

# Planning Board Meeting Minutes – April 26, 2021

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A meeting of the Town of Yorktown Planning Board was held on **Monday, April 26, 2021 at 7:00 p.m.** via Zoom video conference.

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

- Rob Garrigan
- Bill LaScala
- Aaron Bock
- Roxanne Visconti, Alternate

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James W. Glatthaar, Esq.
- Town Supervisor Matthew Slater
- Dan Ciarcia, Acting Town Engineer

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**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 will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All meetings will be broadcast on the Town of Yorktown Government Channel.**

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## **Correspondence/ Liaison Reports**

The Board reviewed all correspondence. The following was discussed:

- Shrub Oak International School correspondence dated 4/21/2021 – David Steinmetz, Esq. of Zarin and Steinmetz; Gerhard Schwalbe of Divney Tung and Schwalbe; and Brian Koffler, property owner, were present. Discussion followed with respect to the recent site visit. Chairman Fon stated that he was impressed with the site and the work that was already done and feels that the proposed future plans will be an additional improvement. The school is a great asset to the community and fits in well at this location. Mr. Steinmetz asked if a Public Informational Hearing was necessary. After discussion, the Board agreed to waive the Public Informational Hearing and move forward with a Public Hearing once the review of the plan details are finalized. The Planning Department will send a comment letter to the applicant.
- Bellamy Subdivision Site Visit – Chairman Fon requested that the Planning Department circulate a few meeting date options to the Board members. Mr. Ciarcia, Acting Town Engineer, noted that he has not reviewed this application as yet but will do so prior to the Board’s site visit.

There were no liaison reports.

## **Motion to Approve Meeting Minutes**

Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board approved the meeting minutes of April 12, 2021.

## **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**

### **Albert French Subdivision**

Discussion: Public Hearing  
Location: 48.06-1-24; 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:

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

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the proposal is for a two-lot subdivision at 1762 French Hill Road. The site is a total of 2.18 acres and zoned R1-40. The property is currently improved with three existing dwellings that include a three bedroom dwelling, one bedroom dwelling and two bedroom dwelling. The one and two bedroom dwellings are accessed off one driveway and the three bedroom dwelling is accessed off its own driveway as shown on the plans. The property was the subject of a subdivision in the early 1980s in which two parcels were subdivided off one large parcel. At that time the three dwellings were in existence and recognized by the Zoning and Planning Boards for a potential subdivision. One lot is proposed to contain the three bedroom dwelling (Lot 24.1) and the second lot is proposed to contain the one and two bedroom dwellings (Lot 24). The site will remain as is and no new structures are proposed. The proposed property dividing line is irregular but provides the necessary setbacks and required minimum lot area for the existing dwellings. Each dwelling currently has its own septic system. The Health Department has required for the applicant to prove that there is a future expansion area for the septic which is shown on the plans. All the testing is complete and has been approved. Once approval is received from the Planning Board, the applicant can then move forward with the Health Department approval to finalize the map.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Tegeder stated that the plan shows the driveway for the French’s adjacent lot cutting across Lot 24.1 in an existing easement and noted that it appeared as though this lot was created in such a way to get a driveway onto French Hill Road and asked why they couldn’t make that happen. Mr. Riina responded that it was approved that way as part of the subdivision and noted that it may be due to the grading as they would not be able to meet the driveway slope requirements. Mr. Tegeder asked for an analysis of the driveway profiles. Mr. Riina noted that there is an existing access easement for this driveway. Mr. Ciarcia noted that if there is a recorded easement, it probably couldn’t be changed. Mr. Riina stated that one of the parcels is in common ownership. Mr. Tegeder asked if the irregular dividing line was done that way to meet the setback requirements. Mr. Riina responded that they tried to make this parcel conform as much as possible to avoid the need for additional variances. The dividing line goes around the structures to maintain the minimum setbacks and works best for the site as it’s a natural location due to the change in grade and natural vegetation. Mr. Tegeder asked about the curved section in the dividing line. Mr. Riina explained that the cottage prompted the curve to create a side yard. Mr. Tegeder asked the applicant to provide the dimensions from the proposed property line to the cottage at this location.

Chairman Fon asked the public if there were comments and there were none.

**Upon a motion by Rob Garrigan, and seconded by Bill LaScala, with all those present voting “aye”, the Board closed the Public Hearing.**

Mr. Riina stated that he will provide the necessary information to the Board prior to the next meeting. The Board agreed to place this item on the next meeting agenda.

