

Planning Board Meeting Minutes – March 27, 2023

A meeting of the Town of Yorktown Planning Board was held on **Monday, March 27, 2023 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
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Correspondence

The Board reviewed all correspondence.

Motion to Approve Meeting Minutes of March 13, 2023

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 March 13, 2023.

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

Crystal Court Subdivision

Discussion: Request for Reapproval

Location: 27.11-2-43; Crystal Court

Contact: Panbar Realty

Description: Three-lot subdivision on 5.07 acres in the R1-20 zone approved by Resolution #21-19 dated September 13, 2021.

Comments:

Lou Panny of Panbar Realty was present. Mr. Panny stated that he is here this evening to request a reapproval for the project as they are still working with the DEP. Chairman Fon asked the Board and Counsel if there were any planning issues and there were none.

Upon a motion by Bill LaScala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the resolution reapproving subdivision plat, wetland permit, stormwater pollution prevention plan, and tree permit for Crystal Court.

Motion to Close Regular Session and Open Work Session

Upon a motion by Bill LaScala, 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

Arrowhead Subdivision Lot 6.3

Discussion: Site Plan
Location: 48.13-1-6.3; 831 Shiqer Gashi Court
Contact: DTS Provident Design Engineering
Description: Proposed site plan for Lot 6.3 in the Arrowhead Subdivision.
Comments:

Ralph Peragine, P.E. was present. Mr. Peragine stated that the applicant is seeking site plan approval for lot 6.3 as required by the resolution for the approved subdivision. They received Health Department approval two weeks ago. They also met with the ABACA and received their comment memo. The home is sited in the same location as previously approved, however, the first floor elevation was adjusted to work better with the existing topography. Retaining walls are proposed in the rear and front of the property with a height maximum of 6-ft.

Mr. Bock questioned why each individual lot needs approval. Mr. Tegeder responded that this property has significant grade issues as well as stormwater issues. It has a SWPPP that has been expanded by the DEP. There is also open space on the south side of the slope to Turkey Mountain so the Planning Board wanted to ensure that when the final design was laid out and ready for a building permit it was still in keeping with the original approval. Additionally, any time there is a first floor elevation change of 2-ft or more it is required to be reviewed by the Board. Mr. Peragine stated that the first floor elevation was lowered by 4-ft. Mr. Bock questioned if there was any significant difference from what was originally approved. Mr. Tegeder stated that the general layout seems to be in keeping with what was originally proposed and asked the applicant if there was any significant additional impervious surfaces created. Mr. Peragine responded that there were not and the footprint is similar to what was shown originally. He also noted that the septic field is in the same location as approved. Mr. Garrigan asked about the lot associated with the recreation department and the easement. Mr. Tegeder responded that land was donated to parks and recreation which was appended to Turkey Mountain. With respect to the conservation easement, there was a policy to prevent development over a certain elevation which is reflected by the easement. The Board had no planning issues.

Upon a motion by Bob Phelan, and seconded by Bill LaScala, and with all those present voting “aye”, the Board returned to the regular session of the meeting.

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the resolution approving a site plan, stormwater pollution prevention plan, and finished floor elevation for Lot 6.3 of the Arrowhead subdivision.

Motion to Close Regular Session and Return to the Work Session

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

Tully fka Sandvoss Minor Subdivision

Discussion: Site Plan
Location: 59.07-1-7 & 8; 1005 Hanover Street
Contact: Site Design Consultants
Description: New property owner would like to build one home on the existing parcels using the approved private road as a driveway. The Sandvoss Subdivision was previously approved, but a plat was never filed.

Comments:

Joseph Riina, P.E.; Brendan and Kelly Tully, new property owners, were present. Mr. Riina stated that the property was previously approved as the Sandvoss subdivision. The property has an existing lot that fronts on Hanover Street and three new residential lots were created out of one parcel on 13.8 acres. This required construction of a private road that extends from the frontage with two stream crossings to the rear two lots of the property. The Tullys are the new owners who have decided to abandon the subdivision and instead construct a single home on the property. The existing lot on Hanover Street still remains and they are proposing to construct one of the houses towards the rear of the property. The impact will be significantly less. The width of the driveway is reduced and proposed to be gravel. The turnaround will be maintained for fire truck access. The stormwater is relatively the same but will have less stormwater management

facilities since there are less improvements. The house and septic system system are in the same location as originally approved for the subdivision. A pool is also proposed to the rear of the residence. Overall, the proposal is a reduction to what was originally approved for the subdivision. The applicant is requesting to amend or renew the wetland permit that was originally granted as part of the subdivision process. The footprint has not changed from what was approved.

