

## Planning Department Meeting April 7, 2014

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A meeting of the Planning Board, Town of Yorktown, was held on April 7, 2014, at the Yorktown Town Hall, 363 Underhill Ave., Yorktown Heights, NY 10598. The Chair, Rich Fon, opened the meeting at 7:30 P.M. with the following members present:

John Savoca  
John Flynn  
Darlene Rivera  
Ann Kutter, alternate  
John Kincart, absent

Also, present were: John Tegeder, Director of Planning, Robyn Steinberg, Planner, and Karen Wagner, attorney to the Planning Board.

**Correspondence:** The Board reviewed minutes from the Conservation Board meeting of April 2, 2014. The Conservation Board discussed the following: Faith Bible Church, Lake Mohegan Improvement District's proposal to reduce phosphate, and the proposed convalescent home along Underhill Ave. The Board also received a letter dated April 1, 2014 from John Nowak regarding the proposed convalescent home.

**Liaison Reports:** Flynn stated he spoke at the Town Board meeting, as a resident, not as a Planning Board member.

**Courtesy of the Floor:** No one from the public came forward.

**Meeting Minutes – March 24, 2014**

**Upon motion by Kutter, seconded by Savoca, and with all those present voting aye, the Board approved the minutes of March 24, 2014.**

### Regular Session

#### **Hilltop Hanover Farm Lot 23**

#### **Decision Statement**

**SBL: 48.19-1-23**

*Location:* 1221 White Horse Lane

*Contact:* Gregory McWilliams, RA, AIA

*Description:* Proposed individual lot site plan approval for Lot 23 in the Hilltop Hanover Farm subdivision. Greg McWilliams, project architect, was present. McWilliams stated Lot #23 is part of a previously approved subdivision, Hilltop Hanover Farms. The current design sifts the house up and changes the driveway access, while utilities and sewers remain as approved. The proposed location has better exposure from the street, the applicants have full use of their backyard, and as it will be geothermal, the proposed location is the most efficient. Fon opened the meeting to the public. No one came forward.

**Upon motion by Flynn, seconded by Savoca, and with all those present voting aye, except for Rivera, who abstained, the Board approved the changes for Hilltop Hanover Lot 23.**

#### **Yorktown Auto Body Amended Site Plan**

#### **Decision Statement**

**SBL: 37.19-1-81**

*Location:* 1798 Front Street

*Contact:* Al Capellini

*Description:* Proposal for an amended site plan for an additional 1,450 square feet of building space to be added to the previously approved 1,500 square feet one story building addition.

Al Capellini, project attorney, and Joe Riina, project engineer, were present. Capellini stated the draft resolution was reviewed and no problems were found. Fon stated this proposal has been before the Board several times. Fon opened the meeting to the public. No one came forward.

**Upon motion by Flynn, seconded by Rivera, and with all those present voting aye, the Board declared lead agency under SEQRA,**

**Upon motion by Rivera, seconded by Flynn, and with all those present voting aye, the Board issued a negative declaration.**

**Upon motion by Kutter, seconded by Savoca, and with all those present voting aye, the Board approved the amended site plan.**

**Faith Bible Church**

**Adjourned Public Hearing Site Plan & Special Permit**

**SBL: 15.16-2-54**

*Location:* 3500 Mohegan Avenue

*Contact:* Al Capellini

*Description:* It is proposed to demolish all existing structures on lots 53 and 54, and reconstruct one new 8,000 SF, two story structure. The proposal includes associated improvements to the parking facilities, utilities (sewer, water, electric), landscaping, and stormwater management, and treatment. Retaining walls are proposed on lots 50, 53 and 54. The proposal also includes parking, via a license agreement, 900 feet north at the Hudson River Teachers Federal Credit Union, located at 3563 Mohegan Avenue, where the applicant will provide shuttle bus service to and from the proposed structure.

Present were Al Capellini, project attorney, Joe Riina, project engineer, and Larry Delfino, project architect. Capellini stated as a full presentation was made at the last public hearing; the applicant need not make the presentation again, as this is a continuation. Capellini spoke about the status of the proposal. This is a request for a special use permit for a house of worship in an R1-10 zone. This use has been in place since 1958. The Building Inspector, John Winters, has made the determination that this proposal should be reviewed under Section 300-36. Several variances have been approved by the Zoning Board. The NYS Supreme Court is reviewing one of the approvals by virtue of an Article-78 brought by Mr. Bray. Capellini reserved the right to comment at the end of the discussion. Fon stated this application has been before the Board for several years and at this time the Planning Board finds everything in order. As no one from the Planning Board, or Planning Dept. had any questions or comment, Fon opened the meeting to the public. Fon stressed the need to present new issues, those issues that have not been discussed or submitted as written comment. Fon stated no written comment has been submitted to the Board following the March 10, 2014 meeting.

