

## Planning Board Meeting March 10, 2008

A regular meeting of the Planning Board, Town of Yorktown, was held on March 10, 2008, at the Yorktown Town Hall, Yorktown Heights, New York. The Chair, Dave Klaus opened the meeting at 7:45 P.M. with the following members present:

Daniela Crispi  
Bob Giordano  
John Flynn

Also, present were: John Tegeder, Director of Planning, and Tara Lupoli, Deputy Town Attorney

**Discussion** No items were discussed at this time

**Correspondence** No items were discussed at this time

**Follow-up Correspondence** No items were discussed at this time

**Liaison Reports** No reports were given at this time.

### Courtesy of the Floor

**Country Academy of Dance** - Dan Ciarcia and George Cronke, project architects, reported minor site plan change, due to request from ABACA. The sidewalk was changed. The applicant has activities once a year that requires the use of the parking lot for their van. This change will not make an appreciable difference in the stormwater calculations. The Planning Department will send a memo outlining the Board's acceptance of this change.

**Tuscan Market** - Larry Delfino, project architect, stated the owners have an arrangement with a bank. The size of the building and the 28-parking spaces will remain. In an area where there is no existing parking, the applicant will request the installation of ATM machines. The applicant will continue work to treat the runoff and complete the drainage. Klaus stated the applicant should submit the site plan to the Planning Department. The Board will review the submission at a work session to see if this is an amended site plan. Klaus felt a major issue will be the traffic pattern. Tegeder stated this will have to be treated as a site plan as the Planning Board must approve ATM windows.

## REGULAR SESSION

### Minutes

**Upon motion by Crispi, seconded by Flynn, and with all those present voting aye, the Board approved the minutes of February 11, 2008.**

**Upon motion by Crispi, seconded by Flynn, and with all those present voting aye, the Board approved the minutes of February 25, 2008.**

### Moreira Wetland Permit

### Reapproval of Wetland Permit

#### Section 27.10 Block 1 Lot 3

*Location:* 369 Alden Road, Yorktown Heights

*Contact:* Antonio Moreira, Property Owner

*Description:* Permit approved September 12, 2005 for construction of a sewer line and residence in wetland and wetland buffer. This permit was reapproved by the Planning Board on December 4, 2006.

Applicant Antonio Moreira was present before the Board. Moreira stated he was delayed waiting

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for a DEC permit, which he now has. The DEC permit caused some modification to the local wetland permit.

**Upon motion by Giordano, seconded by Flynn, and with all those present voting aye, the Board approved the wetland permit application.**

### Silverman Minor Subdivision Section 5.17 Block 1 Lot 18

### 1<sup>st</sup> 90 Day Time Extension

*Location:* Williams Road, Shrub Oak

*Contact:* Site Design Consultants

*Description:* Proposed 2-lot subdivision on 5.8 acres in the R1-40 zone. Approved on 9/10/07 by Resolution #07-15.

Al Capellini, project attorney, was present. Capellini stated the application was being reviewed by the Health Department and this was causing delays. Capellini explained additional time is needed as the applicant must complete various easements for ingress/egress, and conservation. Additionally, the applicant must prepare a deed for the cession of land to the Town regarding the terminus of Williams Drive.

**Upon motion by Giordano, seconded by Flynn, and with all those present voting aye, the Board approved the 1<sup>st</sup> 90-day Time Extension.**

### Yorktown Realty Associates Section 5.19 Block 1 Lot 14

### Decision Statement: Sales Office

*Location:* Barger Street, Shrub Oak

*Contact:* Joe Apicella, Capelli Enterprises

*Description:* Temporary sales office approved for 18 months by Planning Board Resolution #05-19 dated August 15, 2005 and extended for 1 year by Planning Board Resolution #07-09 dated April 9, 2007.

Klaus stated the applicant has requested a one-year time extension, however, the Yorktown and Westchester Land Trusts, which both hold easements, have concerns. For the longer the building remains, the larger the impact is to the area. The Planning Board will give a 1-year extension, with a review after 6-months. If 50% of the units are sold, the sales office will be relocated to the main building. Giordano asked if a memo had been sent to the Town Board informing them that the building may be demolished in 6-months. Tegeder stated this information was sent to the Town Board. The Board also approved the construction sign. Neither Land Trust had any objection to the signage.

**Upon motion by Flynn, seconded by Giordano, and with all those present voting aye, the Board approved a one year time extension with a review after six-months.**

### SPECIAL SESSION

**Upon motion by Flynn, seconded by Crispi, and with all those present voting aye, the Board opened a Special Session for the sole purpose of renewing outdoor seating permits.**

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### Murphy's Restaurant

### Renewal of Outdoor Seating Permit

#### Section 37.18 Block 2 Lots 85, 86

*Location:* Kear Street, Yorktown Heights

*Contact:* Deneysel Murphy, Owner

*Description:* Renewal of Outdoor Seating Permit with tent which was approved Resolution #07-08 on April 9, 2007. Applicant seeks renewal for more than one year and permission to leave the tent up during that time.

