

Planning Board Meeting Minutes – January 28, 2019

A meeting of the Planning Board, Town of Yorktown, was held on **Monday, January 28 at 7:00 p.m.** in the Yorktown Town Hall Board Room located at 363 Underhill Avenue, Yorktown Heights, NY 10598.

Chairman Rich Fon called the meeting to order at 7:00 p.m. with the following Board members present:

- John Kincart
- Bill LaScala
- John Savoca
- Rob Garrigan

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Tom D'Agostino, Assistant Planner
- Nancy Calicchia, Secretary
- John Buckley, Esq. – Oxman Law Group, PLLC

Correspondence / Liaison Reports:

- The Board discussed correspondence received from Mark Lieberman on 1-24-2019 (*via e-mail*) with respect to Mohegan Auto and Tire's landscaping plan specifically if there was to be a tree barrier planted along Route 6 to replace trees removed by the owner. The Board stated that they are not the approving agency for gasoline stations. This would fall under the Building Department's purview. The Board asked Mr. Tegeder to follow up with the Building Department regarding this issue.
- There were no liaison reports.

Meeting Minutes

Upon a motion by John Kincart and seconded by Bill LaScala and with all those present voting aye, the Board approved the meeting minutes of January 14, 2019.

Motion to Open Regular Session:

Chairman Fon motioned to open the regular session and with all those present voting aye, the Board opened the Regular Session. ADA-compliant assistive listening devices were available to the audience.

Chairman Fon stated that two of the agenda items, Stahmer Minor Subdivision and BJ's Wholesale Club Propane Filling Station has been postponed to the next Planning Board meeting.

REGULAR SESSION

Stahmer Minor Subdivision

SBL: 59.10-1-10

Location: 600 Birdsall Drive

Contact: Insite Engineering, P.C.

Description: Approved 3-lot subdivision on 10 acres in the R1-80 zone by Resolution #18-01, dated February 26, 2018.

Discussion: Request for Reapproval

Comments:

Postponed to the next Planning Board meeting at the applicant's request.

BJ's Wholesale Club – Propane Filling Station

SBL: 36.06-2-75

Location: 3315 Crompond Road

Contact: JMC Site Development Consultants

Description: Request for renewal of a Special Use Permit for a Propane Filling Station approved by Res. #14-03, dated February 10, 2014.

Discussion: Special Use Permit Renewal

Comments:

Postponed to the next Planning Board meeting at the applicant's request.

2040 Greenwood Street – Envirogreen Associates

SBL: 37.15-1-38

Location: 2040 Greenwood Street

Contact: Site Design Consultants

Description: Proposed 1 1/2 story commercial building and associated parking on 5.71 acres in the C-4 and R1-40 zones.
Project will require wetland buffer disturbance.

Discussion: Public Hearing

Comments:

Rick Cipriani, property owner; Joseph Riina, P.E. of Site Design Consultants; Steve Marino of Tim Miller Associates; and Philip Grealy, Traffic Consultant of Maser Consulting were present.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting aye, the Board opened the Public Hearing. Chairman Fon stated that the Board has received correspondence from residents, various Boards and the Engineering Department. A public hearing will be held this evening to discuss the proposed project.

Mr. Rick Cipriani, Property Owner

Mr. Cipriani introduced himself to the Board members and the public as the owner of the property and long-time area resident who is deeply rooted and vested within the community both personally and professionally. His company, Envirogreen Real Estate, is a member of the Chamber of Commerce for well over 15 years. He lives 4 miles from this site for over 40 years and knows the area well. He is a civil engineer and has been a contractor all his life and is the owner of several businesses. He briefly discussed all the projects that his company has been involved in over the years. He is here this evening to hopefully lessen the worries of the neighbors within this area with respect to this proposal. The area around Greenwood Street was shown to all which includes the town's treatment plant including the yard used by the town.

The traffic study will be addressed in detail by his traffic engineer later in the presentation. He pointed out the areas currently that require town employees, trucks, trailers and heavy equipment to exit and enter the street daily which affects the current traffic. He also noted that this street is used as a cut through. The occupant for the new building will be Goldberg Plumbing. The plumbing business will have vans and cars that will go in and out but is not expected to have a significant impact on the traffic conditions.

In Mr. Cipriani's opinion, the appearance of the new structure will be very nice and beautifully landscaped with adequate stormwater drainage. You will only see the driveway with all the landscaping in front which is a couple hundred feet up from the houses. He mentioned that there were other areas with dumpsters and trailers currently and this will not be the case with his building. He does not feel that this will affect the house values. Mr. Cipriani stated that this location of 2040 Greenwood previously had a building on it, of which the remains are still there, and cars were also parked there in the past. The site has been previously disturbed. He hopes that all will be addressed this evening as he is seeking to improve the area from its current state. As a neighbor, it is important to him to ensure that the residents are happy.

