

York Planning Board
August 24, 2022
York Town Hall

Present: Joe McIlroy, Zach Kobylanski, Al Brightman, David Dermody

Others: Donna Falkner, James Campbell, Esq., Davies Nagel, Kirk Richenberg, Frank Rose Jr., Steele Fuller, Sonny Pascuzzo

7:00 pm – Chairman McIlroy opened the Public Hearing for Roses Bar & Grill and read the ad:

**LEGAL NOTICE
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of York, and pursuant to New York State Town Law, that a public hearing shall be held by the Planning Board of the Town of York at the Town of York Town Hall, located at 2668 Main Street, York, New York at 7:15 p.m. on Wednesday, August 24, 2022, for the purpose of considering public opinion and comment about or concerning the following:

A request by Frank Rose Jr. for Site Plan and Special Use Permit approval for restoration of Rose's Bar and Grill, 3646 Main St., tax map 60.20-1-17.

A copy of the application materials and other relevant submissions are available for review by the public are posted on the Town's official website at www.yorkny.org.

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: July 24, 2022

By Order of the Planning Board of the Town of York
Donna Falkner – Planning Board Clerk

Mr. McIlroy asked for comments on the Bar & Grill application.

Mr. Steele asked what the setback was.

Mr. McIlroy said we are discussing the whole project not the setback.

Mr. Rose said that he went to the County Planning Board meeting and told them he had forgot to put the ADA parking spots on the drawing. He owns the house next door which he rents out and could give him his own driveway south of the house. His parking lot lines up with the Travel Center. County suggested putting an exit on Virginia Avenue, but Frank disagrees because that would send traffic down Pascuzzo Lane which is a private drive. He does not want his traffic going on neighbor's property.

Mr. McIlroy asked Mr. Fuller what he meant by setbacks. Mr. Fuller said he may be grandfathered in, but did not provide any additional clarification.

Mr. Rose said that at the time the building was built the road used to be in alignment with the building. He is now 6 feet from the right of way and 19 feet from white line to porch he wants to build.

Mr. Fuller wanted to know where he would park his truck?

Mr. Rose said there would not be parking in front, but a porch with a railing and ramped up driveway to the porch for pedestrian traffic.

Mr. Richenberg asked what the current setback was?

Mr. McIlroy said that after reviewing Appendix 1200 of the Zoning Code (Dimensional Requirements) for the Hamlet Commercial zoning district, nothing was listed for a front setback.

Mr. Campbell also reviewed Appendix 1200 and said it indicated that the front set back for Hamlet Commercial is determined per site plan review.

Mr. Richenberg said he believes that the existing building is nonconforming. Is anything under Article VII, 702 applicable to this project?

Mr. Campbell indicated that any expansion of a pre-existing nonconforming building or structure would require a variance under section 702 A. (3) unless the enlargement would reduce the degree of nonconformance. Mr. Campbell suggested that Mr. Rose speak with CEO Peters to confirm whether building is considered to be nonconforming. Discussion of front porch and addition on rear followed.

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

Resolution:

Mr. Kobylanski moved to approve July 20, 2022, minutes, Mr. Brightman seconded, carried.

Ayes – 4 Nays – 0

Mr. McIlroy asked if there were any more comments.

Mr. Steele asked what the county said about the project.

Mr. McIlroy said the county was ok with it except for what Mr. Rose mentioned.

Mr. Richenberg asked if anything under Article VII applied to it?

Mr. Campbell said the building and lot may be pre-existing, non-conforming. If the building is pre-existing nonconforming, any expansion would require a variance. Mr. Campbell again suggested that Mr. Rose contact CEO Peters to discuss.

Mr. Dermody – variance for front porch to the line. Somebody could come out the front door and fall in the road.

Mr. Rose said the porch would not be on top of the road and the elevated grade up to the porch, also with a railing, was ADA compliant. There was additional discussion about sidewalks and grading up to the porch. A question was asked if sidewalks could be put in at a later date without needing approval of Planning Board.

Mr. Campbell said that anything significant modifications to a commercially used property will likely triggers a site plan review or amendment process. Sidewalks are not structures but you want to put everything you are doing on site plan now to avoid the need to go through additional review processes unnecessarily.

Mr. Rose – railing on the porch keeps someone from handing off liquor to a minor and keeps them off the road.

Mr. McIlroy said the sidewalk was parallel to the building, 4 feet wide to center of the building.

Mr. Rose – within the 5'6". Since I have to go back to ZBA, could everything be done with the contingency of getting the variance?

Mr. McIlroy – sidewalk will need a grade to be handicapped accessible.

Mr. Rose asked if he could get a foundation permit so he is not held up.

