

Planning Board Minutes December 19, 2016

A meeting of the Planning Board, Town of Yorktown, was held on December 19, 2016, at the Yorktown Community & Cultural Center, 1974 Commerce Street, Yorktown Heights, NY 10598. The Chair, Richard Fon, opened the meeting at 7:00 pm with the following members present:

John Flynn
John Kincart
Anthony Tripodi
William Lascala, Alternate

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Town Planner; Tom D'Agostino, Assistant Planner; Michael Quinn, Town Engineer; Bruce Barber, Town Environmental Consultant; Mark Blanchard and Kristen Wilson, Planning Board Counsel; Michael McDermott, Town Attorney; and Greg Bernard, Town Board Liaison.

Correspondence: The Board reviewed the correspondence.

Meeting Minutes: Upon a motion by Flynn, seconded by Kincart, and all those present voting in favor, the December 5, 2016 minutes were approved per the chair's corrected copy.

Upon a motion by Kincart, seconded by Tripodi, and all those present voting in favor, the Board opened a Special Session.

Ianuzzi Subdivision

SBL: 47.15-1-14,15,16

First 90-Day Time Extension

Location: 1189 Baptist Church Road

Contact: Albert A. Capellini, Esq.

Description: Approved to re-subdivide the existing 3 lots into 4 lots by Resolution #16-11 on June 13, 2016.

Project Attorney, Al Capellini, was present. Capellini stated the subdivision is currently in front of the Board of Health for approval. This is the first extension that has been requested since the approval.

Upon a motion by Flynn, seconded by LaScala, and all those present voting in favor, the Board approved a First 90 Day Time Extension for the Ianuzzi Subdivision.

Lowe's Home Center

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

Adjourned Public Hearing Site Plan & Subdivision

Location: 3200 Old Crompond Road

Contact: Provident Design Engineering

Description: Proposed amended site plan and a 5-lot subdivision for a Lowe's Home Center, two adjacent restaurant buildings, and a bank building on the former Costco Wholesale Club site.

Upon a motion by Kincart, seconded by Tripodi, and all those present voting in favor, the Board opened the adjourned Public Hearing for the Lowe's Home Center Site Plan and Subdivision Applications.

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Capellini requested the Board continue the Public Hearing regarding the subdivision and close and act on the Amended Site Plan Resolution. The reason is the applicant wishes to meet with planning staff on the subdivision plan.

Panayotou explained the added land from the NYSDOT in the project. The NYSDOT wanted to go to auction with 6.4 acres of land to have a common boundary with the adjacent property. So instead of the 3.38 additional acres shown, the plan now shows 6.4 additional acres, which brings the total site acreage to 21.15 acres. No additional work on the property is proposed. The applicant updated all of the plan sheets to reflect this change.

Panayotou stated a new surveyor was used and there were some changes to the survey. On the eastern property line, the new surveyor, Maser, found monuments delineating the property lines where Carpenter had used the fence line. All lots will still conform to the regulations. The added property and revisions to the survey do not require changes for any of the setbacks. Panayotou confirmed that all of the submitted plans are revised to show the new property lines. No other changes have been made since the December 6, 2016 revision date.

Upon a motion by Kincart, seconded by Tripodi, and with all those present voting aye, the Board adjourned the Public Hearing for the Lowe's Home Center Subdivision.

Upon a motion by La Scala, seconded by Tripodi, and with all those present voting aye, the Board closed the Public Hearing for the Lowe's Home Center Amended Site Plan.

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

The Board reviewed the draft resolution to approve an amended site plan, stormwater pollution prevention plan, wetland permit, and tree permit for the Lowe's Home Center. Drawing MS-1A was added to the list of submitted drawings. On page 6 of 15, the reference to the specific number of trees and shrubs was removed and a general reference to the trees and shrubs as shown on the landscaping plans was inserted instead. All mentions of the "Construction Sequence Plan" were changed to "Erosion & Sediment Control Plan No. 1-4," on Sheets C-402A – C402D or "Notes," on Sheet C-2. The requirement for an amended construction sequence plan was eliminated from the list of required documents on page 11 of 15. The reference to "Costco Warehouse" was changed to "Lowe's Home Center" on page 14 of 15.