**Correia Site Plan**

Discussion: Public Hearing  
Location: 6.17-2-65; 250 East Main Street  
Contact: Site Design Consultants  
Description: Proposed storage facility on 8.22 acres in the Country Commercial zone consisting of two 1 ½ story buildings of 6,000 sf each.

Comments:

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

Joseph Riina, P.E. of Site Design Consultants; and Frank Guiliano, Landscape Architect, were present. Mr. Riina stated that the parcel is located on East Main Street in Jefferson Valley on 8.22 acres. The rear portion of the parcel is zoned R1-80 and the front portion of the parcel is zoned Country Commercial. The proposal is for the front portion of the site that is zoned Country Commercial. The site is currently improved with two commercial buildings, on site storage and parking. It is proposed to construct two free standing 1 ½ story storage buildings at 6,000 sf each for use by the property owner and commercial tenants. The proposed access will be off of the main driveway with a new driveway that will service the two buildings. Three garage doors are proposed to be at the front of each building with a driveway into each and a turn around area. The buildings are proposed to have electricity only as they will be utilized for storage. The

construction of the building will require cutting into the slope. Riina stated he will revise the plan to use the foundation walls as retaining walls to reduce the impact to the slope. A total of 51 trees are proposed to be removed. The mitigation plan will consist of the planting of new trees and restoration of the slope that will include trees in the long term. The applicant is open to further discussion with respect to mitigation. Two infiltration systems are proposed at the site. The testing is complete and was approved by the previous Town Engineer. The SWPPP has been prepared and submitted for review. Per his discussion with Mr. Ciarcia, modifications were made to the drainage.

Mr. Guiliano, Landscape Architect reviewed the plans with the Board. He noted that they met with the ABACA and the Conservation Board and received their comment memos. The ABACA suggested changing the species of the red maple to sugar maple of which they have no issues. He noted that the right side of the property is currently screened by the topography and are proposing evergreens to provide additional screening to the adjoining property. The steepness of the slope is proposed to be mitigated with a northeast seed mixture developed by Cornell. The mixture will be a custom blended seed mix of native grasses, trees and shrubs already located on the site. The custom seed mix provides two purposes with the first being that the native grass will stabilize the slope quickly and the second being that over the years, the native trees and shrubs will germinate and reforest the site. Eventually the slope will look like the rest of the woodland. He noted that this is a process that has been utilized by NYS along steep slopes on highways and is currently being utilized by Westchester County along the Bronx River Parkway. He noted that the rest of the site is heavily wooded.

Mr. Garrigan asked about the maturity of the trees in the existing vegetation. Mr. Guiliano responded that it is an established site with trees between 12 and 24 inch caliper on the slope. Mr. Tegeder asked if the infiltration systems were connected and if trees were to be removed within that disturbed area. Mr. Riina responded that the systems were connected and trees are proposed to be removed within the corridor that will be created. Mr. Tegeder asked about the tree mitigation. Mr. Riina responded that 51 trees are proposed to be removed at this point. They are proposing to plant 24 trees on the site and over time the seed mix will reforest the slope, however, they are not sure how to quantify this. The applicant is open to off-site mitigation and contribution to the tree fund as there is limited space for plantings. Mr. Guiliano stated that adding trees to the disturbed area will not be an optimum solution in the long run. Mr. Tegeder asked if there was any opportunity to plant some understory shrubbery in the wooded areas that will not be disturbed to enhance the forest. Mr. Guiliano responded there may be some areas along the edges of the existing woodland to the south that could be revegetated and will look into this further. Mr. Garrigan asked about the fire access and if this should be looked at further. Mr. Riina stated that he will follow up with the Fire Inspector to review their previous comments. Mr. Ciarcia noted that there is a drainage swale behind the disturbed area and wants to make sure that when the water reaches the bottom of the existing driveway that there is a way to get it to the drainage system by installing a piece of pipe with an end section to collect that water. He also requested the applicant to show the location of the septic systems for the existing structures.

Chairman Fon asked the public if there were any comments and there were none.

