

Planning Board Meeting Minutes – November 22, 2021

A meeting of the Town of Yorktown Planning Board was held on **Monday, November 22, 2021 at 7:00 p.m.** at the Yorktown Town Hall Boardroom located at 363 Underhill Avenue, Yorktown Heights, NY 10598.

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

- Rob Garrigan
- Bill LaScala

Also present were:

- John Tegeder, Director of Planning
 - Robyn Steinberg, Town Planner
 - Nancy Calicchia, Secretary
 - James W. Glatthaar, Esq.
 - Dan Ciarcia, Town Engineer
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Correspondence/ Liaison Reports

- There was no correspondence.
- There were no liaison reports.

Motion to Approve Meeting Minutes of November 8, 2021

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye” the Board approved the meeting minutes of November 8, 2021.

Motion to Open Regular Session

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

REGULAR SESSION

Bird Bus Sales & Service

Discussion: Decision Statement

Location: 35.08-1-21 & 22; 3805 Crompond Road

Contact: JMC Site Development Consultants

Description: Proposed Bird Bus sales & service facility at former car dealership site on 2.71 acres in the C-4 zone.

Comments:

Paul Dumont of JMC; and Robert Reichenbach, VP of Bird Bus Sales & Service, were present. Mr. Dumont stated that since they were last before the Board there have been a few changes to the plan. Per the Board’s feedback, they added landscaping to the island areas along the site’s Route 202 frontage which includes low lying shrubs and grasses and noted that they worked around the existing B-Line bus stop. They met with the Planning Department to work on the final site plan details focusing on the lighting and landscaping details. They also met with the ABACA to discuss the final details for the building architecture. They have reviewed the draft resolution and have no issues.

Mr. Bock asked if the landscaping changes have been reviewed. Mr. Dumont responded that it was reviewed by the Planning Department and ABACA. Mr. Bock asked the Board and Counsel if there were any comments. Mr. Tegeder noted a minor correction in the resolution with respect to the wording. The Board and applicant had no issues with the correction. Mr. Reichenbach thanked the Board for their approval and looks forward to doing business in Yorktown.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board declared themselves Lead Agency.

Upon a motion by Rob Garrigan and seconded by Bill LaScala, and with all those present voting “aye”, the Board adopted the Negative Declaration.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving site plan and special use permit for Bird Bus Sales & Service with corrections as noted.

Maryel School of New York at St. Andrew’s Lutheran Church

Discussion: Decision Statement
Location: 37.09-1-24; 2405 Crompond Road
Contact: Celi Cacho & Pastor Dave Dockweiler
Description: Proposed reuse of the former Montessori School classrooms within the church for a private bilingual elementary school on 5 acres in the R1-40 zone.

Comments:
Pastor Dave Dockweiler of St. Andrew’s Lutheran Church; and Juan and Celi Cacho of the Maryel School were present. Pastor Dockweiler stated that they reviewed the draft resolution and had no issues. Mr. Bock asked the Board and Counsel if there were any issues and there were none.

Upon a motion by Rob Garrigan and seconded by Bill LaScala, and with all those present voting “aye”, the Board approved the resolution approving the Maryel School at St. Andrew’s Lutheran Church.

Par 3 Golf Course

Discussion: Adjourned Public Hearing
Location: 16.07-1-38; 795 Route 6
Contact: James Martorano Jr., Parks & Recreation Superintendent
Description: Proposed Par 3 golf course and clubhouse with restaurant on Town owned Parkland.

Comments:
James Martorano, Parks & Recreation Superintendent; and Joseph Falcone, Parks & Recreation Commissioner were present. Mr. Martorano stated that they are making progress at the golf course with respect to the mitigation plan. At the meeting of 8/16/21, there was discussion about the plantings along the stream bank. The proposal is to install landscape field stone, oriental grasses and swamp milkweed; they are also proposing to plant some trees. Mr. Bock asked for the latest details to be submitted in writing for the record as he believes it differs from what was presented earlier. Mr. Martorano responded that he will submit a memo with the details and will also note where the protected trees are to be installed on the golf course. Mr. LaScala stated that he was at the site a few days ago and noted that it looked great. Mr. Martorano noted that the applicant is hoping to open in the early Spring.

Mr. Bock asked the public if there were any comments and there were none. Mr. Bock asked the Board and Counsel if there were any comments and there were none. Mr. Bock stated that the Board will discuss this latest information at the next meeting when all Board members are present.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board closed the adjourned public hearing.