Evan Bray, 3496 Mohegan Ave. Mr. Bray stated that Mr. Kincart (who was absent) stated at the March 10<sup>th</sup> meeting that the prior approval for this site meant nothing. Mr. Bray felt this was incorrect as there are no town approvals superseding the one presented to the Board. Mr. Bray stated at no time was parking in the front yard permitted, and, in fact, was expressly prohibited. Fon explained as our Zoning Board has made a determination, this Board must move forward under the current ZBA determination. Mr. Bray submitted photos of the Hudson River Teacher's Federal Credit Union (HRTFCU) parking lot to show that notification sign had not been installed on the property. Mr. Bray stated he was aware of how meticulously the Zoning and Planning Boards were in their sign notification reviews, and believed this meeting might have been stopped as there were no notification signs at the HRTFCU site. Savoca asked if the bank site was appurtenant to the church site. Although Mr. Bray believed it was, Savoca stated the two sites would have to be joined at some point. Mr. Bray stated the parking agreement was not valid as per Section 300-183A which states appropriate covenants must be approved by the Board and filed in the office of the County Clerk. Mr. Bray stated the notice mailed to interested parties is

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incorrect as it states the application is for an 8,000 sf structure when it is actually 16,651 sf. The existing building is 3,784sf, an increase of approximately 440%. The size of the building results in the applicant being unable to provide a 5ft side yard setback. I would suggest that this indicates that the building is too big for the site. Mr. Bray asked if Celestial Route 6 was aware of the parking agreement, and if the parking will be accurately shown on the site plan. It was Mr. Bray's belief that the applicant cannot satisfy the parking requirement by using HRTFCU parking lot as they also allow St. Mary's use of the parking lot, thereby eliminating some of the 25 parking spaces. Savoca asked what the difference was between a license agreement and an easement agreement to determine why either would be incorrect. Mr. Bray stated he had referenced the New York City Building Code. Savoca explained the NYC Building code may not be applicable in Yorktown. Mr. Bray asked the following: How many parking spaces did St. Mary's use, would he be allowed to review the agreement between HRTFCU and St. Mary's, and can HRTFCU and St. Mary's provide a schedule of where they park. Mr. Bray asked why the applicant has never presented alternative plans. Fon stated this plan has taken many turns through the years. Mr. Bray asked about sidewalks. Section 195-30 states sidewalks shall be required unless waived. Is the Planning Board waiving sidewalks. Town Code and the Comprehensive Plan suggest sidewalks, to make this a more walkable hamlet. As Celestial Route 6 installed walkways, why not have Faith Bible Church continue the sidewalks. Mr. Bray wanted to discuss John Winter's memo but this was discussed at a prior meeting. Mr. Bray discussed the timing of the email but Fon stated there was no conspiracy regarding Winter's memo. Mr. Bray asked about the following; will the shuttle bus driver be properly licensed and insured, has the Board considered that 2 of the 22 parking spaces are handicapped, therefore the parking requirement is not being met; is the shuttle bus ADA accessible: has the parking study analyzed the use of the shuttle bus; would the applicant consider abandoning the rear variance and creating a circular driveway. Mr. Bray stated Yorktown has never permitted front yard parking in a commercial zone in the first 15-30 feet of the site. Flynn stated that decision was already made when the ZBA granted the front yard variance. Mr. Bray felt the character of this residential neighborhood has been misrepresented when the applicant discussed casinos and nightclubs. Mr. Bray stated that early on in the application process, the applicant discussed occupying the building during construct. This seemed unsafe and warranted the Board's attention. Fon stated the Board will yield to the decision of the Building Inspector to ensure the public safety. Mr. Bray asked about the memo from Ken Belfer discussing conditions at Lake Mohegan, and asked why the proposed sewer had to be extended through the lake. Fon stated Mr. Riina spoke of this at the last meeting, and the Board felt this proposal was an environment benefit for the area. Riina stated the sewers will not go through the lake but through the roadway.

