

Planning Board Meeting Minutes – December 12, 2022

A meeting of the Town of Yorktown Planning Board was held on **Monday, December 12, 2022 at 7:00 p.m.** in the Town Hall Boardroom.

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

- Aaron Bock
- Rob Garrigan
- Bill LaScala
- Bob Phelan
- Bob Waterhouse, Alternate

Also present were:

- John Tegeder, Planning Director
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James Glatthaar, Esq.
- Councilman Sergio Esposito, Town Board Liaison

Correspondence

The Board reviewed all correspondence.

Motion to Approve Meeting Minutes of November 28, 2022

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 28, 2022.

Motion to Open Work Session

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

WORK SESSION

Town Board Referral - 79 Somerston Road - #WP-BSWPPP-038-22

Location: 17.10-1-3; 79 Somerston Road

Contact: David A. Goessl, PE

Description: Application for a wetland permit and stormwater management permit to install an in-ground swimming pool and related stormwater management system in a wetland buffer.

Comments:

David Goessl, P.E. was present. Mr. Goessl stated the applicant is proposing to replace an existing 27-ft diameter above-ground pool with a new 16 x 40-ft pre-fabricated fiberglass in-ground pool. The property in the rear yard where the pool is proposed contains both town and NYS regulated wetlands and partially falls within the FEMA designated special flood hazard area. As per the town code, they are before the Board for a wetland and stormwater management permit as the project is proposed within the 50-ft wetland buffer area. Additional approvals will also be required. They received the Planning Department’s comment memo dated 12/5/22 and submitted a response on 12/6/22. The property is situated on a 17,653-sf parcel in the R1-20 zone and is currently improved with a single-family residence, rear patio, elevated deck, tool shed, walkways and a paved driveway. The grade of the property is modestly sloped from northwest to southeast and is fairly landscaped. The wetland area is heavily wooded and is consistent with adjacent wetland areas in the neighborhood. Prior to this proposal, the applicant appeared before the Zoning Board and was granted variances and subsequent building permits for the construction of an attached garage. They met with the Conservation Board in November. In January of 2022, the owner commissioned Environmental Consultant Steve Marino of Tim Miller Associates to inspect, identify and stake out the wetlands in the rear yard. The 50-ft and 100-ft buffer areas are incorporated on the plans. As part of the approval process, their consultant will assist them with obtaining the NYSDEC wetland permit. Mitigation for disturbance in the buffer area is proposed in the form of wetland plantings consistent

with the area. The engineering details are included within the plan. Contractor access will not be an issue; protective fencing will be installed upland of the wetland area. A conceptual plan to mitigate surface water run-off from the increased impervious coverages coupled with seasonal pool drawdown is provided in the plans. While the project only calls for a 76-sf net increase of impervious coverage, the proposed stormwater management plan will capture 100% of the improved pool area for the 25-year storm, 24-hour rain event which is consistent with the NYSDEC design manual. They will perform the deep hole and percolation testing at a later date. The primary location for the drainage system is in the rear yard, however, if field investigations determine that the front yard is more suitable then that location will be used.

Chairman Fon asked the Board if there were any comments. Mr. Bock stated that the bulk of the improvements including the house are within the 100-ft buffer of the wetlands and believes it may have been set up that way when the original subdivision was created. He feels that the plan as presented is an adequate offset for the further intrusion into the buffer. He noted that from the Conservation Board perspective, if the function of the buffer is maintained in protecting the wetlands to the rear, then there is no issue but deferred to Bob Waterhouse. Mr. Waterhouse agreed. Mr. Phelan questioned if the garage addition was already built. Mr. Goessel responded that the variances and building permit were granted but the construction has not taken place as yet. Mr. Ciarcia stated that the main issue is that the site is mostly wetlands and is regulated by the NYSDEC and the Town of Yorktown. The wetlands delineation needs to be flagged by a wetlands consultant and confirmed by the NYSDEC and the Town. Mr. Tegeder stated that the Zoning Board issued the variance in October and noted that this project was around before then. It is his opinion that the two projects, although the garage has a permit, should be looked at together in terms of their impacts and that the mitigation reflects those cumulative impacts. He concurs with the Town Engineer's belief that the wetland flagging needs to be accepted by the Town's consultant. Mr. Goessel stated that their wetland consultant flagged the wetlands within the year (7 flags in total) that are still in place and noted that they can have those limits memorialized on a map. He added that with respect to the cumulative effect, they are not opposed to looking at the site in totality for both mitigation and stormwater purposes. The Board agreed that the site should be looked at as one plan.

