

York Planning Meeting (Zoom)
April 28, 2021
York Town Hall

Present: Joe McIlroy, Alan Brightman, Chris Wall, David Dermody, Zack Kobylanski

Others: Donna Falkner, Kirk Richenberg, Carl Peter, Dustin Geiger, Tom Curtin, Jim Campbell, Dave & Heather Nagel, Ned & Martha Edmonds, Paul & Donna Sullivan, Molly Cummings

Zoom - Jim Missel (surveyor for Sullivans), Donna Walker

7:15 pm – Mr. McIlroy opened the public hearing for Habitat for Humanity and asked for comments.

Mr. Richenberg asked if there was a map he could see. Mr. McIlroy directed him to the table with the map. Mr. McIlroy said that he is going to leave the public hearing open as we start the planning board meeting and approve the minutes from last month.

7:30 pm – Mr. McIlroy opened the regular planning board meeting and led the pledge.

Mr. McIlroy asked for approval of the March 24 minutes after one correction.

Resolution:

Mr. Dermody moved to approve the March 24 minutes with corrections, Mr. Brightman seconded, carried.

Ayes – 5 Nay – 0

Mr. McIlroy gave privilege of the floor to Heather Nagel.

Mrs. Nagel had several questions.

1. First one is a procedural question about a sketch plan conference in November about the travel center. Topographical maps were to be provided to sketch plan conferences and if portions of a site have susceptibility to erosion flow, flooding or ponding, a soil overlay and topographical map showing contour of not more than two feet of elevation should be provided. Since a portion of the site is down a bank and along the creek, obviously, there's susceptibility to erosion in the nature of creeks, flooding, and ponding. We have photographs of flooding just as recently as this spring. I know that they did the field work for the topographical map a couple days after the February planning board meeting because they were at the end of our driveway and I asked them what they were doing. So, do you know if the map was done with a soil overlay and contour of rolls with more than two feet of elevation? Mr. Campbell said I don't think we know that. Mr. McIlroy stated that we have seen nothing. Mrs. Nagel said ok, just wondering because it was something they were supposed to have.
2. If and when the completed application is submitted, how does the public would be able to have copies of the application and supporting documents? Can we just ask like Tim Boyle did for my letters at one of the meetings? Or can they be put on the town website, like the documents for the solar committee haven't done? Any idea of how we would be able to, we have to foil? I know, there's various ways of having access, just something to think about, if you don't know.

Mr. Campbell said that they would always be available by foil and if practical they would be put on the website or people could come to the town

hall to view them. If they're giant maps, it's more difficult for us to provide copies to do that.

3. The last one I have is a quick question about complying with the town's comp plan. Our zoning code 1100 says and I'm quoting, the purpose of site plan review, which you'll do once you get the application is to implement the recommendations of the comp plan. And code 905 Section D two, part A says a special use permit shall be granted if evidence is presented that the proposed building or use will be in harmony with the town's comprehensive plan. So, both of those codes sound to me like following the comp plan is not optional or a suggestion but a requirement. And I'm wondering if the town interprets those codes in the same way that following the comp plan is a requirement and not optional.

Mr. Campbell said the issue is the interpretation of the comp plan. The purpose of the zoning code should be to implement a vision as set forth in the comprehensive plan, what that vision is and how you interpret it based on what's in comp plan.

Mrs. Nagel asked if we have a status? Is it considered withdrawn because it's not complete? Do they have to withdraw after so many days?

Mr. Campbell – no because we never had a complete application. We don't want the clock to start running before we have a completed application because it can cause problems.

Mr. McIlroy asked again if there were any comments regarding Habitat and if not a motion to close public hearing.

Resolution:

Mr. Brightman moved to close the public hearing for Habitat, Mr. Kobylanski seconded, carried.

Aye – 5 Nay – 0

Mr. McIlroy read the county letter regarding Habitat.

From: carlpeter@frontiernet.net,
To: Alanbrightman999@gmail.com, Wall_chris@yahoo.com, yorkclrk@rochester.rr.com, dermody4@aol.com, donnafalkner@frontier.com, japmac@aol.com, service@versascape.com,
Subject: FW: Local Option 2021-024
Date: Thu, Apr 1, 2021 11:31 am
Attachments: 1208 Plan Set 2021.03.10.pdf (915K), 2021-024.pdf (1667K)

Here is the County response for the review of the Habitat for Humanity subdivision.