Mr. LaScala asked about the cars being there in the past and where they came from. *Mr. Cipriani responded that they were there before he owned the property. Steve Marino of Tim Miller Associates showed aerial photos from 1976–2016, which showed the disturbance (small building foundation and a row of parked cars).*

Joseph Riina, P.E., Site Design Consultants

Mr. Riina stated that the proposal is for a commercial building on 5.71 acres in the partially C-4 and partially R1-40 zones. The section of the proposed development is on the C-4 section. Renderings were presented. The project proposed is for a 6,000 sf single story building (50 ft x 120 ft). The main use of the building will be compatible with this zone and a tenant for the building is now known (*Goldberg Plumbing*). The entrance to the site is the southwesterly corner of the property. They are proposing a paved driveway from the entry point about 150 to 175 feet in. As you leave Greenwood Street, the driveway will be slightly sloped down and rise again as you make way to the building site. The parking area will be gravel with the exception of the ADA parking spaces which will be paved. The refuse storage will be in the back. There will be a retaining wall along the front of the building because of the grade change between the road and the site.

There is a full stormwater runoff management system proposed for the project. A complete SWPPP was prepared which includes collecting all the run off from the parking area, driveway, roof leaders and adjacent areas as shown. The parking lot and driveway are sloped to a low point. The runoff will flow down along the driveway and will be directed into a swale which will make its way into the stormwater treatment area. Green infrastructure was implemented in the design by reducing impervious area and by having gravel for the parking area. The roof runoff will receive two treatments. The roof runoff will be directed into a stormwater planter system (filtering system) which will flow into a pocket wetland that they will create. The pocket wetland is a standard practice accepted by the DEC and it will provide polishing of the stormwater as well as stormwater retention. It is sized to accommodate

the 100 year storm. The system is required to have no increase in peak runoff over existing conditions up to the 100 year storm which is detailed in the stormwater management plan. The electrical service will be underground, and the sewer and water service is all available to the site. The cross sections for the site were shown to all as requested by the Planning Board.

Chairman Fon asked the following:

- Is this a site plan approval only with no subdivision involved? *Response was yes.*
- Did you ask for a zoning change and are there any variances? *Response was no.*
- Are all the utilities served and no septic is involved? *Response was that it will all be public utilities.*
- He asked to show the distance between the property and the government properties, roadway and current residences. *Mr. Riina pointed out the properties on the plan for all to see. The closest resident to the property is about 300 feet. The property is not in the direct view of any of the residents.*
- What other agencies looked at this proposal outside of this Board? *Mr. Riina responded that outside of this Board, the town staff reviews the project. Responses were received from the Town Engineer, ABACA and the Conservation Board. The SWPPP requires approval and a permit from the NYC DEP. They get full review and oversight on the outcome of the SWPPP and ensure that they adhere to the DEC regulations and their regulations as well. There are other agencies that can offer comments on this such as the County Planning because they are adjoining the bike path.*
- Chairman Fon stated that there were many questions regarding the impacts of the stormwater and asked Mr. Riina to explain the process. *Mr. Riina stated that it was addressed in a response letter (1-25-19) to the Board. Chairman Fon asked what happens when the water hits the roof. Mr. Riina explained that the roof leaders are connected to the stormwater system. They are required to meet the NYS DEC and NYC DEP standards because they are in the NYC watershed and a NYC DEP designated main street area. They have to meet water quality and water quantity thresholds. They are addressing green infrastructure by reducing the amount of impervious area and introducing a stormwater planter as an extra measure. They are taking the stormwater off the impervious area of the roof and putting it into the stormwater planter.*
- What would happen today with no building or development at this site when stormwater hits the ground. *Mr. Riina responded that it's a wetland with hydric soils. The land can only absorb a certain amount of water. There are times when it is dry and you can walk on it but when there is a lot of rainfall, the water will remain there and will act as flood way and retain water. The water will then make its way out through the culvert over to the Hallocks Mill brook downstream of Junior Lake.*
- Chairman Fon asked Mr. Riina if what he has designed will handle a 2 inch rainfall as an example if we were to receive something that severe. *Mr. Riina stated that it is designed for a 100 year storm of which the criteria for this area is 9.3 inches of rain over a 24 hour period. They are capturing all of the water off of the impervious surfaces and adjacent areas as shown on the plans. The final discharge, after funneling through the pocket wetland and stormwater basin, will be discharged at a controlled rate and will never exceed what is currently going through the culvert now. The Town Engineer, the DEC and the DEP will make sure that this is the case. The soil has been tested and witnessed by the DEP and the Town's Engineering Department and the tests were witnessed on site. The stormwater management plan is loaded with calculations and back up criteria that was used to design the stormwater system. They cannot move forward without the approval of the DEP, DEC and the Town Engineer.*
- Chairman Fon asked if a project ever had to be changed. *Mr. Riina stated that there always some comments back and forth during the review process, from the design down to the plantings.*

Steve Marino, Senior Wetlands Scientist, Tim Miller Associates

Mr. Marino stated that he has 25 years of experience in wetlands and wildlife water resources. The applicant is seeking to develop the southern end of the parcel. The majority of the site is flagged as wetlands and the delineation was reviewed and confirmed by the town's wetland consultant. All work going on as part of the site plan is outside of the wetland with the exception of the driveway crossing where there is currently a swale that flows to the existing culvert under Greenwood Street. The Town's wetland consultant determined that was wetlands under the town code. There is a 100 foot regulated buffer which is shown on the plan. A significant portion of the project is within that 100 foot buffer.