SDML Realty, LLC

Discussion: Site Plan

Location: 35.08-1-11, 14, 15, 23; 3735 Crompond Road (Route 202)

Contact: Reuben Buck

Description: Proposed 3,069 square foot Dunkin with drive thru, parking, and associated site improvements.

Comments:

Reuben Buck, P.E.; and Paul Sardinha, property owner were present. Mr. Buck stated that the plans were revised based on the Board's comments from the previous meeting. The total number of parking spaces were reduced by 10 for a total of 31 spaces (24 spaces on the western side and 7 spaces on the eastern side). The plan was changed to show only angled parking around the building. The spaces on the west side will be for customer use, and the 7 spaces on the east side will be for employee use only. The loading space and trash enclosure were relocated away from the rear property line shared with existing residences. Turning movements for box trucks and tractor trailers were provided for review. They received a no impact letter from OPRHP dated 12/7/22. After reviewing the code, they contracted James Bates from Ecological Analysis LLC to review the wetland delineation performed by ERS Consultants and received their report today. The only other area identified that was not on the plans is a small wetland area "A" approximately 358-sf in size that appears to be isolated and therefore not regulated by the Army Corp or the NYSDEC. Since it is less than 1,000-sf it is also not regulated by the Town. The report will be submitted with their next application. They have no objection to engaging the Town's outside environmental consultant.

Chairman Fon thanked the applicant for making the plan changes as discussed. Mr. Waterhouse asked about the drive-thru kiosk with respect to visibility from the residences. Mr. Reuben responded that the grading for the site will be cut to the rear of the property so the building will be set down which will help with views and noise. Landscaping will also be provided. Mr. Phelan requested that the applicant provide a line of sight profile from the kiosk to the nearest residences. The Board agreed to schedule a Public Informational Hearing for the next meeting. The Board advised the applicant to work on the lighting and landscape plans and potential noise issues.

Lowes Pad C

Discussion: Site Plan
Location: 26.19-1-1; 3180 Crompond Road (Route 202)
Contact: Site Design Consultants
Description: Proposed 2,383 square foot Chipotle with drive-thru, parking, and associated site improvements.
Comments:

Michael Grace, Esq., Joseph Riina, P.E.; and Abigail Adams, Landscape Architect of A2 Land Consulting were present. Ms. Adams presented the landscape plan to the Board. They are proposing the same planting palette for this site that was utilized throughout the entire shopping center to show consistency. Plantings are proposed around the monument sign on Crompond Road that include tall evergreens on each side with lower plant material in the front. An ornamental tree is proposed down the slope into the site with a row of trees along the access drive. The pull off area to the side will be planted with an ornamental tree and the end islands will have a combination of maples. A combination of ornamental plantings are proposed throughout the site to create a four-seasonal interest. From a maintenance perspective, ornamental gravel is proposed in areas with minimal space. On the south side of the building where the patio is located, tall evergreen shrubs are proposed along the fence line. Flowering shrubs and perennials are proposed on either side of the evergreens; everything else on the site will be maintained lawn. Mr. Riina stated that since they were last before the Board, they made a full submission to the Board. They were before the ABACA and received their comment memo. He noted that they still need to review the landscape plan.

Chairman Fon noted that he had no issue with the monument sign. Discussion followed with respect to the slope to the road and viewshed. Mr. Phelan stated that his concern was the type of vehicle to be used for the loading area and noted that a tractor trailer would not fit easily. The plans show a box truck which makes him more comfortable. Mr. Riina responded that the applicant stated that it is not customary to use a tractor trailer for deliveries and instead use a 28-ft box truck which is shown on the site. Mr. Tegeder informed the Board that this could be a condition of the site plan. Mr. Bock agreed and added that it would be binding not only for this application but for future applications as well. The Board agreed to schedule a Public Hearing for the next Board meeting.

Town Board Referral - Toll Brothers at Catherine Street

Location: 35.12-1-2 & 35.08-1-45; 2302 & 2448 Catherine Street
Contact: Zarin & Steinmetz
Description: Submitted petition requesting rezone of the parcels from RSP-3 & R1-40 to RSP-2 to facilitate Toll Brothers redevelopment proposal to construct a 118-unit townhouse community with clubhouse and pool for 55+ active adults.

