

Meeting of the Town Board, Town of Yorktown held on Tuesday, July 24, 2018 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Ilan D. Gilbert, Supervisor
Alice E. Roker, Deputy Supervisor
Vishnu V. Patel, Councilman
Thomas P. Diana, Councilman
Edward Lachterman, Councilman

Also Present: Maura Weissleder, Deputy Town Clerk
Richard S. Abbate, Town Attorney

TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Lachterman, seconded by Councilwoman Diana, the Town Board moved into Executive Session to interviews for volunteer boards, personnel issues regarding particular individuals, and litigation and negotiations. Upon motion made by Councilman Patel, seconded by Councilwoman Roker, the Town Board moved out of Executive Session and proceeded with the meeting.

TREE NURSERY PROPOSAL

Ann Kutter and Bill Kellner from the Tree Commission and John Tegeder, Director of Planning, came before the Board to speak about a proposal to start a tree nursery at Hilltop Hanover Farm. This would be a way to develop a stock supply in order to replace on Town streets or parks. They would like to get the nursery up and running by September in order to take advantage of the growing season. They currently have four trees and a donation of \$600. Hilltop Hanover has said they would allow them to use approximately 1,000 square feet to start which would allow for 18 inches between trees, allowing for a total of about 25 to 30 trees. The Hilltop Hanover Farm Board seeks in-kind donations – if they allow the nursery on their property, the Commission would then assist them in a project of their own. Ms. Kutter and Mr. Kellner proposed a management structure to oversee this project – they suggested the best way to approach it would be a committee consisting of a representative from Parks & Recreation, Highway, Planning, and the Tree Commission that would make decisions and do the work (planning, watering, pruning, transplanting, etc.). Ms. Kutter said they will need to explore if town services will need to be reimbursed. The suggestion was made that the nursery could function as offsite mitigation to fulfill mitigation requirements under the tree ordinance. The existing Town Tree Trust (TE80 account) has a balance of about \$2500. Mr. Kellner suggested that, at some point, the nursery would be a good volunteer opportunity and mentioned Eagle Scout projects. Councilwoman Roker suggested Mr. Kellner get in touch with Mr. Madden of the Forestry Program at BOCES. Councilman Diana thanked Ms. Kutter and Mr. Kellner for their work and could not see a downside to the program. Councilwoman Roker and Supervisor Gilbert agreed. Supervisor Gilbert mentioned that eventually the Town may be able to do an intermunicipal agreement with other municipalities that do not have the space or resources that Yorktown does to be apply to supply some trees. Councilwoman Roker said she is concerned about Parks & Recreation and Highway personnel being stretched and was told by John Tegeder that both department heads seemed in favor of the project when he briefly spoke with them. Councilman Diana said that this could be an area where summer help could be utilized. Mr. Tegeder said that this would be a conversation to have with Hilltop Hanover and the department heads.

Supervisor Gilbert instructed Ms. Kutter and Mr. Kellner to proceed with their research of the project.

PROPOSED AMENDMENT TO CHAPTER 300 – MULTI-FAMILY DWELLING UNITS IN COUNTRY COMMERCIAL ZONING

The proposed amendment would create a special permit in the country commercial zoning district, which have small amounts of property in them, to allow development. Some property owners have difficulty in developing their property in the “allowable uses” of the current zoning. The current zone allows for apartments above retail space so there is a residential component, but it does not a residential component for “main use.” Mr. Tegeder gave an example of a building done under a transitional zone on Route 129 across from Jennifer’s Restaurant as the type of use where this

amendment might apply. He believes that this kind of use under that zone would be better as a special use permit because it does allow some flexibility going forward once the residential property is built. If, for any reason the building becomes abandoned, it would revert to the country commercial zone automatically. You could also convert the building back to commercial solely or possibly convert the building back to residential units above retail space. This would be more flexible zoning for the structures that exist, as well.

AUTHORIZE TOWN CLERK TO REFER OUT PROPOSED AMENDMENT TO CHAPTER 300 – MULTI-FAMILY DWELLING UNITS IN COUNTRY COMMERCIAL ZONING

Upon motion made by Supervisor Gilbert, seconded by Councilwoman Roker,

RESOLVED, the Town Clerk is hereby authorized to refer out the proposed amendment to Chapter 300 “Zoning” of the Town Code of the Town of Yorktown entitled “Multi-Family Dwelling Units in Country Commercial Zoning” to the appropriate agencies.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

PROPOSED LOCAL LAW ADDING CHAPTER TO SECTION 300 – SOLAR GENERATION SYSTEMS AND FACILITIES

The proposed local law adding a chapter to Section 300 would allow solar generation facilities in the Town of Yorktown, which does not exist in our zoning currently. If it is not in the zoning, it is not allowed. Mr. Tegeder said that in the last several months he has received multiple calls regarding this issue and there are currently two properties that have some serious inquiries; one is a little more developed than the other property and he would like to be able to see if we can accommodate this use. It is a low-intensity use; the impact would be more of visual which the Town already provides for in the code.