Mr. Tegeder asked about the DEP. Mr. Riina responded that they have full SWPPP approval and are proposing to construct under the original SWPPP as there is no increase. Mr. Tegeder asked about the limits of disturbance comparatively. Mr. Riina responded that it is significantly less and quantified the wetland and buffer disturbance. Mr. Tegeder noted that the subdivision was approved per the resolution but a plat was never filed. He thought that there may need to be an amendment to abandon the subdivision; as well as amend the wetland permit to reflect the plan provided. Mr. Bock questioned if the Planning Board still has jurisdiction over this project since there is no more subdivision. Mr. Tegeder responded that he will look into this. The Board had no issues with the revised proposal and advised the applicant to follow up with the Planning Department.

MJM Land Development

Discussion: Major Subdivision

Location: 17.18-2-2; 3232 Gomer Street

Contact: Site Design Consultants

Description: Proposed 13-lot single family subdivision on 12 acres in the R1-20 zone.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that an alternate plan was submitted to the Board based on their comments. A comparison of the original conventional plan and alternate plan were reviewed with the Board. The original plan shows access off of London Road on the existing town right-of-way. Once in, the property splits to the left and right with a total of 13 lots (7 lots on the Gomer Street side and 6 lots on the Cordial Road side). This plan will cross the wetlands that run down the center of the site. The alternate plan shows access off of Gomer Street and Cordial Road and will not cross the wetlands. The Gomer Street access will have a total of 7 lots with a cul-de-sac at the edge of the 100-ft buffer. The Cordial Road access will have a 40-ft frontage and a total of 6 lots with a cul-de-sac. The issue still remains with the pinch point and not having the 50-ft access point. He added that the applicant has contacted the property owners on Cordial Road and there is no cooperation with gaining a piece of property. He thought they could possibly address this issue with a flexibility subdivision. If the Planning Board agrees, they could request flexibility standards for this subdivision to the Town Board which will help with the 50-ft right-of-way on the Cordial Road approach and also allow flexibility on the lots. Mr. Phelan asked if the flexibility standards will give the Board the ability to consider the alternate plan with the 40-ft right-of-way. Mr. Riina stated that it would allow them to modify the bulk standards. Mr. Riina noted that the roadway off of Cordial Road would have to be a private road but will be built to town standards. Mr. Phelan asked if the lack of 50-ft was the threshold for a private road. Mr. Riina stated that this was his understanding and thought that a 50-ft right-of-way is required for a public road. Discussion followed with respect to the code. Mr. Glatthaar stated that he will look into the right-of-way requirements and advised the Board to request the flexibility standards from the Town Board.

The Board preferred the alternate plan layout and agreed to request flexibility standards for this subdivision. Mr. Tegeder advised the applicant to flag the wetlands.

Upon a motion by Mr Bock, and seconded by Mr Phelan, and with all those present voting “aye”, the Board agreed to submit a memo to the Town Board requesting flexibility standards for the MJM Land Development.

Home & Hearth

Discussion: Site Plan

Location: 15.12-1-2; 1750 East Main Street

Contact: Site Design Consultants

Description: Proposed demolition of two existing buildings to construct a new 5,500 SF showroom/warehouse and 4,500 SF storage building on 1.99 acres in the C-4 zone.

Comments:

Bob Phelan recused himself from this application. Joseph Riina, P.E.; and Steve Marino, Wetlands Scientist were present. Mr. Riina stated that they were last before the Board about about a year ago. A Public Informational Hearing

was already held for the application. Since that time, they met with the ABACA and received their comment memo. They also received the wetland consultant report. The site plan has not changed from what was shown previously. The architectural, lighting and landscape plan was also submitted for review. They are hoping to move forward with a Public Hearing.

Mr. Marino stated that there are two aspects with respect to the wetlands which are the town wetlands and the DEC wetlands. He received the town's environmental consultant report confirming the wetlands, delineation and review of the mitigation plan. Other than a couple of minor adjustments to the plant list and details on the mitigation plan, his feeling is that the consultant sees this as a reasonable redevelopment of the property. He also performed a site walk with the DEC and there were no substantial issues in the field with the plan. He is currently waiting for their written comments in order to finalize the DEC permit.