Mr. Campbell said Mr. Peter could do issue a permit for the foundation at his discretion but that Mr. Rose would assume all risk of loss if the site plan does not get approved.

Mr. McIlroy said the foundation permit is up to Mr. Peter. The board does not see any problem with the foundation permit. We can go over what you need for special use permit or site plan.

Mr. Campbell suggested Mr. Rose talk to Mr. Peter and see what the variance includes if area variance is characterized properly relating to any pre-existing nonconforming lot, building or use issues.

Mr. McIlroy asked if he needs a variance if the overhang was pre-existing?

Mr. Campbell replied there may be something in unified building code and Mr. Rose should confirm with CEO Peters.

Mr. Kobylanski said the site plan he submitted does not show sidewalks, does he need them?

Mr. Campbell – does the Planning Board want sidewalks to the access point, directing how pedestrian traffic should go?

Mr. Dermody asked where the entrance takes you, into the bar?

Mr. Rose answered to the dining room.

Mr. Campbell said if you get the foundation permit, take the time to do it right and put everything on the site plan. Any modification to a commercial use needs a site plan.

Mr. McIlroy - have to look at pedestrian safety on everything.

Mr. Campbell, even changing grading, sidewalks, etc.

Mr. McIlroy then went through the county points.

so

08/12/2022 Donna Falkner Planning Board Clerk Town of York 2614 Telephone Road, Le Roy, NY 14482
Re: Zoning Referral #2022-060, Town of York Site Plan, Conditional Use Permit & Area Variance Review for a Bar/Tavern, Lodging, and Entertainment Establishment on Route 36 (Applicant: Frank Rose Jr.)

Dear Ms. Falkner: The Livingston County Planning Board, at its regular meeting on August 12, 2022, reviewed the zoning referral from the Town of York of the above mentioned pursuant to Sections 239-l and m of the General Municipal Law of the State of New York. There was not a quorum present at this meeting, however, the County Planning Board voted to informally recommend “Approval” of the proposed action with the following informal advisory staff and board comments:

1. Identified in the Livingston County Transportation Connectivity Plan, pedestrian access is an inter-community concern given this proposal’s proximity within the Hamlet of Greigsville. For consistency with the Greigsville Transportation Plan, and if not considered already, the Applicant should update the site plan to include pedestrian safety improvements such as a sidewalk along Route 36.

Mr. McIlroy – is the entrance ramp from south parking lot adequate – ramp is sufficient

Mr. Dermody – technically yes – do not want traffic from north

Mr. Rose – Travel Center is putting sidewalks on east side so no reason for them on west

Mr. Brightman – 32 parking spaces are enough

Board good

2. The submitted materials do not clearly identify how parking adjacent to Route 36 would be mitigated. For pedestrian safety, the Applicant should limit parking to the designated parking area identified on the Site Plan.

Mr. McIlroy – he already identified the parking

Mr. Campbell – put no parking signs in front

Mr. McIlroy – porch and ramp will eliminate parking in front

Board good

3. A review of an area variance must weigh the benefits of the requested variance to the Applicant against the potential negative impact on the neighborhood using the following five factor “balancing test” as set forth in the State statute: • Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance? • Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance? • Is the requested area variance substantial? • Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? • Is the alleged difficulty for the applicant self-created? (This consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.) The Town should carefully consider the benefits of the requested variance to the applicant against any potential negative impact on the neighborhood.

ZBA

4. If not considered already, the Applicant should identify ADA parking spaces on the Site Plan and ensure that all proposed parking complies with Town Zoning Section 519 (C) and meets the satisfaction of the Code Enforcement Officer.
Needs handicapped parking – label in site plan
Mr. Campbell – state requirement
5. If not considered already, the Applicant may wish to consider modifying the Site Plan to include an ingress from Route 36, and an egress point onto Virginia Ave to ease demand on NYS Route 36.
Exiting on Virginia Ave – Board says no
6. The Site Plan does not clearly identify how 3654 Main Street would or would not share access to Route 36. If 3654 Main Street is to share access with the proposed site, and if not done already, a cross access easement should be in place for the existing residential dwelling. If no shared access is planned, a separate driveway would need to be created by the property owner.
Mr. Rose will put driveway to south
Mr. Kobylanski – should be on site plan
Mr. Richenberg asked if the map he had was same as they were looking at - Yes
7. The County Planning Board would like to recommend that that Applicant reverse the one-way ingress and egress traffic alignment within the proposed parking lot to increase spacing, and further mitigate potential traffic congestion from the egressing truck traffic from the York Travel Center.
Mr. Brightman thought the way Mr. Rose had it was better
Mr. Kobylanski & Mr. McIlroy agreed with Mr. Brightman
8. The Site Plan does not clearly identify how the ingress only and egress only points are going to be communicated with customers. If not done already, and for the safety of those the Applicant should update the Site Plan to include signs or directional arrows that meet the satisfaction of the Town Code and Code Enforcement Officer.
Show the signs on the site plan
Mr. Rose will have enter and exit signs and arrow on pavement

9. If not considered already, the Applicant should ensure that all proposed landscaping and buffering comply with Town Zoning Section 520 (C), 520 (C)(2), and meets the satisfaction of the Code Enforcement Officer.