From: JKBishop@co.livingston.ny.us <JKBishop@co.livingston.ny.us> **On Behalf Of** LCPlanningBoard@co.livingston.ny.us
Sent: Thursday, April 01, 2021 11:22 AM
To: carlpeter@frontiernet.net
Cc: Alexander Pierce <alexander.pierce.hcadm@gmail.com>; HFerrero@co.livingston.ny.us
Subject: Local Option 2021-024

Hi Carl,

We have received Zoning Referral #2021-024 in accordance with the provisions of Section 239-l, m and n of the NYS General Municipal Law.

The Livingston County Planning Department has reviewed this application and determined that it has no significant Countywide or inter-municipal impact in regard to existing County plans, programs, and activities.

Therefore, approval or disapproval of this application is a matter of local option. Please be aware that a determination of "No Significant Countywide Impact" should not be interpreted as either approval or disapproval by the County Planning Board.

If you have any questions, please do not hesitate to contact me at 243-7550.

Best,

Heather Ferrero, AICP
Deputy Planning Director
Livingston County Planning Department

This message may contain confidential information for the use of the addressee(s) above and may contain legally privileged information. If you are not the addressee, or the person responsible for delivering it to the addressee, you are hereby notified that reading, disseminating, distributing, or copying this message is strictly prohibited. If you have received this message by mistake, immediately notify us by replying to the message and delete the original message immediately thereafter. Thank you.

Mr. McIlroy asked again for questions or concerns from the board.

Mr. Wall – This is the same, correct? There's no changes from last month?

Mr. McIlroy – No everything is the same. So next we would move on to do SEQR and need to be lead agency on that. We need a motion declaring lead agency.

Resolution:

Mr. Wall moved to declare the planning board the lead agency. Mr. Brightman seconded, carried.

Aye – 5 Nay – 0

Mr. McIlroy said that we now have to do part 2 of SEQR and asked Mr. Campbell to read the questions so the board could answer.

Agency Use Only [If applicable]

Project:
 Date: 4 | 28 | 2021

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PRINT FORM

Agency Use Only [If applicable]

Project: _____
Date: 4/28/2021

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
<u>York Planning Board</u>	<u>4/28/2021</u>
Name of Lead Agency	Date
<u>Joe McTigue</u>	<u>Chairman</u>
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
<u>[Signature]</u>	<u>[Signature]</u>
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

Mr. Campbell - Now that you have answered those questions, need to have a motion to adopt those answers as your specific findings of fact for part two of the shortened EAF.

Resolution:

Mr. Kobylanski moved to adopt the answers of part 2, Mr. Wall seconded, carried.

Aye – 5 Nay – 0

Mr. Campbell - Having adopted those findings, as official findings of part two you now have to make a determination of significance again, whether or not there is likely a moderate to large or significant negative environmental impact. So, need to have a motion based on these findings and issue a negative declaration.

Resolution:

Mr. Dermody moved to a negative declaration based on the findings for Habitat for Humanity, Mr. Kobylanski seconded, carried.

Aye – 5 Nay – 0

Resolution:

Mr. Wall moved to authorize the chairman to sign the mylar for Habitat, Mr. Brightman seconded, carried.

Aye -5 Nay – 0

Resolution:

Mr. Kobylanski moved to approve the subdivision for Habitat for Humanity, Mr. Dermody seconded, carried.

Aye -5 Nay - 0

Mr. McIlroy asked if everyone was getting his emails. Everyone was.

Mr. McIlroy - Our next order of business would be the Inverness subdivision, Sullivan's. And I think we may have their surveyor on zoom, too, if we do have any questions for them. I guess my first question is to Carl, if it's complete? Anything that you see needed?

Mr. Peter – Everything is there.

Mr. McIlroy - Ok, is there any questions, we have a bigger map up here, if you want to look at it, it's compared to looking at your small ones.

Mr. Wall - piece on the south side of the road that they're splitting off, right?

Mr. McIlroy - They're splitting north and south right side of the road, you're splitting the homestead off which is 4.67 acres, and then splitting that from the south side of the road. And the biggest thing we have to look at is its agriculture district meeting acreage requirement and the 250 ft. of road frontage requirements. If you have any questions, there is a bigger map there to look at.

Mr. Wall – piece splitting homestead, 4.67 acres from the south side of the road, 20.25 acres

Mr. McIlroy - there's 410 foot of road frontage on the south side. So, questions or comments from the planning board? So, the next thing to do would be a motion to send it to county for county referral.

Resolution:

Mr. Brightman moved to send the Sullivan subdivision to the county for referral, Mr. Dermody seconded, all in favor, carried.

Aye – 5 Nay – 0

Mr. McIlroy - And the next thing would be to make a motion to have a public hearing before I would think the May 26 meeting at 7:15 if that works.

Resolution:

Mr. Kobylanski – I make a motion for public hearing for Sullivan subdivision on May 26 at 7:15 pm. Mr. Wall seconded, all in favor, carried.