Upon a motion by Tripodi, seconded by Kincart, and with all those present voting aye, the Board approved an Amended Site Plan, Stormwater Pollution Prevention Plan, Wetland Permit, and Tree Permit for the Lowe's Home Center.

WORK SESSION

Brophy, Stephen

SBL: 35.08-1-17

Discussion DOT Review

Location: 3787 Crompond Road

Contact: Site Design Consultants

Description: Approved conversion of an existing building into a restaurant with a patio for outdoor seating and parking to accommodate 20 cars.

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Project engineer, Joseph Riina, was present. Riina explained that subsequent to the Planning Board approving the site plan, the NYSDOT sent a memorandum requiring the second street opening be closed. Tegeder stated that the thought of the staff is changing the requirement of the highway work permit to later in the process. We would like to approve a short resolution moving this requirement to prior to any work being done in the right-of-way. When the NYSDOT approves a plan, the Board can amend the site plan accordingly. In the meantime, Brophy will be able to get the site plan signed and obtain a building permit.

Upon a motion by Kincart, seconded by Tripodi, and with all those present voting aye, the Board opened a special session.

Upon a motion by LaScala, seconded by Tripodi, and with all those present voting aye, the Board approved a resolution amending Resolution #16-18 for the Stephen Brophy Site Plan.

Upon a motion by Kincart, seconded by Flynn, and with all those present voting aye, the Board closed a special session.

Orchard View Realty Subdivision

SBL: 36.06-2-78

Discussion Subdivision

Location: 2425 Sherry Drive

Contact: Zappico Construction, LLC

Description: Proposal is to subdivide a 9.2438 acres parcel in a R1-20 zone into 9 lots.

Project developers, Jim, Brian, and Brendan Zappi, were present. Fon stated that since the Board last met, a memo was received from the Planning staff and the Town Engineer. Jim Zappi stated he been working on the subdivision layout and working with the NYCDEP with Michael Stein, the project engineer. The Town made application to the Westchester County Board of Legislatures for the sewer extension. Zappi has also made application to the Department of Health for the sewer and water line extensions. Zappi stated that his company is different than other developers because they vet their plan and apply for all outside applications simultaneously. Zappi stated that he did not feel the plan has changed in a year. The proposed HOA (homeowners association) will take care of the private road and proposed stormwater infrastructure.

Town Engineer, Michael Quinn, stated that he felt the applicant has done a lot of detailed work on the plans and sewer and water extensions. Quinn had submitted a 30 comment review memo (TE Memo), however after meeting with the applicant this morning, the items listed mostly have to do with stormwater, and will be addressed at a later time. In addition, the Town has a standard stormwater maintenance agreement and if that can be executed, it will assure the town that these comments will be satisfied.

TE Memo #2, asked how the plan cannot encroach on the 100 foot wetland buffer. Quinn stated the applicant has kept all homes except the road out of the wetland buffer. His comment looked to address future conditions, where homeowners may want to use their backyard within the 100 foot wetland buffer. Now Quinn thought the mechanism might not a deed restriction, but an extension of the existing conservation easement. Kincart asked how the new wetland law being considered by the Town Board will affect the 100 foot buffer. Councilman Bernard stated the new law may add some actions by engineering permit (administrative) within part of the 100 foot buffer, but this has not been fully discussed by the Town Board.

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TE Memo #3, suggested a split rail fence be added as visual barrier of 100 foot wetland buffer. Quinn stated that the applicant thought the fence would be too close to the homes and perhaps the fence could be moved back into the buffer to a reasonable distance. Tripodi asked if monuments could be used. Flynn asked if a pool could be installed in the buffer. Quinn stated that currently the new owner could apply for a permit to put a pool in the wetland buffer. Tegeder stated that only a conservation easement would prohibit development in the wetland buffer and suggested the applicant show the typical backyard amenities so that they are included in the Planning Board's wetland permit. Jim Zappi stated he had no problem with a split rail fence at 50 feet from the wetland delineation and extending the conservation easement to the fence line.