**Upon a motion by Roxanne Visconti, and seconded by Bill LaScala, and with all those present voting “aye”, the Board closed the Public Hearing with a 10-day written comment period.**

#### **Motion to Close Regular Session and Open Work Session**

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

### **WORK SESSION**

#### **Aspen & Mill Street Subdivision**

Discussion: Private Road Maintenance Agreement

Location: 16.05-1-13, 13.1, 13.3; 3802-3818 Mill Street

Contact: Allan Rothman

Description: Review and acceptance of proposed private road maintenance agreement.

Comments:

Aaron Bock recused himself from this agenda item. Allan Rothman, property owner and Joseph Riina, P.E., were present. Mr. Rothman stated that the subject parcel was subdivided into four lots a few years back. Two of the lots are vacant

and the other two are currently improved with existing structures that include a multi-family dwelling and single-family dwelling. A private road services the two existing structures on the property. They currently have approval to construct a single-family dwelling on each of the vacant lots, one of which is on this private road. The other lot will be on Aspen Road and is not part of this maintenance agreement. A draft private road maintenance agreement for the three lots has been prepared for the Board's review and consideration.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Garrigan asked if there should be a reference to snow removal. Mr. Rothman responded there should and will add it to the agreement. Mr. Glatthaar stated that since this a private road, it should be clear in the agreement that all maintenance, all repairs, all capital improvements, all replacements, all stormwater, etc. is to be the responsibility of the owners and a percentage for that responsibility should be assessed. Mr. Ciarica asked if there was common drainage improvements for the lot on Aspen Road that is not gaining access along the common drive. Mr. Riina showed the plans to the Board and noted that the lot that fronts on Aspen Road has its own stormwater management system as part of the original plan. Mr. Tegeder stated that it looks as though there is a piping connection across the lot and asked if there was an easement. Mr. Riina stated that the plat shows a drainage easement for lot 13.1, the other lots have their own drainage system.

Mr. Rothman agreed to revise the maintenance agreement with changes as discussed and asked the Board if he could move forward with approval from Counsel. Mr. Glatthaar agreed to the revisions and had no other concerns. Mr. Tegeder noted that he thought the Board could move forward with the approval as the changes are minor. The Planning Department will check on the drainage easement for the language. Mr. Rothman will send the revised maintenance agreement to the Planning Department, Town Engineer and Counsel for review and final approval.

The Board agreed to accept the maintenance agreement with revisions as discussed and approved by the Planning Department, Town Engineer and Counsel prior to release.

#### **Pappous Greek Kitchen**

Discussion: Proposed Outdoor Seating  
Location: 37.14-2-67 & 68; 1983 Commerce Street  
Contact: Rui Cunha  
Description: Proposed outdoor seating area for 28 seats.  
Comments:

Roxanne Visconti and Dan Ciarica recused themselves from this agenda item. Rui Cunha, property owner, was present. Mr. Cunha is proposing to construct a patio and retaining wall in front of the restaurant to provide additional outdoor seating. The proposal is to extend the existing patio up to the sidewalk that will include 6 tables with 4 seats each.

Mr. Bock asked if they were removing the grassy area. Mr. Cunha responded that the area is mulched and proposed to be removed. Mr. Ciarica added that there is an existing concrete patio and because they are in a designated main street area, the applicant is proposing to install permeable pavers that will result in a reduction of impervious surface. Mr. Cunha's team will go through the application process. Mr. Tegeder stated that the material, color and dimensions of the wall should be known and requested for the applicant to submit elevations. Mr. Ciarica noted that the intent was to mimic the wall at the Chase Bank that is located next to the restaurant. Mr. Tegeder requested that the applicant submit details of the fire hydrant to ensure that the Fire Department can access it without obstruction. Mr. Garrigan asked if the additional seating will affect the parking count. Mr. Tegeder noted that the seasonal use for the outdoor seating will offset the indoor usage as people prefer to sit outside, however, the parking will still need to be reviewed. Chairman Fon advised the applicant to meet with the the Planning Department to discuss the details of the application.