Aye – 5 Nay -0

Mr. McIlroy - the only other thing I had was Buffalo Solar. And basically, they want to put solar panels on barn roofs for type two solar, which, by our zoning today, type two solar is ground mount. So, they really either have to try to get a variance or wait. I'm under the impression that the town is going to change some of the solar laws in the future, they're working on. So that's why they're not here tonight, it's not a permitted use at this point in time.

Mr. Campbell - we have been told, when it was drafted town hadn't anticipated larger scale commercial solar in the fashion of being mounted to a building or a rooftop. So, the definitions in your code, characterize it as being ground mounted on a plane. So really doesn't fit anywhere. Town is looking at some revisions to the code.

Mr. Wall – It can be difficult to get through the zoning board?

Mr. Campbell - Yeah, a use variance has, as opposed to an area variance has very specific requirements. One of those requirements is that you have to demonstrate that there is no other economically viable property. And that's tough, we got a building for other purposes, in a viable way in talking about just the roof of the building, which has other distinct problems, right, which is the roof. So those kinds of things make it very difficult for them to meet that kind of application. My guess is that the town board wants exactly this kind of development. They'd like solar panels, on roofs and on buildings as opposed to good agricultural soils that can be accomplished.

Mr. McIlroy - Any other questions or anything? Comments?

Mr. Dermody - I'm curious about the projects that were approved.

Mr. Campbell – They're actually moving along. Just today. I have some email conversations with the people on Trathen Solar Park. They are getting ready to pull permits very soon now. We were just working out some details. The commissioning will remain, as you recall, they have decommissioning plan, wanting to turn it into a contract. So, we've been negotiating the fine points of binding companies and so I think we're pretty close to having that wrapped up. And I would guess that you're going to see permit requests shortly. I heard from OYA at the end of last week, there decommissioning bonding company want some tweaking to the language. So, we're working on that right now. Some of these

languages never been really put into play before. So, figuring out how it works with these different aspects, particularly reassuring companies, right, providing a very long bond.

Mr. Wall - with the decommissioning stuff, just the cost of commodities is so volatile, I mean, day to day, everything changes.

Mr. Campbell - So, yeah, that's been a real challenge, right. So, we have a paper prepared by a licensed engineer saying it's going to be \$310,000, to be commissioning these dollars and require them to provide a five or 110% of that value. And there's an escalation clause so that every year it goes up, in terms of keeping up with inflation. But that's exactly one of the problems, the cost. And I think a bit more decommission, we're probably talking 15, 20, 30 years from now, what happens if solar panels of today are safe, easy to recycle and dispose of become toxic or hazardous waste? By the standards 45 years from now, the cost could be more so it's a challenge in that the de-commission agreement, one of the reasons I want to have the landowner sign and come down is because in the event that the de-commission bond is not adequate. and owner of the project defaults with the de-commission. If the town has to do that, because it becomes a lien on the property, which could eventually lead into a tax foreclosure situation doesn't mean that the tenant would actually want to foreclose in title to the property. So, we're trying to cover as many potential outcomes as we can. So, we don't have anything to look back on and see how something is working, whether it's efficient.

Mr. Wall - so the with all the conversations about the travel center, and all that stuff, and the foil laws and everything? Is there any expectation of privacy for somebody that sends an email to the town and the town clerk or the jail or anything like that?

Mr. Campbell - I feel the expectation of privacy and confidentiality, can be certain communications, meaning or any other legal representative of the board for you all.

Mr. Wall - as somebody that sends an email to the town says, I'm for it, or I'm against it or whatever,

Mr. Campbell - no, once it goes into the public domain, it becomes a record subject to the freedom of information act.

Mr. Wall - So I did have another question, but we may have answered with this buffalo solar. I was wondering if the planning board had the option with the travel center to see that they had considered any type of renewable or green energy or the travel center dominant or something they've been looking at.

Mr. Campbell - to consider this as far as rooftop building mounted. In facade, solar is allowed under new code. What is not allowed is when it's commercial in nature, meaning energy that is generated is being sold, being put into the marketplace for current consumption. So, any project or any business wants to put solar up on the roof to offset their own consumption that's anticipated by the code. And so, I think yes, you could certainly bring that up, you can make any suggestion that you would like them to consider having a renewable energy component, whatever they do.

Mr. Brightman - like for electric stations for electric vehicle charging stations.

Mr. McIlroy – if there's nothing else could I have a motion for adjournment.

Mr. Dermody moved to adjourn at 8 p.m. Mr. Brightman seconded, carried.
Aye – 5 Nay - 0

Respectfully submitted,
Donna K Falkner
Clerk