

Planning Board Meeting Minutes – December 7, 2020

A meeting of the Town of Yorktown Planning Board was held on **Monday, December 7, 2020 at 7:00 p.m.** via Zoom video conference.

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

- John Kincart, Secretary
- Bill LaScala
- Aaron Bock
- Rob Garrigan

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James W. Glatthaar, Esq.
- Councilman Ed Lachterman, Town Board Liaison

In accordance with the Governor’s Executive Order 202.1, the Town of Yorktown Planning Board will not be meeting in person until further notice. All Planning Board meetings will be held via video conferencing, and the regular session portion of the meetings will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.

Correspondence/ Liaison Reports

- The Board reviewed all correspondence.
- There were no liaison reports.
- Chairman Fon stated that an e-mail was received with respect to a request for “courtesy of the floor” and noted that as a practice, the Board never had a “courtesy of the floor.” However, when the meetings were held at Town Hall there may have been instances where residents may have spoken before or after an application. Mr. Kincart stated that the public has ample opportunity to voice their concerns, opinions and/or support as part of the agenda with the Public Informational Hearings and Public Hearings. The Board is always open to written comments which are reviewed and discussed. He feels that it is unfair to the applicants to open up the meeting to public comments during the course of a regular meeting that is not a Public Informational Hearing or Public Hearing as the applicants are paying professionals to represent them. The system in place provides plenty of opportunity for public comments to be heard and discussed. Mr. LaScala and Mr. Garrigan agreed. Mr. Bock agreed and added that the orderly process in reviewing applications requires the public to participate at set times in the process and not just at random times. He thinks the “courtesy of the floor,” while appropriate for the Town Board that makes policy decisions, etc., is not applicable to the Planning Board as they are dealing with specific applications. There is nothing that prevents the public from sending in their written comments which become part of the record under the correspondence section.

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the meeting minutes of November 23, 2020 with corrections as noted.

Motion to Open Regular Session

Upon a motion by Chairman Fon, and with all those present voting “aye”, the Board opened the Regular Session.

REGULAR SESSION

NY Self Storage – Jefferson Valley

Discussion: Public Informational Hearing
Location: 16.08-1-4; 621 Bank Road, Jefferson Valley
Contact: Dawn McKenzie, Insite Engineering,
Description: Proposed retrofit and expansion of the former Toy R Us building for a 70,435 SF self-storage facility.

Comments:

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting “aye”, the Board opened the Public Informational Hearing. Dawn McKenzie of Insite Engineering; and Jared Coon of Hanlon Architects were present. The proposal is to convert the former Toys-R-Us building located at 621 Bank Road in Jefferson Valley to a self-storage facility. The site is zoned C-1, situated on a 3.6 acre parcel and bordered by Bank Road to the north, Route 6 to the south, Club Fit to the east and Lee Boulevard to the west. The applicant is proposing to utilize the existing building and a good portion of the existing parking lot. The proposal is to expand the existing building with two additions, one on the east side and the other on the west side. The existing westerly entrance off Bank Road will remain. There is an existing easterly entrance off Bank Road but in order to accommodate better circulation, they are proposing to remove it and install a new entrance further to the east. The circulation around the building will be maintained. They are proposing 15 parking spaces which they feel will be more than adequate for the proposed use. The front of the building facing Bank Road is proposed to have a covered entry way with some unloading and handicapped parking spaces. The east and west side additions will have overhead doors for external access to the units which is permitted under the code. There will be no exterior access units facing the north and south side. The project proposes to maintain most of the existing mature vegetation around the site. At the request of the Planning Board, they have incorporated additional landscaping on the Route 6 side to buffer the building.

Mr. Coon presented the elevations. The building details were reviewed with the Board. The proposed additions will be treated with an insulated metal panel system to transition with the existing building. The existing building will be CMU painted. Mr. Tegeder asked if the wall on the lower part of the plan on the south elevation is new. Mr. Coon showed the floor plan and noted that it is the proposed addition. Mr. Tegeder asked if the wall is in the same plane as the existing plan. Mr. Coon responded that there is an existing transformer and generator.

