

Planning Board Meeting Minutes – February 22, 2021

A meeting of the Town of Yorktown Planning Board was held on **Monday, February 22, 2021 at 7:00 p.m.** via Zoom video conference.

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

- John Kincart, Secretary
- Bill LaScala
- Aaron Bock
- Rob Garrigan

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James W. Glatthaar, Esq.
- Councilman Ed Lachterman, Town Board Liaison

In accordance with the Governor’s Executive Order 202.1, the Town of Yorktown Planning Board will not be meeting in person until further notice. All Planning Board meetings will be held via video conferencing, and the regular session portion of the meetings will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.

Correspondence/ Liaison Reports

- The Board reviewed all correspondence.
- Chairman Fon asked Councilman Lachterman if there were any decisions by the Town Board with respect to televising the Work Session. Councilman Lachterman responded that the Town Board needs to discuss the funding for the additional expense.
- Chairman Fon asked Councilman Lachterman if there have been any discussions by the Town Board with respect to traffic studies. Councilman Lachterman responded that there is currently an RFP for a traffic consultant. Mr. Tegeder added that there was a discussion with Dr. Phil Grealy with respect to Hallocks Mill. Councilman Lachterman stated that Hallocks Mill is being reviewed by the Safety Committee.

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the meeting minutes of February 8, 2021.

Motion to Open Special Session

Upon a motion by John Kincart and seconded by Rob Garrigan, and with all those present voting “aye”, the Board opened the Special Session.

SPECIAL SESSION

Fusco Minor Subdivision

Discussion: Request for 2nd 90 Day Time Extension of Reapproval

Location: 16.14-1-10; 3477 Stony Street

Contact: Ciarcia Engineering, P.C.

Description: Approved 2-lot subdivision on 2.72 acres in the R1-20 zone, by Planning Board Resolution #19-11, dated May 20, 2019 and reapproved by Resolution #20-03 dated May 11, 2020.

Comments:

Dan Ciarcia, P.E. was present. Mr. Ciarcia is requesting a 2nd 90-day time extension in order to work on the conditions of the resolution for the Health Department approval. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

Upon a motion by John Kincart and seconded by Aaron Bock, and with all those present voting “aye”, the Board approved the request for the 2nd 90-day time extension for the Fusco Minor Subdivision.

NY Self Storage – Jefferson Valley

Discussion: Amendments to Approved Site Plan
Location: 16.08-1-4; 621 Bank Road, Jefferson Valley
Contact: Insite Engineering, Surveying & Landscape Architecture, P.C.
Description: Approved retrofit and expansion of the former Toys R Us building for a 70,435 SF self-storage facility. Proposed minor amendment to approved plan and Wetland Permit Application.

Comments:

Dawn McKenzie of Insite Engineering was present. Ms. McKenzie stated that she is here this evening to discuss the approving resolution. She reviewed the draft resolution and had no issues. Chairman Fon asked the Board and Counsel if there were any comments and there were none.

Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board approved the resolution approving an amended site plan, special use permit, wetland permit and stormwater pollution prevention plan for NY Self Storage-Jefferson Valley amended site plan.

Stahmer Subdivision - Lot 2

Discussion: Public Hearing - Amended Site Plan & Special Use Permit for Large-Scale Solar System
Location: 59.10-1-10.1; 535 Jerome Road
Contact: P.W. Scott Engineering & Architecture, P.C.
Description: Proposed amended site plan for Lot 2 of an approved subdivision. Proposed residence is to be a Tesla showhouse that includes a 24 kWh solar roof, which exceeds the small-scale solar permit.

Comments:

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting “aye”, the Board opened the Public Hearing.

Peder Scott of P.W. Scott Engineering & Architecture was present. Mr. Scott stated that the applicant is seeking approval for a special use permit for a large-scale solar system and amended site plan for Lot 2 of the approved Stahmer subdivision on a total of 4.3 acres. The proposal is for a 6,400 sf residence that includes a home office, 4-car garage and Tesla solar roof system. Due to the efficiency of their roof system, the solar power generation is 25 kW which exceeds the 20 kW limit. The energy is necessary to power the wall pack units. The solar roof shingles are made of a textured glass shingle system that is similar in appearance to normal roof shingles. They are proposing four outside battery systems, three of which will be located on the rear of the building exterior to the east and another inside the courtyard. The site has extensive buffers in all directions. The applicant owns Lot 3 to the west which is undeveloped at this time, to the south is open land, and to the north toward Jerome Road there is an existing buffer and they are proposing additional trees to screen the view. He noted that the visual impact of the building is minimized due to the low profile. The residence is proposed to be built into the hillside following the terrain of the property. The site was chosen because it slopes to the west, is buffered in all directions by the natural terrain and is easily accessible from various highways.