Motion to Close Regular Session and Open Work Session

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

WORK SESSION

Granite Knolls Park Solar Project

Discussion: Site Plan & Special Permit
Location: 26.09-1-22; 2975 Stony Street
Contact: HESP Solar LLC and Bergmann PC
Description: Proposed 1.3 MW-AC community solar project including ground mounted solar panels, solar carport system, and a battery storage system at Granite Knolls Park.

Comments:
Eric Redding, P.E. of Bergmann, was present. Mr. Redding stated that since they were last before the Board a response letter dated 11/9/21 and revised materials were provided for review based on comments from the Planning Board and Recreation Commission. The plan includes the addition of a 20-ft wide limited use pervious gravel driveway with a hammerhead turn-around area at the end. A grading plan is also included. The driveway will be located at the east side of the project on Stony Street. They maintained a 10% maximum slope on the driveway and the hammerhead allows for access to the interconnection utility poles that are required by the utility company. The proposed utility poles will be all new equipment. Also included on the plan are 2-ft wide gravel level spreaders at the drip edge of all the ground-mounted

solar panels in the field as well as parallel to the contours every 50-ft down the hill to prevent erosion and maintain the sheet flow condition toward Stony Street. They have determined that they will need to clear 30,000 sf of trees, mostly to the south and east of the array, to prevent shading on the system. Cut sheets were provided for a typical battery energy storage system as well as the solar panel system and he noted that the model may change depending on market availability but will be substantially similar to what was provided. At this time, he is requesting feedback from the Board with respect to the tree mitigation and requirements as they are in the process of preparing a plan. A photo simulation of the project site from various vantage points could be provided if required by the Board. He asked the Board if they would consider scheduling a public hearing.

Mr. Bock asked if the new driveway was an additional access to the site over what is already there. Mr. Redding responded that it was and showed the location on the plan. Discussion followed with respect to the steep slopes and solar array. Mr. Tegeder stated that they will need to review the viewsheds for the ground-mounted solar system for screening purposes. With respect to the solar carport canopy, he believes that the current regulation limits the height in residential zones to 15-ft. so this may require a variance from the Zoning Board. Mr. Redding responded that the canopies will be over 15-ft. and closer to 17 or 18-ft in height. Mr. Tegeder asked if there will be enough clearance underneath for a typical truck. Mr. Redding responded that the clearance height for solar carport canopies is 13.5-ft. per the New York State Fire Code of which they are providing. Mr. Tegeder requested that the applicant provide more information on the viewshed from various site line sections including the highest point of the carport canopy as well as the ground-mounted array system to assess what can be seen without obstruction. In addition, the landscape plan should be submitted prior to the public hearing. Mr. Bock stated that other solar applications have performed red balloon tests from various locations to test the visibility at the site and thought it would be a good idea to do the same for this site. Mr. Redding responded that he will provide photo simulations with and without vegetation from various locations and will work with the Planning Department. Mr. Tegeder stated that it would make sense to conduct a balloon test from various vantage points as well and will work with the applicant. Mr. Garrigan asked if a tree survey was submitted for the 30,000 sf of tree removal. Mr. Redding responded that they are in the process of working on the tree inventory and mitigation plan.

Patrick Cumisky, Vice Chair of the Parks & Recreation Commission, asked about the percentage of drawings to be submitted for the January meeting. Mr. Redding responded that 85 to 90% of the drawings will be ready for the January meeting. They will not have a full "construction set" prior to their "permit set" as there will be some tweaks with the electrical design, etc. but will stay within any approval thresholds put forth by the Planning Board. Mr. Tegeder questioned the percentage for the construction documentation for approval by the Planning Board that would be buildable. Mr. Redding responded that it would be about 90% and noted that it is typical to receive approval on a "permit set" and then provide a full "construction set" prior to the building permit if they are not anticipating any major changes at the 90%. However, if there are major changes they would come back to the Board.

Mr. Cumisky stated that the green shaded area on the plan is the wetlands and he is not sure what else is in that area and thinks that part of the survey has to be done as he is not sure as to whether the wetlands or buffer is being disturbed. He questioned how emergency vehicles will access the battery storage system should there be a fire. He noted that he didn't see a battery storage energy system for the solar carport canopy system and is curious if it goes back to the single battery storage area or if there is a second area. He also noted that he heard that the Town Board is considering a moratorium on solar proposals and questioned if this application would fall under the moratorium. Councilman Lachterman responded that there is no moratorium as yet and noted that it should not affect the projects before the Board. Mr. Cumisky asked about the review process and would like to see the drawings to measure the details. The biggest concern for the Parks and Recreation Commission is the construction schedule. The applicant is proposing 6 months for the duration of the construction. He feels that that they cannot shut the facility down for that amount of time. He thought that the period of November to March might work best. He would like some clarity as to who owns the system and questioned the maintenance responsibilities and decommissioning for the solar system. He stated that he will submit his comments in writing for the record.

