

Planning Board Meeting Minutes – April 15, 2024

A meeting of the Town of Yorktown Planning Board was held on Monday, April 15, 2024, at 7:00 p.m. in Room 104 at the Albert A. Capellini Community & Cultural Center located at 1974 Commerce Street.

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

Also present were:

John Tegeder, Director of Planning
Robyn Steinberg, Town Planner
Ian Richey, Assistant Planner
Nancy Calicchia, Secretary
David Chen, Esq.
Councilman Sergio Esposito, Town Board Liaison
Councilman Patrick Murphy, Town Board Liaison

Correspondence

The Board had no comments.

Motion to Approve Meeting Minutes of March 25, 2024

Upon a motion by Aaron Bock, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the meeting minutes of March 25, 2024.

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

Tully fka Sandvoss Subdivision

Discussion: Request for a one-year time extension
Location: 36.05-1-14; 3535 Crompond Road
Contact: Site Design Consultants
Description: Previously approved 4-Lot subdivision by Resolution #20-18, and amended site plan for one single-family home on the lot by Resolution #23-06.

Comments:

Aaron Bock recused himself from this agenda item as his law firm is representing the applicant; a letter was submitted to the Planning Department stating such for the record.

Joseph Riina, P.E. of Site Design Consultants was present. The applicant is requesting a one-year time extension as they are currently working on finalizing the conservation easement and setting the bond amount by the Town Engineer. Chairman Fon asked the Board, Planning Department and Counsel if there were any issues and there were none.

Upon a motion by Bill Lascala, and seconded by Rob Garrigan, and with all those present voting “aye”, the Board approved the request for a one-year time extension.

Motion to close Regular Session and open Work Session

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

WORK SESSION

Lowe's Home Center

Discussion: Special Use Permit for Outdoor Service
Location: 26.18-1-19; 3200 Crompond Road
Contact: Lowes Companies, Inc.
Description: Renewal of Temporary and Permanent Outdoor Storage & Display Special Permits approved by Resolutions #19-17 and #17-08 respectively.

Comments:

Kevin Bulger of Petrillo Architects, PC; and Sean Naley were present. Mr. Bulger stated that they are present this evening for a special permit renewal request for outdoor storage. His firm was the architect of record for the original approval of which he was the project manager. The application has been before the Planning Board for a few months and their firm was re-engaged to help with clarification of the site plan. Since they were last before the Board they conducted a site visit with the Planning Department on February 6th to review the site and storage needs. Based on their comments and discussion, a revised site plan was submitted for review. The site plan combines the amount of outdoor storage originally approved in addition to the new or relocated storage areas and parking count. It was determined that the majority of the outdoor storage needs would be placed to the rear of the site (shaded in blue on the plans) as this area is not typically occupied and would take up 40 parking spaces. However, it does free up spaces along the side as shown on the plan. They have cleared all the areas that are required for exit purposes and fire department connections. They identified two areas on the site where mobile cameras are located for security purposes. Per the Planning Department's request, he submitted a letter by Lowe's with respect to the security cameras to the Planning staff this evening. The overall parking schedule was discussed with the Board. The site plan was prepared to accurately show the out parcels on site with respect to existing conditions.

Chairman Fon noted that there were issues in the past with compliance and asked if the site was now compliant. Mr. Tegeder responded that it was compliant. Chairman Fon asked about the security cameras and if they were permanent as they take up two parking spaces. Mr. Bulger stated that although they have wheels they are permanent. It's not just a camera, it's a whole system that operates as a unit. He added that a 4-ft high PVC vinyl fence around the base of the cameras is proposed. Discussion followed with respect to alternate locations such as the roof, light pole or cart corral. Mr. Bulger stated that these units are purchased, leased or rented from the national security company and this is the manner in which they operate these units. He added that it is part of the national rollout by Lowes as a standard operation. Mr. Lascala felt that although the security cameras are occupying two spots there seems to be adequate parking. Chairman Fon asked if it was compliant without those two spaces. Mr. Tegeder stated that it is less than what was originally approved for the two spaces. Their thought process was to move the storage to the rear as there is less parking happening in that area which would then free up parking on the side. They determined that the demand that was required for the site is not being used to capacity since the site has been open. Mr. Garrigan noted that the fact that the security cameras are more visible rather than less visible is better in his mind as he feels that a lot of crime takes place within parking lots so he has no issue with their placement as long as the parking seems to be sufficient. Mr. Tegeder stated that the parking appears to be sufficient on a day-to-day basis from what they observed. Mr. Bock asked how much of a variation there was as to what is required and what they are looking to have approved. Mr. Bolger deferred to the Planning staff. Mr. Tegeder reviewed the parking requirements with the Board. He added that the 40 rear parking spaces would still be available on site if there was a difference in the demand for the parking. If this were the case, the applicant would then be informed that the site is not functioning to the level of safety required and would be notified to remove the storage. This could be placed in the resolution as a condition. The Board and the applicant agreed. Mr. Phelan asked if they were able to identify the limits of the exterior storage area with signs or some other manner at in the field. Mr. Bolger stated that there is a standard that they utilize in which all the storage areas are boxed out with a thick 4-ft wide yellow line and could be noted on the plan. Mr. Tegeder noted that this could be required in the resolution as well. Mr. Garrigan asked if the local Police Department has access to the security camera feed and the Mr. Bolger responded that they did.