Chairman Fon asked the public if there were comments and there were none. Chairman Fon asked the Board and Counsel if there were any comments. Mr. Garrigan asked if the sidewalks in the rendering are existing or proposed. Ms. McKenzie responded that a revised version of the plans was submitted last Friday which shows the pedestrian access from Bank Road. They are proposing a crosswalk and striping across the front of the building. In addition, there is an existing sidewalk along Bank Road at the front of the site. Discussion followed with respect to pedestrian access. Mr. Tegeder asked for a larger scale plan of these details along Bank Road for review.

Mr. Bock asked about the decrease in parking for the proposed current use and how this will be addressed should the use change in the future. Mr. Tegeder responded that there should be a discussion with the applicant to provide some narrative or plan showing how 1 space per 1,000 sf could be provided should the use change, as required by the town code. Ms. McKenzie stated that she will supply the Board with this information.

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the Public Informational Hearing.

Ms. McKenzie asked the Board if they could move forward with a Public Hearing. The Board had no issues and requested that the Planning Department schedule a Public Hearing for the December 21st meeting.

Mohegan Court fka RPG Properties

Discussion: Decision Statement
Location: 15.15-1-22; Lexington Avenue
Contact: Brandon Zappi
Description: Proposed changes to the stormwater plan for the approved residential site plan for 8 units on 1.102 acres in the R-3 zone by Planning Board Resolution #18-22 dated August 13, 2018.

Comments:

Jim Zappi, property owner was present. Mr. Zappi stated that he is here as a follow up to the Board meeting of 11/23/2020 for the proposed drainage changes that were previously discussed. They spoke with the Town Engineer with respect to updating the SWPPP report and a letter was issued to the Board with respect to the drainage. All the drainage infrastructure is the same, the only change is that they are now using a stormwater basin as opposed to an underground system. The stormwater basin will be landscaped and fenced as discussed. He noted that the property is one deeded lot with two buildings that will house four units each. A memo from the ABACA approving the modification of the building

was received. Mr. Zappi also received a letter from the Town of Cortlandt stating that the backflow preventer is ok and will submit three copies of the plan to the Health Department.

Chairman Fon asked if the fence around the stormwater basin will match the fence on the plan currently. Mr. Tegeder responded that he spoke to Mr. Zappi and it will match the wrought iron type of fence on the plan and should be added to the resolution as one of the requirements. He also noted that the Board will need confirmation from the Town Engineer with respect to the stormwater and any other requirements. Mr. Kincart asked if this was an amendment to the original resolution and Mr. Tegeder responded that it was. Mr. Zappi asked if the ABACA requirement could be removed from the resolution as they already have their approval. Ms. Steinberg responded that the ABACA requested a final electronic submission of the revised plan for their record. Chairman Fon asked the Board, Counsel, and applicant if there were any other comments and there were none.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving an amended residential site plan, a stormwater pollution prevention plan, and a tree permit for Mohegan Court fka RPG Properties.

Motion to Close Regular Session and Open Work Session

Upon a motion by Aaron Bock and seconded by John Kincart, and with all those present voting “aye”, the Board closed the Regular Session and opened the Work Session.

WORK SESSION

Lowe's Home Center

Discussion: Site Plan - Pad A
Location: 26.18.1-17; 3240 Crompond Road
Contact: Site Design Consultants
Description: Proposed amended site plan for a 12,500 SF building to accommodate a specialty grocer on the site.
Comments:

Joseph Riina, P.E. of Site Design Consultants; and Michael Grace, Esq were present. Mr. Riina stated that they are before the Board to review the draft resolution. Mr. Grace stated that he reviewed the resolution and noted that the setback requirement should be corrected from 58 feet to 50 feet. There were no other issues.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Bock asked about the modification of the guardrails. Mr. Riina responded that there was discussion at a prior meeting with respect to timber face guardrails in lieu of the metal guardrails to match what is there currently. He will work with the Town Engineer to come up with a structural design. Mr. Tegeder asked if they started construction of the retaining wall. Mr. Riina responded that they are waiting for the survey. Mr. Tegeder asked if the the material used for the retaining wall will match what is on the site currently. Mr. Riina responded that it will. The Board requested that this item be placed on the next agenda for final discussion.

