

# Planning Board Meeting Minutes – November 6, 2023

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A meeting of the Town of Yorktown Planning Board was held on Monday, November 6, 2023, at 7:00 p.m. in the Albert A. Capellini Community & Cultural Center building.

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
- Bob Phelan
- Bob Waterhouse, Alternate

Also present were:

- John Tegeder, Director of Planning
  - Robyn Steinberg, Town Planner
  - Ian Richey, Assistant Planner
  - David Chen, Esq.
  - Councilman Sergio Esposito, Town Board Liaison
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Chairman Fon called the meeting to order.

The Board reviewed all correspondence.

Chairman Fon noted that the Board conducted a site visit this past weekend for a potential subdivision (Penna) with the property owner. They traversed the road and were confronted by a resident stating that they were trespassing. He asked Counsel if this was an issue. Mr. Tegeder added that the applicant/owner has rights to the road as some of the property he owns is on Kipling and the other leg of the property fronts at the very end of Taconic Woods Road. Mr. Chen stated that he didn't think it was an issue.

### **Motion to Approve Meeting Minutes of October 16, 2023**

Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting "aye", the Board approved the meeting minutes of October 16, 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**

### **Dorchester Glen Subdivision**

Discussion: Request for Re-approval

Location: 15.20-3-6; 1643 Maxwell Drive

Contact: Site Design Consultants

Description: Approved 5 lot subdivision on 24.26 acres in the R1-20 zone by Res #22-28

Comments:

Chairman Fon noted that Joseph Riina of Site Design Consultants could not be present this evening and submitted an update to the Board. The applicant is requesting reapproval for the approved subdivision as they are currently working through the DEP and Health Department approvals.

Chairman Fon asked the Board and Counsel if there were any issues and there were none.

**Upon a motion by Bill Lascala, and seconded by Bob Phelan, and with all those present voting "aye", with the exception of Aaron Bock who was not present during this portion of the meeting, the Board approved the resolution reapproving the Dorchester Glen Subdivision.**

### **Roberta Front Street**

Discussion: First One-Year Time Extension

Location: 48.07-2-11, 13, 15, 17; Front Street

Contact: Site Design Consultants

Description: Approved site plan for a 2,108 SF one-story building and a 5,370 SF two-story building on 0.80 acres in the transitional zone.

Comments:

Chairman Fon noted that Joseph Riina of Site Design Consultants could not be present this evening and submitted an update to the Board. The applicant is requesting a first one-year time extension for the approved site plan and noted that the project is moving forward.

Chairman Fon 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”, with the exception of Aaron Bock who was not present during this portion of the meeting, the Board approved the first one-year time extension.**

### **Motion to close Regular Session and open Work Session**

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

## **WORK SESSION**

### **Savannah’s Restaurant**

Discussion: Site Plan

Location: 25.20-1-3; 3901 Crompond Road

Contact: Gina & Paul DiPaterio

Description: Proposed enclosure of deck seating area.

Comments:

David Tetro, Architect was present. Mr. Tetro stated that the applicant is proposing to enclose the existing front porch seating area to provide year-round dining and to also create a vestibule at the front entrance. There is no increase to the seating area. The entrance will remain in the front but will shift slightly to the east; the railings will be replaced with walls and windows.

Mr. Garrigan asked if the walls were removable for seasonal use. Mr. Tetro responded that they were permanent enclosures. Mr. Phelan asked if variances were required and the response was no. Mr. Phelan asked about the ancillary patron dining space with respect to the parking ratios. Mr. Tetro reviewed the current application and original application with respect to the square footage. Mr. Tegeder informed the Board that the ancillary space is typically prep space area and other areas that support the restaurant use and not the seating area. He added that the parking for the front porch was accounted for in their original approval so there are no changes.

Mr. Tegeder stated that there were some changes to the site that were not part of the original approval as detailed in their comment memo to the Planning Board. Additional pavement was added to the rear parking lot; and the trash enclosure was relocated to what was originally a loading space. There is no landscaping around the southwest corner of the building but there is privacy fencing; the eastern side of the building is lined with air conditioning units, a privacy fence and landscaping that is not shown on the plans. He informed the Board that the Planning Department has no objection to the issuance of the building permit for the porch enclosure provided that the applicant obtains an amended site plan and stormwater permit approval for the additional pavement prior to the issuance of a certificate of occupancy. The Board agreed. A memo will be submitted to the Building Department with their comments.