Upon a motion by Bill Lascala, and seconded by Aaron Bock, and with all those present voting "aye", the Board approved the resolution reapproving the special use permit for outdoor services and storage for the Lowe's Home Center with modifications as noted.

Confident Kids Club

Discussion: Site Plan

Location: 36.05-1-14; 3535 Crompond Road

Contact: Chris Berlow

Description: Seeking site plan approval for a Child Fitness & Before and After School Program.

Comments:

Joel Greenberg was present. Mr. Greenberg stated that since he was last before the Planning Board, he appeared before the Zoning Board for a public hearing and received approval for a special permit. A site plan application and short EAF was submitted to the Planning Department. The plans were revised to address the Planning Departments' comments.

Mr. Tegeder asked if the three new dumpsters will be enclosed with a chainlink fence with green slats and 3 gates. Mr. Greenberg responded that this was correct. Mr. Garrigan noted that the outdoor recreation area was set aside on the plan and asked if the issues at the site that required attention were addressed. Mr. Greenberg responded that they were addressed with the property owner; the back area will be cleaned up, the parking spaces will be re-stripped, and the three new dumpsters will be enclosed. Mr. Tegeder asked about the ramp. Mr. Greenberg responded that should the outdoor recreation area be constructed in the future then the ramp would be installed. Mr. Tegeder asked if it was resolved how the Chinese restaurant would get out in an emergency. Mr. Greenberg explained that it was. Mr. Phelan asked if the 3/15/24 memo to the Zoning Board needed to be updated per the revised plans. Mr. Greenberg stated that the plans shown this evening were the plans shown to the Zoning Board. Mr. Tegeder stated that all the items were minor and felt it may not be necessary to hold a public hearing; a resolution could be prepared for the next meeting.

The Board agreed to waive the public hearing. This item will be placed on the next meeting agenda for a decision statement.

TJ Maxx – Yorktown Green Shopping Center

Discussion: Site Plan

Location: 37.18-2-56; 355 Downing Drive

Contact: Mathew Dudley, Harris Beach PLLC

Description: Seeking site plan approval to construct a new loading dock, trash compactor, and trash enclosures in the rear of the existing building.

Comments:

Matthew Dudley, Esq. of Harris Beach PLLC; Jon Kuybida of Jarmel Kizel Architect and Engineers, Inc.; and Eden Kongoli of Oster Yorktown Properties, LLC, were present. Mr. Dudley stated that the applicant is seeking site plan approval to construct a new loading dock, trash compactor and trash enclosures. The existing building is proposed to be updated to accommodate the new tenants.

Mr. Kuybida reviewed the architectural plans with the Board. The existing building is proposed to be refreshed and modernized; the entire building will be painted. Horizontal louvers that will match the color of the building is proposed to screen each rooftop mechanical unit. The existing or new conduits will be cleaned and/or painted. The material board/color palette was shown to the Board. A canopy is proposed for the main entrances into each tenant store. Mr. Phelan asked how they were addressing the rear of the building. Mr. Kuybida responded that it would be painted.

