traffic controls.

Lake Osceola Realty Corp.

Discussion Site Plan

SBL: 17.05-1-11

Location: 505 East Main Street

Contact: Site Design Consultants

Description: Proposed 27,000 SF office building and associated parking. Demolition of one existing residence.

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Al Capellini, project attorney, Joe Riina, project engineer, and Steve Marino, project wetland scientist, were present with the applicant, Paul Guillaro. Fon stated the change to commercial property parking regulation approved by the Town Board could reduce the required parking. Guillaro stated reduced parking would not meet the need of the proposed tenant, Mount Kisco Medial Group (MKMG). Capellini stated the applicant does not want to change the plans at the point. Fon asked about access to the lake. Tegeder stated if all the town requires is a strip of land and an access agreement to the lake then the applicant has proved this. However, there is no access from the street, and landscaping produces impediments to pedestrian access. The applicant still needs to provide an access easement from the future parking spaces, but this still does not get one to the lake. Capellini asked how the Board would suggest this be done. The applicant was under the assumption the 30ft easement conveyed access. Tegeder stated there is going to produce access it should be from the street through the driveway to the 4-sapce parking area. Riina stated the applicant plans to give a blanket easement over the entire parking lot. Guillaro stated there is no problem on the weekend or after 5pm. Fon stated there is an access easement with the adjacent property, and the applicant agreed. Kutter asked about the future plans for this walkway. Tegeder stated people need to feel comfortable using the area. The parking lot itself is a psychological barrier. Guillaro stated originally we had a dock now we other improvements, has the Board considered the \$40,000 that was suggested. The Board had no knowledge of a \$40,000 offer. Tegeder stated this Board has not been ambivalent, but consistent with requiring public access. Tegeder stated the \$40,000 was not discussed by the Planning Board. Tegeder asked if parking spaces at Ceola Manor will be used by MKMG, and was told they would. Tegeder explained the need for the public to have more direct acces, as a seeming maze would be a deterrent. The proposal 135 requires 135 parking spaces, and you have 112. If you lost 1 or 2 spaces, it will eliminate the maze for the public to access the lake. Tegeder suggested a stairway at the northern portion of the site. Tegeder felt the 49 spaces closer to the building, with more direct access, likely to be used. Riina stated the applicant did not agree to this, but will look into it or find alternative. Flynn felt this would improve the circulation. Riina stated parking spaces along the wetland will be pervious. Flynn stated if the Board accepted the \$40,000 the Town Board might use it for purposes other then the installation of these improvements. Tegeder suggested four parking spaces installed with grass pavers, an area that is landscaped and maintaned with trailhead signage. this scenario would be welcoming to the public and provide proper access. The applicant suggested dedicating the 4 spaces to the town. Fon stated we are talking about a passive trail, with signage, a crosswalk, and maintained by the town. Tegeder asked about the language in the cross easement with Sinapi, to ensure that the new easement did not conflict with the existing easement. Marino asked if the Board want trees closer to the retaining wall and along the edge of the lake. Tegeder explained that views and access to the lake are very important. Tegeder was favorable toward softening the view of the retaining wall with plantings. Tegeder stated the Building Inspector needs to affirm the height of the building and the mansard. Tegeder asked about the last seven items of the January 11, 2013 Planning Board memo:

- 1) Details of the proposed fixtures and construction details should be submitted a for review and made part of the approval set. The lighting code requires lighting levels at the property line are required to be 1.0 Fc or less—levels at the Osceola property line abutting Sinapi and Jefferson Valley Associates exceed the limit.
- 2) Show existing waterline proposed to be removed on the demolition plan
- 3) Provide a larger partial plan of the entry/loading /drop off area with sidewalks and ramps.
- 4) Clarify the disposition of existing retaining walls to be demolished, retained, or reconstructed on the Sinapi property.
- 5) All sidewalks to Hill Boulevard should be 5 feet in width. Indicate that this sidewalk is ramped (not stairs).
- 6) A future trail or access should be shown from the southern R.O.W. along the retaining wall to the lake access.
- 7) The architectural plans that were presented at the public hearing should to be submitted to the Planning Department for record.