Chairman Fon asked the applicant if they met with other agencies. Mr. Scott responded that he met with the ABACA and received their approval with respect to the architecture and roof shingles. A stormwater management package was submitted to the Town Engineer. The septic system has been approved by the Westchester County Health Department for a five bedroom residence. They will require a variance for the home office and are scheduled to meet with the ZBA on 2/25/2021. The home office is to be located above the garage and will be approximately 1,200 sf. They have provided parking spaces in the courtyard at the front of the building itself in addition to the four car garage. Chairman Fon noted that home offices are typically used for attorneys, dentists, etc. and asked the applicant for what purpose the home office will be used? Mr. Peder responded that the home office will be occupied by the homeowner, a Tesla employee; an assistant, and a periodic representative from Tesla. The applicant/owner will be working with Tesla to develop future house sites throughout the metropolitan New York area. The home itself will be a Tesla model home and will have all the components that Tesla has to offer incorporated into it, and will be the first smart home to be built in the metropolitan New York area. Tesla is now looking to sell packages as opposed to intermediate components as this is the future of the Tesla product line. They anticipate five visits a month from Tesla or Tesla clients.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Bock stated that it is easy to become impressed by the technology aspect of this proposal but feels that it is a commercial use of a property in a residential zone. The Board needs to consider the impacts to the neighborhood with respect to the number of visits and noted that the proposed project is located in a quiet neighborhood on a narrow road and questioned what the overall limitations could be. Mr. Scott responded that the applicant is willing to entertain restrictions on the number of visits to the site and noted that all visits will be pre-qualified. Mr. Kincart stated that the owner/applicant is living in the house so the primary use would be residential. With respect to the special use permit for the home office, he noted that there are dentist offices, financial services, counseling services, etc. that have regular clients. He would be agreeable to limiting the traffic into this area and agreed that the road is narrow and being sensitive to this is warranted. Mr. Bock noted that he would like to see this use as it is the wave of the future but wants to make sure that the impacts are considered and that the applicant comes up with reasonable restrictions. Mr. Scott responded that traffic is based upon a daily use rate and would be willing to accept daily restrictions on clientele on a daily basis if this is desirable.

Chairman Fon asked the Planning Department what the next steps would be procedurally. Mr. Tegeder responded that the Planning Board is considering the large-scale solar system and amended site plan only and could close the Public Hearing if the Board agrees. With respect to the special use permit for the home office, the Planning Department will submit a memo to the ZBA with the Board's comments. Ms. Steinberg noted that the ZBA referral is included in the meeting packet.

Mr. Scott informed the Board that the tree removal would need to be done before April 1st due to the county wide restriction of tree clearing for the protection of long eared and brown eared bats. Ms. Steinberg asked the applicant about the tree removal plan. Mr. Scott stated that he submitted a tree removal plan with the plan set, sheet SY4. He noted that the original subdivision approval proposed a total of 144 trees to be removed. They are now proposing to remove 189 trees (*121 for the house and driveway, 66 in the septic area, and 2 in the drainage area*). Chairman Fon asked if a tree permit was required. Mr. Scott responded that he thought this was part of the original approved subdivision. Mr. Tegeder stated that it will need to be referred to the Tree Commission and a tree permit will be required.

Mr. Tegeder asked the applicant about the stormwater system. Mr. Scott responded that when the subdivision was approved there was a complicated stormwater management project for the site and they were burdened with following that procedure based on the DEP input. The system uses all the same swales, piping and catch basins from the original subdivision except that the footprint of the home is now larger. There is an infiltration basin at the bottom of the hill and the applicant also owns the property below. The swales pick up all the water coming down the hill from the neighboring properties in addition to their own. The septic system is slightly larger than what was originally approved in order to comply with the Health Department regulations, and has been approved. Mr. Tegeder asked if the stormwater scheme comports with the approval. Mr. Scott responded that it does.

Mr. Kincart stated that he had no issue with the special use permit for the solar portion of the proposal. Mr. LaScala and Mr. Garrigan agreed. Mr. Garrigan noted that there was discussion at a previous meeting with respect to upgrading the transformer nearby and that there would be minimal interruption to the neighborhood. Mr. Scott stated that this was correct.