TE Memo #10 addressed erosion control for the individual houses. Quinn stated that the applicant cannot provide this information at this time because house plans have not been developed yet. Quinn suggested a condition be included in the Board's resolution that requires the Engineering Dept receives the building permit referral to confirm the stormwater design matches the erosion and sediment control plan from the subdivision.

TE Memo #13, concerned the amount of soil being moved around the site. Quinn stated the applicant explained that the cut and fill on the site is almost balanced.

TE Memo #15, addressed the stormwater infrastructure connecting to the town's off-site system in Pine Grove Court. Quinn stated that the applicant explained the runoff being directed down to Pine Grove Court would only be the overflow from the on-site stormwater systems. Quinn was still concerned about the new subdivision connecting to existing storm pipes on Pine Grove when he is unsure of their present condition. Quinn requested the existing Pine Grove Court infrastructure be inspected prior to approval of the applicant's to connection. If the infrastructure in Pine Grove Court is found to be inadequate, the applicant would have to come back to the Board with another solution. Flynn asked about the proposed 15 inch pipe connecting to a catch basin with an existing 12 inch pipe. Zappi stated that 15 inches is the minimum required by the code and that is why it is proposed and agreed to further investigation.

TE Memo #17, concerned the lots on the western side of the site, Lots #1-4, having limited backyards and the exact details of the proposed decks. Zappi stated the decks would all be elevated decks, not decks on grade that would require flat backyards. Quinn requested a note be added to the plan stating the proposed decks would be elevated.

TE Memo #22, addressed the old detention pond in the conservation easement. The applicant found old records when it was originally built that state the town was supposed to maintain the basin. Zappi stated that the applicant will clean out the basin, provide a gravel access, and then the town will maintain it in the future. Quinn requested these terms be added as notes on the drawing.

TE Memo #23, asked why the nine house lots, private road, and conservation area were all separate lots. Tegeder stated that with the lots separate, no one homeowner would own the road or basin.

Quinn stated that all of his concerns have been satisfactorily addressed by the applicant at this time. The majority of the concerns are related stormwater, which will not be finalized until later. Tegeder stated he was not at the meeting this morning with the applicant therefore he cannot comment on the items.

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Quinn also stated that TE Memo #6 requested \$10,000 in escrow to assure maintenance will be performed on a yearly basis. Quinn stated that after talking to the applicant, it would be fair for this escrow to be \$5,000.

Jim Zappi stated that there have been minor comments from the NYCDEP and the project is at standstill with all outside agencies until a negative declaration is adopted and a preliminary approval is granted by the Planning Board.

Tegeder would like the agreed upon items listed by the Town Engineer tonight be summarized in a memo. A draft resolution and draft negative declaration will be provided for the next meeting. Tegeder asked how the HOA will be responsible for paying taxes; will there be a separate tax bills or will the bill be split between the property owners. There should be a condition that the conservation easement area is not a building lot.

Zappi requested a negative declaration and a preliminary approval of the subdivision.

Quinn stated that he met today with the applicant, resolved many of the larger comments, and has no objection to approval of this set of plans. Tegeder stated that all comments and responses need to be addressed in writing so it is all in the Board's record. Kincart stated the work can be done in the next few weeks before the next meeting. The applicant should respond to all comments including from the meeting this morning. Planning staff will prepare draft negative declaration and resolution.

Flynn asked about TE Memo #15 and if the further investigation will be done before the next meeting. Quinn stated that the investigation would not be done before the next meeting. Quinn stated that if he cannot connect to the infrastructure as planned, the applicant will have to come back to the Planning Board. Zappi again stated that the connection is only for overflow.

Zappi will respond to the planning and engineering comment memos, meet with staff, amend the plan, and come to the next meeting. Fon requested the Planning Counsel attend the meeting with staff. Tegeder requested the applicant address the memos for the record. Fon directed the planning staff prepare the draft resolution and negative declaration. Kincart requested a typical HOA used by the applicant be submitted for the Board's review.