#### **NY Self Storage – Jefferson Valley**

Discussion: Lighting Plan  
Location: 16.08-1-4; 621 Bank Road, Jefferson Valley  
Contact: Insite Engineering, Surveying & Landscape Architecture, P.C.  
Description: Approved retrofit and expansion of the former Toys R Us building for a 70,435 SF self-storage facility. Proposed minor amendment to approved plan and Wetland Permit Application.  
Comments:

Dawn McKenzie of Insite Engineering was present. Ms. McKenzie stated that as part of the condition of approval, the Planning Board allowed the Planning Department to work with the applicant to develop the site lighting plan. The

existing light poles on the site are to be reused and will be retrofitted with high efficiency LED, full cut off replacement heads. In addition, they are also proposing canopy lights at the entrance and 13 building mounted lights to fill in the locations where there are no pole mounted lights for security purposes. The pole lights are mounted at 16 ft. and the wall packs are mounted at 12 ft. The bulbs for the pole mounted lights and wall packs are to be 3,000K and the canopy lights are to be 4,000K. She noted that there are a few locations that are close to the property line that exceed the one foot candle requirement per the Town Code. The locations were shown on the plans. There are two locations along Bank Road to the north that exceed the one foot candle. In addition, there is some spillage by the Club Fit parking lot. She noted that the adjacent site lights are also close to the property line and most likely have light spillage onto their site as well.

Chairman Fon asked the Board and Counsel if there were any concerns and there were none. The Board agreed to approve the lighting plan as presented.

### **Envirogreen Associates**

Discussion: Site Plan

Location: 15.16-1-30 & 31; 1833, 1851, 1867, and 1875 East Main Street

Contact: Site Design Consultants

Description: Proposed redevelopment of a portion of the referenced property by removing one of the existing buildings and parking area, and constructing a 13,278 sf retail building with associated parking.

#### Comments:

Joseph Riina, P.E. of Site Design Consultants; Frank Guiliano, Landscape Architect, Gene Vetrano, Architect; Steve Marino, Environmental Consultant; and Rick Cipriani, property owner, were present. Mr. Riina stated that they were last before the Board for a Public Informational Hearing on 3/22/2021 and the plan is the same. Since that time, the SWPPP has been prepared. Porous asphalt is proposed for the parking spaces. The proposal is for a 13,278 sf retail building with associated parking. The proposed parking count is based on a 3,000 sf potential restaurant which would amount to 46 parking spaces for that space. If that space were to become retail, 12 parking spaces would then be required. He noted that there are 44 parking spaces in the back of the property that they are proposing to reserve and not build out until the tenants are decided upon. For the purpose of showing maximum potential development, the parking spaces will remain on the plans. They met with ABACA and the Conservation Board and have received their comment memos.

Mr. Marino reviewed the mitigation plan with the Board. There will be no impact to the wetland. The entire footprint of this project is within areas that are either currently developed or maintained as lawn area. The number of plantings have increased and they are focusing on enhancing the buffer and wetland restoration. All debris and invasive materials will be removed. Transitional shrubs and trees are proposed for the areas adjacent to the new development to create a buffer.

Mr. Guiliano stated that in addition to the wetland plantings, the site is fully planted with native plantings as shown on the plans. He noted that years ago East Main Street was planted with trees along the curb and several are in poor shape as a result of the snow plows. With this plan, there will be a grass strip between the road and the sidewalk and all the new street trees are proposed to be planted on the property. The trees proposed are to be red maples as they are compatible with the other trees on the road and recommended by the Town.

Mr. Vetrano noted that he was not present at the ABACA meeting but received their comment memo. The proposed building is to be 13,278 sf, 191 ft long and 70 ½ ft deep. Photos of buildings in the area were shown to the Board in order to familiarize them with the streetscape, various architecture and signage. The ABACA was concerned with the horizontal siding for the base wall, and the applicant has decided to change the base wall to a faux stone. They were also concerned with the size of the sign band but noted that the neighboring building signs are larger. He noted that the columns are 14" wide and built into the storefront to break up the continuous storefront. Currently, the plan shows 8 separate entrances but depending on the tenants, this may change. The proposed dormers are false and there will be no attic space. The roof line was readdressed to extend the overhang out 4 ft over the bays. With respect to the outdoor seating, there is an alcove area with the recessed entry that is a potential outdoor seating area if needed. Discussion followed with respect to the outdoor seating. They are proposing hardiplank for the siding in the color of light or dark gray. The areas were shown on the plans where the mechanicals are proposed to be installed.

Mr. Bock suggested that the applicant consider installing charging stations for electric vehicles within the parking lot. Mr. Cipriani responded that he is not opposed to installing charging stations but is not familiar with how this will work.

Mr. Riina asked about the access note on the site plan with respect to the connection to Mr. Mallon's property. Mr. Tegeder responded that he didn't think this requirement was necessary. Mr. Mallon's site plan requires that opening and it is built that way now. Mr. Mallon can control his property and install a barrier if he so chooses.

