

Planning Board Meeting Minutes – December 20, 2021

A meeting of the Town of Yorktown Planning Board was held on **Monday, December 20, 2021 at 7:00 p.m.** at the Yorktown Town Hall Boardroom 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:

- Aaron Bock
- 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
- Councilman Ed Lachterman, Town Board Liaison

Correspondence/ Liaison Reports

- The Board reviewed all correspondence. Mr. Garrigan noted the email from Patrick Cumiskey of the Recreation Commission dated 12/13/21 for the Granite Knolls solar project. He noted the comment regarding the timeframe for the applicant's work schedule and its impact to the use of the facility by the community. He feels that the Board should take this into consideration during the review process.
- There were no liaison reports.

Motion to Approve Meeting Minutes of December 6, 2021

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 December 6, 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

Nadine's Restaurant

Discussion: Public Hearing

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:

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

Keith Staudohar of Cronin Engineering was present. Mr. Staudohar stated that the site is located at 715 Saw Mill River Road. The applicant, Nadines Restaurant, is requesting approval by the Planning Board for a permanent special use permit to continue the use of the outdoor seating area as discussed at the previous Board meeting. At that meeting, the restaurant owner informed the Board that the outdoor seating has helped to sustain their restaurant during the pandemic and noted that the patrons prefer the outdoor option. As requested by the Board, a water usage report and police narrative was provided for review. Based on the parking calculations with the usable inside space and outside area, they would need 15 parking spaces and the site contains 16 parking spaces. The site has been operating this way for the past year and a half with no issues. The police narrative states that since 2016 there have only been six accidents within a half mile of the site and none are related to the restaurant.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Counsel if there were any comments. Mr. Ciarcia stated that the main concern was the parking and the septic system.

He noted that based on the amount of water consumption in the report, the septic system will need to be monitored but it doesn't appear that there is much water usage historically. Mr. Garrigan asked if the special use permit is granted by the Planning Board. Mr. Tegeder responded that the Planning Board grants special use permits for outdoor seating areas over 12 seats. Mr. Garrigan asked about the length of time for the renewal process. Mr. Tegeder stated that it would depend on the use, but typically outdoor dining special use permits are granted for 5-year periods. Most often, permits start off with a 1 or 2-year period to see how the site operates and noted that this site has already been operating this way for over a year. Mr. Bock stated that he wanted to make sure that the traffic situation is dealt with in a safe manner, not so much on the site itself as they have what they need but questioned if they should consider limiting the parking on the street for safety reasons. Mr. Garrigan stated that from his understanding it is not illegal to park on the street and feels that it is beyond the Board's purview to take a position as to where the patrons are allowed to park legally if necessary. He is in favor of granting a special use permit with an earlier review. Mr. Bock agreed. The Board agreed to grant a 2-year special use permit for the outdoor seating.

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

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

Upon a motion by Aaron Bock and seconded by Rob Garrigan, and with all those present voting "aye", the Board adopted the Negative Declaration.

Upon a motion by Rob Garrigan and seconded by Bill LaScala, and with all those present voting "aye", the Board approved the resolution approving special use permit for outdoor seating at Nadine's Restaurant for a period of two years as discussed.

Yorktown Energy Storage Tier 2 Battery Storage System

Discussion: Public Informational Hearing

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:

Upon a motion by Aaron Bock and seconded by Rob Garrigan, and with all those present voting "aye", the Board opened the Public Informational Hearing.

Robert Gaudio, Esq. of Snyder and Snyder Law; Greg Gibbons and Mike Conway of PV Engineers, were present. Mr. Gaudio stated that the site plan for this project was approved a year ago. As discussed at the previous meeting, they are now before the Board to amend the battery components on the approved site plan. The technology has since improved and they have been able to shrink down the size of the facility. They are proposing to replace the previously proposed battery container system with a an improved battery storage system that is lower in height and will reduce the amount of impervious surface at the site. All the conditions and landscaping for the facility will remain in place, with the exception of the modification to the equipment.

Chairman Fon asked the public if there were any comments and there were none. Chairman Fon asked the Board and Counsel if there were any 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 closed the Public Informational Hearing.

The Board agreed to schedule a Public Hearing for the January 10, 2022 Board meeting.

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

Bellamy Subdivision

Discussion: Minor Subdivision
Location: 37.10-1-38; 379 Hallocks Mill Road
Contact: Burns Engineering Services, P.C.
Description: Proposed 2-lot Subdivision on 1.417 acres in the R1-20 zone.