Councilwoman Roker asked if this is a similar situation to the one at the Yeshiva. Mr. Tegeder said it is a little different because the Yeshiva was looked at as more of an accessory use to the main use. The current applicants are looking to take some vacant parcels to erect solar panels arrays. Councilwoman Roker asked how these work. Mr. Tegeder said that he understands that once you build the arrays the electricity is somehow inserted into the grid. They profit by selling tax credits. Individuals in the area may also be able to buy their electricity, billed on a different rate, from those companies. Supervisor Gilbert asked if government subsidies exist and Mr. Tegeder said he was aware of only tax credits. Councilman Diana asked how the tax base would work for these kinds of installations and Mr. Tegeder said he was not sure. Councilwoman Roker suggested asking Kim Penner, Sole Assessor, to look into this.

PROPOSED LOCAL LAW ADDING CHAPTER TO SECTION 300 – SOLAR GENERATION SYSTEMS AND FACILITIES

RESOLUTION #265

Upon motion made by Supervisor Gilbert, seconded by Councilwoman Roker,

RESOLVED, the Town Clerk is hereby authorized to refer out the proposed addition to Section 300 of the Town Code of the Town of Yorktown entitled “Solar Generation Systems and Facilities” to the appropriate agencies.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

APPOINTMENT OF POLICE OFFICER JERRY A. PREMUTO

RESOLUTION #266

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

BE IT RESOLVED, that Jerry A. Premuto of Yorktown Heights, New York is hereby appointed permanent Police Officer in the Town of Yorktown Police Department from Eligible List No. 69-547 effective July 27th, 2018 to be paid the contractual salary of \$44,155.00 annually,

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 78 weeks, commencing on the first date of appointment on July 27th, 2018.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

REQUEST FOR A CULTURAL ARTS AND PHOTOGRAPHY CENTER

Denise Farrell, David Graham, Tim Hartung, and Elise Graham came before the Board to propose creating a space for a photography/event space out of the Zino Barn once it is reconstructed at Railroad Park. Mr. Graham gave a brief history of the genesis of the project and thinks this space would be a good place for a cultural destination to be brought into the Town. It would make this center of Town more contemporary and up to date. Mr. Hartung said their group had several meetings and think it would be huge economic, educational, and cultural boon to the Town. They would like to repurpose Zino's Barn into a center of photography for viewing, learning, events, etc. and name it after Robert Capa, a famous World War II photographer who is buried nearby in the Amawalk Cemetery. The group feels its proximity to the skateboard park would also be a source of inspiration for a photography show and a draw for young people. There are also possibilities of a photography class for seniors, children, and anyone interested. The suggestion of an exhibit of historic photos of the Town was proposed. The group said that a synergy would be created between the repurposing of the barn alongside the restoration of the historical railroad depot building. There is the possibility of creating a campus-like feel to the area. The barn is about 1,000 square feet and it would be rebuilt/reconfigured for teaching space and activities. The plaza could be used for outdoor activities. Ms. Farrell said this will be an additional park amenity along with Patriot Park, the bike path, and the skateboard park – all within the same area – that could potentially be a source of new revenue. She asked the Board if this is a concept they would like to see her group proceed with in terms of funding and programs.

Councilwoman Roker said that this is a cultural activity that transcends age groups and likes the idea.

Councilman Diana mentioned tying in the Pines Bridge monument that is near to completion and this would be a good location for it because it would make it more visible, although he does understand that the site on Route 202 overlooks the graves.

Councilman Lachterman said that the Board and interested groups need to discuss further whether this is what they want there.

Mr. Hartung said that this would have a national draw because of Capa's name. Councilwoman Roker asked if this is a space that would be able to be used for something else and Ms. Graham said it could be used for lectures, music, etc. There would be no partitions or moveable displays – photography would be on the walls only.

Councilman Lachterman asked if the plans interfere with the original structure and Mr. Graham said not at all.

John Tegeder, Director of Planning, said he wanted to maintain that this is a barn and needs to retain its history.