Mr. Kobylanski said there was already existing trees to the west and vegetation to the north Board good

10. If not considered already, the Applicant should ensure that all proposed buffering requirements comply with Town Zoning Section 611 (A) – Use Specific Regulations – Eating & Drinking Establishments and meets the satisfaction of the Code Enforcement Officer.

Mr. Campbell said to show fencing in back, whatever you are adding

Parking spaces (24) comply with code 9 ft wide x 20 ft long and one for each room upstairs

Thank you for submitting the proposed for County Planning Board review. If you have any questions regarding this referral, please do not hesitate to call me Deputy Planning Director Heather Ferrero at 243-7550. Sincerely, Shawn Rooney Planner cc: Alexander W. Pierce, Chairman, Livingston County Planning Board Carl Peter, Code Enforcement Officer, Town of York 1

STAFF REPORT Zoning Referral #2022-060, Town of York Site Plan, Conditional Use Permit & Area Variance Review for a Bar/Tavern, Lodging, and Entertainment Establishment on Route 36 (Applicant: Frank Rose Jr.) August 11, 2022 Description of the Proposal The Town of York is reviewing a Site Plan proposal that includes a request to conditionally permit an existing structure as a Bar / Tavern and Lodging use at a property located west of NYS Route 36, south of Virginia Ave, and north of NYS Route 63 in the Hamlet of Greigsville. (Tax Map ID: 60.20-1-17). The Application materials also include a request for an Area Variance to construct a porch that would be approximately 5.5 ft from Route 36 Right-of-Way. According to the July 2022 Town Planning Board Minutes, managing parking along Route 36 has been identified as a concern. The Town is considering that the proposed construction of the porch could serve as a buffer to prohibit parking along Route 36. Parking would then be directed to the proposed parking areas and along Virginia Ave. According to the Town, the structure to the west of the proposed bar/tavern will be demolished, and the garage on the southern property line will be relocated to the property to the south that is also owned by the Applicant. The Town of York has a public hearing scheduled for August 24, 2022.

INTER-COMMUNITY & COUNTY-WIDE ISSUES 1. Municipal Notification. The proposed property is not within 500 feet of the boundary of a village, town, county, state park or parkway. Planning Staff believes that the proposed does not require municipal notification, per Town Law § 264, or NYS Law § 239-nn. 2. Traffic & Pedestrian Safety. The proposed is located adjacent to NYS Routes 36 in the Hamlet of Greigsville. Identified in the Livingston County Transportation Connectivity Plan, pedestrian access is an inter-community concern given this proposal's proximity within the Hamlet of Greigsville. The 2006 Town of York Comprehensive Plan Update, and the 2018 Hamlet of Greigsville Transportation Plan, identified the need to increase pedestrian safety by recommending: • Improving pedestrian safety by reducing speeding • The construction of sidewalks throughout the Hamlet of Greigsville specifically on the west side of Route 36 from Virginia Ave to NYS Route 63, pg. 32. 2 Advisory Comment: For consistency with the Greigsville Transportation Plan, and if not considered already, the Applicant should update the site plan to include pedestrian safety improvements such as a sidewalk along Route 36. Advisory Comment: The submitted materials do not clearly identify how parking adjacent to Route 36 would be mitigated. For pedestrian safety, the Applicant should limit parking to the designated parking area identified on the Site Plan. 3. Agricultural District #1. The proposed is not included in Ag District #1, and it is not within 500 feet of property within Ag District #1. 4. DAN Plan. The DAN Plan encourages

municipal land use development to take place in a rational manner and to be consistent with its surroundings. 5. Natural Resources Inventory. The NRI does not show any existing significant natural resource issues for the proposed. However, the 2018 Hamlet of Greigsville Transportation Plan, identifies a conceptual expansion and connection of the 4.1 mile long Little Italy Trail between the Genesee Valley Greenway to the Groveland Secondary Trail. This expansion would involve utilizing the proposed site along Virginia Avenue.

