

York Planning Meeting
August 25, 2021, 7:15 pm
York Town Hall

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

Others: Connie Burger, Kirk Richenberg, , Davies Nagel, Heather Nagel, John Gremer, Dan Jagedzinski,
Blaine VanRy, Martha Edmonds

Chairman McIlroy opened the public hearing at 7:15 pm and read the following:

**TOWN OF YORK PLANNING BOARD
LEGAL NOTICE OF PUBLIC HEARING**

On Wednesday, August 25, 2021, a Planning Board Public Hearing will be held at 7:15 p.m. at the York Town Hall, 2668 Main St., York, N.Y. We will be reviewing Mark & Traci Cole's request for a subdivision of their property on Linwood Road, tax map #29.-1-6.11 All are welcome to attend.

Dated: August 2, 2021
Donna K. Falkner
Planning Board Clerk

Mr. McIlroy asked for any public comment. We will hold the public hearing open for 15 minutes for comments.

Dan Jagedzinski asked just what are they proposing to do? What is the goal for this subdivision? Chairman McIlroy stated that they wanted to divide this parcel into 3 parcels, with two being building lots and the other remaining as agricultural. The ZBA had issued the area variance – the ag district has to have at least 3 acres and 250-foot road frontage.

7:30 pm – Chairman McIlroy opened the meeting with the pledge.

Mr. McIlroy asked for a motion to approve the July 28, 2021 minutes.

Resolution:

Al Brightman moved to accept the July 28, 2021 minutes as recorded, David Dermody seconded, all in favor, carried.

Aye – 4 Nay – 0

Mr. McIlroy said we will now close the Cole's public hearing. He read the county letter:

lcplanningboard@co.livingston.ny.us

To: donnafalkner@frontier.com

Cc: abpierce4@gmail.com, hferrero@co.livingston.ny.us, lcplanningboard@co.livingston.ny.us

Fri, Jul 30 at 12:34 PM

We have received Zoning Referral #2021-072 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.

Sincerely,

Heather Ferrero, AICP
Deputy Planning Director

Mr. McIlroy asked again for any public comment on the Cole Subdivision. Kirk Richenberg spoke up about the subdivision. He said currently there are 48 acres in farming and they want to make two building lots leaving about 40 acres. So the statement that Joe made would be inaccurate as they are giving up some of the agricultural for building. Kirk Richenberg stated that he believes that the code that has been in place since 2009 - that there has ever been an area variance denied. Joe stated that the Planning Board is to enforce the code in town of York. Joe said this variance had been passed by the ZBA – not the planning board. Kirk said “I just wanted to make a point”. Al Bightman stated that he feels if the ZBA has to keep issuing a variance that they may have to change the code.

Resolution:

Al Bightman moved to approve the Cole subdivision and Chris Wall seconded, carried.

Aye – 4 Nay – 0

Mr. McIlroy read the questions on the SEQR so the board could answer them. Mr. McIlroy – the applicant has filled out part one of the short environmental assessment form and we'll move on to the active part of the review, which is part two of the form and asks a series of questions, 11 questions? There are two possible answers. from each of those 11 questions the first category being no, or small impact may occur. The second being moderate to large impact will occur please speak up because they are your answers not mine.

Mr. McIlroy - Okay, now that we have answered those 11 questions, we need a motion to adopt those answers as your official findings for part two of the short environmental assessment form.

Resolution:

Dave Dermody moved to adopt the planning board’s answers to the SEQR questions, Chris Wall seconded, all in favor, carried.

Aye – 4 Nay – 0

Mr. McIlroy – having made those findings we move on to part three, which is your determination of significance, having decided that there are no impacts or if there are any other small impacts, you are in position where it's logical at this point to declare what we call a

negative declaration. That is your statement saying that after your analysis of part 2, you have determined that there will not be any potential for the adverse environmental impacts by granting the applications. Need a motion for negative declaration.

Resolution:

Chris Wall made a motion that we have a negative declaration of the Cole subdivision, Al Brightman seconded, all in favor, carried.

Aye – 4 Nay – 0

Mr. McIlroy - Lastly, we need a motion to authorize the chairman to sign the SEQR documents and negative declaration of the findings.

Resolution:

Al Brightman moved that the chairman sign the documents, Dave Dermody seconded, all in favor, carried.

Aye – 4 Nay – 0

Agency Use Only [If applicable]

Project: Solar Subdivision
 Date: 8-25-21

**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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<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

Project: Cole Subdivision
 Date: 8-25-21

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>8-25-21</u>
Name of Lead Agency	Date
<u>Joe A McIlroy</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. McIlroy asked for any further questions: Chris Wall asked about the most current drawings that we have for the York Travel Center - Chris said that the latest notes from Zoghlin Group were referring to the most recent site plans from August 2nd – the last drawings we have are from June 11th. Mr. McIlroy stated that we have not seen a completed application. We probably won't see them until they get a variance or change of plans.

A question was asked if anyone applied to be an alternate on the Planning Board. Mr. McIlroy answered, "no one yet".