Chairman Fon asked the public if there were any comments. Public comments as follows:

- **John and Lynn Schroeder, residents - 501 Jerome Road** - Mr. Schroeder stated that there is a transformer located about 15 ft from their bedroom that is a concern to him and his wife. He noted that there was a transformer explosion in Ossining. Since there was discussion about upgrading, he asked if this transformer could be moved from its current location.

Mr. Scott responded that they submitted documentation to Con Edison and the electrical engineer is working on the paperwork for the upgrade. As part of the permitting process, the transformers are inspected as a requirement of the electrical companies prior to the grid connection.

Mrs. Schroeder stated that she wants to ensure that someone will be living in the house full time. She noted that there are six houses on Jerome Road with no turn around at the end of the street. Jerome Road is about 11 ft wide so it is difficult for two cars to pass each other and she is concerned about this. She feels that it is important to have some type of limit with respect to the number of visits as it will make a huge difference to the existing homeowners.

Mr. Scott responded that that the applicant/owner will be living at the residence. In accordance with the zoning, an address sign will be posted at the property entrance to ensure that there is no miscommunication to the property location. The number of client visits to the property will be limited. There will be two employees at the site during the week for the home office.

Mr. Schroeder asked if there will be screening along the driveway.

Mr. Scott showed the landscape plan. He noted that there is a substantial growth of existing bamboo and are proposing to install a 4-ft deep trench with plastic to prevent further migration. On each side of the driveway, there is a forsythia buffer and localized trees. They are proposing to add bushes and a buffer of arborvitaes to limit the view of the house from the street. Mr. Tegeder advised the applicant to show the number and spacing of the arborvitaes on the plan.

Mr. Schroeder suggested that the Board touch base with Highway Superintendent Dave Paganelli with respect to the condition of Jerome Road.

- **Jay Kopstein, resident** – Mr. Kopstein asked about the time-frame for the logging and construction phase. He also asked about the traffic plan. He feels that the road is not wide enough to stage construction equipment and employees on site to do the construction.

Mr. Scott responded that per the DEC requirements for the bats, the tree removal would need to be done prior to April 1st. The trees would be dropped and left on the ground in an organized manner until the snow melts. During the month of April, they will go in with special machines to lift the trees up into a 36-inch diameter chipper. The chipping process would take about 3 days. With respect to the construction aspect, they have a DEP approved plan for staging, phasing and inspection during the process. First they will clear and stabilize the site, then move on to the construction of the house with the last phase being the installation of the infiltration and septic systems. The construction of the house itself is anticipated to take about 6 to 8 months.

Mr. Kopstein asked about the tree removal and chipping process and asked if the chipper will be on Jerome Road. Mr. Scott responded that the chipper is on caterpillar tracks and will move around the site. The chips will be piled and used as a stormwater management control and stabilization component during the construction of the site. Whatever is leftover at the end of the project will be removed from the site.

Mr. Kopstein asked about the traffic control with respect to the workers and vehicles. Mr. Scott responded that there is a staging area approved by the DEP that will have enough capacity to handle trucks and employees at the job site. The location was shown on the plans. He noted that they would be more than happy to restrict and prevent parking on Jerome Road.

- **Patricia Sullivan Rothberg, resident** – Ms. Rothberg stated that the applicant has brought in some wonderful plans and is glad that Tesla has chosen this site. She knows there are concerns and issues by some of the residents but thinks it's a wonderful opportunity and a move to the future for green planning. She asked Mr. Scott about other sites for this type of application and noted Long Island.

Mr. Scott responded that this would be the first Tesla home to be built, and Long Island would be second. There are also homes proposed to be built in Connecticut and New Jersey. However, they are not involved with the New Jersey site.

Ms. Rothberg stated that she appreciates the resident concerns although it sounds like a very small amount of intrusion. She thinks that the plans are stunning and thanked the applicant for picking Yorktown.

Chairman Fon asked the public if there were any other comments and there were none. Chairman Fon asked the Board and Counsel if there were further comments. The Board discussed the ZBA referral portion of the application. Discussion followed amongst the Board members with respect to traffic at the site and how to delineate between the residential and commercial use. Mr. Tegeder stated that their discussion would be pursuant to the professional office in terms of traffic and not personal visits and noted section 300-76 which allows 16 vehicle trips per day which would be the Zoning Board's guide. Mr. Bock stated that the Board could recommend that the ZBA limit the number of trips to what the applicant is proposing. The Board agreed to make a comment to the ZBA to consider the impact to the neighborhood and the substandard roads with respect to the number of trips for the commercial aspect of the home. The Board could also note the code in the memo. Mr. Scott stated that he does not anticipate more than 16 trips a day and has no issue with this ordinance.