Discussion followed with respect to a public hearing for the January 10th meeting. The Board agreed that the applicant had quite a bit of work to do prior to the hearing as discussed this evening. Once all the materials are submitted, the information will be routed to the appropriate agencies for review.

Yorktown Energy Storage Tier 2 Battery Storage System

Discussion: Amended Battery Components
Location: 6.17-1-24; 3901 Gomer Court, Jefferson Valley
Contact: Greg Gibbons, PV Engineers, P.C.
Description: Approved Tier 2 (5,000kW/15,000kWh) battery energy storage system which will be no more than 15% of the lot coverage with a maximum of five containers.

Comments:

Robert Gaudio, Esq. of Snyder and Snyder Law; Greg Gibbons and Mike Conway of PV Engineers, were present. Mr. Gaudio stated that they received site plan approval for this project last December and worked on the bonding issue with the Town Attorney. They are now before the Board to amend the battery components on the approved site plan. As a result of the latest technology, they are requesting to replace the previously proposed five battery container system with the Fluence Gridstack battery storage system which is an improved system. It is also lower in height with less ground space. The revised materials were submitted to the Board for review.

Mr. Gibbons stated that Borrego has switched to the Fluence Gridstack which is a preferred stand-alone storage system. The new system is an improvement with respect to technology and safety. The Fluence Gridstack is an isolated cube system with 24 individual cubes vs the the proposed 5 large containers. Each cube has its own safety system with self-contained HVAC and fire protection systems. Previously they were proposing Novak 1230 for fire suppression. The fire suppression agent used by the Fluence system is Stat-X which is a compressed aerosol fire suppression agent that will be released inside the cube entirely. It is EPA and NFPA approved and non-toxic. Additionally, the system has now been reduced from 13' to 9.5' which is significant as it will be less visible. The fenced area has reduced from 14,817 sf to 10,228 sf and the impervious area has decreased from 3,600 s. to 3,465 sf. The landscape plan will remain as previously approved. Mr. Tegeder asked about the battery material. Mr. Conway responded that the battery material is similar in that they are both lithium ion batteries but the with different metals. The previous proposal was for a nickel manganese cobalt and the current proposal is iron phosphate which is more heat tolerant. Mr. Tegeder asked about the safety plan and if any changes were required. Mr. Gaudio responded that nothing has changed and with respect to the training they will follow what is required by the resolution at the time of installation. Councilman Lachterman asked about a possible discharge and if a hazmat cleanup would be necessary. Mr. Gibbons responded that the system is a lot safer as it is an aerosol agent and self contained. Mr. Bock stated that it seems to be an improvement from what was previously proposed. Mr. Gibbons added that there will be one concrete pad as opposed to five small concrete pads. Mr. Tegeder stated that the the Planning Department will review the modifications but noted that this is a better situation for what is essentially the same operation. The application will be referred to the Fire Department for review. The Board agreed to schedule a Public Informational Hearing for the amended site plan.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board opened a Special Session.

The Board agreed to schedule a Public Informational Hearing for the December 20th Board meeting.

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

Nadine’s Restaurant

Discussion: Special Use Permit for Outdoor Seating
Location: 59.14-1-23 & 24; 715 Saw Mill River Road
Contact: Keith Staudohar, Cronin Engineering
Description: Applicant request to make permanent the 70 seat outdoor seating area created in response to the pandemic.

Comments:

Keith Staudohar of Cronin Engineering; and Pamela Schienle, restaurant owner, were present. Mr. Staudohar stated that the restaurant is located at 715 Saw Mill River Road. They were last before the Board on 5/24/21 to discuss a permanent special use permit for the outdoor seating area. The applicant is now operating on a special use permit from the Building Department that was granted during the pandemic which is set to expire soon. Since that meeting, they met with staff to review the site. They received information from the Police Department. Since 2016 there have only been 6 accidents

within a half mile radius to the site that were unrelated to restaurant. He noted that the restaurant is able to stay open as a result of the outdoor seating. Due to the pandemic, patrons desire to eat outside as opposed to inside. Ms. Schienle stated that if not for the outdoor dining, their restaurant would never have survived. The outdoor dining is open all year as 90% of their patrons prefer to dine outside and feel safer as a result of the pandemic. Propane heaters are used during the winter season. They do the best they can with the parking and are in negotiations with the neighbors. There are currently 16 parking spaces at the site.