Comments:

David Cooper, Esq.; and Joseph Riina, P.E. were present. Mr. Cooper stated that he is representing the petitioner Toll Brothers Inc. who is the contract vendee to purchase a portion of the Field Home-Holy Comforter property. The parcels to be purchased are located at 2302 Catherine Street and 2448 Catherine Street consisting of 50.51 acres. They are before the Planning Board this evening as a referral from the Town Board in connection with their petition to rezone this property to the RSP-2 district to facilitate Toll Brothers redevelopment proposal. The applicant is proposing a 118 unit townhouse community for 55+ active adults. The site is currently split zoned in the R1-40 and RSP-3 districts. Neither of these districts permit the type of active adult townhouse use they are contemplating. The RSP-2 zone would allow this type of specialized residential development use. The RSP-3 current zoning allows multi-level nursing homes, assisted living facilities, hospices, and similar uses involving high intensity care which is not being proposed. He noted that several years ago there was an approval for this portion of the site for a 102-unit assisted living facility as well as 96 skilled nursing beds which is a different type of use. The applicant is proposing a townhouse development for seniors and downsizers. They are seeking a positive recommendation to the Town Board for the rezoning petition in order to allow the project to move forward. If the rezoning is adopted, the site plan will follow. A conceptual development plan was put together for review. With respect to SEQRA, the Town Board has circulated its intent to serve as Lead Agency and will review the rezoning and also a concept plan to understand the impacts of rezoning the site. Of the 50.51 acre property, they are proposing a subdivision to parcel out a 2.46 acre portion where the Field Home building is located and give it to the Town for their use. Additionally, a \$150,000 payment for maintenance of the building would be provided to the town. Toll Brothers initially thought about reusing this building potentially for a clubhouse or some other

amenity for the proposed development but from a design and construction perspective it was determined that the building won't work with their proposal. As a result of the proposed subdivision, they would then be developing a 48.05 acre portion of the property.

Mr. Riina showed the aerial view of the existing site to the Board with the boundary lines. The Field Home building is located to the south, and the practice soccer field is located off of Catherine Street. The site as it exists today is mostly wooded with some open areas. The original septic fields for the site were shown but have since been abandoned as they are now on public sewers. There is a perennial watercourse on the eastern portion of the site. The surrounding wetland areas have been flagged and verified by the Town's consultant. They will be asking them to return to take another look at the area. The proposed conceptual plan is for a 118 unit townhouse development. The main entry point is north of the Field Hall with a divided entryway and planted median down the middle. The proposal includes a clubhouse, swimming pool and small parklike setting upon entry to the site. There is another two way entrance to the north to Catherine Street. A stormwater management facility is proposed with two pocket wetlands. They met with the DEP and have already performed their testing. The site slopes toward the north so a few retaining walls are proposed.

Mr. Bock noted that they received a letter from the Westchester County Planning Department today which talks about the rezoning decision with respect to a wider range of housing. They are suggesting that a non-restricted multi-family zone be considered and have cited studies with respect to housing needs. He thinks that the Board may want to consider this and is not sure if it would change anything on the site but may enable the County's objectives. Mr. Cooper responded that he had not received the letter and stated that the proposal is targeted for the 55+ active adult market and will have ground floor master bedrooms. He added that another benefit of a 55+ community is that there won't be any impacts to the school community. Mr. Bock stated that the decision for the Town Board is whether or not this type of zone is appropriate and consistent with the objectives of the comprehensive plan. Mr. Cooper stated that he will review the letter and comment back. He added that there is an RSP-2 district for a reason. The Town Board felt that they want to attract this type of housing into the community as well as diversifying housing stock. He would submit to the County that this type of project would still further the goal of diversifying the type of housing available and noted that in their petition they did go through the comprehensive plan.

Chairman Fon asked the Board if there were any comments. Mr. Tegeder stated that with respect to the zoning question, the Planning Department will gather information from the comprehensive plan and other sources for an evaluation and noted that this site has quite a bit of history with an existing approval. He added that there seems to be much emphasis on a concept plan and noted that when they are looking at a site specific rezone request from an applicant there should be a site review to prove out the requested use. Given the complexity of this proposal, he would recommend that the Planning Board requests to be involved in the concept site plan during the rezoning process in a manner that is a little more detailed than they would expect from other proposed rezones. Mr. Cooper responded that they are aware that the Board is used to looking at more detailed plans but before Toll Brothers can go through the process, the zoning needs to be in place. He added that they expect a full blown review of the proposed development as well as the zoning. With their submission, they provided a long EAF, extended Part 3; fiscal impact analysis; and a traffic analysis for 118 units that are not age restricted which would be more impactful than what is proposed. Additional reports will be provided as requested by the Planning Board or Town Board. Mr. Bock questioned if there were any reports on the types of housing in various zones for the town. Chairman Fon asked if they could get a copy of the reports cited by the County.