Lynn Briggs of the Landmarks Preservation Committee was asked if her committee had any plans for the barn. Ms. Briggs stated they are going to a few communities that have repurposed similar buildings and are seeking a broader scope: programs, music, photography, lectures, etc. They are in contact with the Barn Coalititon of the State of New York to research other similar structures and uses. She said they love the idea of having a photography component but see it as one component of many. Mr. Graham said photography is very accessible to all, especially young people since everyone takes pictures with their cell phones today. He said that this is not meant to be the creation of a "photography museum."

Councilwoman Roker said that she is very appreciative of what they have put together, especially for young people who are not sports oriented.

Ms. Graham said that she feels strongly about what happens to a place when its purpose is diluted. In the end, offering too much could possibly serve no one. Mr. Tegeder said this is the best place, logistically, but also for the cultural synergy it could create. There is a programming component to all of this – how do you get this building up and running; what is the essence of the building; will it be a three or four season building?

Denise Farrell said they would initially have to come to the Board for funding but would also investigate grants and funding from other sponsors. She asked for advice from the Board because before they start researching funding, they would like to know if the board supports their idea. Mr. Hartung said the project is at a point where it needs the town's backing and figure out what the barn will be (this will require the presence of Board and Lynn Briggs input). Councilwoman Roker said she loves the idea but wants to make sure that Ms. Briggs is involved.

Mr. Tegeder said there needs to be a discussion about keeping the barn's integrity – if you keep the true integrity, it would not be a three-season structure. The railroad depot station will be a three-season structure. The two could complement each other. It becomes quite a different project if you are looking at a four-season building in terms of the original project. He does feel strongly about providing a restroom facility.

The group said they have a presentation that they will bring to the Board.

Councilman Diana said the next step is to work on the railroad station project; then the barn. Mr. Graham suggested working on them together. Ms. Graham asked what the use will be for the railroad building. Mr. Tegeder said the depot is first and foremost a restoration; then its use can be decided. There are two rooms – the ticket window/baggage area and the waiting room. The waiting room will be a display room and the ticket window/baggage area will support a dry concession stand.

Councilman Lachterman stated that if the Town does not start the railroad station project soon, the Town will lose the building – it is that dilapidated.

Supervisor Gilbert said that he feels, conceptually, this plan accomplishes a lot – it saves the integrity of the skeleton of the barn and its repurposing may attract funding. Ms. Farrell asked the Board if the Town would be amenable to contributing to some of the funding if some of the grants are matching. He said that any funding from the Town would have to be reviewed by the Town Comptroller.

Mr. Tegeder asked about the necessity of the Capa connection to the project and Ms. Graham said they feel it is important because of the name recognition in photography. In terms of referencing Capa inside the building, it would not be huge – a small permanent corner area with possibly a video monitor explaining his work.

Lynn Briggs asked about artists and photographers already in our area. Where do they fit into this? Will they be slighted by naming this the Capa Yorktown Photo Barn? She said the Board needs to think this through in a thoughtful manner and consider how these artists would be incorporated.

Supervisor Gilbert said he was very impressed with the concept and gave it positive direction. Councilman Diana stressed the importance of working with Lynn Briggs. Councilwoman Roker said she would start making some calls about cultural funding.

SPECIAL USE PERMIT – MOBIL STATION

Peter Setaro and Vlad Levin, from Michael Piccirillo Architecture, reviewed their submission changes from June, when they last appeared. They talked about the space for the emergency generator and the installation of a transfer switch with appropriate outdoor access. They also added an air station to the plans. There was a discussion on the number of parking spaces for which they will need a variance. The entire space is 3000 but only approximately 2000 is devoted to retail space; the rest is office and cooler space. Two thousand square feet requires 10 spaces; they are providing 11 and the Town Code requires 15. They want to use only the retail space to qualify for the 10 spaces. They said the parking area does not require additional asphalt, so it does not affect storm water runoff. They will need SEQRA from the Town. As requested, they revised the lighting levels by reducing them to 40 foot-candles, which is more in line with similar applications made to the Town and reduced the pole to 15 feet. They also added a landscape plan including redoing the sidewalks which will require approval from the NYS Department of Transportation.

Supervisor Gilbert asked John Tegeder, Director of Planning, if the Town ever requires as part of a site plan, a maintenance plan to keep the area clean. He was told yes and that it can include violations as part of the plan.

Councilwoman Roker asked about the problem the Board had with the canopy and if they worked on a revision. Mr. Levin stated that the canopy could not really be changed because it is the Mobil logo and does not allow color changes. Trying to change it would be a very lengthy and costly process. The Board said no one wants them to change the logo; it is the canopy design that is the concern. A representative of the owner who was present said that the canopy is structurally designed to handle a certain weight. A discussion followed as to how the columns of the canopy could be improved. Mr. Levin said the same veneer on the building could be applied to the columns. Mr. Tegeder recommended adding some kind of detail to the canopy to make it more aesthetically pleasing. The representative said he will convey this message to the engineers to see what could be done. Councilman Diana recommended going to the Gulf station in Shrub Oak to see the changes to the canopy that they have made.