### **Bank of America**

Discussion: Lighting Plan  
Location: 7.16-1-23; 2 Triangle Center  
Contact: Stonefield Engineering and Design  
Description: Proposed lighting upgrades to the Bank of America parking lot.  
Comments:

Zachary Chaplin, P.E. of Stonefield Engineering and Design was present. Mr. Chaplin stated that the site is located at 2 Triangle Center in the Triangle Shopping Center. The applicant is proposing lighting upgrades to the Bank of America in order to meet state mandated requirements for security lighting at ATMs. The proposal is to upgrade the existing drive-thru and building interior ATMs; and to replace all of the existing lighting with LED fixtures for energy efficiency. The floodlights at the existing drive-thru canopy are proposed to be removed; and the existing 29-ft light pole is proposed to be replaced with a 25-ft light pole with LED fixtures. Additionally, they are proposing a new pole mounted light fixture at 25-ft and noted that this is higher than what the code currently allows. For background purposes, he noted that the state mandates a radius for the light levels from the ATMs. Two new LED wall mounted fixtures are proposed at the bank entrance. Mr. Chaplin stated that they had a meeting with the Planning Department with respect to the proposed plan and lighting levels. Per their conversation, they are looking at lowering the light poles and color temperature from what was originally submitted.

Chairman Fon asked the Board if there were any comments. Mr. Tegeder stated that they are always concerned with over lighting and added that the positive aspect is that the floodlights are being removed; and the lighting levels and color temperature will be taken care of. He noted that the two light poles (existing and proposed) are proposed to be 25-ft in height which is 9-ft higher than what the code allows. If the Board is ok with this, it can be incorporated into the approving resolution. Mr. Chaplin stated that they will revisit the pole height and noted that the site is on a slope which may help with the view. The Board advised the applicant to work with the Planning Department.

### **Penna Subdivision**

Discussion: Proposed Subdivision  
Location: 26.07-1-3 & 10; 3032 Manor Street & 882-892 Kipling Drive  
Contact: Robert Penna, property owner  
Description: Proposed 10 lot subdivision on 8.7 acres in the R1-20 zone.  
Comments:

Robert Penna, property owner was present. Chairman Fon stated that the Planning Board conducted a site visit with the applicant on 11/4/2023. He added that the applicant has indicated that they are not interested in moving forward with a formal subdivision however they are seeking feedback from the Board with respect to the proposed concept plan.

Mr. Bock noted that there were several options submitted and it seemed that option "C" was the preferred option. Mr. Phelan agreed and noted that this would be the most favorable as it was straight forward with minimal road to be built and less disruption to the site with a better layout. Mr. Penna stated that proposed cul-de-sac would help with sizable vehicles (garbage, emergency) as currently they have to back in.

Mr. Phelan noted that his concern is that they are proposing to build a road up to the existing non-dedicated road and questioned what would happen on the other side of that property line. He feels that this is a separate issue that would not be resolved in the proposed subdivision process. It is his understanding that the town would make the decision to accept the offer of dedication.

Mr. Bock noted that one of their responsibilities in reviewing proposed subdivisions is ensuring that there is legal access. Mr. Tegeder informed the Board that they need to keep in mind that there are planning issues that need to be reviewed with the access being one of them (length of roads with and without cul-de-sacs, etc). The fact that the existing road is narrow with no option at the end is a problem for emergency vehicles. The existing neighborhood was built with one-acre lot sizes and will now be interspersed with half acre lots and feels that the Board will need to stay away from any indication of what the final lot count will be.

Chairman Fon asked if the property was served by public water and sewer. Mr. Penna responded that it was served by public water. He added that there is a sewer line that runs along the rock wall on the property. Chairman Fon noted that there are some wet areas on Kipling Drive. Mr. Penna noted that this is pre-existing and is not part of his property.

Chairman Fon noted the steep slopes on the property. Mr. Penna stated that his plan does not go that far into the property. Mr. Tegeder noted that the grading will also need to be looked as part of the subdivision review which may impact the proposed plan.

Mr. Phelan stated that there are two lots plus the existing residence and questioned if the proposal would be for multiple subdivisions. Mr. Penna reviewed the history of the lots and how they came about. Mr. Phelan noted that the proposed plan is for the entire holdings for the subdivision and basically evaporates the property lines as they are creating a new one. He questioned if the lots as configured are within their boundaries divided into two lots. Mr. Tegeder responded that they were. Mr. Phelan felt that they are looking at a couple of subdivisions and not just one. His concern is that the family has the ability to sell one of the lots currently and the applicant is asking for a preliminary reaction to a couple of different plans. Mr. Penna noted that the plan does not constitute just one lot but three separate lots and a subsequent developer may have to go through three simultaneous subdivisions.