Applicant Terrence Murphy requested an extension of the outdoor seating permit, and approval to keep the tent up from March through October. The applicant requested the tent remain in place during the entire time. Last season the Board had requested the tent not remain up for more than 10-days at a time. Klaus wanted the sides taken off when the weather permitted. Murphy stated the side panels are used for inclement weather, or if requested by a client for a special occasion. The Board agreed to allow the tent and the outdoor seating from the March 8 until October 30<sup>th</sup>. With conditions regarding the side panels, the volume of the music, and the sale of beverages (beverage preparation would be allowed) included with the approval. Tegeder requested the applicant pay all required fees before the permit was issued.

**Upon motion by Flynn, seconded by Crispi, and with all those present voting aye, the Board renewed the outdoor seating permits with from March 8, 2008 until October 30, 2008.**

### Bella Vita Trattoria

### Renewal of Outdoor Seating Permit

#### Section 15.12 Block 1 Lots 3 & 4

*Location:* Route 6, Mohegan Lake

*Contact:* Paul Caputo, Owner

*Description:* Renewal of Outdoor Seating Permit with tent extending period from March 31, 2007 to October 31, 2007. Resolution #07-06 expires one year from 03/26/07 and requests an application for a site plan approval at that time.

Paul Caputo, owner, was present before the Board. Caputo asked for the tent to be up between March 21<sup>st</sup> and Oct 31<sup>th</sup>. Caputo stated he was still trying to purchase the property. Klaus stated the Board will extend this for one-year, however, next year the Board will want to see a site plan. Tegeder requested the applicant pay all required fees before the permit is issued. Caputo asked if the Board ever refused a commercial use in an area. Klaus stated as long as a proposal is consistent with the zoning regulations, this Board cannot deny the use. Caputo felt it hurt all existing establishments when the area became saturated with the same type of business. Caputo stated three new restaurants opened in his area for a total of six.

**Upon motion by Flynn, seconded by Crispi, and with all those present voting aye, the Board renewed the outdoor seating permits with from March 8, 2008 until October 31, 2008.**

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

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### WORK SESSION

**JP Morgan Chase Bank, N.A.  
(former Midway Hardware Site)  
Section 26.28 Block 1 Lot 8**

**Pre-Preliminary Application**

*Location:* 3394 Crompond Road, Yorktown

*Contact:* Jennifer Porter, Associate, Gibbons

*Description:* Proposed 3,911 SF bank with 2 drive-thru lanes on 1.4003 acres in the C-3 zone.

Jennifer Porter, project attorney, Ken Garvin, project architect, and Joe Riina, project engineer, were present. Garvin stated he had met with the Planning Department and Bruce Barber, Town Environmental Consultant. At that time the building had a different design than what is being presented tonight. The Planning Department wanted the building relocated. The building was too close to the brook, and the applicant moved it to the east. Additionally, the original egress/ingress was felt to be too close to the existing corner. The current plan shows the newly designed building away from the brook, utilizes the existing curb cut and includes 42-parking spaces. This plan allows for 42-parking spaces when only 20-parking spaces are required. Garvin exhibited an alternate design which eliminates 22-parking spaces leaving more green space. This is going to be a “green building” and LEEDs certified. (Leadership in Energy and Environmental Design Green Building Rating System encourages and accelerates global adoption of sustainable green building and development practices through the creation and implementation of universally understood and accepted tools and performance criteria.). Klaus discussed conservation spaces as too little parking would leave customers without a parking alternatives. Klaus suggested the applicant review the parking needs of other banks within the Town to help make a determination. Garvin stated there are usually 8-9 employees, and employee parking spaces could be assigned. The main entrance will face the parking lot, however extensive details are planned for the corner as it faces Route 202. Flynn was concerned that cars would be making turns into entrance from Route 202. Garvin stated we will be using an existing entrance, but meeting with NYS DOT. Klaus felt exiting should be right turn only. Klaus stated wetland delineation and stormwater issues should be addressed presently. Garvin stated Chase has a wetland scientist and traffic consultant working on this project. Riina stated meetings are scheduled with the NYS DEC, NYC DEP and NYS DOT to incorporate their suggestions and requirements into the design. After the design is complete, the applicant will submit a formal application. Riina stated mitigation remediation will result from meetings with the NYS DEC. Riina stated the applicant met with the Conservation Board and the plan containing 20-parking spaces were developed from their comments. Riina stated green pavers can be used for dedicated employee parking.

**Commerce Bank - Yorktown Heights  
(aka Mongero Properties) (fka Webster Bank)**

**Discussion Site Plan**

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### Section 37.14 Block 1 Lot 44

*Location:* Route 118, Yorktown Heights

*Contact:* Rick DeCola, Owner

*Description:* Proposed 3,669 SF bank on 2.2 acres in the C-3 zone.