Mr. McIlroy presented for the records the following letters:



300 State Street, Suite 502
Rochester, New York 14614
585.434.0790 phone
585.563.7432 fax
www.zoglaw.com

VIA EMAIL TO: yorkclrk@rochester.rr.com

August 19, 2021

Records Management Officer
Town of York
2668 Main Street
York, NY 14592

**RE: FREEDOM OF INFORMATION REQUEST – Proposed York Travel Plaza, O Main Street,
Town of York, NY, 10186.1.**

Dear Records Management Officer,

Under the provisions of the New York Freedom of Information Law, I hereby request copies of any and all records regarding the Proposed York Travel Plaza at O Main Street - Town of York - 10186.1, since the date of my last request 4/22/2021. This includes but is not limited to:

- any applications made to the Zoning Board of Appeals or Town Board;
- any and all maps excepting those provided by Sean Hopkins, Esq. via letters to the Planning Board dated May 12, 2021, June 11, 2021, and August 12, 2021;
- preliminary, concept and/or final site plans or studies excepting those provided by Sean Hopkins, Esq. via letters to the Planning Board dated May 12, 2021, June 11, 2021, and August 12, 2021;
- correspondence of any form including but not limited to emails and/or letters excepting letters from Sean Hopkins, Esq. to the Planning Board dated May 12, 2021, June 11, 2021, and August 12, 2021;
- any and all meeting agendas or minutes;
- photos, videos, public comments, timeline for responses;
- any engineering and/or traffic studies;
- electronic materials and any other relevant materials regarding the aforesaid proposed project that have been received since 4/22/2021 the date of my previous request.

This request does not include correspondence from Bridget O'Toole, Esq. to the Planning Board.

Please contact me with any fees involved before sending me the requested documents. I hereby request electronic copies of any records produced pursuant to this request, as available to julie@zoglaw.com.

As I am sure you are aware, the Freedom of Information Law requires that an agency respond to a request within five business days of receipt of a request. I would appreciate a response as soon as

possible. If for any reason any portion of my request is denied, please inform me of the reason for the denial in writing and provide the name and address of the person or body to whom an appeal may be directed. Your prompt response to this request would be greatly appreciated.

Sincerely,


Julie Montana

Zoghlin
GROUP

300 State Street, Suite 502
Rochester, New York 14614
585.434.0790 phone
585.563.7432 fax
www.zoglaw.com



VIA E-MAIL (japmac@aol.com) AND FIRST CLASS MAIL

August 19, 2021

Mr. Joseph McIlroy, Chairman
Town of York Planning Board
PO Box 187
York, New York 14592

**RE: PROPOSED YORK TRAVEL CENTER APPLICATIONS FOR SPECIAL USE PERMIT AND
SITE PLAN APPROVAL, 0 MAIN STREET, TOWN OF YORK**

Dear Chairman McIlroy and honorable Planning Board members:

I write to you on behalf of my clients, Davies and Heather Nagel, the adjacent property owners to York Travel Center, LLC's ("the Applicant") proposed York Travel Center to be located at 0 Main Street (the "Property"), currently before this board for a Special Use Permit and Site Plan Approval.

THE ZBA MUST BE INCLUDED IN COORDINATED REVIEW

Any coordinated review must include the Zoning Board of Appeals ("ZBA") as the project as currently designed requires two variances. An area variance is required to construct the fuel canopy less than 50 feet from the eastern property line, which adjoins a residential district. Town Code §405(G). A use variance is required to locate a drive-thru facility on a parcel adjacent to a residential district. Town Code §607(c).

Under the Town Code, drive-thru facilities are expressly prohibited adjacent to residential districts. Town Code §607(c). This limitation applies to drive-thru facilities located anywhere on the Property, there is no carve out (as previously suggested to this Board by the Applicant) if there is a building between the drive-thru facility and the residential district. The Applicant is aware of this fact as it attempted to convince the Town Board to amend the code

to allow drive-thru facilities next to residential districts this past month. The Town Board correctly declined to consider an amendment of the code and usurp the role of the ZBA.

The most recent site plans for the project, dated August 2, 2021, still show the drive-thru facility present and the fuel canopy with a side set-back of less than 50 feet. Accordingly, unless the Drive-Thru is eliminated and the canopy moved, the ZBA must be included in coordinated review pursuant to SEQRA.

Sincerely,



Bridget O'Toole

cc: Mr. and Mrs. Davies Nagel (via e-mail only)
York Town Clerk (yorkclrk@rochester.rr.com)
Lance Brabant (via e-mail only Lance.Brabant@mrbgroup.com)
James W. Campbell, Jr., Esq. (via e-mail only jim@krukandcampbell.com)
Sean Hopkins, Esq. (via e-mail only shopkins@hsr-legal.com)

Supervisor
GERALD L. DEMING

Town Board
LYNN M. PARNELL
NORMAN R. GATES
AMOS N. SMITH
FRANK ROSE JR.

Highway Superintendent
GEORGE WORDEN JR.

Zoning/Code Enforcement
CARL A. PETER



TOWN OF YORK

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Town Clerk/Tax Collector
CHRISTINE M. HARRIS

Town Justices
THOMAS A. PORTER
WALTER PURTELL

Court Clerk
NORMA GEARY

Assessor
GREGG TORREY

1-Jul-21

Mr. & Mrs. Mark Cole
532 Peoria Rd.
Pavilion NY 14525

Dear Mark & Tracie,

The York Zoning Board of Appeals approved your area variance on June 30, 2021.

Resolution:

Mr. Geiger moved to approve the area variance for the Coles, Mr. Hulburt seconded, carried.

Aye – 5

Nay - 0

Sincerely,
Donna Falkner
Clerk

* This is an Equal Opportunity Program. Discrimination is prohibited by Federal law. Complaints of discrimination may be filed with USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 1400 Independence Ave., SW, Washington, DC 20250-9410.*

Fowlerville - Greigsville - Linwood - Piffard - Retsof - Wadsworth - York

Mr. McIlroy: _if no further business asked for a motion to adjourn

Resolution:

7:47 pm – Al Brightman moved to adjourn, Dave Dermody seconded, all in favor, carried.

Aye – 4 Nay - 0

Respectfully submitted,
Connie Burger