- Chairman Fon asked if any of the work was in the wetland. *Response was that only the one driveway crossing on the south end of the site which is approximately 200 sf in area.*

From the wetland boundary as flagged, the majority of the property to the north is regulated wetland. There are a couple of small non-wetland spots that were not delineated as it is not in the area of development. The wetland on the site is sourced by a variety of different places. From the BOCES property there is a water course that enters under the trailway that forms a stream that enters the site that flows to the north and west. There are two culverts under Greenwood Street further to the north that pick up the majority of that run off as it flows through. There is a watercourse on the other side of Greenwood where the water comes to the culvert on Greenwood and discharges to the brook.

- Chairman Fon asked Mr. Marino if he had gone out to that property and if the current system outside of their property was working properly. *Mr. Marino stated that he was at the site today. With respect to the current system, the road grade is very close to the elevation of the wetland with probably a foot or two of freeboard (room for storage) through most of Greenwood*

Street and if the wetland overflows there is some flooding on the street. There are two culverts on Greenwood Street as shown. One looks like it could use some town maintenance, as there is some clogging on the upstream side. The grades were discussed. They know there is a stream coming from BOCES, there is another culvert coming in further to the north and you can see where it enters the property under the trailway but you can't see where the culvert is itself on the other side of the trailway due to water, ice and vegetation. They are in a different sub watershed that flows into a third culvert under Greenwood and that's where their disturbance is and that is where all the stormwater will be routed. They are not adding any flow towards the first two culverts and the neighbors.

A wider view of the neighborhood, the functions of the existing culverts and wetlands were shown to all. The wetlands on the other side of the trailway related to the old train track and the runoff were discussed.

- *Mr. Garrigan stated that some of the correspondence mentions that there has been an increase in water pooling or the grounds being very soft and not drying out over the past several years and asked if anything can or could be done that might alleviate this issue although its likely unrelated to the subject property. Mr. Marino responded that he can't address it without looking at the issue a little more closely but in Mr. Riina's analysis, the water that is coming through their portion of the site will be picked up and routed appropriately.*

Mr. Marino continued that there will be some disturbance within the town regulated wetland buffer and they have submitted a mitigation plan. The areas were shown to all. The area has debris such as sidewalks, chunks of concrete and existing remains from the old building. The development is going on in a previously disturbed area. Outside of the area, also disturbed, they have developed a program for enhancement and restoration of the buffer with all native plants between the wetlands and uplands - a transitional buffer planting plan which includes areas on the north end of the development as well as some of the work between the building and Greenwood Street. A landscape plan for the development area itself and a number of native trees and shrubs such as evergreens, red maples, spruces, etc. are proposed for the area around the parking lot and driveway. With respect to the stormwater treatment structure, they have added a number of plants per the Conservation Board and Planning Board requests. They have developed a detailed plan that is wetland tolerant with transitional species. The shrubs selected on either side of the berm between the building and the street will all grow 8 to 12 feet tall. In addition, some colorful herbaceous plants will also be provided. At the request of the Planning Board and comments from ABACA, he did locate trees in the area between the first house on Greenwood Street and the development area, and found 51 trees greater than 6" diameter within the wetland which are a mix of red maples, cottonwood, black locusts and ash of which a list is provided on the plans. There are 9 trees in the area of the stormwater basin that would come out. The stormwater planter adjacent to the building just above the retaining wall will be planted with red twig dogwood trees which is a species tolerant of getting wet and will grow 8 to 10 feet tall. They will also go into the wetland edge and buffer between 50 and 100 feet for wetland restoration due to past disturbance.

Chairman Fon asked the following:

- *It was stated that this is a town wetland and not a DEC wetland. Mr. Marino responded that DEC regulates only certain wetlands in NYS. They regulate all wetlands greater than 12.4 acres. The site will be reviewed from the stormwater standpoint only but not the wetlands as it is out of their jurisdiction.*
- *With respect to the management program for mitigation, how long will you maintain the plan? Response was they generally propose a 3 year plan sometimes 5 years depending on how much work is required. At the end of each year, a report will be submitted to the town as to how the site looks (i.e. - what work was done and what work should be done the following spring.)*
- *Have you been to the Conservation Board? Response was a few times. There were questions about the plantings around the basin. They were recently before the Conservation Board with the revised plan and received positive feedback.*
- *What about the town maintenance for the swale? Response was that there are two culverts underneath the road, one of which appears to be blocked up. Chairman Fon stated that we should inform our Highway Superintendent.*

Mr. Riina reviewed the architectural plans with all. It will be a pre-manufactured metal building. There will be two overhead doors for vans to go in and out of the rear of the building, a small office space, restrooms, mechanical area and lobby. The height of the building is 12 feet from the ground level to the eave and 18 ½ feet to the peak. The first two feet of foundation will have some type of masonry finish. The front and rear elevation were shown along with different points of view. Neutral colors are proposed for the building such as tan, green or brown. The proposed landscaping was shown.