Comments:

Steve Burns, P.E. was present. Mr. Burns stated that he was before the Board a while back with respect to the application. The parcel is located at 379 Hallocks Mill Road on 1.417 acres in the R1-20 zone. The proposal is for a 2-lot subdivision. The driveway and grading plan were discussed with the Board. Four trees are proposed to be removed along the roadside in addition to a cut that will open up the sight distance for the driveway and help to make the road feel a bit wider through that section. The hatched area on the plan is the proposed cut. The red lines shown are the lines of sight for the Lot 1 and Lot 2 driveway. With the clearing as shown, the Lot 2 driveway has about 365-ft of sight distance to the left and Lot 1 has about 15-ft more. The sight distance has been drastically improved in both directions. They are proposing to remove the asphalt for the existing driveway and remove two garages. The site will be cleaned up. The stormwater details were reviewed with the Board.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Ciarcia stated that he had an opportunity to meet with the engineer and applicant at the site. He noted that the proposed grading will improve the sight distance and open up the site all around. He feels that the applicant made an effort to address the sight distance issue. Chairman Fon asked if it would be a safer condition than what exists today as this was a concern. Mr. Ciarcia responded that the improvements proposed would improve the sight distance and become a safer condition for the existing driveway and street drivers as a result of the grading as opposed to what is there currently with the limited sight distance and topography. Mr. Burns added that they will eliminate the hidden driveway. Mr. Burns showed the driveway grading plan and contours to the Board. Discussion followed about the sight condition improvements to the left and right of the driveway. Chairman Fon stated that he would like to establish language with respect to the sight distance for this subdivision. Mr. Tegeder responded that they could establish a sight line easement. Mr. Burns responded that they have no issue with a sight line easement. Mr. Garrigan asked if the town would contemplate making the shoulder wider. Mr. Burns responded that they are working on this for the site plan. The Board agreed to schedule a Public Informational Hearing for the January 10, 2022 Board meeting.

Foothill Street Solar

Discussion: Site Plan
Location: 15.07-1-5; 3849 Foothill Street
Contact: Con Edison Clean Energy Businesses, Inc.
Description: Proposed installation of a 1.875 MW ground mounted solar panel system and Tier 2 battery energy storage system along with associated access road, electric utility upgrades, and perimeter fencing.

Comments:

Joe Shanahan of Con Edison Clean Energy Businesses, Inc. was present. Mr. Shanahan updated the Board with respect to the application prior to the January 10th adjourned public hearing. Since they last met, the Town hired an outside environmental consultant, Barton & LoGuidice (B&L), to review the proposal. They received the first B&L report dated 11/1/21 to which they have responded. A subsequent B&L report was received on 12/6/21 stating their approval for this project. They received the Town Engineer's memo dated 12/14/21 and submitted a response letter dated 12/20/21. They also received the Fire Commission memo dated 10/29/21 and have responded to their concerns in a letter dated 12/15/21. They are scheduled to meet with the Fire Chief and Fire Inspector at the site to address any outstanding issues. A formal mitigation plan was submitted for review. Based on the Tree Ordinance, they are required to pay \$100.00 for every protected tree disturbed for the project. A total of 16 acres of the 34 acres is proposed to be disturbed. They are required to pay \$300.00 for every 5,000 sf of disturbance. A total of \$230,000 will be paid into the mitigation fund that consists of a \$160,000 planting plan at the site and a \$70,000 payment into the Tree Bank fund.

Chairman Fon noted that the Board is concerned with the visual impact of the site especially when it is in a residential area and questioned if some of the payment should be used to further enhance the proposed screening of the project. He

noted that the Planning Board is charged to ensure that these sites are properly screened per the Town Code. Mr. Shanahan responded that at the direction of the Planning Department and Planning Board, they have addressed the visual impact with the proposal of a \$160,000 planting plan. Additionally, the fence is set back 50 feet from Foothill Street and the panels are set back 75 to 80 feet from the fence. There is a natural buffer along the entire street that will be enhanced with over 200 mature plantings in the 6 to 8-ft range. At the Board's direction, they provided a photo simulation depicting the growth of the plantings from day 1 up to year 5. Chairman Fon thanked the applicant and stated that the Board wants to ensure that the visual impact is addressed. The Planning Department will work with the applicant to ensure that the viewshed is handled as intended in the Town law. Mr. Bock asked about the Town Engineer's memo with respect to the SWPPP. Mr. Shanahan responded that their engineers have revised the plan and submitted a SWPPP narrative explanation to the Town Engineer and Planning Department late today. Mr. Ciarica stated that he has not had a chance to review the plans as yet but noted that it appears that all the comments were addressed in the latest submission.