A resolution to advertise for reconvening of their public hearing will be placed on the next Town Board agenda.

REQUEST FOR CHANGE OF ZONE – 1943/1947 EAST MAIN STREET

This request is for the Peterson property in the heart of Mohegan Lake. Joe Riina (Site Design) and Eric and Arlene Peterson want to develop the property and came to the Board to present some plans. The property is currently zoned C2 and is 5.6 acres. The west side of the property touches the Tom Thumb complex. The family is looking to see what they can do with the property and would like to create a family legacy to provide for future generations. They would like to rezone the front portion to C2-R (10,000 square foot footprint with apartment above retail space) and the rear portion rezoned to R3 (4.6 acres). They are proposing a duplex layout, a mix and match, with a total of 32 units. Councilman Lachterman asked if they have done any traffic considerations and Mr. Riina said they have not gotten to that point yet – they were waiting to see the Board's response. He said there would be a total of 44 units by adding two front and back zones together. Councilwoman Roker asked how many school children would this include and Mr. Riina said they would get some preliminary numbers. Councilwoman Roker suggested the Board take a field trip to the property so they could look at it first. Supervisor Gilbert said this is a highly congested traffic area and that is a concern. Councilman Lachterman said he liked the look of the plan because it seems to have the traffic circle back on itself to control the flow. He did say that the Board should consider rezoning, although he feels this is a lot of residential units. John Tegeder, Director of Planning, said they should get traffic data, school children data, etc., and based on that the Board can decide if it is too many units. He directed Mr. Riina to do a long form Environmental Assessment Form.

ROMA BUILDING

Representatives of the project – Vlad Levin, Vivien Lee, Phil Greeley, Joe Riina – came before the Board to re-present their plan and to see where they stand after the traffic study and the mini master plan discussions. Supervisor Gilbert said that he still feels that the building looks too massive for the area. The spires on the building are not appealing. Ms. Lee said they could work with the design. There was a discussion if it can be reduced to three stories. Forty-two units is the number of the units they want to build. Since the traffic count has come down according to the traffic study they will lose some land to the traffic changes. Phil Greeley said that there would be a cost to Ms. Lee to give back the land so it can be in the state right of way. Giving the land to the state will cause them to lose parking and create a need to build underground parking that will be more costly. Forty-two units are what they will need in order to make a profit. Ms. Lee said the building is currently 40-50% vacant and she would like to get an idea of how this plan is received by the Board because this is an expensive project for them to invest their money.

Supervisor Gilbert said he has difficulty with the fact this is the same amount of units they started the project with, even after they were asked about “wobble room” in the number of units. Councilwoman Roker said she sees this as an investment to have improvements made to this area. A discussion took place regarding the design of the building.

Joe Riina said the parking issue still needed to be addressed. Ms. Lee said that there really have not been any revisions to the plan except for the traffic study impact on the plans.

Councilman Lachterman said the problem is that for years everyone has been driving by the Roma Building and this plan is a huge leap conceptually. Councilwoman Roker said she is happy that this will not be a negative for those living in the back of the building – it is actually an improvement.

The Board directed the applicants to do an application. Mr. Riina said they will be looking for C2-R zoning and will require variances on parking spaces, setback variances, and height variances. They may seek transitional zone. Supervisor Gilbert voiced his concerns that once the Board grants the zoning change, the Board might lose control of the project to the Planning Board. Mr. Tegeder said no, parameters can be set to keep the Town Board involved. Ms. Lee said that they will rent two bedroom units for \$2,200 to \$2,400 per month. Maintenance staff on site has yet to be determined. Ms. Lee said that as a new building, it probably would not require 24-hour maintenance on site. She also said that Oscar's Restaurant would be back.

MISCELLANEOUS

The Board will vote on the following resolutions at the next Town Board meeting:

- Appropriation of up to \$15,000 for the cost of the 230th Anniversary Parade and Town Celebration
- Town Attorney Decision

The Board also wants to reinstitute the E-Panel (environmental panel) – the resolution was passed earlier in the year.

Upon motion made by Councilman Diana, seconded by Councilman Lachterman, the meeting was adjourned.

MAURA WEISSLEDER
DEPUTY TOWN CLERK
TOWN OF YORKTOWN