Mr. LaScala asked the applicant if it would be helpful to remove the trees first. Mr. Scott responded that it would be appreciated as they are approaching the DEC deadline for tree removal prior to April 1st due to the endangered species ordinance for the brown eared and long eared bats. Discussion followed with respect to the latest tree law and the approved subdivision. Mr. Tegeder noted that although the subdivision pre-dates the latest iteration of the tree law, the application is still subject to the law and measures need to be proposed and reviewed by the Tree Commission. Ms. Steinberg stated that the original subdivision approval did have a 2018 tree permit. The Planning Department will refer the application to the Tree Commission for feedback prior to the next meeting. Mr. Scott stated that he will amend the tree removal and mitigation plan. The Board agreed to leave the Public Hearing open with respect to the tree removal and mitigation plan and place this item on the March 8th meeting agenda. A draft resolution will be prepared for the large-scale solar system and amended site plan.

Upon a motion by Aaron Bock and seconded by Bill LaScala, and with all those present voting “aye”, the Board adjourned the Public Hearing to March 8th for the tree removal and mitigation plan.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting “aye”, the Board closed the Public Hearing for the amended site plan, stormwater permit, and special use permit for a large-scale solar system.

Motion to Close the Special Session and Open the Work Session

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

WORK SESSION

Albert French Subdivision

Discussion: Minor Subdivision
Location: 12.11-17-23; 1762 French Hill Road
Contact: Site Design Consultants
Description: Proposed 2 Lot subdivision where there are three existing residences. A Zoning Board decision from 1983 supports this subdivision.

Comments:

Joseph Riina, P.E. was present. Mr. Riina stated that the site is located at 1762 French Hill Road on a total of 2.2 acres and currently improved with three existing dwellings and driveways. All the dwellings are supported by septic systems and municipal water and conform with the lot area, setbacks, etc. The property was part of a subdivision that was completed and approved in the 1980s that involved three parcels. The applicant is now seeking to subdivide this parcel into two lots. Lot 24 would contain two dwellings (2-bedroom residence and 1-bedroom cottage); and Lot 24.1 would contain one dwelling (3-bedroom residence). He noted that the ZBA decisions supporting the subdivision and frontage variance were submitted to the Board for their meeting of 12/7/2020. Mr. Riina asked the Board what the next steps would be in order to formalize this subdivision.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart stated that as mentioned at the December meeting, this proposal will create less of a non-conformity than what is existing currently with the three dwellings on one lot. As long as there are no issues with the Health Department he is in favor of this subdivision. The Board agreed. Mr. Tegeder stated that the application will require a Public Informational Hearing (PIH) and Public Hearing (PH). The Board requested that the Planning Department schedule a PIH for March 22nd and a PH for April 12th.

Envirogreen Associates

Discussion: Site Plan
Location: 15.16-1-30 & 31; 1833, 1851, 1867, and 1875 East Main Street
Contact: Site Design Consultants
Description: Proposed redevelopment of a portion of the referenced property by removing one of the existing buildings and parking area, and constructing a 16,000 sf retail center with associated parking.

Comments:

Joseph Riina, P.E. and Rick Cipriani were present. Mr. Riina updated the Board with respect to the application since the last meeting of 9/23/2019. The plan proposed at that time showed two buildings (6,000 sf and 10,000 sf) in addition to the existing building. The buildings were pushed up against the road with plaza areas and were proposing to maintain the driveway connection between the properties on both sides. The NYCDEC was not in favor of the wetland intrusion required for the parking lot connections. Since that time, Mr. Cipriani has been working with the NYCDEC and they have come up with an alternate plan. It is now proposed to combine the two buildings into one building and eliminate the intrusion into the wetland, therefore eliminating the thru-connection. Mr. Cipriani stated that he spoke to Mr. Petronella at the NYCDEC who felt that this project could be built without any wetland intrusion and approved this plan. He would now like to move forward with this plan and noted that it is a reduced from what was previously proposed.