Town Board Referral - #FSWPPP-063-21

Location: 48.14-2-1; 322 Chestnut Court

Contact: Hudson Engineering & Consulting

Description: Proposed demolition of an existing deck and patios and construction of two-tiered retaining walls and a new patio requiring approximately 1,650 cy of soil.

Comments:

Michael Stein, P.E.; and Marie Bruno, property owner were present. Mr. Stein stated that the property owner is proposing to re-grade the rear yard and construct two tiered retaining walls along the property line which is highlighted in green on the plans. The walls start off at 6 inches high and go up to approximately 5-ft at the highest point. Each tier is proposed to be 5-ft high. They are proposing to import 1,675 cy of fill to raise the grade. The rear yard will end up being relatively flat.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Ciarica stated that there is a line of trees along the property line and noted that they need to be sensitive to the neighbors since they will be losing their buffer as a result of the construction. Mr. Stein stated that the majority of those trees were removed and are no longer there. Mr. Ciarica asked if a permit was granted for the tree removal. Mr. Stein responded that he didn't know as it was before he was involved in this project. The Board asked about the dimensions of the wall and type of material to be used. Mr. Stein showed the dimensions on the plan and stated that the wall will be made out of unilock. Chairman Fon asked if there was any discussion with the neighbors. Marie Bruno, applicant, responded that they did speak to the neighbors immediately next to and behind them and there were no concerns or issues. Mr. Tegeder asked if landscaping was proposed between the walls. Ms. Bruno responded that shrubbery is proposed in between to help with the appearance of the wall. Mr. Bock stated that the property is sloping down to the wall and questioned if there were any sheetflow issues. Mr. Stein stated that they are decreasing the flow compared to the existing conditions. Mr. Garrigan asked if there were any weeping points on the wall for drainage. Mr. Stein responded that there are no weep holes as it is a loose jointed wall. Mr. Ciarica stated that the retaining wall details show a drain that would presumably discharge onto a neighbors property. Mr. Stein responded that they will make the necessary adjustments. Mr. Garrigan asked if there was any intention to install a fence on top of the wall. Mr. Stein responded that they will either install another row of dense shrubbery or fence along the top as a matter of protection. Mr. Tegeder asked about the type of fence to be installed. Ms. Bruno responded that it would be a decorative fence of some sort.

Chairman Fon asked if there were any planning issues. Mr. Tegeder responded that the treatment toward the neighbor is important in addition to the landscape plan and fencing for the wall. These details should be shown on the plan since most of the impacts are to the neighbors. Mr. Ciarica stated that they will need a tree inventory to discuss possible mitigation. He noted that the 2018 aerial photo clearly shows a line of trees, however the 2021 aerial photo shows none. Discussion followed with respect to the trees. The Board advised the applicant to work with the Planning and Engineering Departments to work on the details.

Old Croton Gatehouse

Discussion: Lighting Plan
Location: 58.16-1-11; Croton Dam Road
Contact: Mark DelBalzo, PE, NYCDEP
Description: Proposed lighting upgrade at Old Croton Gatehouse.

Comments:

Mark DelBalzo, P.E. was present. Mr. DelBalzo stated that the application is for the installation of exterior lights at the Old Croton Gatehouse to maintain safety and security during chemical deliveries and after hours. The adjacent properties affected by the improvements are owned and operated by the NYCDEP and do not object to the improvements. The photometric lighting plan and lighting fixtures were shown to the Board.

Chairman Fon asked the Board and Counsel if there were any issues. Mr. Tegeder stated that they are compliant with the code. The current lighting plan is not an approved lighting plan but this will be remedied with the lighting upgrade. There are no issues with the foot candles. The application will be referred to the ABACA for review and then return to the Board for the resolution. Chairman Fon stated that there is no greater responsibility than the protection of the water system and is in favor of the proposed lighting upgrade. The Board agreed. The applicant was advised to work with the Planning Department.