- *Chairman Fon stated that they are tying into the public sewers and he knows that there have been many concerns from the residents in the area about their septic systems. Mr. Riina responded that he thinks it's a grade issue and pointed out the sewer line on the plans and where it ends. It was studied at some point. There are pipe crossings underneath Greenwood Street that make it problematic to extend the sewer. Discussion followed regarding a low pressure system to service the homes, the flood plain, groundwater table and septic remediation systems.*
- *Chairman Fon asked if this project will impact the area with the septic fields having issues with the high water. Mr. Riina responded that this project will not impact the area. Based on the amount of peak runoff, it will be controlled to existing conditions. They will not be creating any additional downstream impacts.*

Philip Grealy, Traffic Consultant, Maser Consulting

Mr. Grealy stated that a traffic study was done for the project in 2018. The study looked at Greenwood Street all the way from the intersection with 35 and 202 to Veterans Road. In terms of traffic they looked at peak hour turning movement counts so that they know where traffic is going and how intersections operate. They collected machine traffic counts so they know hour by hour, day by day, the volumes, speeds, and vehicle mix in terms of passenger cars and trucks. With respect to Greenwood Street today, focusing on peak hours, one hour periods in the morning and afternoon, there are about 250 to 350 vehicles an hour total for both directions (*away from Veterans and near the residential areas*) that would be passing that section of the road. In terms of this type of development which is considered to be light industrial for the category of use, the traffic study is consistent with this use in terms of traffic generation. On a peak hour basis, the use would be generate between 10 and 15 vehicles in and out (*passenger cars and light trucks in this case with the plumbing operation it would be a typical van*). Not all of those trips would be on this section of Greenwood because it will split up as some will go down Veterans so roughly half of those trips may end up on Greenwood heading back to and from 35/202. Traffic speeds were also recorded. The traffic study also looks at what else is generating traffic in the area in terms of other development and growth so they look at a future condition. They projected out to 2023 and looked at what the additional traffic would be in terms of the development for peak hours and then they analyze the intersections to see how they will function and as a result improvements are identified which are all detailed in page 6 of the traffic report. These improvements range from vegetative clearing, sight line clearing, intersection signing and striping recommendations, etc. Greenwood Street is clearly used by more than just residential traffic, there is cut thru traffic and the numbers reflect this. The use of the road has fairly significant traffic volumes on a peak hour basis. Over the course of the day its roughly 2,000 vehicles a day. The building proposed is not a high traffic generator. On a bigger picture there other projects that the town is looking at for the center of town that may alleviate these conditions so that we don't have these cut throughs.

The Board asked the following:

- Chairman Fon stated that they have had these discussions with other developments where roads are used as cut throughs. Would the suggestions and items pointed out be done with or without this development? *Mr. Grealy responded yes. When they do a study they identify things whether its project related or identified as operations today. Typically in terms of implementing the developer may be asked to help the town out. Regardless of this project, they would make the same recommendation.*
- Mr. Garrigan asked if they were aware of the tenant information when they did the traffic study. *Mr. Grealy responded at the time they did not know the exact tenant but the tenant discussed this evening, Goldberg Plumbing, is consistent with the light industrial use and the traffic generation numbers quoted. Their numbers may be a little high in terms of peak one hour period.*
- Mr. Garrigan asked if there was a sense of the number of vehicles to be kept at this facility? *Mr. Grealy will check into it but it is restricted by the number of parking spaces.*
- Chairman Fon asked if there would be any deliveries with large trucks? *Mr. Grealy responded that in terms of what they anticipate for the light industrial category you will have large truck deliveries but most of what goes out is small trucks or vans and in this case it will be vans.*
- Chairman Fon asked if this road in general has a lot of truck traffic. *Response was yes with the highway usage. During different times of the day including the cut through traffic you will see more trucks. There is a mix of vehicles.*

Mr. Riina reiterated that the property is zoned for what they are proposing and are not asking for any variances. They have done extensive planning for stormwater, wetland enhancements, visual impacts, traffic impacts and potential improvements to Greenwood Street and have tried to address everyone's concerns.