Adrian Auto Body

SBL: 26.18-1-24

Discussion Amended Site Plan

Location: 3330 Old Crompond Road

Contact: Ralph Mastromonaco, P.E., P.C.

Description: Proposed to construct a 3,600 sf addition to the existing body shop.

Project engineer, Ralph Mastromonaco, was present. Mastromonaco stated the applicant was in front of the Board about a year ago. At that time, he was directed to go to the NYCDEP. Mastromonaco felt the NYCDEP was now happy with the stormwater proposed on this site. The proposed building will be over an already impervious area, so there are no new peak flows. Mastromonaco submitted the stormwater plan that he submitted to the NYCDEP, a revised application, and a revised EAF for the project to planning staff. Mastromonaco stated that he went to the Conservation Board meeting where they requested the locations of the hemlock trees to be planted. He will add these to the plan.

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Tegeder stated the moving of the hill was done pursuant to this application. Therefore this discussion includes all of that work. The EAF should reflect the entire project.

Quinn, stated that he had sent the applicant a memo a few weeks ago and had not heard from the applicant. A staff engineer had gone on site and had a discussion with the owner. Quinn thought revised plans were going to be submitted. Mastromonaco stated he revised the plans, but did not submit them yet. Quinn stated the plans should be submitted and a meeting with staff before the project comes back to the board.

Mastromonaco requested a public hearing for the application as he did not view anything in the engineering memo that would be a problem.

Kincart stated that the Board never had problem with the plan. Quinn asked if the Board wanted a photo rendering to see how the project will look from Route 202. Kincart felt the front parcel was the more barren piece. Staff needs to meet.

Tegeder stated he did not think the plan would change, however some issues should be discussed before a public hearing. A parking schedule for the entire building should be included on the plan. Quinn stated he needs more information. Mastromonaco strongly disagreed with item 4 on the Town Engineer's memo that the parking area should not be treated as pervious. The board directed the applicant to schedule a meeting with staff. Then the Board will schedule a public hearing as soon as possible after that.

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.

Project engineer, Joseph Riina, project attorney, Al Capellini, and project environmental consultant, Bruce Donahue, were present. Capellini stated that the Town Board approved the use of flexibility for the subdivision.

Donahue presented two changes to the subdivision plan the applicant is considering. Donahue pointed out two large trees that are currently shown to be removed that the applicant would like to save. The road is proposed on the edge of the 100 foot wetland buffer. In order to save these two trees, the road would have to be moved about 30 feet into the wetland buffer. This change would also allow the applicant to use another row of existing stonewall as a property line by relocating the property line to be on the stonewall.

Donahue stated the second possible change concerns the second stormwater pond, which needs an overflow. Donahue would like to feed it back into the wetland at from northwest corner of the site if possible. The wetland area has a small watershed, so feeding this water back to the wetland would infiltrate. If the overflow went directly to the south as currently shown, it would eventually flow into the stream and flow off-site. Tripodi asked if the wetlands will be able to accommodate the overflow from the pond. Donahue stated that only a maximum of 6 inches could be accommodated. Any more flow would have to go to the south. Riina stated he has not completed his analysis to evaluate whether the overflow can reach the wetland. Need to do further engineering.

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Capellini stated that the Board had a Public Informational Hearing, requesting a public hearing on the preliminary approval. Barber agreed with Donohue's assessment that site needs to be balanced and not over fill the wetland. If available for the next meeting, the applicant will submit additional information to be discussed during the work session.

Town Board Referral – Kelderhouse

SBL: 16.17-1-48.7 and 48.8

Discussion Wetland Permit

Location: Turus Lane

Description: Proposed modular home on Turus Lane in Mohegan Lake.

Fon stated there is a memo from Quinn on the referral. The Planning Department did not receive a full set of plans, only an email from the Town Clerk. Quinn stated the applicant must go over 1,000 feet to connect to the nearest sewer line therefore he is recommending a manhole and larger diameter sewer pipe be installed so the pipe may be used as a town sewer extension in the future. The town may provide some of the materials, if the applicant would agree to do this additional work. This will move this area closer in the direction of installing public infrastructure in the road. Quinn reported the applicant seemed receptive to his recommendation.