Riina stated ABACA was agreeable to the existing plan. Tegeder requested a written memo from ABACA. Kutter asked who will manage the conservation easement and suggested the Yorktown Land Trust. John Schroeder was in the audience and stated he would discuss this with the Yorktown Land Trust and the Westchester Land Trust. Tegeder stated this can be set as a condition of the resolution. Marino stated the DEC did not want any improvements in the area, including the Planning Board's required improvements and the

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removal of invasives. Tegeder suggested the applicant meet with the NYS DEC prior to returning on February 11, 2013.

Creative Living Development aka Navajo Fields

Town Board Referral

SBL: 6.14-1-2

Location: 3870 Mahopac Street

Contact: Al Capellini

Description: Request to amend its Wetlands and Excavation Permit.

Al Capellini, project attorney and Joe Riina, engineer, were present with applicant C.J. Diven. Diane Drier, Conservation Board was also present. Fon stated this Board has always stated they were favorable about the project, tonight, however, safety issues are our major concern. Fon stated the applicant has moved the gas heated tent, but does not have current permits or COs. There are children occupying a structure that has no CO and we have grave concerns about this. Drier stated the Conservation Board reviewed this project, and issued a memo stating the make shift wooden bridges should be removed as they are absolutely unsafe and easily accessible to the children. Fon stated he had a conversation with Building Inspector on Friday and was appalled that everything on this site was illegal. There are lights up, electric lines. Diven stated he did not realize moving the tents required new permits. Riina stated permits for the tents were filed earlier today. Capellini agreed that all permits and approvals were not in place, however, the applicant is working to correct this situation. Drier stated as stated by the Planning Board, the Conservation Board is also in favor of this project, but all work must be done according to Town Code. Capellini stated when the applicant filed for the wetland and excavation permit, the site was considered a private park and the tents temporary structures. Capellini stated there has been a violation of wetland permit with regard to the wood chips being placed beyond the limit of disturbance. Drier stated the applicants mitigation is incomplete, the silt fence is down. The applicant's current request for a dome requires a site plan review as the dome is considered a permanent structure, therefore, Planning Board approval will be required. Fon asked who the applicant's surveyor was, and was told he recently died. Fon asked if the work on the site met the conditions of the wetland permit. Riina stated some work went beyond the limits of disturbance. Diven stated the only problem on Friday was the lack of the silt fence. Riina stated he had gone out with the environmental inspector to make sure the site was stable. Fon stated again his concern was for the safety of the children as there are gas lines in operation and no inspections, as well as structure that have not been inspected. Diven explained that the two greenhouse buildings were approved, after which they were moved. Fon we have buildings that are occupied that are not inspected and do not have COs. The applicant had meetings with the Town September, and in October. Diven stated we have a licenced engineer. Tegeder stated since there is no CO no one should be occupying these structures. Capellini stated all permits were submitted today. Capellini explained the applicant was before the Town Board for a wetland and excavation permit, which must be amended for new activities. The applicant has also been before the ZBA and received a variance for fences. The project has been considered a private park up to this point, however, the applicant is requesting to install a dome, a permanent structure, on the south field. The applicant's dome specialist stated this installation includes a C bar anchoring the dome. What goes into the ground is an auger type screw. Riina stated that the as-built is not completed because several walls have to be built and stormwater basins must be installed. Additionally, the applicant needs to file with Highway for driveway opening permit. Diven stated he had a DEC Permit. The Board was told the lighting fixtures are approximately 15 feet high. Fon stated the bridges are clearly not ADA. Diven explained the bridges were meant for the construction workers. Drier felt the bridges were easily accessed by the public and should be removed. Fon stated what concerns yjois Board most is there are two building that are not in compliance, yet occupied by children. Capellini stated the heating will be done. Fon reminded the applicant Fire Department access was required. Riina stated Winters is researching this. Marino stated historically this site had an equestrian use. Capellini stated the dugouts have two stories. Tegeder there is a stop work order because there are two floors. The wetland permit is for the dome and two tents. Tegeder stated the tents and dugouts have some type of approval and should be handled as such. The Board can allow the building permit stipulating that a CO should not be issued until code compliance has been met. Wagner asked if the volleyball

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and tennis courts were going to be built, and Capellini replied they were, as this was an as-of-right use for a private park. YAC representative stated Diven has had local teams played for free.

Upon motion by Rivera, seconded by Savoca, and with all those present voting aye, the meeting was adjourned at 11:0pm