Mr. Tegeder noted that one of the floodlights appeared to be non-shielded. Mr. Riina responded that he will look into it. He also suggested that the applicant may want to consider adding some high windows to the facade that faces the street as this is a large field of board and batten siding. Mr. Bock asked about the sidewalk. Mr. Riina responded that they are showing new sidewalks. The Board agreed to schedule a Public Hearing for the April 24th Board meeting.

Gardena Hotel

Discussion: Site Plan & Special Use Permit
Location: 37.14-2-54; 1952 Commerce Street
Contact: Michael Grace, Esq. & Site Design Consultants
Description: Proposed demolition of existing building and construction of an 18-room boutique hotel with rooftop bar/grill, parking, and landscaping.

Comments:

Michael Grace, Esq.; and Joseph Riina, P.E. of Site Design Consultants was present. Mr. Grace stated that they are present this evening as a follow up to the previous meeting with respect to the architecture and comments received from the ABACA and Planning Board. He added that the Board agreed to a public hearing previously and is hoping to move forward for the next meeting. Mr. Riina showed the transgression of the architectural plan from start to present. He noted that the plan presented this evening is the final rendition as a result of their meeting with the Planning Department. The stucco was removed and the façade is mostly brick with limestone finish and stone base around the building. They eliminated the brick coins on the main tower and the clock tower. A daytime and nighttime version of the proposed building was shown to the Board. Mr. Riina noted that the rendering shown also reflects the landscape architect's plan. Mr. Phelan asked if the main hip roof was copper. Mr. Riina stated that it was not and is proposed to be a standing seam metal roof. The brick is more reddish in color closer to what exists on Commerce Street. They will bring physical samples for the next meeting. Mr. Tegeder noted that there were three brick colors, two reds and one brown.

Mr. Tegeder informed the applicant that the lighting plan needs to be finalized. Mr. Riina responded that they are working on the lighting plan and SWPPP. Mr. Tegeder informed the Board that he had a short conversation with the historical consultant and will report back. The Board was pleased with the revised architecture simplifying the palette and materials. The Board agreed to schedule a Public Hearing for the April 10th meeting.

Underhill Farm

Discussion: Project Review
Location: 48.06-1-30; 370 Underhill Avenue
Contact: Site Design Consultants
Description: Proposed mixed use development of 148 residential units, 11,000 SF commercial space, and recreational amenities proposed on a 13.78 acre parcel in the R1-40 with Planned Design District Overlay Zone authorization from the Town Board. Original main structure to remain and be reused.

Comments:

Mark Blanchard, Esq.; Joseph Riina, P.E.; and Steve Marino, Wetlands Scientist was present. Mr. Blanchard stated that they are here this evening to update the Board since their last meeting.

Mr. Marino updated the Board with respect to the wetlands, tree survey and town code. He met with the town's environmental consultant at the site to walk the property. They received the consultant report confirming that the

delineation has expanded. There is a portion of the wetland which is a small pocket in the center where the three wetlands are located on the western part of the site. It was expanded based on standing water identified in that area. It is his opinion that these wetlands were created by the construction of the emergency access road to Beaver Ridge. They performed a site walk with the Conservation Board recently and noted that you could still see the areas where the material was excavated from the western side of the access road in piles on the eastern side of the road. The run-off from Glen Rock through the property is now trapped through that access road. Wetlands that meet the town's definition have formed over the past 30 or 40 years of which they acknowledge exist. Wetland C has been expanded based on the consultant's review of the property and is now shown on the current site plan. It is his understanding that the consultant has seen the revised plan and has confirmed its accuracy based on their site visit.

With respect to wetland A (*watercourse from Glen Rock that flows through the site, under the access road and into the pond*) the consultant recommended that they close that wetland loop at the road to make the final boundary clear. The final survey will be updated to show that as a closed wetland line originating at the 15-inch culvert.