Tegeuder asked where the water line is connecting. Quinn stated the applicant will connect to the existing water main in Christine Road by going down Priest Lane. Tegeuder stated that Priest Lane is not owned by the town and will require clearing. Quinn asked about more information about how many trees would need to be removed. Quinn agreed that it doesn't make sense to remove all of the trees to install a small water service.

Tegeuder stated that included in the Board's package is the Town Board resolution accepting the parcels in the back (to the south) so the development potential for new homes on that property is now not an issue. The Board should recommend these parcels are deeded to the town prior to approval.

Councilman Bernard stated the Town Board is having a Public Hearing for a Wetland and Stormwater Permit. This project is an example of one of the threshold changes in the proposed new wetland ordinance.

The Board had no objection to wetland permit application and stated it was positive that the sewer is recommended to be installed so other properties may be able to use it in the future.

Tegeuder stated the build out of roads on old plats is in this Board's purview. The Town needs development standards for homes being built in this area. Quinn stated a traffic plan should be required during construction so roads aren't blocked to emergency vehicles.

Town Board Referral - Wetlands Ordinance

Description: Proposed local law to repeal Chapter 178 entitled, "Freshwater Wetlands," and replace it with a new Chapter 178 entitled, "Freshwater Wetlands Protection Ordinance."

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Fon stated the Board should review the proposed ordinance in reference to helping review future applications. McDermott explained the two drafts of the law that were sent with the referral. The first draft was submitted and reviewed at a Town Board work session. The changes requested at that meeting were sent around as Draft 2.

Barber summarized the changes to the wetlands ordinance that are proposed by the new law. The Town Board is looking at threshold changes including how a wetland is determined. Currently, a town wetland is any land that exhibits either wetland soil, wetland vegetation, or wetland hydrology. The proposed law is consistent with NYSDEC requirements, which requires land exhibit all three of these parameters. In addition, in order to be a waterbody, standing water must be present for at least 3 months during the year. The definition for a vernal pool was added to the proposed law. The jurisdictional size of a town wetland is proposed to be changed from 1,000 square feet to 1/10 of an acre, or 4,356 square feet, to be consistent with the army corps requirements.

The threshold for engineering permits (administrative permits) is proposed to increase from 10,000 square feet to 20,000 square feet. The Town Engineer can refer permits up to the Town Board or Planning Board if appropriate and the Town Board can refer permits down to the Town Engineer if appropriate.

A definition for the functional analysis of a wetland was added to the proposed law. The Hollis-Magee method is the standard for analyzing the function of a wetland. Using that analysis will give more flexibility in mitigation that can be required for impacts, instead of just square foot for square foot mitigation without purpose. Councilman Bernard added that the Town Board would like to set up regional areas where mitigation is already wanted so the approval authority can more easily direct the applicant.

Flynn asked what the logic was in changing the Conservation Board's role in the process. Barber stated the Conservation Board is still listed in the list of referral agencies.

Quinn stated that he required tools to determine when permits can be administrative and when they need review by the Town Board or Planning Board. Quinn asked what the Planning Board needs to review plans better. The proposed law does not change the Planning Board's approval authority.

Councilman Bernard suggested a blanket Planning Board approval that includes pools, decks, sheds, etc. shown on the subdivision plan could alleviate additional permit applications to the Town Engineer for those amenities in the future.

The Board would like more time to review the proposed draft and directed the planning staff to write a memo to the Town Board requesting more time. The Board will discuss the proposed law again at the January 9th work session.

Pat Francois stated the Conservation Board did not receive this referral.

Councilman Bernard stated the majority of the Town Board did not want to reappoint John Flynn to the Planning Board, therefore he wanted to thank Flynn for his many years of service tonight.

Upon a motion by Kincart, seconded by Tripodi, and with all those present voting aye, the Board voted to close the meeting at 9:30 pm.