Mr. Bock stated that the application is before the Board for a special use permit and noted that there is certain criteria that the Board needs to address. He asked if any of the items discussed at the last meeting were addressed. Mr. Staudohar responded that the site is constricted with the parking in front and there is not much they can do. As noted earlier, they are in negotiations with the adjacent property owners with respect to the parking. The owners were considering valet parking but with the pandemic it may be an issue. Mr. Tegeder noted the sight distance in relation to the parking and stated that during their site visit there was discussion about lighting enhancements to increase the safety measures. Mr. Garrigan asked if parking on Route 118 was legal. Mr. Tegeder responded that it was and noted that the Board needs to determine that the 70 outdoor seats along with the indoor seats (noting varying times of use) meet the parking requirements under the Town Code to whatever extent they are able to do so and if not met they will need to determine that there are no safety issues. He added that the parking spaces on the state road cannot be considered as part of the number of parking spaces to accommodate the parking requirements. Mr. Staudohar stated that the outdoor seating is not an overflow from the indoor seating. The patrons prefer to sit outside. Mr. Tegeder asked if the applicant would consider a cap on the number of patrons to the restaurant at any given time within reason. The applicant agreed. Councilman Lachterman asked the applicant how many spaces could be leased from the neighbor. Mr. Staudohar responded between 5 and 10 at the most. Mr. Bock noted that at the last meeting there was a question about the capacity of the septic system. Mr. Staudohar responded that the system was monitored for over a year and is operating fine. Mr. Tegeder asked the applicant to submit the water data to the Planning Department for review. Mr. Tegeder suggested that the Board conduct a site visit individually. Mr. Bock asked about the length of time granted for permanent special use permits. Mr. Tegeder responded that it could start out as one or two years and can go up to five years. Mr. Staudohar responded that they would be agreeable to having the permit revisited yearly. The Planning Department will review the application and work through some of the discussion from the previous meeting to be provided in written form. Mr. Staudohar requested to schedule a Public Informational Hearing and the Board agreed.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting “aye”, the Board opened a Special Session.

The Board agreed to schedule a Public Informational Hearing for the December 20th Board meeting.

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

3668 Barger Street

Discussion: Site Plan

Location: 16.07-1-44; 3668 Barger Street

Contact: JB Hernandez, ARQ Architecture, P.C.

Description: Request for site plan approval of existing site and proposed 300 square foot office building on 1.40 acres in the C-4 zone.

Comments:

Paul Berte of ARQ was present. Mr. Berte stated that the lot is 1.4 acres in the C-4 zone located in Shrub Oak. The existing site has been historically used as multiple commercial/industrial uses. The mechanic shop located at the southernmost part will remain and no changes are proposed. The supply/contractor yard will continue to run under new ownership. They are proposing to refurbish and use the rear of the building as a public garage for repair of motor vehicles within the building. 12 parking spaces are proposed along with restriping of the existing pavement. They are also proposing to install a facility such as a trailer to use as an office with a bathroom for the storage facility workers. A masonry wall and short fence no higher than what is allowable by the Code is also proposed for aesthetic purposes.

Mr. Tegeder stated that the site has been operating since the 1970's and all of the buildings have existed since then. It was approved for a large shop on the southern side of the property which still exists and operates today; and two smaller buildings. One building supports the material storage yard and the other is a garage and office. There are no changes or issues with the office use. The garage is now proposed to be used as a public garage (repair shop) which is allowed in the zone. The issue with respect to the garage is the ability for the applicant to obtain a c/o as it is considered a change of use even though its allowed in the zone and for the Building Department to have something to refer to. They need approval verifying this site and requiring that it be brought back to its original approval that is mostly in terms of the amenities (striping) and to have a plan on how the site operates around and in support of the public garage. He noted that they are just bringing forth the use and confirming that the use will still be supported by the site as it was in its original condition. Mr. Bock asked the Board and Counsel if there were any comments. Mr. LaScala stated that it would be an improvement to the site and had no issues. Mr. Garrigan questioned the definition of a public garage. Mr. Tegeder responded that it is defined in the code as a normal repair shop for automobiles. Mr. Bock asked if any further review was necessary. Mr. Glatthaar responded that he didn't think so. Mr. Tegeder stated that the building site operation was not changing and noted that he will continue to work with the material storage yard issues. Marcello Santucci stated that he is involved with the material storage yard and asked if it was possible to start selling materials. Mr. Tegeder responded that it is operating under an existing approval but advised the applicant to speak with the Building Inspector.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting "aye", the Board opened a Special Session.

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting "aye", the Board approved the resolution approving re-use of garage building at 3668 Barger Street formerly known as the Chadwick property.

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

Motion to Close Meeting

Upon a motion by Bill LaScala and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting at 8:10 p.m.