Owner Rick DeCola was present with Bruce Donahue, project environmental consultant, and Joe Riina, project engineer. Klaus stated the Board received a memo from the Conservation Board dated 3/10/08, accepting the proposed mitigation plan, and requesting a design professional certifies work is in conformance with the approved plan prior to the issuance of the Certificate of Occupancy. Additionally, the Conservation Board suggested a paved parking lot instead of a gravel parking lot to filter runoff, Riina explained the basin/pond for storm water retention was relocated to the western side to avoid disturbing the existing wooded area. The adjacent area will be paved and curbed. There will be vortechic and a level spreader installed.. The applicant will have to meet with NYC DEP before this work is begun. The proposal calls for creation of a deep hole and weirs. The flow will pass through this system and solids will be filtered out. A second weir outlet will be installed to maintain the water level. In addition a gravel service road will be installed for use in maintaining of the pond. Donahue stated formally, the basin was being placed in a perfectly good treed area. The right angle of the stream has been eased. The Phragmites will go through a program of removal, from mid-July to October. A herbicide (Rodeo) will be placed by hand with sprayer backpacks.. Flynn asked for the concentration and Donahue replied it would be according to the manufacturers suggestion. Donahue explained the timing of the application was important, the plant should be flowering. Additional applications may be needed in the future. Donahue assured the Board that adjacent property owners would be notified whenever the spaying was scheduled. Donahue stated the replanting be located around the bank and the stream area. There will be rip-rap on the north side, and the south side will have fiber logs to allow planting behind it. The plant materials will consist of small trees and native shrubs to create a natural look around the stream bank. The two areas will be seeded with wetland seed mix. Tegeder the parking lot is being paved and curbed and the run off will go through a vortechics unit. This makes sense because we could not control the gravel surface. Tegeder there was discussion on the site about refitting the catch basin on the Cablevision site. We retained the grass block employee parking. Flynn asked that the neighbors be notified Donahue stated it is mandated. DeCola stated he had met with the NYS DOT and discussed the traffic plan, we are submitting the drainage plan to DEP. Klaus asked if the applicant had submitted the plans to Engineering. Riina stated the plan had been submitted as Webster Bank. Klaus asked Tegeder to review the application for completeness in order to schedule a public hearing. The Cablevision property owner stated he would clean the catch basin and make it functional. Klaus requested Bruce Barber, the Town's Environmental Consultant review this plan.

### Esposito Builders

### Section 15.15 Block 1 Lot 41

*Location:* Route 6, Mohegan Lake

### Discussion Site Plan & Elevations

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*Contact:* Site Design Consultants and Gemmola & Associates Architects

*Description:* Proposed approximately 6,200 sq ft in two buildings, one with a second floor residence, and associated parking on 1.17 acres in the C-2 zone.

Al Capellini, project attorney, and Joe Riina, project engineer, were present with the applicants Doug and Richard Esposito. The applicants submitted a landscape plan. This included items requested in Steinberg's memo of Dec 17, 2007. R. Esposito stated changes have been made to the lighting plan from discussion with ABACA. D. Esposito stated they would try to save all possible trees. Mafeo and Dee (neighbors) felt the information given by the applicant was misleading, and the trees should be depicted properly. Capellini stated the public hearing was closed in December 2007. Flynn asked for the light plan to be submitted. R. Esposito stated the second floor of the building has been redesigned resulting a reduced storage area and modifications to the roof line. Tegeder stated the redesign ensures this will not be a larger apartment or possibly two apartments. Klaus asked if the applicant would need a parking variance and was told no. D. Esposito stated there was a request to change the down lighting originally proposed. The applicant requested continuing with the down lighting, however, ABACA wanted more colonial lighting. We dropped the height to avoid spillage from the site. Tegeder recommended the down lighting as it is more dark sky friendly. D Esposito stated there is no wall mounted lighting. ABACA is waiting for additional information. The Board requested information on both types of lights. In the audience was the operator of the proposed dance studio, she stated the hours of operation would be from 7am to 8pm. Flynn asked the applicant to stake the back property line. The Board requested the applicant submit cuts of both types of lighting fixtures for the work session..

### **Referral Town Board**

#### **Tree Preservation Ordinance**

*Contact:* Tara Lupoli, Deputy Town Attorney

*Description:* Proposed Local Law - Tree Preservation

Lupoli explained the current Tree Ordinance is in draft form and has been circulated by the Town Board for review and comment. Lupoli stated this ordinance uses Somers tree ordinance as a model. Ron Buehl, perspective tree commission member was present. Buehl stated he has review tree ordinances used by several towns and the specifications that apply to these ordinances.

Giordano felt the onus to comply with the law is on the home owner and suggested it should lie with the tree surgeons. Buehl stated he would be meeting with Tegeder and Bruce Barber, environmental consultant, to create an ordinance right for Yorktown. Flynn asked if there would be provision to protect trees in utility areas or traffic areas. Buehl wanted the law to have enough enforcement without burdening the Town. Buehl felt a new draft could be ready within the next two months.

**Upon motion by Flynn, seconded by Crispi, and with all those present voting aye, the Board adjourned the meeting at 9:45pm.**