Mr. Phelan noted that the existing practice ballfield is not shown in the proposal and questioned if the applicant was proposing to create a ballfield on or offsite. Mr. Cooper responded that there isn't room on site to provide a practice ballfield and noted that initially Toll Brothers proposed \$75,000 to the Parks and Recreation Commission but has since increased the offer to \$100,000 for use towards their programs. He added that the ballfield is rented from the owner with the lease set to expire in two years. There is no formal parking lot at the site. Councilman Esposito responded that he appreciated that the applicant is willing to work on a compromise for the practice ballfield but questioned if there was a way to still provide the amenity for the kids in conjunction with the project. Mr. Tegeder stated that the Board could request a report on the state of the recreational needs for the town and to the extent that the fields are being used or not in order to make a recommendation to the Town Board. This could then assist them on settling on a mitigation for the loss of the field. Mr. LaScala noted that when the lease is over, the town will have no right to the property. Mr. Cooper responded that this was true; the applicant recognizes that the practice ballfield will eventually fall out of use

and is proposing to mitigate that impact in terms of compensation. Chairman Fon advised the applicant that they will need to review the information provided by the Planning Department before making any recommendations.

670 East Main Street

Discussion: Pre-Preliminary Site Plan

Location: 16.08-1-34; 670 East Main Street, Jefferson Valley

Contact: Hahn Engineering

Description: Proposed to remove existing single family house and detached garage and construct five two-story, three-bedroom townhouses and 15 parking spaces.

Comments:

Doug Hahn, P.E.; and Anthony Genovese, property owner were present. Mr. Hahn stated that the proposal is for five (5) two-story, 3-bedroom townhouses on a 0.52-acre parcel in the R-3 zoning district. The parcel is located at 670 E. Main Street between Jefferson Valley Road and East Main Street and is currently improved with an existing single-family residence and detached garage which is proposed to be removed as part of the proposal. Multiple variances will be required for setbacks, floor area ratio and building separation.

Chairman Fon asked the Board if there were any comments. Mr. LaScala questioned if the units will be sold at market rate. Mr. Hahn responded that the applicant is proposing to rent the units at this time. Mr. Genovese added that they would like to build five separate units so they could ultimately sell them in the future but as of now they would be rentals. Mr. Bock stated that the property next to this site has the same layout and questioned if the lot size was the same. He feels that the proposal fits in the area and is consistent with the use, across from a shopping area. His concern is that the intersection this comes out to is tough with respect to the traffic. The street behind seems to be an exit only. Mr. Phelan agreed and thought that the entrance should be reversed with the exit onto Main Street rather than trying to cross traffic to get into the site. He also questioned the exit only restriction. The Board agreed to coordinate a site visit with the applicant. The applicant was advised to stake out the four corners of the building and the location of the entrance and exit to the site.

Dell Avenue Solar Farm - Site Visit

Chairman Fon provided an update to the Board with respect to their site visit this morning. He and Robyn Steinberg were present at the site with the applicant's attorney Cliff Davis. He noted that the solar panels can be seen and won't be easy to screen from the vantage point. Mr. Bock stated that the applicant will need to continue to work on the screening. Mr. Tegeder noted that the line of site diagrams will be very useful for the screening. Mr. Phelan stated that there was a reference that the solar panels had to be fully screened from residential properties according to the code. He questioned the definition of residential properties; and what the regulation means with respect to the language. Does it mean anywhere on the property or just from the residence itself. Is there a restriction and who would answer this question. Mr. Tegeder stated that the intent was to make a reasonable accommodation so that they can't be seen from the most adjacent residential property. This is a good example as the size of the property is something to be considered. Mr. Phelan added that if the residential proposal had gone forward there would be no regulation that would prohibit the homeowners from installing rooftop solar panels with no requirement for screening or buffering. Mr. Bock stated that the issue is that this Board has to apply and interpret a statute that was adopted by the Town Board. If they decide that the statute has a certain meaning, the applicant will either accept it or challenge it and then the court will address it. Mr. Glatthaar stated that the Zoning Ordinance shows all sorts of screening descriptions (i.e. – reasonably screened, suitably screened, and screened) and this says fully screened. His understanding of screening is something that is not a complete and total block but something that would obstruct parts of an area so that there is no massive view. He can't imagine that fully screened means totally blocked. He noted that Mr. Bock made a good point during a previous discussion which is if someone lives above the property, they will then be looking down on it and how do you screen it in that instance. Chairman Fon questioned if the language should be interpreted by the Building Inspector or Zoning Board. Mr. Glatthaar stated that an applicant or neighbor could request this. Discussion followed.

Meeting Closed

Upon a motion by Aaron Bock, and seconded by Bob Phelan, and with all those present voting "aye", the Board closed the meeting at 8:30PM.