Mr. Garrigan stated that the challenge is that there are so many options as it is a very developable piece of property. The grade works to its advantage in terms of stormwater control. He thinks from a density perspective, option "C" seems to make the most sense. Mr. Waterhouse questioned if they were in a position to favor one option over the other. Mr. Chen stated that the Board could comment on their reaction.

Mr. Bock felt that the Board shouldn't favor any particular option and would not be comfortable doing so as it implies approval of the particular layout before them. He would rather state some objectives that they would like to see come out of this application(s) such as minimizing the use of Kipling Drive as it is a substandard road and maximizing the access from Manor Street because they can match two pieces of a town road to the proper standards. This would be the only planning objective that he sees for this application; the specifics would come later with the plan details.

Mr. Penna stated that the proposed plan is the least impactful on the area and left the most woodland adjacent to the town park; it does not encumber Kipling Drive or Taconic Woods Road. He understands that the Board is not in a position to approve the plan but is hoping for their input as to what is viable for the property and its future development.

Mr. Bock stated that every action that the Planning Board takes is subject to some level of review and feels that they cannot make arbitrary or unsupported decisions without assessing the environmental impacts. Chairman Fon agreed and didn't feel comfortable making a determination without more information. Mr. Garrigan agreed and noted that the items they review include access, stormwater, wetlands, neighborhood impacts, etc. which cannot be done until the project is before them. The Board agreed that they were not comfortable with making a determination.

### **Stahmer Subdivision Kane Residence**

Discussion: Proposed Subdivision  
Location: 59.1-1-10.1; 535 Jerome Road  
Contact: P.W. Scott Engineering and Architecture, P.C.  
Description: Proposed site plan for a 3,383 sf single-family residence, a 1,300 sf barn, and a 1,080 sf pool, located on a 4.3 acre parcel, previously approved for a different applicant. Construction has been reduced by 380 sf from original approved plan. Previously approved SWPPP will remain. Tree removal has already taken place following previously approved Tree Mitigation Plan.

#### Comments:

Peder Scott was present. Mr. Scott stated that the project was approved in 2021 for another applicant (Lot 2 - Miressi) and was then sold to the new owner, Michael Kane. Mr. Kane purchased lots 2 and 3 of the approved Stahmer subdivision. They are currently looking at lot 2. The project is consistent with the access and all the approvals are in place which include the Department of Health and DEP. The stormwater management system is below the house site and the septic system is on the northwest corner as previously approved. The footprint of the home is smaller; a future barn and pool are proposed but is still smaller in size than what was originally approved. They met with the ABACA and there were no issues. Plantings were proposed to mitigate tree removal. The site was cleared in compliance with their previous approval but the buffer plantings were never planted by the previous owner. For buffering purposes, they are installing a row of Norway Spruces along the proposed roadway and buffering the neighbor to the north. A dense row of hedges are proposed along the edge of the property line to the east because their site is lower than the neighboring property. The bamboo is proposed to be removed and mitigated. He noted that the neighboring property (lot 1) did not remediate their bamboo so an arrangement will need to be made to prevent the bamboo from invading his client's property. The proposed house is a linear single-family structure (about 3,600SF) which faces north.

Chairman Fon asked Mr. Scott if he saw the most recent neighbor correspondence. Mr. Scott responded that he did and noted that the previously approved plan addressed the issue with the orientation of the pines. The approved septic system abuts the property line which prevents them from installing pines along that line. A curved tree line is proposed as shown on the plans. Mr. Garrigan noted that the concern was not the view but the wind. Mr. Peder explained that the curved orientation will help with the reinforcement. Mr. Scott explained that they cannot install plantings near the septic system. Discussion followed with respect to the septic system, plantings and the neighbor's invasive bamboo. Mr. Peder reviewed the topography and screening for the site. A 10-ft hedge (skip laurels) is proposed to be installed on the property line for buffering. Mr. Tegeder thought that a change of the plant species to green giant arbovitae may help as they grow higher, create a dense screening and break the wind. Mr. Scott responded that he will look into this further and suggested possibly intermingling a few arbovitae.