They are still proposing to fill wetlands B and C on the western side of the access road as part of the development and noted they are relatively small even with the expansion of wetland C (wetland C is about 4,000SF and wetland B is under 2,000SF). Mr. Tegeder asked about the quality and function of the wetlands. Mr. Marino responded that it is described in the draft EAF to date and will provide more detail in terms of soil and vegetation. The soils in wetlands B and C are dense compacted subsoils with low nutrients so the vegetation is a mix of weedy species and low-quality transitional wetland type species. There are no trees or wetland shrubs only assorted grasses that have adapted to that standing water situation in those wetlands. Mr. Tegeder asked if there was a possibility of a vernal pool. Mr. Marino responded that there is no possibility and that the wetlands dry out during the summer and noted that it is not the kind of hydrology that would support the type of vernal pool species such as amphibians. Amphibians generally need a high nutrient sub strait in a wetland in order for it to be a vernal breeding pool. Mr. Tegeder stated that this seems to support the contention that the wetlands were created by impoundment for the emergency access road. Mr. Marino agreed and noted that the piles of material removed from those areas can still be seen. Wetland B is an actual pond surrounded by material excavated out of the pond to create a berm around it. He added that the emergency access road was not built to a high standard and can't be used at this point as it is saturated due to the run-off from the hill. It seemed to have been done quickly for access and the fact that they left the piles of soil all around the western side is evident that they tried to get something there. The two gates that access the road are still on Underhill Avenue. Chairman Fon asked when the road was built. Mr. Marino thought it was built in the late 1980's. Chairman Fon stated that it seems when the road was built, the hole was created with piles of material and has been that way since. Mr. Marino responded that it was and noted that the aerials over the years show that it was a cleared maintained agricultural field from Glen Rock down to the developed portion of the property. It was a consistently dry area until the road was built and thinks the consultant confirmed this as well based on their review of the aerials and site walk. Wetland A comes down under Glen Rock discharges onto the property heads north and makes a quick right east into the woods and the pond which is what they are showing. There is a ditch channel that goes from the stream of wetland A that was identified as what was shown on the older aerials as the watercourse that came in from the corner of Glen Rock and Underhill onto the site and picked up by the 15-inch culvert under Glen Rock. When the site improvements were made for the emergency access road, the channel essentially dried out. Mr. Bock disagreed and stated that he saw it running a few weeks ago and feels it needs to be included in the wetlands. Mr. Marino responded that it is and is shown as a regulated watercourse on the property and are not denying its existence. While in the field, they located a few trees that were tagged and used as a barometer from where the watercourse started and noted that it does flow seasonally. From his experience on the site it is dry 8 to 9 months out of the year. The town's consultant reviewed the final mapping and other than the comment about wetland A through the culvert under Glen Rock they are fine with the delineation as shown.

Mr. Tegeder asked about the major pond and its outlet. Mr. Marino responded that the original stone culvert outlet is on the northern end of the pond, The whole northern side of the pond is wrapped with cut stone. At one point in the northern most point of the pond there is an opening where the pond overflows into the culvert and that culvert immediately drops about 12-ft down or so and flows under the site to the north onto the Beaver Ridge property. Mr. Tegeder stated that they will need know the location of the culvert and where it is heading as it will be preserved. Mr. Marino stated that he doesn't believe there is anything in the construction plan that will interfere with preserving the flow and the underground culvert.

Mr. Phelan asked about the emergency access road and questioned if there were any permits in 1980 that would reflect when and how it was built. Mr. Marino responded that they have the original site plan for Beaver Ridge and there is an easement through the property but the access road doesn't follow the easement. Mr. Riina stated that he thought when Beaver Ridge was approved they needed an alternate emergency access and sought an easement to build this road. Mr. Tegeder stated that it was the subject of the subdivision and was probably in common ownership at that time. Mr. Phelan was concerned about the need to maintain or abandon it. Mr. Riina responded that it will be replaced with another connection as shown on the plan. Mr. Phelan stated that the creation of the access road all those years ago, even if it was on a temporary basis, has impacted the wetlands that they are now looking at today without perhaps any approvals and not following the easement. Mr. Marino stated that there is no indication based on what they reviewed, that those wetlands were there before the road was constructed other than the stream that came down the hill into the pond. The consultant also thought it wasn't implausible to how these wetlands were created.

Mr. Marino added that the consultant also mentioned the possibility of Army Corp involvement if they were to go through the process of diverting the stream at wetland A due to the construction. He noted that those buildings were scaled back and the channel will now remain in its existing location so they don't anticipate Army Corp approval. Wetlands B and C are too small and isolated to be regulated and are not connected to the existing wetland A. They will provide all the data necessary to prove that those wetlands are not regulated by the Army Corp. Mr. Bock asked if they will be submitting additional information for the proposed mitigation plan. Mr. Marino responded that they have a conceptual mitigation plan currently. Once the engineering details are finalized for the creation of the wetland expansion, the mitigation plan will be more detailed. Details will be provided as to how they will replicate the functions that are being lost in the two wetland areas. Mr. Bock asked if they will discuss the issues raised by the code in terms of avoidance, etc. Mr. Marino responded the this will be addressed.

