

York Planning Board  
January 24, 2024 – 7:30 pm  
Meeting

Present: Joe McIlroy, Dave Dermody, Steven Carroll

Others: Donna Falkner, Mark & Tracie Cole, Carl Peter, Amos Smith, Jerry Deming, Doug McFarlane, Kirk Richenberg (left when we didn't start on time)

7:45 pm – Mr. McIlroy opened the meeting and led the pledge.

Mr. McIlroy announced that Mr. Carroll has been activated from an alternate to exercising full board privileges tonight to form a quorum.

**Resolution:**

Mr. Dermody moved to approve the December 27, 2023, minutes, Mr. Carroll seconded, carried.

Ayes – 3

Nays - 0

**York Milling and Grain**

Mr. McIlroy continued with the public hearing which was left open from January 16 and asked if there were more comments on York Milling.

Mr. McFarlane said he had lived on York Road East for 25 years and has many objections:

- More trucks are going by his house.
- All hours of the night
- Property value will decrease.
- Aesthetics of the property will go down.
- Noise increases
- Ruining the road
- Safety issue of the neighborhood
- Lights on 24/7
- Can see elevators from all over York.
- Pollution from trucks
- Another odor to deal with
- The scale isn't 100 ft. off the road.
- At the last meeting said operations 8-5, its 5 am to midnight or later.
- Only permit he was told was given was the elevator, not for grain pit, scale or rebuilding a building

Mr. McIlroy explained that the planning board only does site plans, not permits. Didn't include grain pit, moving the scale, or tearing down building and replacing it.

Mr. Cole asked, isn't it zoned light industrial?

Mr. McFarland – in the middle of a residential area? He left the meeting before hearing the following.

Mrs. Cole said that 30 or 40 years ago there were a lot more trucks than now.

Mr. Deming said it was light industrial long before he took office, it's an ag business.

Mr. McIlroy said it's permitted use under zoning.

**Resolution:**

Mr. Carroll moved to close the Public Hearing, Mr. Dermody seconded, carried.

Ayes – 3                      Nays - 0

Mr. McIlroy reminded the board about training hours.

Mr. Campbell said that before the board can take action on the pending Site Plan applications, it must first determine if the SEQR review process undertaken by the Zoning Board of Appeals (for which the Planning Board was present) was an adequate review, and if so, make a motion to acknowledge the findings for SEQR and the determination to issue a Negative Declaration by the ZBA. This will alleviate the need for the Planning Board to do another SEQR review before it can take action on the proposed Site Plans and Special Use Permit.

**Resolution:**

Mr. Dermody moved to accept the ZBA findings for SEQR, Mr. Carroll seconded, carried.

Ayes – 3                      Nays – 0

Mr. McIlroy asked if the Board had any other questions or comments before entertaining the 2 Site Plan applications.

Having no further comment from the Board, Mr. McIlroy said we need motions for two preliminary site plans #1 and #2.

**Resolution:**

Mr. Carroll moved to approve the preliminary site plan #1 for 3 hopper tanks and the 80 ft. grain leg, Mr. Dermody seconded, carried.

Ayes – 3                      Nays – 0

**Resolution:**

Mr. Dermody moved to approve the preliminary site plan #2 for soybean warehouse processing, Mr. Carroll seconded, carried.

Ayes – 3                      Nays – 0

Mr. McIlroy said the Final Site Plan #1 doesn't need a special use permit and can be addressed tonight if it is the Board's pleasure.

**Resolution:**

Mr. Carroll moved to approve Final Site Plan #1, Mr. Dermody seconded, carried.

Ayes – 3                      Nays - 0

Mr. McIlroy asked the board to look at page 87 D for special use permits. He pointed out that in order to issue the necessary and requested Special Use Permit, the Board will need to conduct a public hearing.

**Resolution:**

Mr. Carroll moved to schedule a public hearing at 7:15 pm on February 28 for a special use permit for food processing and packing, Mr. Dermody seconded, carried.