Mr. Phelan noted that the usage is residential to residential and the applicant is being asked to buffer their house from the neighbor and he has a conceptual problem with it. Mr. Tegeder noted that the hedge along the border of this property also serves as screening for the applicant. He thought if they installed a different species with more height, it may break it up and likely help with the wind and screening. Mr. Scott responded that his client was willing to provide a few trees as a condition of approval and to be neighborly. Chairman Fon thought that the proposal was very nice and the applicant is proposing mitigation for screening. Mr. Tegeder noted that the biggest amendment to the approved plan is that the footprint has decreased and the position is slightly different. Mr. Peder showed a comparison of the original approval versus the revised footprint and noted that the project is dictated by DEC compliance. The Board advised the applicant to work with the Planning Department with respect to the trees. Mr. Tegeder noted that a resolution could be drafted amending the original approval per their discussion.

### **Town Board Referral - 3000 Navajo Road**

Location: 6.14-1-2; 3000 Navajo Road  
Contact: Insite Engineering, Surveying & Landscape Architecture  
Description: Proposed rezone of a 49.6 acre site in the R1-80 zone to support the development of the site as mixed use for commercial recreation and multi-family residential.

#### Comments:

Michael Grace, Esq., Rich Williams, P.E., and Charles Diven, property owner, were present. Mr. Grace stated that the site is located at 3000 Navajo Road (Route 6N) in the far northeast corner of the town and borders both the town of Somers to the east and the Town of Carmel to the north. It consists of 49.6 acres and is currently zoned R1-80. The property was reviewed in the past by the Town Board, Planning Board and the NYSDEC (wetlands) and was known as Navajo Fields. Presently the site is used for commercial recreation that will remain. The application was referred by the Town Board to the Planning Board for a proposed rezone of the property. In order to accommodate this project, the town may have to enact a new section of the code with respect to zoning districts and would be similar to what is available under R-3. The proposal is for the construction of a total of 254 units (two clusters) in different locations on the site; and the redevelopment of the athletic facilities. The site is presently accessed from Navajo Road and Route 6N. The developer is proposing alternative architectural treatments to each of the individual housing clusters. The density is consistent with the existing R-3 and surrounding neighborhood. One of the benefits of the proposed project includes the installation of a sewer infrastructure along Route 6N to Hill Blvd that would help to revitalize and redevelop the corridor and Lake Osceola area which has been problematic for decades. This could give the town, and possibly the state and county, an opportunity to invest in the corridor streetscape at the same time the sewers are installed. A preliminary traffic study was conducted by Colliers Engineering and Design. There will be no visual impact as the entire development is set back on the site and is self contained. The newly developed entrance to the development will enhance the neighborhood. The plan proposes large areas of green open space. As mentioned previously, the athletic fields and dome will remain. At this point, they are seeking feedback from the Planning Board.

Chairman Fon questioned if the athletic fields were part of the original approval. Mr. Tegeder thought that one of the fields were not part of the original set of approvals but it may have been amended as there were so many plans and discussions for this site. He added that the DEC was looking at the area but he is not sure if it was completed. The Planning Department will review the record to confirm if they were approved.

Mr. Garrigan asked if there was parking for field events. Mr. Williams, project engineer, responded that they do not show individual parking for the recreation fields currently as they are developing the concept on how to make the two

uses more congruent and create a separation between the residential and recreation component. They heard from the Town Board that maintaining the recreational fields is an important aspect of the project. Chairman Fon asked if the fields were on DEC regulated wetlands and Mr. Williams responded that they were. He noted that the applicant has been working with the DEC and recently completed requirements of an order of consent to permit what is on site. Chairman Fon questioned if it was ever permitted by the town. Mr. Tegeder stated that he will look into this.

Mr. Tegeder informed the Board that they need to figure out the SEQRA pathway and general layout of the proposed project as it is presented with the recreational aspect, etc. He noted that there is a community benefit with the proposed sewer infrastructure. The impacts of the project need to be looked at which include the DEC wetlands, parking with respect to potential sports tournaments, traffic, etc. which can be done as the project progresses.

Mr. Bock stated that the project has some environmental issues that need to be dealt with and is confident that it will take place over time. He is concerned with the Jefferson Valley area as a whole and how this project will tie into future potential projects. Mr. Tegeder noted that there is a proposed recycling station in the area and discussion followed.