Thomas J. Powers JR, CEO, Hudson River Teachers Federal Credit Union, Mr. Powers explained that in an effort to be good neighbors, the Credit Union, along with the Learning Experience have been encouraged to avoid fencing and allow St. Mary's access to parking on the weekend. The Credit Union and the Learning Experience share the parking, landscaping, and maintenance and have cross easements, and a total of 60 spaces to share with our neighbors.

Capellini stated the Board is aware that the applicant is not extending the sewer through the lake but through Mohegan Ave. On the question of the notification, as per Section 205-7, signs should be placed on the property that is the subject of the application, and they were. Capellini stated cost of this proposal have grown exponentially as the Board has been most tolerant and gracious to accommodate Mr. Bray. This is a church with use for 5 hours on a Sunday. Fon stated the Board has the public trust to maintain, issues have come up and everything has been addressed. Capellini stated one can establish a covenant with conditions, and this agreement is binding as long as this is recorded.

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Delfino stated the building footprint is 8000sf. The three former structures had a combined square footage of 5,261ft, resulting in an increase of 40%.

Evan Bray-The building attached to the church was the model home for the Mohegan Highlands.

Riina stated the proposal includes sidewalks on the west side of Sagamore Ave., and the interior parking area

Pastor Zotolli, applicant, Pastor Zotolli clarified Mr. Bray's statement regarding his mother-in-law having been a member of the church. Pastor Zotolli stated he knew all members of the church but had never met Mr. Bray's mother-in-law. Pastor Zotolli thanked Mr. Powers for supporting the church, and thanked Mr. Capellini for his impassioned speech.

Capellini stated the earlier reference to casinos was in regard to the St. Nickolas Hotel. During the latter part of the 19th century, there were several large hotels along the shores of Lake Mohegan, including the St. Nicholas. The wood structure was 324 feet long and six stories high in the center, with four story high wings. The hotel could accommodate 500 guests

**Upon motion by Kutter, seconded by Savoca, and with all those present voting aye, the Board closed the public hearing, leaving 10 day open for written comment.**

### WORK SESSION

**Lake Osceola Realty aka 3680 Hill Blvd. LLC                      ZBA Referral #13-14**

**SBL: 17.5-1-11**

*Location:* 505 East Main Street

*Contact:* Allan Rothman

*Description:* Approved 27,000 SF office building and associated parking. Request for a free standing sign in the Country Commercial zone.

Allen Rothman, project developer, was present. Rothman stated the application before the ZBA is for an area variance to allow a free standing sign in a Country Commercial zone. Town Code section 300-244 states all signs shall be affixed to buildings and there shall be no illuminated signs and no freestanding signs in a Country Commercial zone. Rothman stated the proposal is for a 4ft x 6ft wooden sign and in-ground lights illuminating this sign. Savoca asked about placement of the sign. Rothman stated the sign would be north of the driveway. In addition, there will be one sign on the building. Tegeder stated his need to understand the size and the height of the sign. Rothman stated the 4ft x 6ft sign would have the MKMG logo and room for four other tenants. The Board requested the applicant install a 4ft x 6ft plywood mock sign this weekend to allow them to fully understand the consequences of the applicant's request.

**Staples Plaza    ~~Taken off the agenda~~**

**Discussion Master Sign Plan**

**SBL: 36.6-2-76**

*Location:* 3333 Crompond Road

*Contact:* Romano Architects

*Description:* Pursuant to Town Code Section 300-193.14, request to approve Master Sign Plan for shopping center.

**Crompond Crossing**

**Discussion Field Change**

*Location:* Old Crompond Road

*Description:* Proposed revision to approved site plan relocating parallel parking and a section of sidewalk.

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Present were Neil DeLuca, project developer, and Tim Allen, project engineer. Allen stated the applicant requests constructing parallel parking on the other side of the access road due to limited space, and elevation in relations to the building. Parking will be flipped from one side to the other, and the sidewalk location will be readjusted. The impervious area will be kept the same as per the approved plans. Tegeder suggested this be accepted by memo, and requested a record copy be submitted to the Planning Department. The Board requested the applicant return to the April 21, 2014 meeting.

**Upon motion by Rivera, seconded by Savoca, and with all those present voting aye, the Board adjourned the meeting at 9:15pm.**