Chairman Fon asked if there were any comments from the public. Public comments as follows:

- **Frank Fusco, 2218 Greenwood Street** - His residence is the last house located at the northern end right before Route 35. His concerns with the project is the stormwater management. His first concern is the 12 feet in from Greenwood it shows an 18' HDE pipe that ties into a new manhole taking it across the street with a 15" pipe. The other concern is the rip rap swale that takes the water from the parking lot and that swale is 20 feet from the roadway. At the roadway coming into the site, there is a 3 inch pitch from the roadway to the detention system. The berm, contour lines, grass swale, roof leaders and detention system was also mentioned. His concern is whether the stormwater is being dealt with properly.

Mr. Riina responded that the stormwater management plan that was prepared shows the routing calculations. The agencies involved will review and approve this project and will ensure that all criteria has been met. As far as water getting into the stormwater basin from the driveway, the driveway is pitched back from Greenwood Street 20 feet and does not have any concerns about this. All of this will be proven out in the stormwater management plan. With respect to the roof leader discharging to the stormwater planters, they are not labeled properly on the plans, they are labeled as a roof drain currently and are shown on the plans as such. The stormwater management plan must show that they will not have any downstream impact otherwise it will not be approved.

Chairman Fon stated the area was already stressed with water issues and that the concern is that the building will make it worse and create further impact. Mr. Riina responded that the stormwater plan is meeting all the criteria for the existing conditions. The pipe that Mr. Fusco is talking about was shown on the plans to all with details of the discharge further explained.

Chairman Fon asked that if something was developed 10 of 20 years ago it may not have had the same requirements of today and that possibly the buildings next door might have no stormwater. Mr. Riina responded that 20 years ago, there were different standards and most likely the Hartel building and the building next to it have no stormwater controls in place as it wasn't a priority back then to deal with water quality and maintaining peak runoff.

Chairman Fon asked when the county developed the bike path did they have to do a study? Mr. Riina responded that nothing was done they just paved. Certain areas were addressed to prevent the bike path from getting wiped out in a storm.

- **Anne Calabrese, 2151 Greenwood Street** – She stated that currently half of her yard is filled with water. Straight across from her on Brookside Avenue, the town dug a trench years ago to relieve the water on Brookside. The water comes down into the creek and the creek mixes with the rain water and now she has a pond that used to retreat or dry up but doesn't anymore. Her landscaper can't maintain her lawn because it is too wet. She is worried about the additional water into the stream and how it will be alleviated.

Chairman Fon asked her if the work done by the town helped her or made it worse? Mrs. Calabrese responded that it made it worse as the trench from Brookside Avenue drains into the creek behind her house. She never complained to the town because they did it and just didn't know what to do. She is on sewer and not septic but sometimes the sewer backs up as well when there is a really bad flood which has not happened in quite a while. Chairman Fon stated that they will inform the Engineering and Highway Department so that they can take a look at it.

Mr. Marino stated that generally in Yorktown we get around 48 inches of rain a year. Last year at Westchester county airport they recorded 74 inches of rain. It was a very wet year last year. The 100 year storm for this area is now considered to be 9.3 inches and just 20 years ago is was 7.7 inches. The systems are now designed to a higher standard.

Mr. Riina addressed a previous comment by Mr. Fusco with regards to the 18 inch pipe extension. The Town Engineer asked to make it 18 inches, they don't need it for capacity, at the end of the day the 15 inch pipe controls the amount of water that gets underneath Greenwood. From a maintenance perspective, clogging, etc. it is easier to deal with. Chairman Fon asked again that the system designed will create no further impacts and Mr. Riina responded yes.

- **Christine Lamieux, 2037 Greenwood Street** – She and her husband are the owners of Hartels Auto Body. They live directly across the street from the proposed building. Her concern is from where her house is located what exactly is she going to see. She is worried about the value of her home. Also, because 2040 is on higher ground than the houses across the street they do get a lot of water drainage which has always been a problem and they are surrounded by water due to the brook in the back that overflows when it rains. She also has a post office in the back of her house. It's a concern to her with all the commercial business in the area. She stated that her commercial business, Hartels, has been there since 1975.

Mr. Riina showed the location of her house on the plans. In his opinion, it appears that she will not have much view of the building at all, when she pulls out the driveway she may catch a site of the building if you look to the right, but there will be enough screening and buffer with groups of trees. The building is tilted so that the parking lot is beyond the building.