Chairman Fon stated that he was concerned with the DEC regulated area and suggested that the Planning Department work with the applicant to see what was originally approved and what is existing. He asked the Planning Department to formulate a draft memo with their planning comments (traffic, DEC wetlands, area, etc.)

Mr. Phelan asked what is contiguous to the east side of the property. Mr. Grace responded that it was Whispering Pines. Mr. Phelan stated that his concern is that the layout for those units are on a very long cul-de-sac and has only one means of egress and would like to know if there is a possibility of another way out.

Mr. Phelan asked about the sewer infrastructure and if it was anticipated that anybody in Putnam County or Somers could tie in. Mr. Grace responded that they would not. Mr. Phelan asked if the western end of the sewer line at Hill Blvd will tie into the sewer main on Route 6N and go towards Peekskill. Mr. Williams responded that from Hill Blvd, it will ultimately make its way down to the trunk line that goes to Peekskill. He noted that as part of the application there will have to be a petition to expand the sewer district not only to the town but ultimately to Westchester County. Mr. Phelan stated that the town's job is to verify the capacity. Discussion followed with respect to the current state of the existing area along Lake Osceola with small dilapidated structures, etc. and the merits of the project for the area.

Mr. Garrigan stated that obviously there is a lot of discussion and benefit to the town but the Town Board asked them to comment on the rezoning and asked if there were any objections. Mr. Tegeder noted that it is not clear what the path for rezoning would be; they could petition to get into the existing R-3 but he is not sure if this is the proper route. The discussion concluded that a new section could be written having to do with the existing density requirements that could impact older developments within R-3. He feels that this should be addressed in their comment memo. The Board requested for the Planning Department to draft a memo to the Town Board.

#### **Town Board Referral - Teatown Lake Reservation Lake Dredging Project**

Location: 69.14-1-5; 1600 Spring Valley Road

Contact: EcoAssessment, LLC

Description: Application for a stormwater and wetland permit to dredge the south east corner of Teatown Lake to maintain the existing channel between the shore and Wildflower Island.

#### Comments:

Timothy Judge, EcoAssessment, LLC was present. Mr. Judge stated that the proposal is to dredge two portions of the lake to maintain the existing channel between the shore and Wildflower Island by installing geotubes for dewatering of dredged sediments and then use the material on site. A culvert is proposed underneath Blinn Road that will allow the inflow and outflow pipes for the dewatering. The culvert will remain after the pipes are removed and will function as a wildlife crossing. He noted that Teatown went through an extensive process rebuilding a wetland just below their headquarters that catches run-off from Spring Valley Road that is complete. They now need to dredge around the island in order to re-establish the hydrology of the lake and to protect rare and endangered plant species on Wildflower Island. The culvert will not carry water and will simply be a passageway. Teatown will be responsible for maintaining the culvert over time.

Mr. Tegeder asked if the culvert's original function is to carry the spoils from one point to the other. Mr. Judge said that this was correct and it will be done hydrolically. Mr. Tegeder stated that the Planning Department had no planning issues but thought that it should be reviewed by the Conservation Board as well as the Highway Department for the

culvert crossing. The Board agreed. Mr. Phelan asked if documentation could be provided for the responsibility of the culvert after it is complete. Mr. Judge responded that they will provide this. The Board had no planning objections. The Planning Department will draft a memo for the Town Board.

**Town Board Referral - Local Law Change Ch.275 “Vehicles & Traffic”**

Description: Proposed amendments to Chapter 275 regarding ATVs and E-Bikes.

Comments:

The Board discussed the proposed amendment and had no planning objections. The Planning Department will prepare a memo to the Town Board.

**Open Discussion**

Chairman Fon noted that they received correspondence with respect to the open meetings law and asked Counsel for input. Mr. Chen responded that at times there are certain items that the Board will seek advice from Counsel and would recommend that they move into an Executive Session. He read the correspondence and understands the concern but the purpose of the Executive Session is for legal advice; no action or resolution will be taken during their discussion. It is his recommendation to enter into an Executive Session if the Board is seeking legal advice.

**Motion to open Executive Session**

Upon a motion by Mr. Bock, and seconded by Chairman Fon, with all those present voting “aye”, the Board opened an Executive Session to discuss conditions of resolutions and issues of enforcement.

**Motion to Close Meeting**

Upon a motion by Bill Lascala, and seconded by Aaron Bock, and with all those present voting “aye”, the Board closed the meeting at 9:49 PM.