Colangelo Major Subdivision

Discussion: Final Subdivision
Location: 35.16-1-4; 1805 Jacob Road
Contact: Site Design Consultants
Description: Approved 6-lot subdivision in the R1-160 zone by Resolution #18-23 dated November 19, 2018.
Comments:

Joseph Riina, P.E. of Site Design Consultants was present. It was noted that the applicant and his Counsel were not present. Mr. Riina stated that he is here as a follow up to the 11/23/2020 Board meeting. At this point, they are seeking to move forward with a final subdivision approval. Most of the discussion at that meeting centered on the 5 acre land donation to the town as recreation land or some other form of dedication. However, he would prefer that the applicant’s Counsel discuss this with the Board. Mr. Tegeder asked if there was a plat. Mr. Riina responded that there is but it was sent back to the surveyor for amendments to re-establish the trail location back to its original location. Mr. Tegeder noted the trail head and asked if people using the trail can park in the lot that is being created for the farm store. Mr. Riina responded that they could and showed the parking area on the plan. Mr. Tegeder asked if they would walk out onto the road to get to the trail. Mr. Riina responded that they would not and noted that the parallel parking spaces are adjacent to the trail. The plan will be updated to show the trail head correctly.

Mr. Kincart asked Mr. Tegeder and Counsel if there could be generic language in the resolution regarding the 5 acre area so the exact grantee(s) can be finalized later. Mr. Tegeder responded that the Board is requiring the 5 acres to become part of the conservation easement and believes that the Town will be a partner or sole entity holding the easement. Mr. Tegeder noted that since Mr. Colangelo is no longer seeking a tax benefit for the donation, there is no further hindrance to finalizing the subdivision. The Board has satisfied the recreation requirement per the code and how it is finalized will be a condition in the resolution. Mr. Glatthaar agreed and stated that the Planning Board deals with the use of the land, not the ownership of it, so the exact entity and structure can be left to the parties to decide. It will always require approval and input of the town on any changes going forward. The Planning Board can move forward with the final approval.

Mr. Bock noted that the plan should be amended to eliminate the utility easement within the 5 acres that was in the initial set of plans. Mr. Tegeder agreed and added that the plat needs to be done in a way that shows the easement for the trail with metes and bounds and show the 5 acres. A draft resolution could be prepared prior to the Westchester Land Trust decision for the Board's review. The Board agreed and advised Mr. Riina to relay the discussion this evening to the applicant. Mr. Riina asked if the easement description can be based on a center line or if it required metes and bounds on both sides. Mr. Glatthaar responded that he did not know but noted that they need to be able to identify in some way what the area subject to the trail is. Discussion followed. Mr. Glatthaar stated that if the description and survey were provided to him for review to ensure that he can follow it and that it meets the intent of the easement, he would then be satisfied.

Albert French Subdivision

Discussion: Minor Subdivision

Location: 1762 French Hill Road

Contact: Site Design Consultants

Description: Proposed 2 Lot subdivision where there are three existing residences. A Zoning Board decision from 1983 supports this subdivision.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina showed the property to the Board. The proposal is to subdivide the property which contains 3 existing residences into two lots. One lot will contain a single residence and the second lot will contain two residences. The existing residences are supported by septic systems and town water. There is an existing driveway coming off French Hill at the point of the property that serves two of the residences and a separate driveway that serves the other existing residence. It was noted that in 1974 the Zoning Board legalized the three existing dwellings on the property as shown on the plan. The 1983 Zoning Board decision dealt with the properties to the north where Mr. French resides, and the property to the rear which allowed for a frontage variance to subdivide that parcel into two. Discussion followed with respect to the Zoning Board decisions. Mr. Riina stated he has submitted to the Health Department and proved out the existing septic systems.

Mr. Tegeder asked if there are a total of 3 dwelling units. Mr. Riina responded that there are three dwellings, so one lot will have two dwellings. Mr. Kincart stated that they are not increasing the number of dwellings by creating this new lot. He noted that they are creating a new lot with a single one-family residence and although it may not satisfy the setback requirements, it adheres to the zoning in terms of the lot size and the use of a single family residence. In addition the subdivision will create less of a non-conformity than exists now. Mr. Kincart has no issue with the plan and requests that the applicant maintain some setback with the irregular lot line. He suggested memorializing it with some type of fence if the applicant agrees. Mr. Tegeder requested that the applicant provide any information that they may have for the old subdivision. Mr. Kincart asked if there are three existing septic systems and three separate water connections. Mr. Riina responded affirmatively.