- **Christine Theofilogiannakos, 2117 Greenwood Street** – She had the same concern as Mrs. Lamieux. What they will be seeing in terms of the size of the building especially during this time of the year when the trees are bare. She lives a few houses down from there and never had a problem with water. In the past two to three years a lot of water has been coming into her yard and is not sure if this will impact it and she is concerned. She currently has septic with no problems. There has been a lot of water in the past couple of years and doesn't want the wetlands disturbed and impacted.
- **William Reikert, 2057 Greenwood Street** – He lives next door to the Lamieux's. He stated that he is looking at a piece of property that is 90 % wetland buffer and he compared the project to putting three 2,000 sf houses on there with all paved front yards. The water that comes through the culvert has lots of dips and valleys and collects water. That culvert sends a lot of water down from Boces and other properties and half of it comes in towards the wetlands toward his house and the other half towards the culvert. His concern is his septic is in his front yard and his property is lower than the property across the street. When there are storms everything slows down and he was told by the Engineering Department that he can't have sewer based on the topography of the property. He looked at the engineering comments which notes that a gravel driveway is not considered pervious. The Engineering Department stated that they would rather see asphalt in the parking lot which would change the factors in the calculation of the water that comes down into the retention system. He is worried about the overflow into his area and down the road. Currently, he sees a barn from his front door past Hartels as it is the winter time and doesn't know how he will not see the new structure. Plus they are wiping out all the trees in the wetland area and does not see it happening properly. He also has a septic system that is sensitive and was wondering who is going to guarantee that this building will not affect his septic system. He has many concerns especially with his septic system.

At Chairman Fon's request, Mr. Riina reviewed the flow and discharge of stormwater on the site.

Mr Reikert asked if a variance was required as it's a wetland buffer. Chairman Fon responded that no variance was required. The site has been looked at by multiple engineers (*design, town and other agencies*) and anything that is inaccurate will be picked up and that Mr. Riina has designed the stormwater plan to address the existing issues. He is sensitive to all the septic and sewer issues and it seems like it may be a town issue down the road.

- **Fred Fusco, 1695 Baldwin Road** - He had a question as he seems to have a problem with culverts on his property and the town seems to have a problem with their culverts. He went on to discuss the culverts and the flow. His concern as a resident in Yorktown is that culvert a town culvert or one they plan on putting in. The second question is that the culvert being installed will it be designed to meet the 100 year flow. Discussion regarding culverts followed.

Mr. Riina, stated that ultimately it goes into a town culvert, the culvert itself that they will be putting in will be owned and maintained by the town. Chairman Fon stated that the developer has to make any improvement and then turn it will be turned over for maintenance by the town. Mr. Kincart stated that he believes the whole system has to meet or exceed the 100 year flood and this would be one piece of it.

- **Vimal Joy, 2105 Greenwood Street** - Has lived in his residence for 3 ½ years. When he first moved there he thought it was a quiet street but that changed immediately after he realized it was a busy street with traffic due to commercial businesses, school buses and cut through traffic, etc. They can't go outside as a result of this. He is concerned with the traffic study. With respect to the commercial building he understands that it is Mr. Cipriani's property and has no problem building commercial which will be helpful to the town tax wise. His concern is that this building is a rental property and will be leased to a plumbing operation. How many trucks does this business have, are there big trucks, small truck or mini vans? These vehicles will leave and return multiple times. Is there a lease signed with the new tenant and how will this be controlled (amount of time they will occupy the building and renewal terms). If Goldberg Plumbing leaves, who will be the next tenant? His second concern is water. The 24 inch pipe from Boces was mentioned. There is a trench of water that comes into his property at the back end. He has septic and his fields are fine but the ground is wet. He called the Army Corp of Engineers and DEC and they said they had data from years ago but not what happened last week. His question is when the DEC, DEP and Army Corp are looking at this are they looking at what happened in the current month and past few months? Is the history up to date? The water flow and retention pond was also discussed. His concern is that the water scenario that is happening right now on that property is not really being taken care of. He feels that the home values will definitely be affected due to the town owned property, salt shed, the traffic that we have and now with an additional commercial building. They understand he owns the property and has the right to build on it. He also mentioned that a few months ago, a double yellow line appeared on the street and is not sure why and feels that it made the situation worse. The commercial people have no concept of the neighborhood feel. Will the retention system handle the water flow? The value of their homes is another concern with a new commercial building going up.

Mr. Riina stated that the EPA to DEC have updated their statistical analysis and rainfall amount as of 2015. They have designed this system for the 100 year storm for a 9.3 inch rainfall in a 24 hour period. In the past year, they have not even come close to that in any of the rainfalls. This is designed for 9.3 inches which is significant.

- **Andy Verber, 2075 Greenwood Street** - He realizes that everyone thinks that this is a small building and just one small lot but everything that is happening is incremental. The building is triple the size of his house and taller. There is a retaining wall and then a building on top on that. They plan to add dogwoods trees in front but they take forever to grow. He mentioned that the town has plans to put a big building, a DPW and Parks and Recreation in this area. This proposal, in addition to possibly resurrecting this project will end up in more traffic. The building tenants will come and go but the residents will be there a long time so what happens now and in the future is a concern. The amount of traffic is incremental, adding 10 or 20 cars is 10% There are no limitation on tenants. The hours of the operation are unknown. Its an incursion to a residential street. Discussion of water followed and he feels it is not a small issue. He understands that a plan is designed for the 100 year storm but feels that they have had a number of those storms in the past 20 years and referred back Hurricane Irma in 2011 and how it affected the street and a house in particular. He stated that he wrote a few letters to the Board with his concerns. They have a problem and they want it properly addressed.