Mr. Phelan asked if they were considering extending the parapet wall to the rear of the building. Mr. Kuybida said that they were not and instead are proposing to provide screening for the individual units. They looked at possibly extending the parapet but it would have to be upwards of 8-ft in order to actually screen the equipment and to build a parapet of that height would require bracing for the windloading, etc. Mr. Phelan asked about the height for the proposed screening. Mr. Kuybida responded that they are showing 7-ft around each unit and noted that when it is localized around each unit it is easier to construct and deal with from a structural standpoint. Mr. Tegeder asked about the palette material for the front façade of the building. Mr. Kuybida responded that they are proposing light weight gage metal framing material. Mr. Tegeder asked if they would consider a type of panel similar to the proposed screening and color selected to provide a fence or long panel. He added that what he sees is a collection of boxes and doesn't feel it would be much of an improvement but a long panel or fence along the rear may work. Mr. Phelan stated that by the time they take into account all the mechanical equipment to be screened for the multiple tenants it could possibly equal in amount to what it would be to install a parapet wall. He feels that this would create a unified design around the entire building and noted

that otherwise he would not be in favor of the rear signage. Mr. Kuybida stated that the rear building will still be painted regardless of the rear signage. Mr. Phelan felt that they should have something better to look at than what is existing given the fact that they are already proposing to screen the equipment.

Mr. Bock asked about the ABACA memo. Mr. Kuybida responded that ABACA has not seen the updated plans since their meeting. The material board/color palette will be provided to them as shown this evening. The signage will ultimately be submitted by the tenants and their comments are noted. Seven golden maple trees are proposed along the front of the building in the existing tree wells and they are not proposing to expand the wells as they don't want to increase the impervious area. Mr. Tegeder stated that expanding the existing tree wells would help with the health of the trees and would also provide an opportunity for other plantings as well; it would also reduce the impervious area.

Mr. Phelan asked about the landscaping along Route 118. Mr. Kuybida responded that their existing concrete curb comes close to their property line; anything beyond that line is not part of their property so they will maintain what is there currently. He noted that there may be a few areas with an opportunity to plant a few trees but a good section of it is on the property line. Mr. Phelan thought that a hedge or vegetation along that property line would help shield his concern about the view of the loading docks, etc. and would give them an opportunity for rear signage. Mr. Garrigan noted that there is an existing chainlink fence that is covered with invasives which almost acts as a hedge and asked who maintains the sidewalk as it could use some maintenance. Mr. Tegeder responded that the town maintains it. Mr. Dudley informed the Board that he didn't think there was enough space for additional plantings. Mr. Kuybida added that they wouldn't want to plant too close to the curb due to overgrowth but they can look into this.

Mr. Garrigan asked if they took into account the comments made by ABACA for the landscaping. Mr. Kuybida stated that they asked for additional plantings but explained that they did not have enough room within the sidewalk area. Mr. Tegeder again stated that if the existing tree wells were elongated not only would it provide a benefit to the health of the trees but it would also create room for additional plantings.

Chairman Fon noted a few comments which included the truck turning radius, pylon signs, tree plantings, and the possibility of installing a bike rack and benches along the sidewalk. Mr. Kuybida said that they had no issue with the addition of a bike rack. He reviewed the vehicle analysis with the Board as shown on the plans. TJ Maxx wanted them to prove that the trucks could maneuver the site safely. They are proposing that the TJ Maxx deliveries are performed during off hours (early morning or late evening when the parking demand is at its lowest). The truck route through the site was discussed; four existing parking spaces to the rear that the trucks will cover will be removed to alleviate any concerns. Mr. Tegeder thought it was a little tight at the curb in the corner. Mr. Kuybida responded that it was close but still works.

Mr. Tegeder asked about the height of the proposed new monument sign. Mr. Kuybida responded that it was 29-ft in height. Mr. Tegeder informed the applicant that the height for monument signs per the code is 16-ft so it would require a variance. Ms. Steinberg informed the applicant that only two monument signs are allowed on a site per the code. The new pylon sign is proposed on the Burger King lot where there is already an existing Burger King pylon sign. There is also another existing monument sign on Kear Street. Councilman Esposito felt that the Kear Street sign was good to have as it was on the other side of the site. Mr. Kuybida agreed and stated that it would make sense to modernize it. Mr. Dudley stated that for purposes in trying to move forward with the site plan approval they are withdrawing their request for the pylon sign and will revisit this at a later date.