Chairman Fon asked the Board and Counsel if there were any comments and there were none. Mr. Riina asked what type of action would be considered for this project. Mr. Tegeder responded that it may be a minor subdivision. Mr. Glatthaar responded that it's a Type II action. Chairman Fon advised Mr. Riina to work with the Planning Department.

Stahmer Subdivision Lot 2

Discussion: Amended Site Plan

Location: 535 Jerome Road

Contact: P.W. Scott Engineering & Architecture, P.C.

Description: Proposed amended site plan for Lot 2 of the approved Stahmer subdivision.

Comments:

Peder Scott of P.W. Scott Engineering & Architecture was present. Mr. Scott stated that they submitted a proposal to the Board for an amended site plan with respect to Lot 2 of the approved Stahmer subdivision located on Jerome Road. He noted that his client purchased Lots 2 and 3 of the subdivision. The proposed house is 2,000 sf larger than what was originally approved and will now be about 5,000 sf. The driveway will remain the same. In addition, they are proposing a pool and outside patio area that will bring the overall disturbance to about 12,000 sf versus the 9,000 sf that was approved. An amended SWPPP has been filed with the DEP. The septic system has been approved by the Health Department for a five bedroom residence. A stormwater management package was submitted to the Town Engineer for review. The infiltration basin will be the same size as what was approved. The house is generally in the same location but will be bigger. More trees are proposed to be removed due to the larger footprint. The applicant is scheduled to meet with the ABACA tomorrow evening.

A plan with the proposed new house superimposed over the prior approval was presented. Access will be from Jerome Road. The limit of disturbance and the trees proposed to be removed are shown. Some of the trees proposed to be removed are a precautionary measure as they are on a hillside and leaning toward the proposed house location. The proposed home will be "T" shaped and consist of a four car garage on the left hand side and suite of rooms on the right hand side. Continuing off to the right side is a pool and outdoor improvements which are impervious and will be treated. Mr. Tegeder asked Mr. Scott if the solid line on the map was the current limit of disturbance and the dotted line the old limit of disturbance and the response was "yes". Mr. Tegeder asked if they quantified the difference between the two. Mr. Scott responded that the total parcel is 4.3 acres. They are disturbing about 2.2 acres versus the 1.5 acres in the previous proposal. In terms of impervious, they are proposing 12,000 sf of disturbance, including the septic area, versus 9,000 sf in the previous proposal.

Mr. Scott informed the Board that the applicant is a consultant for Tesla and will reside at this home. The architectural drawings were shown to the Board. The garage will have an office suite above for his use. The home will be a Tesla showhouse and will have all the components that Tesla has to offer incorporated into it. It will be equipped with a Tesla roof system, battery system, and will also have a Tesla mechanical system that is not available to the general public at this time. The four car garage will house 4 Tesla cars (*two will be used by the owner, and two will be autonomous*). This showhouse will be the first to be built in the Westchester Tri-State area. He added that his client also purchased lot 3 and is reserving it for a future guest house with separate access. The current proposal is considered to be Phase 1 of the project.

Mr. Garrigan asked if this home was intended for a private residence only or does it have an alternate use as well, since it was referred to as a showhouse. Mr. Scott responded that the applicant's office space will be on the second floor above the garage and he will utilize the house to show potential developers what a net-zero energy efficient use home is all about. He noted that there will be people visiting his office periodically to view the facility. Mr. LaScala asked if there is any tax payer subsidies involved in this proposal. Mr. Scott responded that there are not and stated that it is all out of pocket from Tesla and his client. He noted that there will be some credits given for energy savings and for energy production.

Mr. Kincart stated that it was exciting to review this proposal. He noted that he thought that this site was somewhat sensitive with drainage due to the water flow and topography. Mr. Scott responded that there is no increase in runoff due to the way it was designed and conforms with the NYCDEP regulations.

Mr. Scott asked the Board what the next steps would be. Mr. Tegeder stated that the approval of the subdivision improvement plans will need to be amended. The SWPPP and tree permit will need to be approved. The Planning Department will need to look at the increased areas of disturbance as part of the SWPPP. In addition, the Board is waiting for the Town Engineer's comments. Chairman Fon advised the applicant to work with the Planning Department.