Mr. Cipriani stated that his building is the same size as Hartels as both are 6,000 sf. One side is residential but all the other areas as pointed out on the plan are commercial.

Chairman Fon stated that the town of Yorktown did a comprehensive plan in 2011 and this area was looked at. Mr. Tegeder stated that the original draft plan that came out in 2003 was talked about for two years until 2005 when it was first voted on. The comprehensive plan on this particular property was discussed about changing it from commercial C-4 to residential R1-20 or 40. The property owner at the time indicated the desire to keep it commercial and the Town Board, at that time, did not elect to re-zone it to a residential zoning. Therefore, it is still zoned at C-4. It continued through 2011 until the Comprehensive Plan was finally done and all the proposed re-zoning were completed.

Chairman Fon stated that they are governed by certain criteria and zoning is one of them. When the town looks at these projects they look at it holistically. The Comprehensive Plan was done and vetted and it was determined to keep it that way. They have heard all the stories, seen the letters and know that there is a water problem. There are licensed professional engineers involved and it will be looked at appropriately by all agencies involved. This development unlike the houses and prior developments in the past is held to much stronger regulations, the state takes it seriously as we do.

John Tegeder noted that there may be a deficiency in the mailing and a property may have been missed from the public notice mailing list due to town owned properties on the initial mailing list. As a result, the public hearing will need to be adjourned.

Upon a motion by John Kincart and seconded by Rich Fon , and with all those present voting aye, the Board adjourned the Public Hearing.

Chairman Fon thanked everyone for taking the time to come out this evening. The Board will do their best to try and address the resident concerns.

Motion to Close Regular Session and Open Work Session:

Upon a motion by Rob Garrigan and seconded by John Savoca, and with all those present voting aye, the Board closed the Regular Session and opened the Work Session.

WORK SESSION

Hilltop Associates

SBL: 37.6-1-25
Location: 450 Hilltop Road
Contact: Ciarcia Engineering
Description: Approved 3-lot subdivision by Resolution #08-02, dated January 14, 2008, proposing public sewer lines to the property.
Discussion: Sewer Plan
Comments:

Joseph Riina, P.E. and Michael Blank, property owner were present. Mr. Riina stated that he is here on behalf of Mr. Ciarcia, P.E. for the applicant. The applicant is proposing a sewer plan for creating a sewer easement and installing sewers between Sultana and Elizabeth Road in the Hallocks Mill sewer district. A plan was shown to the Board. There are two vacant properties of which one belongs to Mr. Blank and the other to Pavlica. The proposal is to install the purple section as shown on the plan to the property line and the orange section owned by Pavlica and beyond is to be determined. This would all be possible by a gravity flow system. There is a 20 ft drainage easement that exists currently. There have been preliminary discussions with the Town Board. The proposal is to see if the Town Board would go along with the idea of widening the use of the easement as this would open up the possibility for Mr. Blank to connect to sewers and possibly have more lots. It will also give the 40 existing homes the opportunity to connect to sewer. Mr. Riina stated that any positive feedback from the Planning Board to the Town Board would be helpful.

Mr. LaScala asked if permission was necessary for the quantity of connections? Mr. Riina responded no because this is in the Hallocks Mill sewer district. Chairman Fon asked Mr. Tegeder and Mr. Buckley if there are any questions on the drainage easement of which Mr. Buckley responded he will check into it. Mr. Tegeder stated that he had not seen the plans but it will be an extension of the Hallocks Mill district. Chairman Fon stated that the Planning Board is in favor of sewer properties. The Board requested that the Planning Department meet with the applicant and find out more information on the easement and details.

Spirelli Subdivision

SBL: 16.10-4-10
Location: 3435 Buckhorn Street
Contact: Site Design Consultants
Description: Proposed 2-lot subdivision on 1.64 acres in the R1-20 zone.
Discussion: Minor Subdivision
Comments:

Joseph Riina, P.E. and Pat Spirelli were present. Mr. Riina and Mr. Spirelli are here as a follow up to previous Board meeting discussions with respect to the existing variance on the property which states subdivision is not allowed. Mr. Buckley, Planning Board attorney, discussed the 1985 ZBA decision and the subdivision restriction condition with the Board members and the applicant. He stated that he did some research on this restriction and that in his opinion it would be unenforceable under the law. Mr. Buckley

spoke with Gordon Fine, the Zoning Board Chairman, who stated that they would never seek to restrict subdivision on the lot. John Tegeder stated that it is a restriction based on density. Mr. Tegeder stated that he thought the Zoning Board should make the determination to remove the condition by formal determination and issue a written decision. A draft of a memo to the ZBA was provided to Mr. Buckley for his review. Mr. Buckley stated that he will review the draft and ask the Zoning Board to issue a letter clarifying the unenforceability of the condition.