Local Issues 1. SEQR. Planning Staff believes that the proposed is an Unlisted Action under SEQR because it is not listed as a Type I or Type II Action. The Applicant has a Short Environmental Assessment Form for the Town to review. The Town has determined that no significant adverse environmental impact would result of the proposed. 2. Land Use Compatibility. The surrounding land uses are commercial and residential in nature. 3. Zoning. The proposed is located in the Hamlet Commercial Zoning District. The purpose of the Hamlet Commercial Zoning District is to provide a dense concentration of activity with convenient shopping and services integrated with workplaces, civic institutions, educational facilities, and a mix of housing types. This District encourages compact, pedestrian oriented development and preservation of traditional historic character. According to the Town of York Zoning Code, the bulk regulations for permitted and conditionally permitted uses in the Hamlet Commercial District are determined by the Town Planning Board during the Site Plan Review process. 4. Area Variance. The setbacks are determined by the Town Planning Board, and the Town has determined that an area variance is necessary for the front setback. A review of an area variance must weigh the benefits of the requested variance to the applicant against 3 the potential negative impact on the neighborhood using the following five factor "balancing test" as set forth in the State statute: 1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance? 2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance? 3. Is the requested area variance substantial? 4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? 5. Is the alleged difficulty for the applicant self-created? (This consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.) Advisory comment: The Town should carefully consider the benefits of the requested variance to the applicant against any potential negative impact on the neighborhood. 5. Parking & Site Access. The proposed includes approximately 32 parking spaces for the Bar/Tavern, which includes parking for the proposed lodging services. In addition, the Site Plan illustrates two existing curb islands that define ingress and egress onto Route 36. The Site Plan identifies that the parking lot would be designed to be a circular one way from ingress to egress with a fence to separate the parking lot from the proposed entertainment area. Advisory Comment: If not considered already, the Applicant should identify ADA parking spaces on the Site Plan and ensure that all proposed parking complies with Town Zoning Section 519 (C) and meets the satisfaction of the Code Enforcement Officer. Advisory Comment: If not considered already, the Applicant may wish to consider modifying the Site Plan to include an ingress from Route 36, and an egress point onto Virginia Ave to ease demand on NYS Route 36. Advisory Comment: The Site Plan does not clearly identify how 3654 Main Street would or would not share access to Route 36. If 3654 Main Street is to share access with the proposed site, and if not done already, a cross access easement should be in place for the existing residential dwelling. If no shared access is planned, a separate driveway would need to be created by the property owner. Advisory Comment: The Site Plan does not clearly identify how the ingress only and egress only points are going to be communicated with customers. If not done already, and for the safety of those the Applicant should update 4

Resolution:

Mr. Dermody moved to close the public hearing at 8:14 pm, Mr. Kobylanski seconded, carried.

Ayes – 4 Nays – 0

Solar Project

Mr. McIlroy said that Mr. Trathen argued with him over 8 ft. trees, that it was not what was agreed upon. . Mr. Trathen wants to plant 2-3 ft trees. Mr. McIlroy went back and researched the Planning Board minutes during the project approval process. He found that the 7-22-20 minutes, pg. 17 indicate that the approval was conditioned on 8’ trees being planted and that the engineer for the applicant acknowledged the size of the trees, including saying that they would be higher than the perimeter fence at the time of planting

Mr. Campbell – Mr. Trathen engaged a lawyer who wanted to meet but the lawyer called and said it was taken care of and that Mr. Trathen no longer wanted to meet with Chairman McIlroy and himself. Lawyer said Mr. Trathen had purchased 2-3 ft. trees.

Mr. Campbell said if the size of the trees changes, the project owner will need to seek approval from the Planning Board via a site plan amendment, which will also require referral to the County Planning Board and an additional SEQR review process.

Mr. Dermody – it should not get to that point

Mr. Campbell said that the project cannot be allowed to become commercial operating until the developer completes all conditions the Planning Board has previously placed on the approval. Cannot give certificate of occupancy or certificate of compliance until all conditions of approval are satisfied. Mr. Peter needs to make a site visit. If the meter shows the Solar Energy System is operational, it is a violation of the terms of the approval and the Town can take action against the developer.

Mr. Dermody – may come down to deeper pockets.

Mr. McIlroy – we could revoke special use permit but don’t want to. Do we write a letter?

Mr. Steele asked about the species of trees

Mr. Campbell – Mr. Brabant, the town engineer ok’d the amendment of species.

Planning Board wants Mr. Peter to inspect the solar field and asked Mr. Campbell to write a letter to the applicant regarding the height of the trees.

Resolution:

Mr. Dermody moved to adjourn at 8:30 pm, Mr. Brightman seconded, carried.

Ayes – 4 Nays - 0