Solar Farm – Foothill Street

Discussion: Site Plan & Special Use Permit for Large-Scale Solar Energy System

Location: 15.07-1-5; 3849 Foothill Street

Contact: John Shanahan, Con Edison Clean Energy Businesses, Inc.

Description: Proposed installation of a 1.875 MW ground mounted solar panels with associated access road, electric utility upgrades, and perimeter fencing.

Comments:

Joe Shanahan of Con Edison Clean Energy Businesses, Inc.; and Eric Redding of Bergmann Associates were present. Mr. Shanahan stated that they are here as a follow up to the 11/9/2020 Board meeting and noted that he was not at that meeting but was updated by Mr. Redding. He stated that he was before the Board two and a half years ago to discuss the local solar law and at that time he was working for an entity called Clean Energy Collective which more recently has been acquired by Con Edison Clean Energy Businesses. He would like to address the matters discussed at the November meeting with respect to the tree clearing and visibility of the solar farm from Foothill Street and the Putnam Valley Middle and High Schools. He noted that the tree clearing has been an issue for well over two years and was somewhat surprised about the feedback for the visibility from the schools. A draft mitigation plan dated 11/30/2020 was submitted to the Planning Department to hopefully fulfill the requirements and mission of the Tree Law. Among the issues addressed was the matter of the carbon offset, contribution to the local tree fund, plantings at other sites, and support of the Capellini Center. In addition, they could work with the town to identify critical sites in other areas of the town for invasive species removal and also work with the Tree Advisory Committee for mitigation suggestions. He asked the Board for feedback.

Chairman Fon stated that the mitigation plan will be referred out to various agencies for feedback. Mr. Tegeder stated that they will review the plan and refer it to the the Tree Commission and the Conservation Board for comments. Mr. Shanahan stated that with respect to the visual impact, they have prepared a photo simulation and will submit it to the Board for review. He noted that at the previous meeting the proposed stockade fence was not well received and asked the Board what their concerns were. Chairman Fon responded that the Board is looking at the project holistically. They are concerned with the location of the project, the visual impacts, and how it will transform the property; not just the fence. At the last meeting, they asked for cross sections of the site to help them better understand what the impacts will be. Mr. Kincart stated that he would like to see the photo simulation as it may help to understand the site better. He appreciates the detailed look at the Tree Law and mitigation plan proposals.

Mr. Shanahan stated that he would like to address the issues one by one in order to resolve them and is concerned that the Board is addressing this project holistically. He noted that when the issues are addressed item by item, the concerns about the holistic project will diminish. He is surprised about the concern of the visual impact of the project from the schools and has no understanding of why, in the current climate of renewable energy, they would be concerned about young adults growing up to be aware of a community doing what they can for renewable energy. Mr. Tegeder stated that the project was referred to the school district but no response was received as yet. However, they have heard from the Putnam Valley community. He noted that there is a section in the code for the Solar Law that requires adequate screening. If the Board agrees, the Planning Department would be happy to work with the applicant to bring forward what the actual visual impacts are. The Board and Mr. Shanahan agreed.

Mr. Bock stated that with reference to the holistic approach, they are talking about the concern of substituting a healthy forest for a solar energy facility. The review they will do is not necessarily limited to the text of the Tree Law and he wants to make sure that during the environmental review they consider the full impact of the proposed change from 15 acres of forest to solar panels. He noted that a number of agencies including the Westchester County Planning Department have commented on this proposal and he wants to make sure the Board knows the full impacts of the proposed project and those impacts that may or may not be mitigated by payment of money or planting of trees in various areas. He looks forward to hearing from the various agencies to help the Board better understand the impacts of the project. At the last meeting they discussed the fact that they are not limited to the application for the Tree Law and can go beyond that if there are indeed environmental impacts to be considered. Mr. Shanahan stated that he did not receive the County letter. He did receive comments from local advisory boards. Discussion followed. Chairman Fon advised Mr. Shanahan and his team to work with the Planning Department to go over the technical issues. The plans will be referred out to the appropriate agencies for feedback.

Motion to Close Meeting

Upon a motion by Bill LaScala, and seconded by John Kincart, and with all those present voting “aye”, the Board closed the meeting at 9:00 p.m.