The Board was in favor of the application conceptually. Chairman Fon advised the applicant to meet with the Planning Department to work on the design details of the plan.

#### **Town Board Referral - 1496 Old Logging Road**

Location: 47.14-1-3 & 20; 1496 Old Logging Road

Contact: Site Design Consultants

Description: Proposed new driveway from Old Logging Road East across Lot 3 to Lot 20.

Comments:

Joseph Riina, P.E. of Site Design Consultants; and Steve Marino, Environmental Consultant, were present. Mr. Riina stated that the applicant owns several properties within this area and is seeking to acquire the southern portion of this parcel that currently fronts on Baptist Church Road. The proposal is to gain access to this parcel by creating a new driveway with associated stormwater management improvements, from the adjacent property. The new driveway is proposed to access the site on Lot 3 via access on the adjoining Lot 20. Two stormwater basins are proposed. The SWPPP has been prepared and submitted for review. Currently, a total of 50 trees are proposed to be removed and they are working on the mitigation plan. An updated tree survey will be submitted when complete. The wetland buffer line was shown on the plans and it was noted that all proposed improvements are within the wetland buffer.

Mr. Marino noted that there is a natural wetland at the bottom of the hill. Erosion control measures will be required during the proposed construction phase and once in place, there will be no impact to the wetland. They are currently working through the details of the mitigation plan for the buffer encroachment and tree removal.

Mr. Bock questioned why the application is being presented in this order with the driveway before the subdivision. Mr. Riina responded that if they can't create an alternate access then the applicant will not move forward with the subdivision. Mr. Tegeder stated that the driveway and subdivision are dependent upon each other and should be done in the same process. Ms. Steinberg noted that a deed was filed for the applicant to purchase this lot from the neighbor. Mr. Tegeder noted that it was just a transfer of property and believes it would be illegal as a building lot. It would need a subdivision regardless of the driveway as the lot exists now. Mr. Ciarcia noted that with respect to the proposed subdivision, he thinks that the lot will not be compliant for the frontage and will need to be referred to the Zoning Board.

The Board agreed to submit a memo to the Town Board suggesting that the driveway and future subdivision should be before the Planning Board for review and approval.

#### **Dell Avenue Solar Farm fka Croton Overlook**

Discussion: Site Plan & Special Use Permit

Location: 70.15-1-2; 200 Dell Avenue

Contact: Zarin & Steinmetz

Description: Proposed 3.625 MW solar array and 3.743 MW energy storage system to disturb 16 acres on 59.35 acres in the R1-160 zone.

Comments:

David Steinmetz, Esq. and Jody Cross of Zarin & Steinmetz, Nick Mento and Renny Friedman from Sol Customer Solutions; and Matt Matthews, property owner, were present. Mr. Steinmetz stated that the applicant has decided to pursue a different use for this property, specifically a solar farm. A formal application was submitted to the Planning Department. The site is a total of 59.35 acres and located on Dell Avenue off of Route 100. The proposal is for a 16 acre ground mounted solar array and battery energy storage area on the site. He noted that they have been in touch with one of the neighbors and are in close contact with their attorneys. He asked the Planning Board to declare their intent to serve as Lead Agency for this application.

Mr. Mento showed the plans to the Board. The proposal is for a 3.625kWac fixed tilted ground mounted solar array system and 3.75MW battery energy storage system. The solar array system will point south. He noted that due to the steep incline and the topography of the site, the neighboring properties should be shielded by the view of the solar array.

Mr. Steinmetz stated that as discussed at their previous meeting, one of the advantages in pursuing the solar use for this property is that it is not permanent and allows future flexibility for his client. He is aware that the Board is concerned with the visual aspect of the proposal and will provide cross sections and a detailed view analysis for review.

Mr. LaScala asked if the remaining portion of the property will be utilized in the future for possible expansion. Mr. Steinmetz responded that they are only entertaining the 16 acre portion of the site presently.

The Board agreed to declare their intent to be Lead Agency for this project. The Planning Department will start the process and circulate the notices.

**Town Board Referral - Proposed Planned Design District Overlay Zones**

Comments:

Chairman Fon noted that a draft memo was circulated to the Board for their review and comments. After discussion, the Board had no issues and agreed to release the memo to the Town Board.

**Motion to Close Meeting**

Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the meeting at 9:35 p.m.