3717 Crompond Road LLC

Discussion: Site Plan
Location: 35.08-1-13; 3717 Crompond Road
Contact: Site Design Consultants
Description: Proposed demolition of the existing building and construction of a new 20,370 SF two-story warehouse/office building with associated parking and site improvements.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the site is located at 3717 Crompond Road. The applicant is proposing to construct a 20,370 sf retail/warehouse building. About 4,000 sf of the building is proposed to be retail with the warehouse behind. The proposed warehouse will be broken up into smaller units for use by small contractors (electricians, plumbers, etc.) to provide a small office, store materials and park their vans. The main access will be off Route 202. The two existing entrances are proposed to be closed and the single new entrance will be aligned with the parking area and driveway. The parking spaces in front would service the retail portion of the building. There is no second floor to the building but there may be loft spaces for office use or storage of materials. There is proposal for overflow parking in the rear of the property that is proposed to be a gravel parking lot. The front lot will be paved. As requested by the Board, the existing windmill structure will be rehabilitated and incorporated into the building. It is currently being evaluated to see if it is structurally sound. There will be no driveway connection from the front to the rear of the building. Stairs are proposed from the upper part down to the lower part. They started looking at the traffic perspective from Crompond Road to make adjustments for turning lanes.

Mr. LaScala thanked the applicant for incorporating the windmill structure into the new building as it is a landmark and well known in the community. Mr. Bock questioned the access with respect to emergencies since there will be no driveway connection from the front to the rear of the building as well as the length of the side of the building. He noted that he would be interested to hear from the Fire Commission. Chairman Fon asked about the warehouse. Mr. Riina responded that the intent was to provide individual spaces for trade contractors who need a place to park their vans and store their tools. The retail portion of the building has no tenant at the moment. Chairman Fon noted that small contractors are extremely important and this would be most helpful to the area as it may help to clean up sections of the town. Mr. Bock asked if the entire site was zoned C-4 and Mr. Riina replied that it was. Mr. Garrigan stated that Old Crompond Road is a residential area and asked about the use of the gravel driveway off of Old Crompond Road and whether it should be treated differently. Mr. Riina stated that the contractors renting the spaces will have workers that will need a place to park their vans or small trucks. The intent is to leave as much natural vegetation in between as possible so you would only see the driveway access into the site. Mr. Garrigan noted that he wants to be sensitive to the residential side of the project with respect to the hours of use, lighting, etc. Chairman Fon suggested that the Board drive by the site. Mr. Tegeder stated that the usage of the lot could be specified during the review process. The Board agreed to schedule a Public Informational Hearing for January 10, 2022.

Martino Contracting

Discussion: Site Plan
Location: 6.17-2-62; 286 East Main Street, Jefferson Valley
Contact: Site Design Consultants
Description: Proposed subdivision for a two-story office/warehouse/garage and apartment building in the Country Commercial zone and one single-family house in the R1-80 zone.

Comments:
Item withdrawn from the agenda at the applicant's request.

Ryder Subdivision

Discussion: Minor Subdivision
Location: 48.06-1-12; 532 Underhill Avenue
Contact: Site Design Consultants
Description: Proposed to subdivide a parcel with an existing residence into 2 building lots on 6.086 acres in the R1-40 zone. The Board previously reviewed this application from 2013 – 2015.

Comments:
Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that this project was presented to the Board a while back by the previous engineer. The applicant is proposing to subdivide the property into two parcels. The property is located at 532 Underhill Avenue and is zoned R1-40. The proposal meets all the standards for the zone. The site has already been developed with a two-story home that was removed. The existing driveway and wetland delineation are shown on the plans. The treed area is in the front and the rest is open lawn area. The plan shown this evening is preferred by the applicant. The proposal is to pave the driveway over the existing driveway heading to the east and cutting off a small portion of the wetlands. One of the houses was moved over and is essentially in the footprint of the original house with some grading to the rear to provide a usable backyard. The second house is proposed to be further up the hill to the east. Both homes and most of the improvements proposed are within the buffer. The property is serviced by town water and each home will have their own septic system. He noted that in previous discussions, the Board had asked the applicant to look at an alternative plan placing the homes further up the hill into the slope which would result in tree removal and the construction of retaining walls and he did not feel that this was a sensible solution. He thought that the natural location for house #1 would be on the footprint of the original house away from the slope as much as possible. With respect to the mitigation, based on their calculation of the area, they are not able to provide a one to one ratio for the buffer disturbance. Steve Marino, wetlands consultant, will address this further as the project progresses.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Bock stated that both of the proposed plans are in the buffer and the impacts to the wetlands on the shared driveway are the same either way through the corner. The plan proposed this evening creates less disturbance to the buffer by placing the house down the slope a bit and prefers this option. The Board agreed that the proposed plan is a better option as the disturbance is already there and they are not cutting into the slope. Mr. Riina stated that they will return to the Board with more details in order to move forward with a Public Informational Hearing.

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 8:50 p.m.