Silverman Minor Subdivision

SBL: 5.17-1-18

Location: 1195 Williams Drive

Contact: Barbara Diehl, Esq.

Description: Approved 3-lot Subdivision by Resolution #07-15, dated September 10, 2007. The Applicant is requesting to eliminate the requirement to deed land at the end of Williams Drive to the Town.

Discussion: Land Deeded to the Town

Comments:

Barbara Diehl, Esq., Mrs. Silverman, property owner and Mr. Specht, neighbor were present. As part of the approved subdivision, a small portion of land (*a little over a half acre*) was required to be deeded to the town, however the deed was never completed. Mrs. Diehl stated that Mrs. Silverman has been paying the taxes on this property to date. The town's Highway Department still utilizes the property for their vehicles to turn around at the town line. Mrs. Silverman's neighbor, Mr. Specht is interested in acquiring the land to combine with his property for possible installation of a 24 x 24 garage and deck on the side of his house. Mrs. Diehl questioned if it would be possible to transfer the property with an easement to the town so that the town would get what they need and allow the neighbor to do what he wants with the property. Mrs. Diehl stated that the plat was filed in 2010.

Chairman Fon questioned the legality of town easements of which Mr. Buckley responded that easements run with the land. The Planning Board wants to ensure that the Highway Department has what it needs. Mr. Tegeder stated that optimally a town road should be town owned. Discussion followed regarding filing a new plat, survey and lot line adjustment.

Mrs. Diehl stated that the property could still be deeded to the town and in turn the town can do a lot line adjustment. Mr. Kincart stated that the application for a lot line adjustment would not be before the Planning Board, it would be reviewed by department heads and approved by the Assessor. Mr. Tegeder stated that the plat would need to be redone to remove the irrevocable offer of dedication, then once the neighbor confirms what is needed, create a new plat that shows the transfer of property to the town then the transaction with the neighbor would be between them and not the town.

The Board suggested that the applicant meet with the Planning Department to review what the needs from the Highway Department and the neighbor are in order to move forward (*develop conceptual plan*).

975 Sunset Street

SBL: 59.06-1-54

Location: 975 Sunset Street

Contact: Will Shilling, Esq.

Description: Proposed mitigation on a 5.99 acre parcel in the R1-40 zone.

Discussion: Wetland Mitigation

Comments:

Mr. Dinome and Michael Grace, Esq. were present. This matter was referred to the Planning Board by the Town Engineer. Mr. Grace gave a little history as to Mr. Dinome's land activities. In April 2018, Mr. Dinome removed small vine trees and dead trees, logs and debris on his property. As a new property owner, Mr. Dinome was not aware that he needed approval or permits from the town. Based on a site inspection, a notice of violation was issued and no further work was performed. Mr. Dinome was cited for town code violations. He was told that a wetlands and tree permit were required and a memo from the NYC DEP was received stating that there was over 24,000 sf of disturbance.

Mr. Dinome stated that he is very well educated about the process now and has paid over \$10,000 thus far in fees (\$2,000 to environmental, \$5,000 for legal fees for an outside attorney and \$3,600 to the Engineering Department for a wetlands and tree permit). The Town Engineer asked Bruce Donohue, the town's environmental consultant to perform a site visit and Mr. Dinome allowed Donohue to inspect his property. With respect to the wetlands and tree permit, Mr. Dinome was told by the Town Engineer to apply for the permits.

Mr. Grace stated that outside of the wetlands activity, it should all be exempt activity. The action should have been brought to the Town Court as it was a violation. With respect to the \$3,600 fee, in his opinion, it should be reimbursed as no work was planned to

be done. Mr. Dinome removed the dead trees, logs and debris that were left behind by the previous owner. Mr. Dinome stated that his insurance company asked if he was going to clean up the property of which he did, not knowing it wasn't allowed. He did not cut any live trees and was basically maintaining his property. Mr. Grace said that they have no problem complying but not sure where the evidence is to which Mr. Donohue has referred.

Mr. Kincart stated that under the Tree Ordinance, anything within 10 feet of the septic system and anything threatening the residence can be taken down without a permit. Mr. Tegeder stated that this all took place within the conservation easement area and a remediation plan for the violation will need to be developed. The Planning Board will be involved in the remediation of the area in question.

Additional Agenda Item - Yorktown Jazz, LLC aka Breslin Realty

Michael Grace, Esq. was present. Mr. Grace is requesting that the condition to plant trees on Underhill be moved to a different phase of the build out so that Lowe's can receive a certificate of occupancy. Mr. Tegeder stated a cash bond be requested or the condition can be moved prior to a final certificate of occupancy for the entire site or something similar. The Planning Board agreed to consider Mr. Grace's request since the trees cannot be planted until the spring. The Planning Board will discuss this at the next meeting.

Motion to Close Meeting

Upon a motion by Rob Garrigan and seconded by Bill LaScala, and with all those present voting aye, the Board voted to **close the meeting at 10:50 p.m.**