Mr. Marino stated that he met with the Planning Department to review the town code with respect to the trees. The original survey locates 703 trees (all 8 inches or greater in diameter) on the property. A detailed list was provided in the plan set that shows the trees to be preserved (green) and trees to be removed (red) as part of the proposal. He informed the Board that all the maple trees are simply listed as maple trees but noted that there are four species of maple trees that are common to the area and there is a difference as to those that are more sensitive to preservation as opposed to other species that aren't. The tree code specifically lists a reference for invasive and non-native tree species that should be removed from a site as part of a mitigation plan. As a result, they reviewed the list and started a process of updating the maple trees in terms of species (Norway maples, sugar maples, Japanese maples, red maples, mountain maples, etc.) He noted that there are at least four species of maples at the site. He already identified 45 Norway maples as well as 23 black locusts that are recommended to be removed as part of the mitigation plan. There are still 110 maple trees to be removed but they have not identified the species as yet. They need to determine how many of those trees aren't actually protected under the code. Currently they have 703 trees with 594 protected trees on the property. Of those 594 protected trees, they are showing 186 trees being preserved on the property all 8 inches and greater. A total of 408 trees are proposed to be removed and noted that the original count was at 523. The number was reduced based on the invasive and non-native species as discussed. Mr. Marino added that about 180 of the trees to be removed are aspens and cottonwood and although they are native species, they are also a nuisance species as they grow quickly, splinter and break as they have shallow root systems, however, they will be replaced. 336 new trees are proposed to be planted with 408 protected trees to be cut presently with a minimum of 110 non-native species per the code. The mitigation for the overall property will be done once the plan is finalized. He noted that there was a discussion with the property owner to look at the perimeter areas of the site that will not experience much disturbance in order to preserve some trees. As a result, 25 trees were identified, several of which are along the Route 118 side of the property. Additionally, they may be able to save some of the trees around the northern edge of the pond. Mr. Garrigan felt that this was a very positive move.

Mr. Riina stated that there is adequate parking for the townhomes and condos. With respect to the apartment building and existing building, 194 spaces are required based on the overlay district which asks for 1.5 parking spaces per dwelling unit, and one space for every 400SF of commercial space other than a restaurant. The restaurant space in the existing building, if it should happen, requires one space for every 50SF of patron space and one per 100SF prep area. Based on the 194 spaces required, they are showing an aggregate of 182 spaces (less 12 spaces) which places them in the 25% allowed to be varied by the Planning Board per the parking code. He added that they do have an area available

if necessary to place an additional 20 spaces and showed the location on the plan. He noted that that they are about 7% under the aggregate of parking around the building. Mr. Phelan asked what the difference would be with respect to the service portion. Mr. Riina responded he thought it would be one more space.

Chairman Fon stated that the traffic should be discussed with the applicant and the town's consultant at some point. Mr. Blanchard stated that they had a productive meeting with town staff and members of the DOT and are waiting for the traffic consultant report. He requested to be placed on the April 10th work session to discuss the traffic aspect. He also requested to continue the traffic, wetland and tree discussion with a special meeting on April 12th. Chairman Fon requested for the town's traffic consultant to be available for the traffic discussion. Mr. Blanchard noted that the historical aspect may also be part of the special meeting discussion. The Board had no issues with this request.

Mr. Bock noted that during the March 8th special meeting there were a number of comments from different agencies (Recreation Commission, Conservation Board, Historic Preservation Commission and the Housing Commission) that didn't seem to be reflected in the record. He feels that as part of the SEQRA process, these comments should be addressed in order to have a complete record. Mr. Blanchard stated that the comments from that meeting will be addressed. Mr. Garrigan noted that the issues raised at that meeting would be captured in the various correspondence from each agency and questioned if he was suggesting that the minutes are missing. Mr. Bock responded that he was. Mr. Tegeder stated that they will be provided to the Board for the record and noted that videos of each meeting are always available on the website.

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board agreed to schedule a special meeting to continue their work session discussion on Wednesday, April 12th.

Board closed meeting and moved into an Executive Session

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting and entered into an Executive Session. Meeting ended at 9:46PM.