Ayes – 3                      Nays - 0

Mr. Campbell asked Mr. Cole if he anticipated any additional modifications to the property that would require changes to the site plan. Mr. Cole said possibly a big bin in the future located in a different area of the property. He said the processing component requires a special use permit but added bins wouldn't.

Mr. Campbell went on to discuss White Creek Solar.

The Town's zoning code regulations cover small solar projects; The NYS 94c process regulates large solar projects over 25 MW and those are reviewed and permitted at state level. State preempts small municipalities ability to dictate how the project is done. If the State feels it's too cumbersome, the developer can ask for a waiver from the State citing board. If detrimental to NY renewable energy goals and/or creates a financial burden for the project or developer, the State is likely to grant a waiver, which is similar to a variance granted by the ZBA.

A few issues were identified by the developer for which they have asked for a zoning interpretation from the Town. Dwight Kanyuck, attorney from Knauf Shaw (the Town's consultant) and Attorney Campbell have been reviewing the questions and have come up with proposed correspondence back to the developer regarding the same. The Town Board has asked that the Planning Board review the correspondence and offer any comments to the Town Board before it gives its final direction to Attorney Kanyuck and Attorney Campbell.

The Board and Mr. Campbell discussed the 4 areas discussed in Attorney Kanyuck's October 23, 2023 draft letter, regarding large solar fields.

Does the cable buried deep enough along farmland violate our code? It's probably not significant in terms of impact. They are proposing a wide landscape buffer. Mr. Smith said east

of River Road and across 63. The question is why are they buffering on prime farmland (exhibit 30).

Mr. Peter thought they were going under power lines.

Mr. Smith said almost too specific with the law.

Mr. Dermody asked is it the square footage of the lane taking up 1.18 acre? Actually, an intrusion on farmland.

The Board had no issues with the proposed responses in Attorney Kanyuck's October 23 draft letter concerning areas 1,2 and 4. The Board did disagree with consenting to a waiver for area 3, as it appears to unnecessarily cut-off 5- 8 acres of prime farmland because of the location of the visual mitigation strip that bi-sects the good farmland.

Mr. Campbell – we can say we don't agree with it. They'll either comply or ask for a waiver from the state, and they will probably get it. He will notify the Town Board that the Planning Board recommends not consenting to the waiver for area 3.

White Creek must pay \$130,000 into an account for consulting fee reimbursement to the Town, etc.

#4 is where the overhead lines are but goes through wooded area and line is buried there.

Mr. McIlroy thinks 5 feet deep on farmland to bury their lines so farmer won't dig it up.

Mr. Campbell went on to the 2<sup>nd</sup> letter in draft form from Attorney Kanyuck, dated January 9, 2024.

1) Setback of 300 feet, panels won't be seen, and plantings could be in setback. Mr. McIlroy said from a safety aspect what is the voltage of the line and is it in conduit. Mr. Campbell will recommend to the Town Board to inquire whether burying the lines is a safety issue and ask that conduit be recommended for all buried lines. Otherwise, Planning Board is ok.

2) Height limit – substation will exceed 15 ft. with antennas, probably not worth objecting to because there's only one. Mr. McIlroy asked if we knew how big the building is. Mr. Peter said it would be more or less out of sight. Planning Board is ok with this.

3) Adjoining participating owners. Waiver of set backs is allowed if you own property and are a participant in the solar project. The Board has no objection to adjoining landowners that are also participating being a part of the waiver.

4) Noise – language in our code does not allow the developer reasonably demonstrate compliance compliance. The State’s 94c standards for noise are more stringent than ours. The Planning Board is ok with this.

We’ll carry over the Battery Storage discussion to our February meeting. Mr. Peter suggested we visit the one in Wethersfield. He’ll get the information.

**Resolution:**

Mr. Dermody moved to adjourn at 9:36 pm, Mr. Carroll seconded, carried.

Ayes – 3      Nays – 0

Respectfully submitted,  
Donna Falkner