Mr. Tegeder asked what the differences were from the last iteration. Mr. Kuybida responded that they updated the landscaping and architectural details, provided the monument sign detail, provided screening for the mechanical equipment, and added the vehicle study and parking calculations. Mr. Tegeder asked if anything has changed with the proposed additions. Mr. Kuybida responded that nothing has changed and is the same as previously shown to the Board, the only difference is that they have notated the materials. Tegeder asked about the status of the building permit for the interior fit-up. Mr. Kuybida responded that they submitted updated drawings with a note stating that the loading dock will not be done at this time. Mr. Tegeder asked if they applied for the building permit for the interior work but are still working under the demo permit. Mr. Kuybida responded that this was correct.

Mr. Kuybida stated that presently they are not proposing to extend the parapet to the rear as they don't feel that this is a viable solution. Their proposal is to provide screening for the mechanical equipment as discussed previously. Mr. Tegeder asked if they would be willing to consider a parapet that would be more like a fence and not a framed out metal

soffit. Mr. Kuybida responded that at this point they were not. Mr. Garrigan noted that there were 9 units that are to be enclosed and thought that if they took the linear run of the screening for those units to install a 4 or 5-ft fence or parapet with the same material at the perimeter it may work. Mr. Tegeder added that if they were to unfold the screening around each piece of equipment they would then have a certain length to work with and could possibly lower the 7-ft height which could be a cost savings. Mr. Kuybida responded that they could look into this but noted that his concern is the expense and he doesn't think they will achieve what they are talking about with respect to the view of the building from Route 118. Mr. Phelan thought a profile from Route 118 to the building demonstrating the height of the roof equipment may be helpful. Mr. Kuybida stated that he was also concerned about future tenants and additional mechanical equipment; the equipment was designed for the original intent depending on the use but could change. Chairman Fon suggested that the applicant review the plan with an engineer to go over the details as they will need to get a better understanding of the units and their locations. Chairman Fon agreed that reviewing the signage separately makes sense. Mr. Kuybida stated that they will have this all sorted out for the next meeting. Mr. Garrigan added that it is all about the appearance and an opportunity to beautify and update the area.

The Board agreed to waive the Public Informational Hearing and Public Hearing. The applicant was advised to work on the details discussed this evening.

ZBA Referral #05-24 – Cunha

Discussion: Zoning Variance Application

Location: 37.19-1-78; Summit Street

Contact: Rui Cunha

Description: Application for a Zoning Variance to construct a two-family dwelling on 10,000 square foot lot in the R-2 zone.

Comments:

No representative was present. Mr. Tegeder stated that the applicant is proposing to construct a two family-dwelling on a 10,000SF lot. He asked Ms. Steinberg if the lot next to this proposal is in common ownership and she replied that it was. Mr. Tegeder said that he assumes that the original lot is also 10,000SF but will look into this. Essentially they are getting three units on the two 10,000sf parcels. He noted that there is a section in the code that if you have a substandard lot with adjacent holdings they need to be merged together to achieve compliance to the greatest extent possible and then you can move forward. Mr. Lascala asked about the setback requirements. Mr. Garrigan noted that the plans submitted show that the setbacks are met. Discussion followed with respect to the size of the house, stone wall, and lot. Mr. Lascala asked if there was any precedent in town, particularly in that neighborhood, where a two-family residence was constructed on a 10,000SF lot. Mr. Tegeder replied that he thought there was and noted that a two-family residence is allowed in the R-2 zone but it would still have to meet the 20,000SF requirement.

The Board requested that the Planning Department provide more information with a location map and surrounding lots in order to gain a better understanding of what is proposed. The Board agreed to request more time from the Zoning Board to review the application.

Town Board Referral – Chapter 216 - Peace and Good Order

Description: Proposed amendment to chapter 216-2 "Peace and Good Order" in order to specify, strengthen, and add to the language in the section.

Comments:

The proposal is for an amendment to Chapter 216-2 with respect to the noise ordinance. Ms. Steinberg asked where the language for the proposed amendment originated from. Councilman Esposito explained that the amendment was drafted by the Town Attorney with recommendations from the Town Board and was routed to the Planning Board for their comments. He added that the draft amendment talks about the definition of noise disturbances, decibel levels, time, etc. and is intended to make this section more clear and enforceable. Ms. Steinberg stated that she has been doing some research and has some additional information. Mr. Bock asked if the sound level reading taken at a residential dwelling was specific enough. If a neighbor is offended by the noise would the measurement be taken at the dwelling that is making the complaint? Councilman Esposito responded that this was correct. Mr. Tegeder noted that there is a level limit during the day at 55 dBA between 7AM and 10PM. Mr. Garrigan asked for an example of 55 dBA. Mr. Tegeder said that 55 dBA was like a conversation. Mr. Garrigan asked if he was playing music in his yard at 2PM could his