Mr. Kincart gave a brief history of the proposal to those who were not aware of the application. Mr. Bock asked if it would be fair for the applicant to use the configuration that is acceptable by the NYCDEC and if this is an allowable area for the project. Mr. Tegeder noted that the NYCDEC did not communicate this directly. Mr. Bock stated that given the footprint, they end up with the road frontage as parking and asked if it was possible to try and accomplish some of the objectives from the previous plan that was rejected by moving the building forward with parking in the back. Mr. Cipriani responded that if the building is moved, the openings would be changed and wouldn't work for fire access, etc. He feels that this plan is the right fit for the property.

Mr. Tegeder stated that the plan should include the neighbor footprint and the parking lot to understand the relationship between the three properties. Mr. Kincart added that he would like to see the existing building on the west side so that it is apparent that there is a building there. Mr. Cipriani noted that the parking area that connects to Lakeland Street will also be shown. Mr. Tegeder added that the easement note should be removed. He noted that there was discussion that there possibly need not be an easement so that Mr. Mallon would have the ability to shut off the connection with temporary barriers. He noted that it is important to acquire easements when it is imperative to the operation of the site being approved and doesn't believe it is such for this site. There are a number of sites connected without a cross access easement and this should be discussed further.

The Board requested that the Planning Department schedule a Public Informational Hearing for the March 22nd meeting. Chairman Fon advised the applicant to follow up with the Planning Department.

Alek-Tris Subdivision

Discussion: Subdivision
Location: 16.10-3-26; 1075 East Main Street, Shrub Oak
Contact: Architectural Visions, PLLC
Description: Proposed 3 lot subdivision where one two-family home and cottage currently exist on 1.66 acres in the R1-10 zone.

Comments:

This item was not discussed as there was no representative present due to technical difficulties.

Hemlock Hills Farm Solar Farm

Discussion: Site Plan & Special Use Permit
Location: 46.08-1-1 (Yorktown) & 45.12-1-4 (Cortlandt); 500 Croton Avenue, Cortlandt Manor
Contact: Badey and Watson Surveying and Engineering, P.C.
Description: Proposed 1.69 MW solar farm on a portion of the 50 acre Hemlock Hill Farm property that is situated in Yorktown.

Comments:

Margaret McManus was present. Ms. McManus stated that she submitted a response letter dated 2/8/21, with an updated site plan and SWPPP to the Planning Department for review by the Board. The site plan was revised to include stormwater mitigation to help alleviate the flow from the solar panels onto the ground. They are proposing an infiltration trench underneath the drip line for where the slope is greater than 5%. A letter was received from David Kvinge, Director of Environmental Planning, Westchester County dated 12/23/2020 with respect to the changed location on the site to

which they have responded. She stated that she spoke to Mr. Kvinge last week and noted that he did not see any reason to hold the application up and will provide a letter after it is reviewed by the County's attorney. The Planning Department forwarded three emails from neighbors with concerns about construction traffic, stormwater run-off and visual impacts. With respect to construction traffic, they anticipate two truck deliveries to the site for the panels and racks. In addition, a piece of equipment will be delivered to the site for the borings. There may be a few workers with pick-up trucks but that would be minimal. Once the installation is complete, there will be no continued traffic to the area. With respect to the run-off and visual impact, the solution is the same as there is a ridge within the farm. The part that fronts Croton Avenue and directs stormwater toward Croton Avenue is not where the proposed project is to be located. The solar farm is on the other side of the ridge and that run-off is directed toward the Hunterbrook. In addition, they are not changing the cover characteristics underneath the panels as they are proposing an infiltration trench to slow down any concentrated flow. The SWPPP reflects that there is no anticipated run-off increase for the project. With respect to the visual impact, the site is barely visible from the Hunterbrook trail and noted that if the Board feels that this is a concern they could install a few trees along the property line.

Chairman Fon noted that the Planning Board, along with other interested Boards, conducted a site visit and did not have any concerns with respect to the visual impacts. He stated that with these types of applications, they are concerned with the visual aspects, tree removal and the impact to the environment and noted that the applicant has demonstrated that there are none of those impacts here. He feels that this is one location that the Board would like to see a solar farm especially since it would help the local farm to stay relevant and in business. The Board agreed. The Board requested that the Planning Department schedule a Public Hearing for the March 22nd meeting.

Motion to Close Meeting

Upon a motion by Bill LaScala, and seconded by John Kincart, and with all those present voting "aye", the Board closed the meeting at 9:05 p.m.