neighbor complain. Tegeder responded that they could. Chairman Fon asked about leafblowers and lawn equipment. Mr. Tegeder responded that those items would be up in the 80, 90 or possibly 100 decibel levels. Councilman Esposito noted that there is a section that deals with landscaping, snow removal, construction, restaurants, etc. Chairman Fon felt that the ordinance needs to be more clear and cited a dog barking or rooster crowing. Mr. Phelan note that school sports functions held at local ball fields that are not on school properties could potentially cause a conflict. Councilman Esposito responded that they will look into this. Mr. Tegeder stated that the law says 60 dBA is a conversaton 3-ft between people, 70 dBA is classroom chatter, 80 dBA is a freight train from 100-ft away, 100 dBA is a construction site, 80 dBA is a freight train from 100-ft away, 110 dBA is a night club with music, 50 dBA is an urban residence and 40 dBA is a soft whisper. Mr. Garrigan stated that from a planning perspective this would come up when a residential property abutts a nearby commercial proprety with respect to middle of the night activity. Councilman Esposito stated that it would and could be addressed with times. Mr. Bock asked if the Planning Board could have some recognition to depart from the standard in the case of particular approvals. Councilman Esposito responded that they could look at this. He added that they were looking to extend the hours for restaurants on Friday and Saturdays. Mr. Bock asked how the exemption of municipally sponsored events not far from residential areas would work. He added that the definition for bells, chimes, etc. in connection with churches and synagogues should be changed to religious institutions as a minor language change. Mr. Bock asked who the enforcement agency was. Councilman Esposito responded that it was the Building Department's code enforcement.

The Board felt that this item needed more discussion. Ms. Steinberg noted that she will prepare a memo for the Board's and Councilman Esposito.

Open Discussion:

While not on the agenda, Chairman Fon asked the Town Engineer about the status of the nursery located on Route 6 and Strawberry Road (*formerly owned by Patrick Rooney and also known as Charlie's Lair*) with respect to the stop work order. Mr. Ciarcia stated that there was an area on the west side of the lot that was not previously used. The new owner installed an 8-ft fabric fence. Based on his observation into that area he saw hydric soils; the DEC maps show that it is state regulated wetlands. The owner will need to flag the wetlands based on the town and state codes. They are looking at aerial photos to determine if there was any tree clearing; it did appear from older photos that there was some tree clearing. The Planning Department looked into the history and found that there were two variances issued (*September 24, 1974 and July 23, 1998 – ZBA Decision #64/98*). These variances did not contemplate having pools on telephone poles; it was supposed to be a garden center. He wrote his violation based upon the section of the code that he enforces and thinks that the activity is beyond the scope of what the Zoning Board contemplated for the garden center. Mr. Phelan asked if a special use permit was in effect. Mr. Ciarcia responded it was issued by the Zoning Board for a garden center. Mr. Tegeder added that it was basically a single-family residential zone and they were doing what the Zoning Board determined was a farm use; the last decision was to erect a greenhouse and sell whatever produce they had in the small retail area. Mr. Ciarcia added that the prior owner also sold landscape materials. Mr. Phelan asked who addressed the issue of the pools and possible intrusion into the wetlands beyond the property. Mr. Ciarcia responded that he issued the stop work. Mr. Ciarcia stated that to legalize what is going on they would need a local wetlands permit, a state wetlands permit and would then return to the Zoning Board for consideration and modification as it is not consistent with the Zoning Board approval. Mr. Phelan asked about the Planning Board's role. Mr. Tegeder responded that the variance was granted by the Zoning Board. Ms. Steinberg noted that the approval required a site plan that was never provided. Mr. Garrigan asked who enforces the special permit issued by the Zoning Board. Mr. Tegeder responded that it would be the Building Department's code enforcement as the zoning code is connected to the Building Department but the Engineering Department does have some enforcement capacity with respect to site plans and landscaping plans.

Meeting Closed

Upon a motion by Rob Garrigan, and seconded by Aaron Bock, and with all those present voting "aye", the meeting closed at 8:51PM